



Australia

New South Wales Legislation related to Zoos and Captive Wild Animals

Exhibited Animals Protection Act 1986 No.123

Reprinted under the Reprints Act 1972
Reprinted as in force at 14 October 1931
New South Wales

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Part 1 - Preliminary

Short title

1. This Act may be cited as the Exhibited Animals Protection Act 1986.

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

Application of Act

3. (1) This Act binds the Crown.

(2) Nothing in this Act affects the operation of the Prevention of Cruelty to Animals Act 1979 or any regulation made under that Act.

Exemptions

4. (1) The Governor may by regulation:

(a) exempt, to the extent prescribed, any specified person or premises or persons or premises of a specified class from the operation of this Act; and

(b) exempt, in prescribed circumstances, any specified person or premises or persons or premises of any specified class from any requirement made by or under this Act, either unconditionally or subject to conditions.

(2) Where an exemption is given subject to conditions, the exemption does not have effect while any of the conditions is not being complied with.

(3) Regulations made for the purposes of this section may provide that any failure to comply with a condition prescribed in relation to an exemption is an offence under the regulations.

Definitions

5. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

“**advisory committee**” means the committee constituted by this Act;

“**animal**” means a vertebrate animal, and includes a mammal, bird, reptile, amphibian and fish, but does not include a human being;

“**animal display establishment**” means premises used for the exhibition of animals and includes a zoological park, marine park and oceanarium;

“**approval**” means an approval issued under Part 3 and in force;

“**board**” means the Zoological Parks Board of New South Wales;

“**Director-General**” means the Director-General of the Department of Agriculture;

“**exhibit**”, in relation to an animal, means the display, or the keeping for display, of the animal for educational, cultural, scientific, entertainment or other prescribed purposes, but does not include the display, or the keeping for display, of an animal solely:

- (a) in connection with the sale or intended sale of the animal;
- (b) for animal research, within the meaning of the Animal Research Act 1985; or
- (c) in circumstances declared by the regulations not to constitute an exhibition of the animal for the purposes of this Act;

“**inspector**” means a person appointed or authorised under section 38;

“**licence**” means a licence issued under Part 3 and in force;

“**licensed animal display establishment**” means premises that are the subject of a licence;

“**licensee**” means the holder for the time being of a licence;

“**licensing standard**” means a standard prescribed under section 14;

“**member**” means a member of the advisory committee;

“**occupier**”, in relation to premises:

- (a) includes a person in charge of the premises as a manager or lessee. or otherwise; and
- (b) where the premises are the subject of a licence, includes the licensee;

“**permit**” means a permit issued under Part 3 and in force;

“**premises**” includes any land or place (whether built upon or not [or not wholly or partly built upon or covered by water]) and any part thereof;

“**register**” means the register referred to in section 20; “**regulation**” means a regulation made under this Act;

“**sell**” includes:

- (a) auction or exchange;
- (b) offer, expose, supply or receive for sale;
- (c) send, forward or deliver for sale or on sale; and
- (d) have in possession for sale;

“**species**” includes order, class and description; “**zoological park**” means:

- (a) zoological gardens;
- (b) aquariums; and
- (c) similar institutions,

in which animals are displayed, or kept for display, for educational, cultural, scientific or recreational purposes [**exhibited or displayed, or kept for display, for any prescribed purpose**].

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART 2 - THE EXHIBITED ANIMALS ADVISORY COMMITTEE

The advisory committee

6. (1) There is constituted by this Act an Exhibited Animals Advisory Committee.
- (2) The advisory committee:
- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act;

- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
 - (c) shall, in the exercise of its functions (except in relation to the contents of a report or a recommendation made by it to the Minister), be subject to the control and direction of the Minister.
- (3) The advisory committee shall consist of 6 members who shall be appointed by the Minister.
- (4) Of the members:
- (a) one shall be a person selected by the Minister from a panel of persons nominated by the board;
 - (b) one shall be a person nominated by the Minister for Agriculture;
 - (c) one shall be a person nominated by the Minister administering the National Parks and Wildlife Act 1974;
 - (d) one shall be a person nominated by the Minister administering the Prevention of Cruelty to Animals Act 1979;
 - (e) one shall be a person selected by the Minister from persons nominated by prescribed animal welfare organisations; and
 - (f) one shall be a person selected by the Minister from persons nominated by prescribed organisations representing exhibitors of animals.
- (5) Where, but for this subsection, the Minister would be unable to appoint a member because of the failure of a person or body to nominate a person or panel of persons in accordance with any paragraph of subsection (4):
- (a) the Minister may appoint any person the Minister considers qualified to hold office as that member; and
 - (b) the person so appointed shall be a member and shall be deemed to have been appointed in accordance with that paragraph.
- (6) Schedule 1 has effect with respect to the members.
- (7) Schedule 2 has effect with respect to the procedure of the advisory committee.

Staff of the advisory committee

7. (1) The advisory committee may:
- (a) with the approval of the Minister; and
 - (b) on such terms and conditions as may be approved by the Public Service Board, arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.
- (2) The Director-General may, with the approval of the Minister, engage, under agreements in writing, persons having suitable qualifications and experience as consultants to the advisory committee.

(3) The terms and conditions under which persons are engaged under this section shall be such as are from time to time determined by the Director-General with the approval of the Minister.

Functions of the advisory committee

8. The advisory committee has the following functions:

- (a) to advise the Director-General so as to promote a co-ordinated approach in policy and administration between the Director-General and government departments administering legislation relating to the importation, control, care and welfare of animals;
- (b) to monitor the effectiveness of the scheme governing the exhibition of animals established under Part 3 and to recommend to the Director-General any changes which may appear to the advisory committee to be necessary for the efficient operation of that scheme;
- (c) to carry out any function which may be delegated to it by the Director-General.

Inspections

9. (1) The advisory committee may at any time request the Director-General to cause an inspection to be made of any licensed premises.

(2) The advisory committee may, by instrument in writing, authorise a member to accompany an inspector during the conduct of an inspection and any member so authorised shall, during the conduct of the inspection, be deemed to be an inspector.

Recommendations and reports

10. (1) The advisory committee shall forward to the Director-General any recommendations and reports made by it in the exercise of the functions conferred or imposed on it by or under this Act.

(2) The Director-General shall, at such times as the Minister may request, forward copies of any such recommendations or reports to the Minister.

Delegation

11. (1) The advisory-committee may delegate to a person the exercise of any of its functions, other than this power of delegation.

(2) A delegation under this section:

- (a) shall be in writing;
- (b) may be general or limited; and
- (c) may be revoked, wholly or partly, by the advisory committee.

(3) A delegate is, in the exercise of a function delegated under this section, subject to such conditions as are specified in the instrument of delegation.

(4) A function delegated under this section, when exercised by the delegate, shall be deemed to have been exercised by the advisory committee.

(5) A delegation under this section does not prevent the exercise of a function by the advisory committee.

(6) A function purporting to have been exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

PART 3 - LICENCES, APPROVALS AND PERMITS

Division 1-Licensing of animal display establishments

Licence required for animal display establishment

12. (1) Each occupier of premises used as an animal display establishment of a prescribed class is guilty of an offence and liable to a penalty not exceeding 20 penalty units or to imprisonment for not more than 6 months, or to both, if the use of the premises as an animal display establishment of that class is not authorised by a licence.

(2) This section does not apply to or in respect of a zoological park established, maintained or controlled by the board, or any part of any such park.

Classes of establishments

13. For the purposes of this Act, there shall be such classes of animal display establishments as are prescribed by the regulations.

Standards

14. (1) Standards may be prescribed for or with respect to:

- (a) the facilities for the exhibition of animals at; and
- (b) the conduct of,
animal display establishments of any class.

(2) Without limiting the generality of subsection (1), a standard may be prescribed in relation to any matter referred to in Schedule 3.

Issue of licences

15. (1) A licence for an animal display establishment of a prescribed class shall not be issued unless the Director-General is satisfied that the animal display establishment conforms to and will be conducted in accordance with any standards prescribed under section 14 for animal display establishments of that class.

(2) Different animal display establishments shall each be the subject of a separate application and a separate licence or separate licences.

Particulars to be specified in licences

16. (1) A licence for an animal display establishment shall describe the animal display establishment which is the subject of the licence.

(2) A licence for an animal display establishment shall relate to an animal display establishment of the class specified in the licence.

(3) Separate licences relating to animal display establishments of different classes may be held concurrently for the same premises.

Authority conferred by licence

17. A licence for an animal display establishment authorises the use under this Act of the premises which are the subject of the licence as an animal display establishment of the class specified in the licence, but only when the premises are used in accordance with the terms and conditions to which the licence is subject.

Approval of erection of animal display establishment

18. (1) A person shall not erect an animal display establishment of a prescribed class or convert any premises into any such establishment unless the erection of the establishment or the conversion of the premises has been approved by the Director-General.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

(2) A person may apply for the approval of the Director-General of the erection of, or conversion of premises into, a proposed animal display establishment of a prescribed class.

(3) Approval for the erection of, or conversion of premises into, an animal display establishment of a prescribed class shall not be issued unless the Director-General is satisfied that the animal display establishment will, when completed, conform to and be conducted in accordance with the standards prescribed in respect of that class of animal display establishment under section 14.

(4) An appropriate licence shall be issued in respect of an animal display establishment completed in accordance with an approval granted under this section.

(5) A person is not guilty of an offence under subsection (1) if the person satisfies the court that erection or conversion of the establishment to which the alleged offence relates was substantially commenced before the establishment became an animal display establishment of a prescribed class.

Alteration of licensed animal display establishment

19. A licensee shall not cause or permit a licensed animal display establishment to be altered or extended unless:

- (a) approval of the Director-General is first obtained for the alteration or extension;
- and
- (b) the animal display establishment is altered or extended in accordance with that approval.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

Register

20. (1) The Director-General shall cause a register to be kept as prescribed.

(2) The following particulars shall be entered in the register:

- (a) the address of each licensed animal display establishment;
- (b) the full name and residential address of the licensee;
- (c) the class of the animal display establishment;
- (d) the terms and conditions to which the licence for the animal display establishment is subject; and
- (e) such further particulars as may be prescribed.

(3) The Director-General may, from time to time, cause the particulars for the time being entered in the register to be varied so as to ensure that the register remains a true and accurate record of the matter to which the particulars relate.

Certificate of registered particulars

21. (1) A person may apply to the Director-General for a copy of the registered particulars in respect of a licensed animal display establishment.

(2) Where the Director-General receives an application under this section, the Director-General shall, on payment of the prescribed fee, cause the applicant to be furnished with a certificate, in or to the effect of the prescribed form, containing a copy of the registered particulars in respect of the licensed animal display establishment to which the application relates.

Division 2- Approvals for the exhibition of animals at circuses, etc.

Persons to be authorised to exhibit animals

22. (1) In this section:

“person in charge”, in relation to an animal, includes:

- (a) the owner of the animal;
- (b) a person who has the animal in his or her possession or custody, or under his or her care, control or supervision; and
- (c) where a person referred to in paragraph (b) is bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal, that servant or agent, as the case may be.

(2) A person in charge of an animal of any species (other than an animal of a species prescribed for the purposes of section 24) shall not exhibit the animal on premises occupied by temporary or movable structures used for the purposes of a circus, fair, fun-fair, amusement park or similar place of public entertainment unless the person is the holder, or is supervised by the holder, of an approval authorising the holder to exhibit animals of that species.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

Issue of approvals

23. (1) An approval authorising the exhibition of animals of a species shall not be issued unless the Director-General is satisfied that the person to whom it is issued has appropriate qualifications or experience or both, to exhibit animals of that species.

(2) An approval authorises the holder to exhibit, or supervise the exhibition of, animals of the species specified in the approval, but only when the animals are exhibited in accordance with the terms and conditions to which the approval is subject.

Division 3-Permits for the exhibition of certain animals

Certain animals may be displayed only with permit

24. A person shall not exhibit an animal of a prescribed species unless the person is the holder, or is supervised by the holder, of a permit authorising the holder to exhibit that animal.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

Issue of permits

25. (1) A permit authorising the exhibition of an animal of a prescribed species shall not be issued unless the Director-General is satisfied that the animal will be exhibited in accordance with the standards prescribed in respect of pals of that species for the purposes of this section.

(2) Without limiting the generality of subsection (1), a standard may be prescribed in relation to any matter referred to in Schedule 3.

(3) A permit authorises the holder to exhibit, or supervise the exhibition of, the animal or animals specified or described in the permit, but only when the animal is or animals are exhibited in accordance with the terms and conditions to which the permit is subject.

Division 4-General

Definition

26. In this Division:

“**authority**” means a licence, an approval or a permit.

Applications

27. (1) An application for the issue, renewal or variation of an authority shall be made to the Director-General in the prescribed manner and accompanied by the prescribed fee.

(2) An application for the transfer of a licence shall be made to the Director-General in the prescribed manner and accompanied by the prescribed fee.

(3) The application shall be considered by the Director-General who may grant or refuse the application.

(4) Where the application has not been granted or refused:

(a) within the period of 60 days after the making of the application; or

(b) within such longer period as may be agreed between the Director-General and the applicant, the application shall be deemed (for the purposes only of any appeal) to have been refused.

(5) Where the application is granted, a licence, an approval or a permit, the case may require, shall be issued by the Director-General.

(6) Where the Director-General refuses to grant an authority, the Director-General shall, as soon as practicable after so refusing, cause notice of the refusal, and of the reasons for the refusal, to be served on the applicant for the authority.

Terms and conditions

28. (1) An authority is subject to:

(a) the terms and conditions prescribed in respect of the authority;

(b) any terms and conditions specified in the authority when it is issued; and

(c) any terms and conditions imposed by the Director-General upon the authority in accordance with the regulations after it has been issued, as may be varied from time to time in accordance with the regulations.

(2) Without limiting the generality of subsection (1) (b), an authority may specify the number of animals of a species that may be displayed at the premises the subject of the authority or by, or under the supervision of, the holder of the authority.

(3) The terms and conditions of an authority shall continue to have effect during any suspension, and after the expiration or cancellation of the authority, if:

- (a) the terms and conditions relate to the care to be provided for the animal or animals to which the authority relates; and
- (b) the terms and conditions are expressed to have that effect.

Duration

29. An authority shall remain in force for such period as is prescribed and may be renewed from time to time.

Suspension and cancellation

30. (1) The Director-General may, by notice in writing served personally or by post on the holder of an authority, suspend the authority for a period of not more than 60 days specified in the notice or cancel the authority at any time:

- (a) if the holder commits an offence against this Act, the Prevention of Cruelty to animals Act 1979, the Animal Research Act 1985, the National Parks and Wildlife Act 1974 or an instrument made under this Act or any of those Acts;
- (b) if the holder fails to comply with any term or condition of the authority or of any other authority, being a term or condition applicable to the holder;
- (c) in the case of a licence, if the holder fails to ensure that the licensed animal display establishment:
 - (i) conforms to; and
 - (ii) is conducted in accordance with, the prescribed standards;
- (d) if the authority was issued pursuant to a false or misleading document, statement or representation;
- (e) if for any other reason the Director-General is of the opinion that the holder is not a fit and proper person to hold the authority;
- (f) if the holder requests the suspension or cancellation of the authority, as the case may be; or
- (g) if the authority was issued in error.

(2) Where an authority has been suspended, the Director-General shall return it to the former holder on the expiration of the period of suspension.

(3) Before suspending or cancelling a licence under subsection (1) (c) (i), the Director-General shall cause a notice to be served on the licensee specifying the works to be carried out to bring the premises to the prescribed standard and stating that unless the work is done within the time specified in the notice the licence will be suspended or cancelled.

(4) A licence shall not be suspended or cancelled under subsection (1) (c) (i) until the expiration of the time so specified.

Offences relating to licences, approvals and permits

31. (1) A person shall not:

- (a) by act or omission, contravene any of the terms or conditions of any authority issued under this Act or the regulations; or
- (b) without reasonable excuse, fail to surrender upon the request of the Director-General or of an inspector an authority that has been suspended or cancelled under this Act or the regulations.

Maximum penalty: 10 penalty units.

(2) A person shall not:

- (a) falsely advertise or claim to hold an authority issued under this Act or the regulations;
- (b) alter in any material respect any such authority or use any such authority so altered;
- (c) produce or sign any such authority knowing it to be false in any material particular; or
- (d) impersonate a person named in any such authority.

Maximum penalty (subsection (2)): 20 penalty units.

Division 5-Appeals

Appeals to Minister

32. (1) Without affecting any right of appeal under section 33, a person aggrieved by the refusal of an application for the issue or by the cancellation by the Director-General under this Act or the regulations of any licence, approval or permit may appeal to the Minister in the manner provided by the regulations.

(2) The Minister:

- (a) may refuse to grant the appeal; or
- (b) may grant the appeal and may give such directions in the matter as seem proper.

(3) As soon as practicable after determining an appeal, the Minister shall cause written notice of the decision to be served on the appellant.

(4) Unless an appeal is made under section 33 within the period of 28 days after written notice of the Minister's decision is served on the appellant, the decision of the Minister on the appeal is - final and is binding on the Director-General and the appellant and shall be carried into effect accordingly.

(5) Where a person who has appealed to the Minister makes a further appeal to a Local Court before having been given written notice of the Minister's decision, the person shall serve written notice on the Minister as soon as practicable after making the further appeal.

Appeals to Local Court

33. (1) A person aggrieved:

- (a) by the refusal of an application for the issue, renewal, variation or transfer of, or by the suspension or cancellation by the Director-General of, any licence, approval or permit under this Act or the regulations; or
 - (b) by the terms or conditions specified in or imposed by the Director-General on any such licence, approval or permit or by the variation by the Director-General of any such term or condition, otherwise than with the written consent of the licensee, may, within the prescribed time, appeal to a Local Court.
- (2) The decision of ‘a Local Court on an appeal under this section is final and is binding on the Director-General and the appellant and shall be carried into effect accordingly.

PART 4 - PROVISIONS RELATING TO THE EXHIBITION OF DOLPHINS AND WALES

Definitions

34. In this Part:

“**cetacea display establishment**” means an animal display establishment used for the exhibition of captive dolphins or whales;

“**dolphin**” includes porpoise.

Issue of licenses

35. The Director-General shall not issue:

- (a) an approval for the erection of, or for the conversion of premises into, a cetacea display establishment; or
- (b) a licence for a cetacea display establishment:
 - (i) so that there will be more than one such licence in force at any time; or
 - (ii) if the establishment was not in existence before the commencement of this Part, without the approval of the Minister.

Limitation on dolphins and whales that may be exhibited

36. The Director-General may specify as a term of a licence that only those dolphins and whales kept in captivity, when this Part commences, at the premises the subject of the licence, and their progeny born in captivity at those premises, may be exhibited at those premises.

Bonds

37. (1) The Director-General may, as a condition of the issue of a licence for a cetacea display establishment, require that an amount of money, not exceeding the prescribed amount, be deposited with the Director-General by the holder of the licence or that the holder enter into other prescribed arrangements securing the payment of money to the Director-General.

(2) The Director-General may use money deposited with the Director-General by the holder of a licence for a cetacea display establishment or secured under other prescribed arrangements to pay any expense incurred by the Director - General in caring for, rehabilitating or returning to its natural environment any dolphin or whale:

- (a) placed in the care of the Director-General by the holder of the licence; or

(b) cared for by the Director-General as a consequence of the failure of the holder of the licence to care for the dolphin or whale in accordance with this Act., or the regulations or the terms and conditions of the licence.

(3) Money deposited under this section as a condition of the issue of a licence and not liable to be applied in accordance with subsection (2) shall be refunded when the easements to have effect.

PART 5 - INSPECTORS

Appointment of inspectors

38. (1) Inspectors may be appointed for the purposes of this Act under and in accordance with the Public Service Act 1979.

(2) The Minister may authorise in writing any person to exercise the functions of an inspector, subject to such restrictions (if any) as are specified in the authority.

(3) The Minister may amend or revoke an authority referred to in subsection (2).

(4) An inspector shall have, and may exercise, the functions conferred or imposed on inspectors by or under this Act.

Identification certificates

39. (1) The Director-General shall cause each inspector to be issued with a certificate of identification.

(2) A certificate of identification shall be in or to the effect of the prescribed form.

(3) In exercising in or on any premises any power conferred by section 40, an inspector shall, if required to do so by a person apparently for the time being in charge of those premises, produce to that person the inspector's certificate of identification.

Powers of inspectors

40. (1) For the purposes of this Act, an inspector may:

(a) except as provided by subsection (2), enter any premises which are a licensed animal display establishment or any other place (including land and a building, and a place on or in a vehicle or vessel) where the inspector believes, on reasonable grounds, that a provision of this Act or the regulations has been or is being contravened;

(b) with respect to any such premises or place, make such inquiries, investigations or searches as are necessary to ascertain whether the provisions of this Act and the regulations are being complied with.

(c) request a person to produce for examination by the inspector any licence, approval or permit issued to the person under this Act or the regulations, or alleged by the person to have been so issued, and any books, papers or records required to be kept or made under this Act or the regulations by the person;

- (d) examine any article produced pursuant to paragraph (c) and make copies of or take extracts from any such article;
- (e) examine any equipment or materials used or kept for use in relation to the exhibition of an animal found at any such premises or place;
- (f) examine any animal found at any such premises or at the place;
- (g) seize or detain any animal in respect of which the inspector suspects, on reasonable grounds, that an offence against this Act or the regulations has been committed;
- (h) remove any animals seized under this Act, and any eggs of such animals, to such place as the inspector thinks fit, or cause them to be so removed;
- (i) seize any books, papers or records in the possession of the occupier of any such premises, and within that person's power to deliver up, relating to any such suspected offence;
- (j) question any person in charge (within the meaning of section 22) of an animal found at any such premises or place and ask the person to answer any question put to the person in relation to the use of those premises or of that place;
- (k) require a person referred to in paragraph (J) to state the person's full name and residential address to the inspector and (if the inspector suspects, on reasonable grounds, that a name or address so stated is false) require the person to produce evidence of the correctness of the name or address so stated;
- (l) when accompanied by a member of the police force, stop, detain and search any vehicle or vessel which is being used or which the inspector believes, on reasonable grounds, is being used for the carriage of animals in contravention of this Act or the regulations or the terms or conditions of any licence, approval or permit issued under this Act or the regulations;
- (m) by order in writing, direct a person who has failed to comply with this Act or the regulations or with the terms or conditions of a licence, approval or permit issued under this Act or the regulations to take, within such time as is stated, specified action to correct those matters in respect of which the non-compliance has occurred;
- (n) transport animals seized under this section to a place approved by the Director-General and obtain veterinary treatment for those animals; and
- (o) employ such assistance or force as is necessary in the exercise of the functions conferred or imposed on the inspector by or under this Act.

(2) An inspector may not exercise the powers conferred by subsection (1) in relation to a dwelling except:

- (a) with the permission of the occupier of the dwelling; or
- (b) under the authority conferred by a search warrant issued under section 42.

(3) In exercising any power conferred by this section at any premises or place, an inspector shall, as far as practicable, avoid doing any act which is likely to impede the exhibition of animals being lawfully carried on at the premises or place.

(4) A book, paper or record seized from premises or a place by an inspector under subsection (1) shall not be retained beyond the day that next succeeds the day of its seizure unless the occupier of the premises or place from which it was seized is provided

with a copy of the book, paper or record certified by that inspector as being a true copy of the book, paper or record so seized.

(5) A copy of a book, paper or record provided under subclause (4) is for all purposes of equal validity to the original.

Care of seized animals

41. (1) Any animal seized under section 40 in connection with the commission of an offence may, with the approval of the Minister:

- (a) be sold or otherwise disposed of;
- (b) be condemned and destroyed;
- (c) be placed in the care of the Director-General either indefinitely or for rehabilitation and return to its natural environment; or
- (d) be returned to its natural environment.

(2) Animals seized under section 40 shall be returned to the person from whom they were seized or any other person who appears to the Minister to be their owner if they are not sold or otherwise disposed of, destroyed, placed in care or returned to their natural environment before the expiration of the prescribed period.

(3) No compensation is payable in respect of an animal seized or detained under section 40 or sold or otherwise disposed of, destroyed, placed in care or returned to its natural environment under this section.

Search warrant

42. (1) In this section:

“**authorised justice**” has the same meaning as in the Search Warrants Act 1985.

(2) An inspector may apply to an authorised justice for the issue of a search warrant if the inspector has reasonable grounds for believing that a provision of this Act or the regulations has been or is being contravened in any dwelling.

(3) An authorised justice to whom an application is made under subsection (2) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant, when accompanied by a member of the police force:

- (a) to enter the dwelling; and
- (b) to search the dwelling for evidence of a contravention of this Act or the regulations.

(4) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.

Offences relating to inspectors

43. (1) A person shall not:

- (a) assault, obstruct, hinder, threaten abuse, insult or intimidate an inspector, or a member authorised to accompany an inspector, in the exercise of the inspector's or member's functions under this Act;
- (b) fail or refuse to comply with any direction given under this Act by an inspector;
- (c) without reasonable excuse, fail or refuse to answer any question authorised under this Act to be put by an inspector or give a false or misleading answer to any such question;
- (d) fail or refuse to render assistance or fail or refuse to furnish information required by or under this Act to be furnished or, in purporting so to furnish information, furnish information that is false or misleading in a material particular;
- (e) fail or refuse without reasonable excuse, proof of which shall lie upon the person:
 - (i) to produce for examination at the request of an inspector any licence, approval or permit issued to the person under this Act or the regulations; or
 - (ii) to produce for examination at the request of an inspector any book, paper or record required to be kept or made by the person by or under this Act, or fail or refuse to allow an inspector to make a copy of or take an extract from any such licence, approval, permit, book, paper or record so produced;
- (f) prevent, or attempt to prevent, a person from appearing before or being questioned by an inspector; or
- (g) impersonate an inspector.

Maximum penalty: 20 penalty units.

(2) A person is not guilty of an offence against this Act because of a failure or refusal referred to in subsection (1) unless it is established that the inspector concerned:

- (a) identified himself or herself as an inspector to the person; and
- (b) warned the person that the failure or refusal, as the case may be, is an offence.

PART 6 - SUPPLEMENTARY

False or misleading information

44. A person shall not, in or in relation to any application under this Act or in purported compliance with any requirement under this Act, make any statement or furnish any information that is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

Disclosure of information

45. A person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings;
- (d) in accordance with a requirement imposed under the Ombudsman Act 1974; or
- (e) with other lawful excuse.

Maximum penalty: 20 penalty units.

Proceedings for offences

46. Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Offences by corporations

47. (1) If a corporation contravenes, whether by act or omission, any provision of this Act or a regulation, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

Recovery of charges etc.

48. Any charge, fee or other money due to the board under this Act or the regulations or the terms and conditions of a licence, an approval or a permit issued under this Act or the regulations may be recovered as a debt due to the Crown in a court of competent jurisdiction.

Evidentiary certificates

49. A certificate that is signed by a person authorised in writing by the Director-General for the purposes of this section and that certifies that on a specified date or during a specified period:

- (a) a specified person was or was not an inspector;
- (b) specified premises were or were not a licensed animal display establishment;
- (c) a specified person was or was not the holder of a licence, an approval or a permit issued under this Act or the regulations and specified or described in the certificate; or
- (d) the provisions of any such licence, approval or permit were or were not in specified terms, is admissible in any proceedings under this Act and is evidence of the fact or facts so certified.

Liability

50. A person is not personally liable for anything done or omitted to be done by the person in good faith in the exercise of the functions conferred or imposed on the person by or under this Act.

Service of notices

51. A notice that the Director-General is required or permitted by or under this Act, to cause to be served on a person may be served personally or by means of a letter addressed to the person at the person's address last known to the Director-General.

Refund

52. (1) Where a licence, an approval or a permit is cancelled upon the request of the holder of the licence, approval or permit or as a result of its having been issued in error, a refund of the fee paid shall, upon application to the Director-General, be made to the former holder of the licence, approval or permit.

(2) The amount of a refund made under subsection (1) shall be the same proportion of the fee paid as the proportion that the number of unexpired months for which the licence, approval or permit was issued bears to the total number of months for which it was issued.

Regulations

53. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:

- (a) the qualifications and functions of inspectors;
- (b) the procedures to be followed by the Director-General and advisory committee in relation to the investigation of applications made to the Director-General or referred to the advisory committee under this Act;
- (c) the records to be kept for the purposes of this Act;
- (d) the forms to be used under this Act or the regulations;
- (e) the fees and other charges which may be imposed under this Act or the regulations;
- (f) the issue, duration, transfer, renewal, cancellation and suspension of licences, approvals and permits under this Act or the regulations;
- (g) the terms and conditions of any such licence, approval or permit, and the variation of any such terms and conditions;
- (h) the exhibition of animals and the care of animals for which the holders of any such licences, approvals or permits are responsible;
- (i) the application of standards prescribed under section 14 to zoological parks established, maintained or controlled by the board;
- (j) the identification of animals at licensed animal display establishments, or for which holders of approvals or permits are responsible;
- (k) the submission of itineraries and other returns with respect to circuses and other public entertainments involving the exhibition of animals;
- (l) bonds and other arrangements for the purposes of section 37;
- (m) without limiting the generality of paragraph (1), the deposit of, and payment of 'interest on, money deposited as a bond or paid under other arrangements for the purposes of section 37; and
- (n) the rehabilitation, return to their natural environment or escape of animals.

(2) A provision of a regulation may:

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body, or may do any combination of those things.

(3) A regulation may adopt wholly or partially or by reference any guideline or similar published document setting standards for the care of animals in captivity which is recommended or adopted by:

- (a) the Australian National Parks and Wildlife Service;
- (b) the National Parks and Wildlife Service; or
- (c) any similar body, relating to the matter with which the regulation deals.

(4) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units or imprisonment for 3 months, or both.

(5) A provision of a regulation which relates to the acquisition, disposal or removal of animals may extend the meaning of the word “animal” when used in any such regulation to include the eggs, sperm, embryos and other reproductive material of animals.

Relationship to other Acts etc.

54. Schedule 4 has effect.

Schedule 1 - Provisions Relating to the Members of the Advisory Committee

(Sec. 6 (6))

Chairperson of the advisory committee

2. (1) The member appointed from persons nominated by the board shall be the Chairperson of the advisory committee.

(2) The Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.

(3) A person who is the Chairperson shall be deemed to have vacated office as Chairperson if the person ceases to be a member.

Term of office

3. Subject to this Schedule, a member shall hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for reappointment.

Remuneration

4. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Filling of vacancy in office of member

5. If the office of any member becomes vacant, a person shall be appointed to fill the vacancy.

Casual vacancies

6. (1) A member shall be deemed to have vacated office if the member:

- (a) dies;
- (b) absents himself or herself from 4 consecutive meetings of the advisory committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (d) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958 or a person under detention under Part 7 of that Act or becomes a protected person within the meaning of the Protected Estates Act 1983;
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) resigns the office by instrument in writing addressed to the Minister; or
- (g) * * * *
- (h) is removed from office by the Minister under subclause (2) or (3).

(2) The Minister may remove a member from office.

(3) Without affecting the generality of subclause (2), the Minister may remove a member from office if the member contravenes the provisions of clause 7.

Disclosure of pecuniary interests

7. (1) A member who has a direct or indirect pecuniary interest:

- (a) in a matter that is being considered, or is about to be considered, at a meeting of the advisory committee; or
- (b) in a thing being done or about to be done by the advisory committee, shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the advisory committee.

(2) A disclosure by a member at a meeting of the advisory committee that the member:

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person, shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The advisory committee shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines:

- (a) be present during any deliberation of the advisory committee, or take part in any decision of the advisory committee, with respect to that matter; or
- (b) exercise any functions under this Act with respect to that thing, as the case requires.

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(5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the advisory committee or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member:

- (a) is associated with a licensed animal display establishment; or
- (b) is entitled to a share of any profits of licensed animal display establishments, other than a licensed animal display establishment which is, or which belongs to a class of licensed animal display establishments which is, the subject of that matter or thing.

(7) A reference in this clause to a meeting of the advisory committee includes a reference to a meeting of a committee of the advisory committee.

Effect of certain other Acts

8. (1) The Public Service Act 1979 does not apply to or in respect of the appointment of a member and a member is not, as such a member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as such a member.

(3) The office of a member shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

SCHEDULE 2- PROVISIONS RELATING TO THE PROCEDURE OF THE ADVISORY COMMITTEE

(Sec. 6 (7))

General procedure

1. The procedure for the calling of meetings of the advisory committee and for the conduct of business at those meetings shall, subject to this Act, be as determined by the advisory committee.

Quorum

2. The quorum for a meeting of the advisory committee is 4 members.

Presiding member

3. (1) The Chairperson (or, in the absence of the Chairperson, another member elected as chairperson for the meeting by the members present) shall preside at a meeting of the advisory committee.

(2) The person presiding at any meeting of the advisory committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

4. A decision supported by a majority of the votes cast at a meeting of the advisory committee at which a quorum is present shall be the decision of the advisory committee.

Minutes

5. The advisory committee shall cause full and accurate minutes to be kept of the proceedings of each meeting of the advisory committee.

Authentication of documents

6. Any document requiring authentication by the advisory committee is sufficiently authenticated if it is signed by the Chairperson or by any member who is authorised by the Chairperson in that behalf.

First meeting of the advisory committee

7. The Minister shall call the first meeting of the advisory committee in such manner as the Minister thinks fit.

SCHEDULE 3 - LICENSING STANDARDS

(Secs. 14, 25)

1. Housing, fencing, caging and exercise facilities for animals.
2. Hygiene for the keeping and housing of animals.
3. Nutrition, general care and husbandry of animals.
4. Records to be kept in relation to the breeding, health, welfare, movement, acquisition, death and disposal of animals.
5. Destruction of animals and disposal of carcasses.
6. Educational and scientific requirements for animal exhibits.
7. Public safety.

SCHEDULE 4-RELATIONSHIP TO OTHER ACTS, ETC.

(Sec. 54)

Effect of other provisions relating to exhibition of animals

1. Except as provided by clause 2, where by or under any other Act any provision is made relating to the exhibition of animals, the provision so made shall be observed in addition to the provisions of this Act and the regulations made under this Act, but no person is, by virtue of this clause, liable to be punished twice for the same offence.

Effect of licences, approvals, permits, etc.

2. The holder of a licences, an approval or a permit issued under this Act or the regulations is not guilty of an offence under:

- (a) section 107 of the National Parks and Wildlife Act 1974; or
- (b) any prescribed provision of an Act or an instruments made under an Acts, in exhibiting an animal under the authority conferred by the licence, approval or permit.

Inconsistent provisions

3. Where by or under any other Act (other than the Prevention of Cruelty to Animals Act 1979 [or the Non-indigenous Animals goals Act 1987]) any provision is made relating to the exhibition of animals, being a provision that is inconsistent with this Act or a regulation made under this Act, the provision of this Act or the regulation shall prevail.

NOTES

Table of Acts

Exhibited Animals Protection Act 1986 No. 123. Assented to, 27.11.1986. Date of commencement of Parts 1, 2 and 6 (secs. 52 and 54 excepted) and Schs. 1 and 2, 1.5.1987, sec. 2 (2) and Gazette No. 68 of 16.4.1987, p. 2005; date of commencement of remainder of provisions (secs. 12, 22 and 24 and Sch. 4 excepted), 9.6.1989, sec. 2 (2) and Gazette No. 72 of 9.6.1989, p. 3383; date of commencement of secs. 12, 22 and 24 and Sch. 4, 1.7.1989, sec. 2 (2) and Gazette No. 72 of 9.6.1989, p. 3383. This Act is reprinted as amended by:

Non-Indigenous Animals Act 1987 No. 166. Assented to, 25.11.1987. Date of commencement of sec. 31: not in force.

Statute Law (Miscellaneous Provisions) Act (No. 3) 1988 No. 131. Assented to, 30.12.1988. Date of commencement of Sch. 8: not in force.

Statute Law (Miscellaneous Provision) Act 1990 No. 46. Assented to, 22.6.1990. Date of commencement of the provisions of Sch. 1 relating to the Exhibited Animals Protection Act 1986, assent, sec. 2:

Search Warrants (Amendment) Act 1991 No. 92. Assented to, 17.12.1991. Date of commencement, 20.9.1992, sec. 2 and Gazette No. 116 of 18.9.1992, p. 6837.

Statute Law (Miscellaneous Provisions) Act (No. 2) 1991 No. 94. Assented to,

17.12.1991. Date of commencement of the provisions of Sch. 1 relating to the Exhibited Animals Protection Act 1986, 27.3.1992, Sch. 1 Gazette No. 40 of 27.3.1992, p. 1983.

Statute Law (Miscellaneous Provisions) Act 1992 No.34. Assented to, 18.5.1992. Date of commencement of the provisions of Sch. 1 relating to the Exhibited Animals Protection act 1986, assent, Sch. 1.

Statute Law (Penalties) Act 1992 No.112. Assented to, 8.12.1992. Date of commencement, assent, sec. 2.

Table of Amendments

Sec. 5 - Am. 1988 No.131, Sch. 8; 1991 No.94, Sch. 1

Secs. 12,18, 19, 22, 24 - Am. 1992 No.112, Sch. 1

Sec. 27 - Am. 1991 No.94, Sch. 1.

Sec. 31 - Am. 1992 No.112, Sch. 1

Sec. 37 - Am. 1991 No.94, Sch. 1

Sec. 40 - Am. 1992 No. 34, Sch. 1

Sec. 42 - Am. 1991 No.92, Sch.2

Sec. 43-45-Am. 1992 No.112, Sch.1

Sec. 48 - Am. 1991 No.94, Sch. 1.

Sec. 53 - Am. 1992 No.34, Sch. 1; 1992,No.112, Sch.1.

Sch. 1- Am. 1990 No.46, Sch.1

Sch. 4 - Am. 1987 No.166, s. 31.

The whole Act (except secs. 5(1), 6(4) (a), 12(2), 48 and 53(1) (i) and clause 2 (1) of Sch. 1) - Am. 1991 No.94, Sch. 1 (“board” omitted wherever occurring, “Director-General” inserted instead).



**Exhibited Animals Protection Act 1986 –
Regulation
(Exhibited Animals Protection Regulation 1995)**

His Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Exhibited Animals Protection Act 1986, has been pleased to make the Regulation set forth hereunder.

Minister for Agriculture

Part 1 – PRELIMINARY

Citation

1. This regulation may be cited as the Exhibited Animals Protection Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. In this Regulation:

“**authorised premises**” means premises to which an authority relates including any land occupied by the holder of the authority for, or in connection with the exhibition of animals in accordance with the authority;

“**authority**” means a licence, an approval under section 22 of the Act or a permit;

“**cetacea display establishment**” has the meaning it has in section 34 of the Act;

“**drive-through area**” means any part of an animal display establishment in which there is exhibited an animal and through which the public may be permitted to drive motor vehicles without being separated from the animal by a fence, moat or cage forming part of the establishment;

“**enclosure**” includes a cage or other structure in which an exhibited animal is kept or is treated for illness or injury;

“**fence**” includes a wall or other barrier;

“**licensed premises**” means premises to which a licence relates;

“**minor establishment**” means premises to which a licence relates

(a) at which not more than 30 animals are displayed, being not more than 20 birds and not more than 10 mammals; and

(b) at which all animals displayed are of a bird or a mammal species listed in Schedule 1 or of any combination of those species

“**permit animal**” means an animal of a species set out in Schedule 2;

“**pet shop**” means premises in which animals are kept primarily for sale as pets in the course of a trade, business or profession;

“**temporary establishment**” means premises occupied by temporary or movable structures used for one or more of the purposes referred to in section 22 (2) of the Act;

“**the Act**” means the Exhibited Animals Protection Act 1986.

Part- 2 - ANIMAL DISPLAY ESTABLISHMENTS

Exemptions from licensing requirements

4. For the purposes of section 4 (1) of the Act, an animal display establishment is exempt from the requirement to be licensed if the only animals exhibited at the establishment are freshwater fish that are kept;
 - a) in a decorative or landscape pond or ponds of any size; or
 - b) in an aquarium that has a capacity of less than 2,000 litres or aquaria that have a total capacity of less than 2,000 litres.

Exhibitions exempted from the operation of the Act

5. For the purposes of paragraph (c) of the definition of “exhibit” in section 5 (1) of the Act, it is declared that the display, or keeping for display, of an animal in the following circumstances does not constitute an exhibition of the animal for the purposes of the Act:
 - (a) that the animal is a free-living animal in its natural habitat;
 - (b) if the animal is in an enclosed area – that it is in a wild state and does not depend on human interaction for its welfare or upkeep;
 - (c) that the animal is a lawful captive and is part of a competitive display of household pets;
 - (d) that the animal is part of a competitive display of domestic farm animals;
 - e) that the animal is a domestic farm animal being used to demonstrate the acquisition of wool, milk or other produce of a living animal;
 - f) that the animal is of domestic hoof-stock and is performing, or is to perform in an event at a rodeo;
 - g) that the animal is a lawful captive that is not displayed or kept for display, to the public;
 - h) that the animal is displayed or kept for display, in accordance with the authority conferred by a licence in force under the National Parks and Wildlife Act 1974.
 - i) that the animal is displayed, or kept for display, in the course of carrying on the business of animal research, or in the course of carrying out animal research, without contravening the Animal Research Act 1985.
 - j) that the animal, being an animal of a species listed in Schedule 3 and not being an animal kept pursuant to a permit or at a licensed animal display establishment, is an animal used only for riding or racing;
 - k) that the animal is kept in a pet shop for display and not for sale;
 - l) that the animal, being an animal of a species listed in Schedule 4 and not being an animal kept pursuant to a permit or at a licensed animal display establishment, is displayed:

- i) at an agricultural show or show parade conducted by the Royal Agricultural Society or a society that is a member of the Agricultural Societies Council; or
- ii) at an agricultural field day conducted on a farm or showground; or
- iii) on the farm which the animal is kept.

Zoological Parks

6. For the purposes of the definition of “zoological park” in section 5 (1) of the Act, an educational, cultural, scientific or recreational purpose is a prescribed purpose.

Classes of animal display establishments

7. (1) For the purposes of section 12 of the Act, the prescribed classes of animal display establishments are
- (a) cetacea display establishments other than temporary establishments; and
 - (b) animal display establishments other than temporary establishments; and
 - (c) minor establishments

2) For the purposes of section 13 of the Act, the classes of animal display establishments are:

- (a) those prescribed by subclause (1) and
- (b) temporary establishments; and
- (c) zoological parks established, maintained or controlled by the board.

Standards for animal display establishments

8. 1) For the purposes of section 14 of the Act, the requirements in any general standards for exhibiting animals approved and published by the Director – General from time to time apply as standards prescribed for animal display establishments of the classes prescribed by clause 7(2).

2) For the purposes of sections 14 and 25 of the Act, the standards set out in the following publications approved and published by the Director – General from time to time apply as standards prescribed for the purposes of sections 14 and 25 of the Act:

Standards for Exhibiting Koalas (*Phascolarctos cinereus*) in New South Wales

Standards for Exhibiting Bottle-nosed Dolphins (*Tursiops truncatus*) in New South Wales

Standards for Exhibiting Captive Raptors in New South Wales

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

Standards for Exhibiting Carnivores in New South Wales.

- 3) The Director – General may, at the request of a person who is the applicant for or holder of an authority that relates to:
- (a) an animal display establishment that was in existence before 9 June 1989; or
 - (b) the exhibition of an animal that was exhibited by the person before that time,

vary any standard otherwise applicable under this clause to the establishment or the exhibition of the animal by the person.

- 4) If a standard is varied under this clause, the standard applicable to the establishment or exhibition of the animal concerned is the standard as so varied.
- 5) It is a condition of an authority that the exhibition of animals to which it relates must be in accordance with such of the standards referred to in this clause as are applicable in relation to the authority.

Conservation education by animal display establishments

9. For the purposes of sections 14 and 25 of the Act, an animal display establishment is to provide education to the public concerning the conservation of animals to a standard approved by the Director – General.

Exhibitions of species of animals that require permits

10 The species of animals prescribed for the purposes of sections 24 and 25 of the Act are those set out in Schedule 2.

Part 3- AUTHORITIES

Division – 1 General

Application for issue, renewal or variation of authority

11.(1) An application for the issue, renewal or variation of an authority (Other than licence to be issued under section 18 of the Act following an approval under that section) or for the transfer of a licence:

- (a) must be made in writing in the form approved by Director- General for the purposes of the application, and
- (b) must be accompanied by any supporting documents referred to in the approved form and by the relevant fee or fees, and
- (c) in the case of an application for renewal – must be lodged with the Director – General during the month of May that last precedes expiration of the authority.

2) An application for a renewal of an authority that complies with subclause (1) operates to renew the authority unless:

- (a) the Director – General notifies the holder of the authority that renewal of the authority has been refused; or
- (b) the application has been deemed to be refused by operation of section 27 (4) of the Act.

3) An application for renewal of an authority is not required and subclause (2) has effect as if such an application had been made in compliance with subclause (1) if:

- (a) the authority first takes effect during May or June; and
- (b) the fee or fees for renewal of the authority is or are paid before the next succeeding 1 July

- 4) If the Director – General considers that an application for an authority is based principally on scientific grounds, the Director – General must, before making his or her decision on the application, seek the views of persons who, in the opinion of the Director – General, are qualified to assist in reaching that decision.
- 5) If investigation of an application for an authority discloses that the authority, if issued, would authorise the keeping in captivity of an animal that, in the opinion of the Director – General, could be successfully kept only with difficulty, the Director – General must not issue the authority unless the applicant provides the Director-General with a certificate by a person approved by the Director – General to the effect that all the requirements for commencing the proper keeping of the animal have been complied with.
- 6) The Director – General must not issue a licence unless:
- a) the applicant has, to the satisfaction of the Director – General, completed a course of study of a kind approved by the Director – General concerning the requirements of the Act and this Regulation; and
 - b) the applicant understands, to the satisfaction of the Director – General, the requirements of the Act and this Regulation.
- 7) An application is not required for a licence to be issued under section 18 (4) of the Act.

Fees

12. 1) The fee of the lodgment of an application of a class specified in the Table to this clause is the lodgment fee specified opposite that class of application.
- 2) The fee for the issue of an authority following an application of a class specified in the Table to this clause is the issue fee specified opposite that class of application.
 - 3) Despite subclause (2) if an authority issued by the Director – General is to take effect during a named month other than July, the applicant is to pay the same proportion of the full fee payable under subclause (2) for that authority as is borne to 12 by the number of named months that will elapse before the next succeeding July.
 - 4) In this clause: “**small establishment**” means premises:
 - (a) at which not more than 30 animals are displayed, being not more than 20 birds and not more than 10 mammals, and
 - (b) at which all animals displayed are of a bird or a mammal species listed in Schedule 1 or of any combination of those species.

Table :

Application for	Lodgment fee	Issue fee
Licence under section 18 of the Act	\$200	\$250 for small establishments, otherwise \$900
Renewal of licence under section 18 of the Act	\$100	\$250 for small establishments, otherwise \$900
Approval under section 22 of the Act	\$200	\$250 for small establishments, otherwise \$900
Renewal of approval under section	\$100	\$250 for small establishments,

22 of the Act		otherwise \$900
Permit under section 24 of the Act	\$20 per species	Nil
Renewal of permit under section 24 of the Act	Nil if applicant holds current licence or approval for the permit animal, otherwise \$20 per species	Nil
Approval under section 19 of the Act	\$40	Nil
Transfer of licence under 27 of the Act	\$200	\$250 for small establishments, otherwise \$900
Variation of authority under section 27 of the Act	\$20	Nil

Duration of authority

13. For the purposes of section 29, an authority remains in force (unless it is earlier cancelled and except during any period of suspension) until:

- (a) in the case of an authority other than a renewed authority – 1 July following the date on which the authority commences; or
- (b) in the case of a renewed authority – 1 July following the date on which the renewed authority commences.

Appeals

- 14.1) An aggrieved person may appeal to the Minister under section 32 of the Act by lodging with the Minister, within 28 days after service on the person of written notice of the decision appealed against, a notice of appeal that complies with subclause. (2)
- 2) To comply with this subclause, a notice of appeal must
 - (a) be signed by or on behalf of the appellant ; and
 - (b) identify the decision appealed against, and
 - (c) state the grounds of the appeal, and
 - (d) state any directions the appellant desires the Minister to give if the appeal is upheld.
- 3) The Minister must do the following before making a decision on an appeal
 - (a) give the Director – General an opportunity to make submissions in relation to the appeal; and
 - (b) take any such submissions into account.
- 4) The time within which an aggrieved person may appeal under section 33 of the Act to a Local Court is 28 days after service on the person of written notice of the decision appealed against.

Division 2 – Conditions

Australasian Species Management Program

15. A permit authorising the exhibition of an animal of a species referred to in Schedule 2 may include a condition requiring the holder to participate in the Australasian Species Management Program of the Species Management Coordinating Council.

Controlled breeding from stock

16. A licence or permit is subject to a condition requiring the holder to engage in a program of controlled breeding from the animals to which the licence or permit relates unless such a program:

- (a) would adversely affect the welfare of the progeny because of budgetary or space constraints; or
- (b) would add to an existing surplus of the species; or
- (c) would not be in accordance with the Australasian Species Management Program referred to in clause 15; or
- (d) in the opinion of the Director – General, would not, for any other reason, be in the best interests of the species or an individual animal.

Insurance

17. An authority is subject to a condition requiring the holder to maintain insurance approved by the Director – General against any liability of the holder, or of a servant or agent of the holder, for death, injury or damage caused by an animal exhibited by the holder or by such an animal that has escaped and has not returned to the wild.

Imposition of terms and conditions by the Director – General

18. 1) Terms or conditions of an authority may be imposed by the Director – General under section 28 (1) (c) of the Act after the issue of the authority:

- (a) at the request of the holder of the authority; or
 - (b) otherwise than at the request of the holder of the authority if subclause (3) has been complied with by the Director – General before imposition of the term or condition.
- 2) A term or condition of an authority that is specified under section 28 (1) (b) of the Act in the authority when it is issued, or that is imposed by the Director – General under section 28 (1) (c) of the Act after it is issued, may be varied by the Director – General if the decision to make the variation is made after subclause (3) has been complied with.
- 3) This subclause is complied with if:
- (a) the Director – General gives the holder of the authority written notice that the Director – General is considering the imposition or variation of terms or conditions specified in the notice; and
 - (b) the notice states that the holder of the authority may, within a specified time, make written representations to the Director – General or arrange with the Director – General for the making of oral representations; and
 - (c) before making any decision in relation to a term, or condition or variation under conservation, the Director – General takes into account any such representations.

Part 4 - OFFENCES

Display of authority

19. The holder of an authority must cause the authority to be at all times publicly displayed in a prominent position on the authorised premises.

Maximum penalty: 5 penalty units.

Veterinary drugs

20. 1) The holder of an authority must ensure that veterinary drugs, vaccines and like products kept on the authorised premises are so kept in a manner that allows access to them only by a registered veterinarian or a person authorised by a registered veterinarian.
Maximum penalty: 10 Penalty units

2) A person other than a registered veterinarian must not, except as directed by a registered veterinarian, administer a drug or vaccine to an animal that is exhibited on authorised premises.

Maximum penalty: 5 penalty units.

Notification of outbreak of disease

21. The holder of an authority must notify the Director – General of any widespread outbreak of a debilitating or fatal disease among the animals on the authorised premises and must do so not later than 24 hours after discovery of the outbreak.

Maximum penalty: 5 penalty units.

Disposal of unwanted veterinary equipment

22. A person disposing of unwanted or contaminated veterinary equipment from authorised premises must do so in such a way that the equipment does not become a danger to any person.

Maximum penalty: 10 penalty units.

Tethering of animals

23. (1) A person must not chain or tether an exhibited animal to an anchorage except for the purposes of veterinary treatment or grooming.

Maximum penalty: 5 penalty units.

(2) Subclause (1) does not apply:

- (a) to elephants or domesticated hoof-stock that are not on display; or
- (b) to raptors if the applicable standards are observed.

Dangerous or unsuitable housing

24 (1) If the Director – General (or an inspector) considers that an exhibited animal is caged or otherwise housed in conditions that threaten human safety or are unsuitable for the animal, the Director – General (or the inspector) may direct the exhibitor of the animal:

- (a) to move the animal to a cage or other housing approved by the Director – General (or the inspector); or
- (b) to modify the cage or housing in a specified way within a specified time; or
- (c) to demolish the cage or housing within a specified time.

2) An exhibitor of an animal who is given a direction under subclause (1) must comply with the direction.

Maximum penalty – subclause (2): 10 penalty units

Exhibition of unconfined animal

25. The exhibitor of an animal in contact with the public must so supervise and control it as to prevent injury to the public or to the animal.

Maximum penalty: 10 penalty units.

Safety in drive-through area

26 (1) The exhibitor of a dangerous animal kept in a drive-through area must cause admission of a motor vehicle to the area to be refused unless the persons in the vehicle are enclosed within a solid structure forming part of the vehicle.

2) While a person is inside a drive – through area, the exhibitor of a dangerous animal in the area must cause:

- (a) a suitable vehicle to be immediately available to rescue an endangered person, whether or not by towing or lifting a vehicle containing the endangered person; and
- (b) continuous observation to be maintained over the entire area; and
- (c) a suitably trained and armed member of the staff of the animal display establishment that includes the area, to be immediately available to kill or sedate an animal in order to save human life or prevent injury.

Maximum penalty: 10 penalty units.

3) In this clause:

“dangerous animal” means:

- (a) an animal of a species (such as tigers, lions and bears) whose members ordinarily pose a significant risk of death or injury to the public; or
- (b) an animal that, because of its particular disposition, health or other condition, poses a significant risk of death or injury to the public.

Escape of animal

27. 1) An exhibitor of a permit animal must immediately notify the Director – General if the animal escapes from the authorised premises.

2) If a permit animal escapes from an enclosure within authorised premises but not from the premises, the permit holder must notify the Director –General of the escape immediately and on recapture of the animal.

3) If an animal other than a permit animal escapes from authorised premises, or from an enclosure within authorised premises but not from the premises, the holder of the authority must notify the Director – General of the escape within 48 hours of the escape.

4) The holder of an authority must make all reasonable efforts to recover, alive or dead, an exhibited animal that escapes.

Maximum penalty: 10 penalty units.

Venomous animals

28. An exhibitor of an animal that is venomous to human beings must:

- (a) if a suitable antiserum exists, at all times have an appropriate supply of the antiserum available at the place of exhibition of the animal or at the nearest hospital; and
 - (b) maintain an emergency plan for the treatment of a person poisoned by the animal
- Maximum penalty: 5 penalty units.

Reporting of injuries to people

29. The holder of an authority must immediately report to the Director – General any incident involving

- (a) the death of a person; or
- (b) Injury to a person that requires medical treatment caused by an animal to which the authority relates.

Maximum penalty: 10 penalty units.

Noisy construction and maintenance work

30. An exhibitor of animals must take such steps as are necessary to alleviate any undue distress or disturbance of the animals resulting from the noise of construction or maintenance work being carried on by or on behalf of the exhibitor.

Maximum penalty: 5 penalty units

Acquisition and disposal of animals

31. The holder of an authority must not:

- (a) acquire an animal for exhibition knowing that the transaction is with a person who, by acquiring the animal, committed an offence under the National Parks and Wildlife Act 1974 or the Non Indigenous Animals Act 1987; or
- (b) dispose of an exhibited animal to a person who, by acquiring the animal, would commit an offence under either of those Acts; or
- (c) except in the case of an animal listed in Schedule 1 – without the consent of the Director – General, acquire an animal for exhibition or dispose of an exhibited animal.

Maximum penalty: 10 penalty units.

Removal of exhibited animal

32. 1) The holder of a licence for an animal display establishment must not, without the written consent of the Director – General, keep an exhibited animal, or permit such an animal to be kept, outside the animal display establishment in which it is ordinarily exhibited.

Maximum penalty: 5 penalty units.

2) The holder of an authority must not remove an animal from the authorised premises unless an appropriate application for the consent of the Director – General to the removal of the animal was made:

- (a) at least 7 days before the proposed removal; or
- (b) by agreement with the Director – General, at a later time, and the Director – General has given his or her written consent to the removal of the animal.

Maximum penalty: 10 penalty units.

3) Subclauses (1) and (2) do not apply in relation to an animal if:

- a) it is being taken to, or returned from, the premises of a registered veterinarian; or
- b) it is being kept on the premises of a registered veterinarian for treatment or observation; or
- c) it is being transported to give effect to its lawful disposition or acquisition.

4) In this clause:

“appropriate application” means a written application stating, in relation to the animal to which it relates:

- (a) the kind of animal; and
- (b) its destination, and
- (c) the method of transporting it; and
- (d) in the case of a temporary removal (such as for advertising) – the arrangements for the safety of the public in its vicinity, and
- (e) in the case of a temporary removal – the way in which the animal will be used and the duration of that use; and
- (f) the number and qualifications of the staff responsible for the animal while it is being transported and, in the case of a temporary removal, during its absence.

Exemption from requirements concerning acquisition, disposal and removal of animals

33. 1) The holder of an authority is exempt from the requirements of clause 31 (c) and 32

2) if the holder of the authority:

- (a) has, to the satisfaction of the Director – General, completed an animal exhibitor’s accreditation course of a kind specified by the Director – General; and
- (b) holds a current certificate of exemption issued by the Director – General for the purposes of this subclause; and
- (c) complies with any conditions to which the certificate of exemption is subject

2) The Director – General may, by notice in writing, cancel a certificate of exemption issued under this clause if the person to whom the certificate is issued fails to comply with the requirements of the Act, this Regulation or the conditions to which the certificate is subject.

Animal records

34.1) In this clause:

“relevant period” in relation to an authority, means:

- (a) the period that begins when the authority first takes effect and ends on the next succeeding 30 April; and
- (b) each period of 12 months that commences on 1 May and succeeds the period referred to in paragraph (a).

2) The holder of an authority must, at all times during each relevant period while the authority is in force, keep on the authorised premises animal records in a form approved by the Director – General.

Maximum penalty: 10 penalty units.

3) As soon as practicable after information required to keep the animal records up-to date becomes available to the holder of an authority, the holder must cause the information to be entered in the animal records.

Maximum penalty: 10 penalty units.

4) The holder of an authority must not:

- (a) fail to notify the Director – General within 7 days after the loss of, or after any damage to, the animal records; or
- (b) make an entry, or allow an entry to be made, in the animal records:
 - (i) if the records are in a written or printed form – otherwise than in ink; or
 - (ii) if the records are stored in electronic form – otherwise than in a manner approved by the Director – General; or
- (c) delete an erroneous entry in the animal records, or allow such an erroneous entry to be deleted:
 - (i) if the records are in written or printed form – otherwise than by drawing a single line through the entry; or
 - (ii) if the records are stored in electronic form – otherwise than in a manner approved by the Director – General.

Maximum penalty : 5 penalty units.

5) A person must not, in any way, knowingly cause the animal records to be false or misleading in a material particular.

Maximum penalty: 10 penalty units.

6) The holder of an authority making application for its renewal must lodge with the application the animal records required to be kept during the relevant period for the authority that last preceded the application.

Maximum penalty: 10 penalty units.

7) The former holder of the authority must, not later than 14 days after expiration of an authority, lodge with the Director – General the animal records the former holder was required to keep:

- (a) during the relevant period for the authority that expired on the last preceding 30 April; and
- (b) during the relevant period for the authority that commenced on the last preceding 1 May.

8) If an authority is suspended, surrendered or cancelled, the holder or former holder, of the authority must:

- (a) within 14 days after the surrender; or
- (b) within 14 days after being notified of the suspension or cancellation lodge with the Director – General the animal records the holder, or former holder, was required to keep during the relevant period for the authority that commenced on 1 May last preceding the surrender, suspension or cancellation.

Maximum penalty: 10 penalty units.

Other records:

35. 1) An exhibitor of animals must maintain, in a manner approved by the Director – General an up-to-date record of:

- (a) any illness, disease, injury or other poor health of animals; and
- (b) the day-to-day progress or regress of the animals; and
- (c) the treatment, medicinal and otherwise, administered to the animals.

2) An exhibitor of animals must maintain, in a manner approved by the Director – General, an up-to-date record of routine checks made on the health of the animals.

- 3) An exhibitor of animals must maintain, in a manner approved by the Director – General, an up-to-date record of each veterinary inspection of the animals and of any veterinary care given to the animals.
- 4) An exhibitor of animals must retain, for at least 2 years after it is made, a record made under this clause.

Maximum penalty: 5 penalty units.

Species identification

36. 1) An exhibitor of animals must make, and retain for at least 2 years after it is made, a record of the name and qualifications of a person who identifies a species of animals for the exhibitor.

2) If the Director – General so directs, an exhibitor of animals must have the species of the animals identified by a person nominated by the Director – General.

Maximum penalty: 5 penalty units.

Attendants and other staff

37. An exhibitor of animals must :

- (a) employ such number of adequately trained and competent staff as is necessary to maintain daily the level of animal husbandry prescribed by this Regulation; and
- (b) employ such number of qualified or experienced animal attendants as are necessary to maintain the level of care of the exhibited animals prescribed by this Regulation ; and
- (c) make such arrangements as are necessary to ensure that there will at all times be a person authorised to call for veterinary advice in relation to the animals.

Maximum penalty: 10 penalty units.

Compliance with conditions

38. The holder of an authority must comply with any conditions to which the authority or a certificate of exemption issued to the holder under clause 33 is subject.

Maximum penalty: 10 penalty units.

Part 5 – MISCELLANEOUS

Keeping of records by the Director – General

39. The register required to be kept under section 20 of the Act, and any other records required to be kept by the Director – General or in accordance with a standard referred to in clause 8, must be kept:

- (a) in writing that is in the English language and is decipherable on sight; or
- (b) in such a form that the particulars in the register or other records may be readily reproduced in writing that is in the English language and is decipherable on sight.

Organisations that may nominate persons to be members of advisory committee

40. (1) For the purposes of section 6 (4) (e) of the Act, the following are prescribed animal welfare organisations :

Animal Welfare League

Project Jonah

Royal Society for the Prevention of Cruelty to Animals

World Wide Fund for Nature Australia

2) For the purposes of section 6(4) (f) of the Act, the following are prescribed organisations representing exhibitors of animals:

Associated Birdkeepers and Traders Inc.
Circus Proprietors Association
N.S.W. Association of Fauna and Marine Parks

Bonds paid as condition of cetacea display licence

41. 1) For the purposes of section 37 of the Act

- (a) the prescribed amount is \$20,000; and
- (b) an arrangement for a financial institution to guarantee the payment of an amount to the Director – General (not exceeding \$20,000) is a prescribed arrangement.

2) The Director – General must invest any money:

- (a) deposited with the Director – General under section 37 of the Act by a licensee and that has not for the time being, been expended under that section; and
- (b) paid to the Director – General under an arrangement referred to in subclause (1) and that has not, for the time being, been expended under that section.

3) The money must be invested:

- (a) in a manner authorised by the Trustee Act 1925 for the investment of trust funds; and
- (b) so that not more than one month's notice is required for its repayment, and the Director – General must arrange for the income to be paid directly to, or as authorised by the licensee.

4) In subclause (1) :

“financial institution” means:

- (a) the State Bank of New South Wales or a bank within the meaning of the Banking Act 1959 of the Commonwealth; or
- (b) a financial institution approved by the Director – General.

Period of time for return of seized animal

42. For the purposes of section 41 of the Act, a period of 3 months after seizure of an animal under section 40 of the Act is the prescribed period after which the animal must be returned unless earlier dealt with under the Act.

Registered particulars relating to licences

43. The prescribed fee for a certificate containing a copy of the registered particulars relating to an animal display establishment given under section 21 of the Act is \$50.

Repeals

44. 1) The Exhibited Animals Protection Regulation 1987 and the Exhibited Animals Protection Regulation 1989 are repealed.
- 2) Any act, matter or thing that, immediately before the repeal of a Regulation referred to in subclause (1), had effect under that Regulation is taken to have effect under this Regulation.

SCHEDULE 1 – UNRESTRICTED TRANSFERS (CII. 3, 31)

PART 1 – REPTILES (REPTILIA)

Tortoises **Testudines**

Chelodina longicollis Common Long-necked Tortoise

Lizards **Sauria**

Physignathus lesueurii Eastern Water Dragon
Tiliqua scincoides Blue – tongued Lizard

Snakes **Serpentes**

Morelia spilota Carpet or Diamond Python

PART 2 - BIRDS (AVES) **Division 1 – Native Birds**

Emu **Casuariiformes**

Dromaius novaehollandiae Emu

Egret and ibis **Ciconiiformes**

Ardeola ibis Cattle Egret
Threskiornis aethiopica Sacred Ibis

Ducks **Anseriformes**

Dendrocygna eytoni Plumed Whistling – duck
Chenonetta jubata Maned Duck

Anas castanea
Anas superciliosa
Anas gibberifrons

Chestnut Teal
Black Duck
Grey Teal

Quail

Galliformes

Coturnix australis
Coturnix chinensis
Coturnix noturnix

Brown Quail
King Quail
Stubble Quail

Rails

Gruiformes

Gallinula tenebrosa
Porphyrio porphyrio
Fulica atra

Dusky Moorhen
Purple Swamphen
Eurasian Coot

Pigeons and doves

Columbiformes

Geopelia cuneata
Geopelia placida

Diamond Dove
Peaceful Dove

Parrots and cockatoos

Psittaciformes

Trichoglossus chlorolepidotus
Cacatua roseicapilla
Cacatua galerita
Cacatua sanguinea
Cacatua tenuirostris
Nymphicus hollandicus
Platycercus elegans
Platycercus eximius
Melopsittacus undulatus

Scaly-breasted Lorikeet
Galah
Sulphur-crested Cockatoo
Little Corella
Long-billed Corella
Cockatiel
Crimson Rosella
Eastern Rosella
Budgerigar

Frogmouths

Caprimulgiformes

Podargus strigoides

Tawny Frogmouth

Kingfishers

Coraciiformes

Dacelo novaeguineae

Kookaburra

Perching birds
Passeriformes

Gymnorhina tibicen
Taeniopygia guttata

Australian Magpie
Zebra Finch

DIVISION 2 – NON INDIGENOUS BIRDS

Ducks and geese
Anseriformes

Anas platyrhynchos
Anser spp.

Domestic Duck other than Mallard
Domestic Goose

Pheasants and allies
Galliformes

Coturnix coturnix
Gallus gallus
Phasianus colchicus
Pavo cristatus
Meleagris gallopavo
Alectoris chukar
Numida meleagris

Japanese Quail
Domestic Chicken
Ring-necked Pheasant
Blue (Indian) Peafowl
Domestic Turkey
Chukar Partridge
Helmeted Guineafowl

Pigeons and doves
Columbiformes

Columba livia
Streptopelia decaocto
Streptopelia "risoria"

Domestic Pigeon
Ring-necked Turtle Dove
Barbary Dove

Perching birds
Passeriformes

Serinus canaria

Domestic Canary

PART 3 – MAMMALS (MAMMALIA)
Division 1 – Native Mammals

Possums and kangaroos
Diprotodontia

Trichosurus vulpecula
Pseudocheirus peregrinus

Common Brushtail Possum
Common Ringtail Possum

<i>Thylogale billardierii</i>	Red-bellied Pademelon
<i>Thylogale stigmatica</i>	Reg-legged Pademelon
<i>Thylogale thetis</i>	Red-necked Pademelon
<i>Macropus eugenii</i>	Tammer Wallaby
<i>Macropus fuliginosis</i>	Western Grey Kangaroo
<i>Macropus giganteus</i>	Eastern Grey Kangaroo
<i>Macropus rufogriseus</i>	Red-necked Wallaby
<i>Macropus rufus</i>	Red Kangaroo
<i>Macropus robustus</i>	Common Wallaroo
<i>Wallabia bicolor</i>	Swamp Wallaby

Division 2 – Non-indigenous Mammals

Carnivores (Placental)

Carnivora

<i>Canis familiaris</i>	Domestic Dog except <i>C.f. dingo</i> (Dingo) and <i>C.f. hallstromi</i> (New Guinea Wild Dog)
<i>Felis catus</i>	Domestic Cat

Hoofed mammals – odd-toed

Perrissodactyla

<i>Equus asinus</i>	Domestic Donkey
<i>Equus caballus</i>	Domestic Horse except E.c. przewalski (Przewalski's Horse)

Hoofed mammals – even – toed

Artiodactyla

<i>Sus scrofa</i>	Domestic Pig
<i>Bos taurus</i>	Domestic Cattle
<i>Bos indicus</i>	Domestic Cattle
<i>Ovis aries</i>	Domestic Sheep
<i>Capra hircus</i>	Domestic Goat

Rabbits

Lagomorpha

<i>Oryctolagus cuniculus</i>	Domestic Rabbit
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Rodents

Rodentia

<i>Mus musculus</i>	House Mouse
<i>Rattus rattus</i>	Black Rat

Rattus norvegicus
Cavia porcellus

Norwegian Rat
Guinea Pig

Schedule 2- Animals for which a section 24 permit is required

PART 1 – AMPHIBIANS (AMPHIBIA)

Frogs and toads

Anura

Bufo marinus

Cane Toad

All species of the Family: Dendrobatidae

Poison Arrow frogs

Litoria aurea

Philautus romeri

Green and Gold Bell Frog
Romer's Tree Frog

PART 2 – REPTILES (REPTILIA)

Crocodiles, alligators and allies

Crocodylia

All species

Tortoises and turtles

Testudines

All species of the Family:

Carettochelydidae

Pitted- shelled Turtles

Cheloniidae

Sea Turtles

Dermochelyidae

Leathery Turtles

Pseudemydura umbrina

Western Swamp Tortoise

Geochelone elephantopus

Galapagos Tortoise

Geochelone gigantea

Aldabra Giant Tortoise

Tuatara

Rhynchocephalia

All species of the Family:

Sphenodontidae

Tuataras

Lizards

Sauria

Heloderma suspectum
Brachylophus fasciatus
Brachylophus vitiensis
Delma impar
Leiopisma grande
Varanus komodoensis

Gila Monster
Fijian Banded Iguana
Fijian Crested Iguana
Striped Legless Lizard
Giant Otago Skink
Komodo Dragon

Snakes
Serpentes

Boa constrictor
Eunectes murinus
Python reticulatus
Liasis amethystina

Boa constrictor
Anacoda
Reticulated Python
Scrub Python

All species of the Genus:

Acanthophis
Austrelaps
Cryptophis
Haemachatus
Naja
Notechis
Ophiophagus
Oxyuranus
Parademansia
Pseudechis
Pseudonaja
Tropidechis
Vermicella

Death Adder
Copperhead Snake
Small-eyed Snake
Spitting Cobra
Cobra
Tiger Snake
King Cobra
Taipan
Fierce Snake
Black Snake
Brown Snake
Rough-scaled Snake
Bandy-Bandy

All species of the Family:

Crotalidae
Hydrophiidae
Laticaudidae
Viperidae

Rattlesnakes
Sea Snakes
Sea Kraits
Vipers

Part 3 – Birds (Aves)

Ostrich
Struthioniformes

Struthio camelus

Ostrich

Rheas
Rheiformes

Rhea americana

Common Rhea

Cassowaries
Casuariiformes

Casuarus casuarius Southern Cassowary

Kiwis
Apterygiformes

Apteryx haastii Great Spotted Kiwi

Albatrosses, petrels and allies
Plariiformes

All species

Storks and flamingos
Ciconiiformes

Xenorhynchus asiaticus Black-necked Stork
Phoenicopterus chilensis Chilean Flamingo
Phoenicopterus ruber Greater Flamingo

New world vultures
Cathartiformes

All species

Hawks, osprey and secretary-bird
Accipitriformes

All species

Falcons
Falconiformes

All species

Ducks
Anseriformes

Stictonetta naevosa Freckled Duck
Anas aucklandica aucklandica Auckland Island Teal
Anas aucklandica nesiotis Campbell Island Teal

Megapodes
Galliformes

Leipoa ocellata

Mallee fowl

Button-quails, rails, cranes, bustards and allies
Gruiformes

Turnix melanogaster

Black-breasted Button-quail

Grus rubicundus

Brolga

Balearica regulorum

East African Crowned Crane

Gallirallus sylvestris

Lord Howe Island Woodhen

Ardeotis australis

Australian Bustard

Plovers, waders, gulls and auks
Charadriiformes

All species except *Larus novaehollandiae* Silver Gull

Parrots and cockatoos
Psittaciformes

All species of Genus:

Probosciger

Palm Cockatoo

Calyptorhynchus

Black Cockatoo

Callocephalon

Gang Gang Cockatoo

Cacatua pastinator

Western Long-billed Corella

Nestor notabilis

Kea

Nestor meridionalis meridionalis

South Island Kaka

Nestor meridionalis septentrionalis

North Island Kaka

Eclectus roratus

Eclectus Parrot

Cyanoramphus unicolor

Swift Parrot

Ara ararauna

Blue and Yellow Macaw

Ara macao

Scarlet Macaw

Ara chloroptera

Green – winged Macaw

Anodorhynchus hyacinthinus

Hyacinth Macaw

Strigops habroptilus

Kakapo

Cyclopsitta diophthalma

Doble-eyed Fig-parrot

Psephotus chrysopterygius

Golden-shouldered Parrot

Neophema petrophila

Rock parrot

Neophema chrysogaster

Orange-bellied Parrot

Cuckoos, touracos and hoatzins
Cuculiformes

All species

Owls
Strigiformes

All species

Frogmouths and nightjars
Caprimulgiformes

All species except *Podargus strigoides*

Tawny Frogmouth

Perching birds
Passeriformes

All species of the Family:

Pittidae

Pittas

Menuridae

Lyrebirds

Lichenostomus melanops cassidix

Helmeted Honeyeater

Notiomystis cincta

Stitchbird

Zanthyomyza phrygia

Regent Honeyeater

Dasyornis brachypterus

Eastern Honeyeater

Callaeas cinerea wilsoni

North Island Kokako

Creadion carunculatus carunculatus

South Island Saddleback

Creadion carunculatus rufusater

North Island Saddleback

Stagonopleura oculata

Red-eared Firetail

Emblema bella

Beautiful Firetail

All species of the Family:

Paradisaeidae

Birds-of-Paradise

PART 4 -MAMMALS (MAMMALIA)

Subclass 1- Egg-laying Mammals (*Prototheria*)

Platypus and echidnas

Monotremata

Zaglossus bruijni

Long-beaked Echidna

Ornithorhynchus anatinus

Platypus

Subclass 2- Marsupials (*Metatheria*)

Carnivorous marsupials

Polyprotodontia

Phascogale tapoatafa

Brush- tailed Phascogale

Dasyercus cristicauda

Mulgara

Dasyurus geoffroii

Western Quoll or Chuditch

Dasyurus maculatus
Sarcophilus harrisii
Myrmecobius fasciatus
Perameles gunnii
Macrotis lagotis

Tiger Quoll
Tasmanian Devil
Numbat
Eastern Barred Bandicoot
Greater Bilby

Herbivorous marsupials

Diprotodonta

Spilocuscus maculatus
Burrhamys parvus
Gymnobelideus leadbeateri
Petaurus australis
Petaurus norfolcensis
Potorous longipes
Petrogale penicillata
Petrogale xanthopus
Lagorchestes hirsutus
Dendrolagus goodfellowi
Dendrolagus matschiei
Phascolarctos cinereus

Common Spotted Cuscus
Mountain Pygmy- possum
Leadbeater's Possum
Yellow-bellied Glider
Squirriel Glider
Long-footed Potoroo
Brush-tailed Rock- wallaby
Yellow-footed Rock-wallaby
Mala
Goodfellow's Tree Kangaroo
Matschie's Tree Kangaroo
Koala

Subclass 3- Placental Mammals (Eutheria)

Anteaters and sloths

Edentata

Myrmecophaga tridactyla
Choloepus hoffmanni

Giant Anteater
Hoffman's Sloth

Bats

Chiroptera

All species except Family *Pteropodidae* (*Fruit Bats*)

Monkeys, apes and allies

Primates - All species

Carnivores

Carnivora

All species except those listed in Schedule 1 and *Mustela putorius* (Domestic Ferret)

Seals, walrus and allies

Pinnipedia

All species

Elephants
Proboscidea

All species

Hoofed mammals- odd-toed
Perissodactyla - **All species except those listed in Schedule 1**

Hoofed mammals- even-toed
Artiodactyla
All species except those listed in Schedule 1, *Lama pacos* (Alpaca) and *Lama glama* (Llama)

Rodents
Rodentia
All species except those listed in
Schedule 1

Part 5 – Hybrids
A hybrid of which one parent is, or both parents are, of a species listed in Parts 1 to 4.

SCHEDULE 3 – EXEMPTIONS – ANIMALS USED FOR RIDING OR RACING
(Cl. 5 (j))

<i>Bos taurus</i> and <i>Bos indicus</i>	Domestic cattle
<i>Camelus dromedarius</i>	Arabian Camel
<i>Canis familiaris</i>	(Domestic Dog), except <i>Canis familiaris dingo</i> (Dingo) and <i>Canis familiaris hallstromi</i> (New Guinea Wild Dog)
<i>Capra hircus</i>	Domestic Goat
<i>Equus caballus</i> and <i>Equus asinus cabalus przewalski</i> (<i>Przewalski's Horse</i>)	Domestic Horse, except <i>Equus</i>
<i>Equus equus x asinus</i>	Domestic Mule

SCHEDULE 4 - EXEMPTIONS - ANIMALS DISPLAYED AT CERTAIN AGRICULTURAL SHOWS AND RURAL AREAS (Cl. 5(I))

<i>Ovis aries</i>	Domestic Sheep
<i>Capra hircus</i>	Domestic goat
<i>Bos taurus</i> and <i>Bos indicus</i>	Domestic Cattle
<i>Equus caballus</i>	Domestic Horse
<i>Equus asinus</i>	Domestic Donkey
<i>Sus scrofa</i>	Domestic Pig
<i>Canis familiaris</i> (Working Dog)	Domestic Dog, but limited to Working Breeds (Farm)
<i>Lama pacos</i>	Alpaca

<i>Lama glama</i>	Llama
<i>Anas platyrhynchos</i>	Domestic Duck
<i>Anser spp.</i>	Domestic Goose
<i>Columba livia</i>	Domestic Pigeon
<i>Gallus gallus</i>	Domestic Chicken
<i>Meleagris gallopavo</i>	Domestic Turkey
<i>Coturnix coturnix</i>	Japanese Quail
<i>Numida meleagris</i>	Helmeted Guineafowl
<i>Phasianus colchicus</i>	Ring-necked Pheasant
<i>Alectoris chukar</i>	Chukar Partridge
<i>Struthio camelus</i>	Ostrich
<i>Cervus dama</i>	Fallow Deer
<i>Cervus timorensis</i>	Rusa Deer
<i>Cervus unicolor</i>	Sambar Deer
<i>Cervus elaphus</i>	Red Deer (wapiti)
<i>Dromaius novaehollandiae</i>	Emu

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with some modifications, the provisions of the Exhibited Animals Protection Regulation 1987 and the Exhibited Animals Protection Regulation 1989. The modifications include the following:

- (a) exempting animals displayed in pet shops, but which are not for sale, from the operation of the Act (clause 5 (k));
- (b) enabling the Director-General to approve and publish standards from time to time for the keeping of animals in animal display establishments (clause 8);
- (c) making it a requirement for an animal display establishment to provide education to the public on conservation issues (clause 9);
- (d) requiring an applicant for a licence to have completed a course of study regarding the requirements of the Act and this Regulation (clause 11 (6));
- (e) altering the fee structure for applications for certain authorities (including renewal fees for permits) and to provide for refunds on a pro rata basis (clause 12);
- (f) providing that a licence expires on 1 July following the date of its issue (clause 13);
- (g) enabling inspectors (as well as the Director-General) to give directions concerning dangerous or unsuitable housing for animals (clause 24);
- (h) restricting the obligation of an exhibitor to ensure safety in a drive-through area to areas in which dangerous animals are kept (clause 26);
- (i) requiring the holders of authorities to make an appropriate application to the Director-General for the removal of *any* animal exhibited in an animal display establishment (clause 32);
- (j) updating provisions requiring the keeping of animal records so that they extend to computer records (clause 34);

- (k) removing certain record keeping requirements previously contained in clauses 10 and 12 of the 1989 Regulation;
- (l) updating certain references and reorganising the provisions of the previous Regulations.

This Regulation is made under the Exhibited Animals Protection Act 1986, including sections 4, 5 (1), 6 (4) (e) and (f), 12-14, 20, 21, 24, 25, 27-29, 32, 33, 37, 41 and 53 (the general regulation-making power) and Schedule 3.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.



Exhibited Animals Protection Regulation 1989
under the
Exhibited Animals Protection Act 1986

(Authorised reprinted statutory instrument (Regulation) – Reprinted as in force at 123 November 1993 to include all amendments up to Gazette of 29.20.1993)

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PART 1 – PRELIMINARY

Citation

1. This Regulation may be cited as the Exhibited Animals Protection **Regulation 1989**.

Commencement

2. This Regulation commences on 9 June 1989.

Definitions

3. In this Regulation:

“**authorised premises**” means premises to which an authority relates including any land occupied by the holder of the authority for, or in connection with, the exhibition of animals in accordance with the authority;

“**authority**” means a licence, an approval under section 22 or a permit;

“**Director-General**” means the Director-General of the Department of Agriculture;

Zoological parks

5. For the purposes of the definition of "zoological park" in section 5 (1) of the Act, an educational, cultural, scientific or recreational purpose is a prescribed purpose.

Classes of animal display establishments

6. (1) For the purposes of section 12 of the Act, the prescribed classes of animal display establishments are:

- (a) cetacea display establishments; and
- (b) animal display establishments other than temporary establishments; and
- (c) minor establishments.

(2) For the purposes of section 13 of the Act, the classes of animal display establishments are:

- (a) those prescribed by subclause (1); and
- (b) temporary establishments; and
- (c) zoological parks established, maintained or controlled by the board.

Exemptions

6A. For the purposes of section 4 (1) of the Act, an animal display establishment is exempt from the requirement to be licensed if the only animals exhibited at the establishment are freshwater fish which are kept:

- (a) in a decorative or landscaped pond or ponds of any size; or
- (b) in an aquarium which has a capacity of less than 2,000 litres or aquaria which have a total capacity of less than 2,000 litres.

Standards

7. (1) For the purposes of section 14 of the Act, the requirements of Schedule 1 are standards prescribed for animal display establishments of the classes prescribed by clause 6 (2).

(2) For the purposes of sections 14 and 25 of the Act, the standards set out in the following publications of the board apply as standards prescribed for the purposes of sections 14 and 25 of the Act:

Standards for Exhibiting Koalas (*Phascolarctos cinereus*) in New South Wales

Standards for Exhibiting Bottle-nosed Dolphins (*Tursiops truncatus*) in New South Wales
Standards for Exhibiting Captive Raptors in New South Wales
Standards for Exhibiting Captive Macropods (Kangaroos, Wallabies and Allies) in New South Wales
Standards for Exhibiting Carnivores in New South Wales.

(3) The Director-General may, at the request of a person who is the applicant for or holder of an authority that relates to:

- (a) an animal display establishment that was in existence before the commencement of this Regulation; or
- (b) the exhibition of an animal that was exhibited by the person before that commencement,

vary any standard otherwise applicable under subclause (1) or (2) to the establishment or the exhibition of the animal by the person.

(4) If a standard is varied under this clause the standard applicable to the establishment or exhibition of the animal concerned is the standard as so varied.

(5) It is a condition of an authority that the exhibition of animals to which it relates must be in accordance with such of the standards referred to in this clause as are applicable in relation to the authority.

Keeping of records by the Director-General

8. The register required to be kept under section 20 of the Act, and any other records required to be kept by the Director-General or in accordance with Schedule 1, shall be kept:

- (a) in writing that is in the English language and is decipherable on sight; or
- (b) in such a form that the particulars in the register or other records may be readily reproduced in writing that is in the English language and is decipherable on sight.

Registered particulars relating to licence

9. (1) For each licence, the further particulars required by section 20 (2) (e) of the Act to be entered in the register of licences are:

- (a) the expiry date of the licence; and
- (b) if the licensee is a corporation - the address in the State at which a notice may be served on the corporation; and
- (c) details of any suspension or cancellation of the licence.

(2) A certificate that, in accordance with section 21 of the Act, contains a copy of the registered particulars relating to an animal display establishment may be in a form determined by the Director-General.

(3) The prescribed fee for such a certificate is \$50.

Record of approvals to exhibit animals

10. (1) The Director-General shall keep a record of approvals issued under section 22 of the Act.

(2) The Director-General shall, in relation to each approval, cause to be entered in the record particulars of:

- (a) the full name of the holder; and
- (b) the residential address of the holder or, if the holder is a corporation, the address in the State at which a notice may be served on the corporation; and

- (c) the species of animal to which the approval relates; and
- (d) the terms and conditions to which the approval is subject; and
- (e) any suspension or cancellation of the approval; and
- (f) the expiry date of the approval.

Exhibition of prescribed species of animals

11. The species of animals prescribed for the purposes of sections 24 and 25 of the Act are those set out in Schedule 2.

Record of permits to exhibit animals of prescribed species

12. (1) The Director-General shall keep a record of permits issued for the purposes of section 24 of the Act.

- (2) The Director-General shall, in relation to each permit, cause to be entered in the record particulars of:
- (a) the full name of the holder; and
 - (b) the residential address of the holder or, if the holder is a corporation, the address in the State at which a notice may be served on the corporation; and
 - (c) the prescribed species of animal to which the permit relates; and
 - (d) the terms and conditions to which the permit is subject; and
 - (e) any suspension or cancellation of the permit; and
 - (f) the expiry date of the permit.

Application for issue, renewal or variation of authority

13. (1) An application for the issue, renewal or variation of an authority (other than a licence to be issued under section 18 of the Act following an approval under that section) or for the transfer of a licence:

- (a) must be made in writing in the form approved by the Minister for the purposes of the application; and
 - (b) must be accompanied by any supporting documents referred to in the approved form and (except in the case of an application for the renewal of a permit that is in force at the time of the application) by the application fee; and
 - (c) in the case of an application for renewal - must be lodged with the Director-General during the month of May that last precedes expiration of the authority.
- (2) Unless the Director-General notifies the holder of an authority that renewal of the authority has been refused, compliance with subclause (1) in relation to the application operates to renew the authority.
- (3) If:
- (a) an authority first takes effect during May or June; and
 - (b) the application fee for renewal of the authority is paid before the next succeeding 1 July, application for renewal of the authority is not required and subclause (2) has effect as if such an application had been made in compliance with subclause (1).

(4) If the Director-General considers that an application for an authority is based principally on scientific grounds, the Director-General shall, before making his or her decision on the application, seek the views of persons who, in the opinion of the Director-General are qualified to assist in reaching that decision.

(5) If investigation of an application for an authority discloses that the authority, if issued, would authorise the keeping in captivity of an animal that, in the opinion of the Director-General, could be successfully kept only with difficulty, the Director-General shall not issue the authority unless the applicant provides the Director-General with a certificate by a person approved by the Director-

General to the effect that all the requirements for commencing the proper keeping of the animal have been complied with.

(6) An application is not required for a licence to be issued under section 18 (4) of the Act.

Application fees

14. (1) In this clause:

“**applicable authority**” means:

- (a) a licence (other than a licence to be issued under section 18 of the Act following an approval under that section); or
- (b) an approval for the purposes of section 18 of the Act; or
- (c) the renewal of a licence.

(2) The application fee for an applicable authority (other than an applicable authority referred to in subclause (5) or (6) is:

- (a) in relation to an application made before 1 July 1990 - \$500; and
- (b) in relation to an application made on or after 1 July 1990 and before 1 July 1991 - \$750; and
- (c) in relation to an application made on or after 1 July 1991 \$ 1,000.

(3) The application fee:

- (a) for an approval under section 22 of the Act; or
- (b) for the renewal of an approval under section 22 of the Act, is the amount calculated for the approval or renewal in accordance with Schedule 4.

(4) The application fee:

- (a) for an approval under section 19 of the Act is \$40; or
- (b) for a permit is \$20 for each species of animal in relation to which the permit is sought; or
- (c) * * * * *
- (d) for variation of an authority is \$20; or
- (e) for transfer of a licence is \$500.

(5) If:

- (a) the applicant for an applicable authority is the council of a city, municipality or shire and the application is made in respect of an animal display establishment for admission to which there is no charge; or
- (b) the applicant for an applicable authority is a trustee of a state recreation area (within the meaning of the National Parks and Wildlife Act 1974) and the Application is made in respect of an animal display establishment for admission to which there is no charge other than the charge (if any) for admission to that state recreation area; or
- (b 1) the applicant for an applicable authority is the Director of National Parks and Wildlife and the application is made in respect of an animal display establishment in a national park (within the meaning of the National Parks and Wildlife Act 1974) for admission to which there is no charge other than the charge (if any) for admission to that national park,
the application fee is:
 - (c) if the application is for an applicable authority referred to in subclause (1) (a) or (b) and the application does not relate to a minor establishment - \$500; or
 - (d) if the application is for an applicable authority referred to in subclause (1) (a) or (b) and the application relates to a minor establishment -\$250; or
 - (e) if the application is for an applicable authority referred to in subclause (1) (c)-nil.

(6) Except as provided by subclause (5), the application fee for an applicable authority referred to in subclause (1) (a), (b) or (c) in respect of a minor establishment is \$250.

Partial refund of application fee

15. (1) The Director-General shall, when issuing an authority taking effect during a named month other than July, refund to the applicant the same proportion of the application fee paid as is borne to 12 by the number of named months that have elapsed since the last preceding 30 June.

(2) Subclause (1) does not apply in relation to an authority issued as a result of an application made, but not finally dealt with, before 1 July 1989.

Duration of authority

16. (1) Unless it is earlier cancelled, and except during any period of suspension:

(a) an authority (other than a renewed authority) remains in force until the expiration of the period of 12 months that commences on the relevant date for the authority; and

(b) a renewed authority remains in force until the expiration of the period of 12 months that commences immediately after the date on which, but for its renewal, it would have expired.

(2) In subclause (1):

"**relevant date**", in relation to an authority, means:

(a) 1 July 1989 if the authority is issued on an application made before 1 July 1989; or

(b) if the authority is issued on an application made on or after 1 July 1989 and its date of issue is 1 July 1989 or any Succeeding 1 July - the date of its issue; or

(c) in any other case-1 July that last preceded the date of its issue.

Appeal to Minister

17. 1) An aggrieved person may appeal to the Minister under section 32 of the Act by lodging with the Minister, within 28 days after service on the person of written notice of the decision appealed against, a notice of appeal that complies with subclause (2).

(2) To comply with this subclause, a notice of appeal must:

(a) be signed by or on behalf of the appellant; and

(b) identify the decision appealed against; and

(c) state the grounds of the appeal; and

(d) state any directions the appellant desires the Minister to give if the appeal is upheld.

(3) Before making a decision on an appeal, the Minister shall:

(a) afford the Director-General an opportunity to make submissions in relation to the appeal; and

(b) take any such submissions into account.

Appeal to Local Court

18. The time within which an aggrieved person may appeal under section 33 of the Act to a Local Court is 28 days after service on the person of written notice of the decision appealed against.

Bonds

19. (1) For the purposes of section 37 of the Act:

(a) the prescribed amount is \$20,000; and

(b) an arrangement for a financial institution to guarantee the payment of an amount to the Director-General (not exceeding \$20,000) is a prescribed arrangement.

(2) The Director-General shall invest:

(a) any money deposited with the Director-General under section 37 of the Act by a licensee; and

(b) any money paid to the Director-General under an arrangement referred to in subclause (1), that has not, for the time being, been expended under that section.

(3) **The money must be invested:**

(a) in a manner authorised by the Trustee Act 1925 for the investment of trust funds; and

(b) so that not more than 1 month's notice is required for its repayment, and the Director-General shall arrange for the income to be paid directly to, or as authorised by, the licensee.

(4) In subclause (1): "financial institution" means:

- (a) the State Bank of New South Wales or a bank within the meaning of the Banking Act 1959 of the Commonwealth; or
- (b) a financial institution approved by the Director-General.

Duties of inspectors

20. It is the duty of an inspector:

- (a) to carry out, and report to the Director-General on, such general or specific investigations as are required by the Director-General to be made by the inspector in relation to possible contraventions of the Act or regulations; and
- (b) to investigate, and report to the Director-General on, any possible contraventions of the Act or regulations that otherwise come to the notice of the inspector, and for those purposes, to exercise the powers conferred on the inspector by section 40 of the Act.

Certificate of identification of inspector

21. The prescribed form of certificate of identification to be issued under section 39 of the Act to an inspector is the form in Schedule 5.

Return of seized animal

22. For the purposes of section 41 of the Act, a period of 3 months after seizure of an animal under section 40 of the Act is the prescribed period after which the animal must be returned unless earlier dealt with under the Act.

PART 3 – CONDITIONS AFFECTING AUTHORITIES

Australasian Species Management Scheme

23. (1) A permit authorising the exhibition of an animal of a species referred to in subclause (2) may include a condition requiring the holder to participate in the Australasian Species Management Scheme of the Association of Zoo Directors of Australia and New Zealand.
- (2) The species in respect of which subclause (1) applies are those specified in Schedule 2.

Controlled breeding from stock

24. A licence or permit is subject to a condition requiring the holder to engage in a program of controlled breeding from the animals to which the licence or permit relates unless such a program:
- (a) would adversely affect the welfare of the progeny because of budgetary or space constraints; or
 - (b) would add to an existing surplus of the species; or
 - (c) would not be in accordance with the Australasian Species Management Scheme referred to in clause 23; or
 - (d) in the opinion of the Director-General, would not, for any other reason, be in the best interests of the species.

Insurance

25. An authority is subject to a condition requiring the holder to maintain insurance approved by the Director-General against any liability of the holder, or of a servant or agent of the holder, for death, injury or damage caused by an animal exhibited by the holder or by such an animal that has escaped and has not returned to the wild.

Imposition of terms and conditions by the Director-General

26. (1) Terms or conditions of an authority may be imposed by the Director-General under section 28 (c) of the Act:
- (a) at the request of the holder of the authority; or

(b) otherwise than at the request of the holder of the authority if subclause (3) has been complied with by the Director-General before imposition of the term or condition.

(2) A term or condition of an authority that:

(a) as provided by section 28 (1) (b) of the Act, is specified in the authority when it is issued; or

(b) is imposed by the Director-General in accordance with section 28 (1) (c) of the Act, may be varied by the Director-General if the decision to make the variation is made after subclause (3) has been complied with.

(3) This subclause is complied with if:

(a) the Director-General gives the holder of the authority written notice that the Director-General is considering the imposition or variation of terms or conditions specified in the notice; and

(b) the notice states that the holder of the authority may, within a specified time, make written representations to the Director - General or arrange with the Director-General for the making of oral representations; and

(c) before making any decision in relation to a term, or condition or variation under consideration, the Director-General takes into account any such representations.

PART 4 - OFFENCES

Display of authority

27. The holder of an authority shall cause the authority to be at all times publicly displayed in a prominent position on the authorised premises.

Maximum penalty: \$500.

Veterinary drugs

28. (1) The holder of an authority shall ensure that veterinary drugs, vaccines and like products kept on the authorised premises are so kept in a manner that allows access to them only by a registered veterinarian or a person authorised by a registered veterinarian.

Maximum penalty:\$1,000.

(2) A person other than a registered veterinarian shall not, except as directed by a registered veterinarian, administer a drug or vaccine to an animal that is exhibited on authorised premises.

Maximum penalty: \$500.

Notification of outbreak of disease

29. The holder of an authority shall notify the Director-General of any widespread outbreak of a debilitating or fatal disease among the animals on the authorised premises and shall do so not later than 24 hours after discovery of the outbreak.

Maximum penalty: \$500.

Disposal of unwanted veterinary equipment

30. A person disposing of unwanted or contaminated veterinary equipment from authorised premises shall do so in such a way that the equipment does not become a danger to any person.

Maximum penalty: \$1,000.

Tethering of animals

31. (1) A person shall not chain or tether an exhibited animal to an anchorage except for the purposes of veterinary treatment or grooming.

Maximum penalty: \$500.

(2) If they are not on display, subclause (1) does not apply to elephants or domesticated hoof-stock.

(3) If the applicable standards are observed, subclause (1) does not apply to raptors.

Dangerous or unsuitable housing

32. (1) If the Director-General considers that an exhibited animal is caged or otherwise housed in conditions that threaten human safety or are unsuitable for the animal, the Director-General may direct the exhibitor of the animal:

- (a) to remove the animal to a cage or other housing approved by the Director-General; or
- (b) to modify the cage or housing in a specified way within a specified time; or
- (c) to demolish the cage or housing within a specified time.

(2) An exhibitor of an animal who is given a direction under subclause (1) shall comply with the direction.

Maximum penalty-subclause (2): \$1,000.

Exhibition of unconfined animal

33. The exhibitor of an animal in contact with the public shall so supervise and control it as to prevent injury to the public.

Maximum penalty: \$1,000.

Safety in drive-through area

34. (1) The exhibitor of an animal in a drive-through area shall cause admission of a motor vehicle to the area to be refused unless the persons in the vehicle are enclosed within a solid structure forming part of the vehicle.

(2) While a person is inside a drive-through area, the exhibitor of an animal in the area shall cause:

- (a) a suitable vehicle to be immediately available to rescue an endangered person, whether or not by towing or lifting a vehicle containing the endangered person; and
- (b) continuous observation to be maintained over the entire area; and
- (c) a suitably trained and armed member of the staff of the animal display establishment that includes the area to be immediately available to kill or sedate an animal in order to save human life or prevent injury.

Maximum penalty: \$1,000.

Escape of animal

35. (1) An exhibitor of a permit animal shall immediately notify the Director-General if the animal escapes from the authorised premises.

(2) If a permit animal escapes from an enclosure within authorised premises but not from the premises, the licensee shall notify the Director-General of the escape forthwith and on recapture of the animal.

(3) If an animal other than , a permit animal escapes from authorized premises, or from an enclosure within authorised premises but not from the premises, the holder of the authority shall notify the Director-General of the escape within 48 hours of the escape.

(4) The holder of an authority shall make all reasonable efforts to recover, alive or dead, an exhibited animal that escapes.

Maximum penalty: \$1,000.

Venomous animals

36. An exhibitor of an animal that is venomous to human beings shall:

- (a) if a suitable antiserum exists, at all times have an appropriate supply of the antiserum available at the place of exhibition of the animal or at the nearest hospital; and
- (c) maintain an emergency plan for the treatment of a person poisoned by the animal.

Maximum penalty: \$500.

Reporting of injurious to people

37. The holder of an authority shall forthwith report to the Director - General any incident involving:

- (a) the death of a person; or
 - (b) injury to a person that requires medical treatment,
- if the death or injury was caused by an animal to which the authority relates.
Maximum penalty: \$1,000.

Noisy construction and maintenance work

38. An exhibitor of animals shall take such steps as are necessary to alleviate any undue distress or disturbance of the animals resulting from the noise of construction or maintenance work being carried on by or on behalf of the exhibitor.
Maximum penalty: \$500.

Acquisition and disposal of animals

39. The holder of an authority shall not:

- (a) acquire an animal for exhibition knowing that the transaction is with a person who, by acquiring the animal, committed an offence under the National Parks and Wildlife Act 1974 or the Non - Indigenous Animals Act 1987; or
- (b) dispose of an exhibited animal to a person who, by acquiring the animal, would commit an offence under either of those Acts; or
- (c) except in the case of an animal listed in Schedule 3-without the consent of the Director-General, acquire an animal for exhibition or dispose of an exhibited animal.

Maximum penalty: \$1,000.

Removal of exhibited animal

40. (1) The holder of a licence for an animal display establishment shall not, without the written consent of the Director-General, keep an exhibited animal, or permit such an animal to be kept, outside the animal display establishment in which it is ordinarily exhibited.
Maximum penalty: \$500.

(2) The holder of an authority shall not remove an animal from the authorised premises unless it is an animal listed in Schedule 3 or an appropriate application for the consent of the Director-General to the removal of the animal was made:

- (a) at least 7 days before the proposed removal; or
- (b) by agreement with the Director-General, at a later time, and the Director-General has given his or her written consent to the removal of the animal.

Maximum penalty: \$1,000.

(3) Subclauses (1) and (2) do not apply in relation to an animal if:

- (a) it is being taken to, or returned from, the premises of a registered veterinarian; or
- (b) it is being kept on the premises of a registered veterinarian for treatment or observation; or
- (c) it is being transported to give effect to its lawful disposition or acquisition.

(4) In this clause:

"appropriate application" means a written application stating, in relation to the animal to which it relates:

- (a) the kind of animal; and
- (b) its destination; and
- (c) the method of transporting it; and
- (d) in the case of a temporary removal (such as for advertising) the arrangements for the safety of the public in its vicinity; and
- (e) in the case of a temporary removal - the way in which the animal will be used and the duration of that use; and

(f) the number and qualifications of the staff responsible for the animal while it is being transported and, in the case of a temporary removal, during its absence.

Exemption from requirements concerning acquisition, disposal and removal of animals

40A. (1) The holder of an authority is exempt from the requirements of clause 39 (c) and 40 (2) if the holder of the authority:

(a) has, to the satisfaction of the Director-General, completed an animal exhibitor's accreditation course of a kind specified by the Director-General; and

(b) holds a current certificate of exemption issued by the Director - General for the purposes of this subclause; and

(c) complies with any conditions to which the certificate of exemption is subject.

(2) The Director-General may, by notice in writing, cancel a certificate of exemption issued under this clause if the person to whom the certificate is issued fails to comply with the requirements of the Act, this Regulation or the conditions to which the certificate is subject.

Animal record book

41. (1) In this clause:

"**relevant period**", in relation to an authority, means:

(a) the period that begins when the authority first takes effect and ends on the next succeeding 30 April; and

(b) each period of 12 months that commences on 1 May and succeeds the period referred to in paragraph (a).

(2) The holder of an authority shall, at all times during each relevant period while the authority is in force, keep on the authorised premises an animal record book in a form approved by the Minister.

Maximum penalty: \$1,000.

(3) As soon as practicable after information required to keep the animal record book up-to-date becomes available to the holder of an authority, the holder shall cause the information to be entered in the animal record book.

Maximum penalty: \$1,000.

(4) The holder of an authority shall not:

(a) fail to notify the Director-General within 7 days after the loss of, or after any damage to, the animal record book; or

(b) make an entry, or allow an entry to be made, in the animal record book otherwise than in ink; or

(c) delete an erroneous entry in the animal record book, or allow such an erroneous entry to be deleted, otherwise than by drawing a single line through the entry.

Maximum penalty: \$500.

(5) A person shall not, in any way, knowingly cause an animal record book to be false or misleading in a material particular.

Maximum penalty: \$1,000.

(6) The holder of an authority making application for its renewal shall lodge with the application the original pages of the animal record book required to be kept during the relevant period for the authority that last preceded the application.

Maximum penalty: \$1,000.

(7) Not later than 14 days after expiration of an authority, the former holder of the authority shall lodge with the Director-General the original pages of the animal record book the former holder was required to keep:

(a) during the relevant period for the authority that expired on the last preceding 30 April; and

(b) during the relevant period for the authority that commenced on the last preceding 1 May.
Maximum penalty: \$ 1,000.

(8) If an authority is suspended, surrendered or cancelled, the holder, or former holder, of the authority shall:

(a) within 14 days after the surrender; or

(b) within 14 days after being notified of the suspension or cancellation,

lodge with the Director-General the original pages of the animal record book the holder, or former holder, was required to keep during the relevant period for the authority that commenced on 1 May last preceding the surrender, suspension or cancellation.

Maximum penalty: \$1,000.

Other records

42. (1) An exhibitor of animals shall maintain, in a manner approved by the Director-General, an up-to-date record of:

(a) an illness, disease, injury or other poor health of animals; and

(b) the day-to-day progress or regress of the animals; and

(c) the treatment, medicinal and otherwise, administered to the animals.

(2) An exhibitor of animals shall maintain, in a manner approved by the Director-General, an up-to-date record of routine checks made on the health of the animals.

(3) An exhibitor of animals shall maintain, in a manner approved by the Director-General, an up-to-date record of each veterinary inspection of the animals and of any veterinary care given to the animals.

(4) An exhibitor of animals shall retain, for at least 2 years after it is made, a record made under this clause.

Maximum penalty: \$500.

Species identification

43. (1) An exhibitor of animals shall make, and retain for at least 2 years after it is made, a record of the name and qualifications of a person who identifies a species of animals for the exhibitor.

(2) If the Director-General so directs, an exhibitor of animals shall have the species of the animals identified by a person nominated by the Director-General.

Maximum. penalty: \$500.

Attendants and other staff

44. An exhibitor of animals shall:

(a) employ such number of adequately trained and competent staff as is necessary to maintain daily the prescribed level of animal husbandry; and

(b) employ such number of qualified or experienced animal attendants as are necessary to maintain the prescribed level of care of the exhibited animals; and

(c) make such arrangements as are necessary to ensure that there will at all times be a person authorised to call for veterinary advice in relation to the animals.

Maximum penalty: \$1,000.

Compliance with conditions

45. The holder of an authority shall comply with any conditions to which the authority or a certificate of exemption issued to the holder under clause 40A is subject.
Maximum penalty: \$1,000.

SCHEDULE 1 – STANDARDS

Part 1 – General Standards

(Cl. 7)

Standards not exclusive

1. The standards prescribed in this Schedule are minimum standards and do not exclude the exercise of sound judgment based on training, education and experience and the use of information commonly accepted and used in wildlife management.

Manner of display

2. Each animal must be exhibited in a manner that:

- (a) as far as possible provides a naturalistic setting which resembles the animal's habitat and provides for its behavioural and physical well-being; and
- (b) provides the means for enrichment of the animal's behavioural activities in order to further its welfare, produce a more interesting educational exhibit and aid in the reduction of stereotypic behaviour; and
- (c) provides recreational and educational opportunities which encourage an increase in public understanding of, and responsibility for, animals and their environment; and
- (d) by the use of attendants and physical barriers, or both, protects the animal from abuse and harassment by the viewing public; and
- (e) as far as possible, uses modern display techniques.

Climatic shelter

3. Each animal must be provided with shaded, covered or sheltered areas appropriate to protect it from adverse conditions attributable to the climate and any other environmental factor.

Space generally

4. **(1) Each animal must be provided with sufficient space in all directions to enable it:**

- (a) to take exercise; and
- (b) to be protected from undue dominance and conflict; and
- (c) to be provided with its social, breeding and husbandry needs.

(2) With the approval of the Director-General, a bird rendered flightless may be kept in an enclosure smaller than that which would be required if it could fly.

Enclosures generally

5. (1) So much of an enclosure as is necessary to provide for the containment of any animal in the enclosure must be of sufficient strength to ensure that containment.

(2) Housing in, or comprising, an enclosure must be structurally sound and must be kept in good repair.

Electrical and other equipment

6. Electrical apparatus and other plant and fixed equipment must be so installed that:

- (a) it does not endanger the animals; and
- (b) the animals cannot disrupt its operation.

Drainage

7. (1) An animal enclosure must be provided with such drainage as will quickly carry excess water away from the enclosure.
- (2) Unless it carries only surface water, an open drain must be inaccessible to the animals.
- (3) A collection drain must be provided for the enclosure and must be fitted with baskets of wire mesh sufficiently fine to prevent animal hair and faeces from entering the drain.
- (4) The baskets must be cleaned daily.

Visitor facilities

8. (1) There must be provided on authorised premises:
 - (a) adequate clean and properly maintained toilet facilities for visitors; and
 - (b) adequate shelter and seating for visitors; and
 - (c) first-aid facilities for the use of visitors.
- (2) On authorised premises there must be displayed in a position convenient for the visiting public:
 - (a) a map showing the location of the animals on public display; and
 - (b) a list of the animals.
- (3) On each enclosure for animals on public display on authorised premises there must be signs and illustrations that:
 - (a) enable the visiting public to identify each species in the enclosure; and
 - (b) provide information about the animals.
- (4) The information to be provided includes aspects of:
 - (a) population status, range and habitat; and
 - (b) food habits; and
 - (c) physiological, anatomical and behavioural adaptations to their environment.

PART 2 – NUTRITION AND HYGIENE

Diet

9. (1) Each animal must be offered a variety of wholesome and palatable food and water in quantities that are sufficient to provide for its good health and normal growth.
- (2) Veterinary advice must be obtained and followed in relation to the addition of food supplements to the ordinary diet of animals.
- (3) Food must be unspoiled and free from chemical and bacterial contamination.
- (4) Water for animals:
 - (a) must be either reticulated to, or changed daily in, each enclosure; and
 - (b) must not be allowed to become stagnant.

Food preparation

10. (1) The area in which food for the animals is prepared:
 - (a) must be indoors or completely screened; and
 - (b) must be constructed of materials that will withstand steam-cleaning and chemical disinfection.
- (2) Thawing and preparation of the food must be done so that it retains its nutritive and wholesome qualities.
- (3) A toxic chemical or other harmful material must not be used or stored in the area used for preparing the food.

(4) Subclause (3) does not apply to cleaning products or disinfectants used in cleaning the area, the food containers or the food preparation utensils.

Cleanliness relating to food and drink

11. (1) High standards of cleanliness must be observed.
- (a) by staff engaged in the preparation of food and drink for the animals; and
 - (b) in relation to the utensils and equipment used, and adequate facilities must be provided to enable this to be done.
- (2) Utensils and equipment used in preparing and distributing the food and drink must be cleaned after use and kept clean when not in use.
- (3) Food preparation areas must, be washed down daily and treated with appropriate cleaning products.
- (4) Boots, aprons and brooms used; in the food preparation area must be cleaned after use and kept clean when not in use.
- (5) Utensils and other equipment used in preparing the food and drink must not be used for any other purpose.

Food storage

12. (1) Supplies of food for the animals must be stored in facilities in which they are adequately protected against deterioration, mould and contamination.
- (2) Toxic substances, dead animals and discarded foodstuffs must not be kept in a food storage, area.
- (3) Stocks of food supplements must be handled, stored and rotated in a way that minimises nutritional loss.
- (4) Frozen food must be stored at a temperature that is not higher than 18 degrees below zero Celsius.

Food presentation

13. Utensils and equipment used for the offering of food and drink to animals:
- (a) must not be used for any other purpose; and
 - (b) must be easy to clean and designed to avoid risk of injury to the animals; and
 - (c) must, when in an enclosure, be placed in such a position that each animal in the enclosure has easy access to sufficient food and water and the risk of contamination from soiling by the animals is minimised; and
 - (d) except in the case of a self-feeder, must be washed following use and kept in a sanitary condition; and
 - (e) in the case of a self-feeder, must be inspected daily to ensure that it is working effectively and does not contain caked or unwholesome food.

Drinking water

14. Except in circumstances approved by the Director-General, clean potable water must at all times be available for the animals to drink.

Waste disposal

15. Provision must be made for the removal and disposal of.
- (a) animal and food wastes; and
 - (b) unwholesome food and water; and
 - (c) dead animals; and
 - (d) introduced rubbish,

from each animal enclosure as often as is necessary to minimise vermin infestation and disease hazards, reduce odours and prevent the ingestion of potentially harmful objects.

Infectious diseases

16. If an animal is identified as having an infectious disease:
- (a) all hard surfaces of the enclosure must, after removal of the animal, be sanitised by:
 - i) washing with hot water (at least 75 degrees Celsius at source) and soap or detergent; or
 - (ii) washing with detergent followed by application of a suitable disinfectant; or
 - (iii) applying high-pressure steam; and
 - (b) veterinary advice on the matter must be obtained and followed.

Pest and predator control

17. (1) A safe, effective and regular program for the control of insects, ectoparasites and vertebrate pests must be established and maintained.
- (2) Enclosures must be so designed as to exclude predators.

PART 3 – HEALTH

Health checks and reports

18. (1) Arrangements must be made:
- (a) for the health of each animal to be checked each day; and
 - (b) for the person checking the health of the animals to provide the exhibitor of the animals with an appropriate report on any distressed, sick or injured animal.
- (2) In particular, a report must be made in relation to an animal suffering from:
- (a) obvious under-nourishment or weakness; or
 - (b) bare spots in fur or feather covering; or
 - (c) persistent diarrhoea; or
 - (d) unusual nasal discharge; or
 - (e) sores or open wounds; or
 - (f) broken bones or other physical injury.
- (3) If a report under subclause (1) is made in respect of an animal or poor physical health of an animal is otherwise detected, all reasonable steps must be taken to restore the animal to good physical health.
- (4) Such facilities must be maintained as are necessary for compliance with subclause

Veterinary attention

19. (1) Arrangements must be made for regular Veterinary inspection and care of each animal.
- (2) Facilities must be provided on the authorised premises for:
- (a) routine examination of animals in surroundings that are clean and well-ventilated; and
 - (b) the restraint of animals; and
 - (c) the administration of a general anaesthetic; and

- (d) euthanasia for animals.
- (3) An enclosed treatment area must be provided on the authorised premises for the care of distressed, sick and injured animals and those recovering from sedation.

New arrivals

20. A newly-acquired animal must be kept in isolation for as long as may be necessary to provide for its examination, acclimatisation and, if necessary, restoration to good health before being placed in the company of other animals.

Dead Animals

- 21. (1) Provision must be made for the handling of a dead animal in a way that minimises the risk of transmission of infection or disease.
 - (2) Unless there is an arrangement for a dead animal to be quickly removed to veterinary facilities outside the authorised premises:
 - (a) facilities must be provided on the premises for conducting a postmortem examination in a safe and hygienic manner; and
 - (b) provision must be made for material to be stored under refrigeration if an immediate postmortem examination is not possible.
 - (3) Without affecting the generality of subclause (2), the facilities provided for postmortem examinations must include:
 - (a) an efficient drainage system; and
 - (b) washable floors and walls; and
 - (c) an examination table; and
 - (d) facilities for taking and preserving specimens.
 - (4) Equipment used for the storage of postmortem material must not be used for any other purpose.
 - (5) A veterinary examination to determine the cause of death must be made if:
 - (a) a dead animal was a permit animal; or
 - (b) it appears that there may be a pattern of deaths; or
 - (c) such an examination is directed by the Director-General; or
 - (d) in any other case, it is reasonably practicable to do so.
 - (6) Unless the remains of a dead animal:
 - (a) are in use for scientific or educational purposes; or
 - (b) are offered to, and accepted by, an approved museum or other approved scientific establishment, they must be disposed of by incineration or burial or by any other method adopted on veterinary advice.

PART 4 – HUSBANDRY AND MANAGEMENT

Design of enclosure

- 22. (1) An enclosure occupied by several animals must allow for normal patterns of group behaviour.
 - (2) An enclosure must be of sufficient size, and the animals in the enclosure must be so managed, as to:
 - (a) avoid undue domination of a herd or group by an individual or individuals; and
 - (b) avoid the risk of persistent and unresolved conflict between herd or group members or between different species in enclosures containing different species; and
 - (c) make it possible for an animal to avoid, or withdraw from, contact with other animals or with people; and

- (d) ensure that the carrying capacity of the enclosure is not exceeded; and
 - (e) prevent an uncontrolled accumulation of parasites and other pathogens; and
 - (f) encourage and permit exercise and behavioural enrichment.
- (3) Animals in different enclosures must be so managed as to minimise stressful interactions between the animals.
- (4) An enclosure must:
- (a) if possible, include naturalistic furniture; and
 - (b) include, where appropriate, such items as bedding material, branch work, burrows, nesting boxes and pools to aid and encourage normal behaviour.
- (5) Nocturnal animals must at all times have free access to sleeping quarters.
- (6) Aquatic and semi-aquatic animals must be provided with water for swimming.
- (7) Semi-aquatic animals must be provided with dry areas for resting.

Indoor housing of animals

23. (1) Lighting inside indoor housing for an animal must be adequate for proper cleaning of the housing and for carrying out routine health and hygiene checks.
- (2) Indoor housing for an animal must be provided with ventilation that:
- (a) is sufficient to maintain the health of, the animal; and
 - (b) is so designed as to minimise undue draughts, odours and moisture condensation.
- (3) If an animal is a diurnal animal housed indoors, light:
- (a) must be provided in the housing; and
 - (b) must be of such quality, intensity and duration as to disturb as little as possible the normal physiological and behavioural patterns of the animal.

Animal handling

24. (1) An animal must be handled only by, or under the supervision of, staff authorised for the purpose by the exhibitor of the animal.
- (2) An animal must not be handled in a way that causes it undue discomfort or distress or Causes it physical harm.
- (3) The supervision of physical contact between an animal and a member of the public must be limited to a period, and must take place under conditions, consistent with the welfare of the animal.

Signs

25. (1) Signs requesting the public to refrain from:
- (a) interfering with the animals; and
 - (b) feeding the animals (except, in the case of specified animals, with food provided by the exhibitor), must be conspicuously placed at appropriate places.
- (2) If an exhibitor of animals has made rules to be observed by the visiting public, these must be conspicuously placed at the entrance to the authorised premises.

PART 5 – SAFETY AND SECURITY

Construction of enclosure

26. (1) An enclosure must be so constructed that:
- (a) if the visiting public and the animal attendants exercise due care, they are safe; and
 - (b) an animal in the enclosure can escape only in circumstances that cannot reasonably be foreseen and guarded against; and
 - (c) the risk of injury to an animal in the enclosure is minimised.

- (2) Vegetation or other material in or near an enclosure must be removed or repositioned if it would otherwise assist an animal to escape.
- (3) The enclosure in which a digging or burrowing animal is kept must be constructed:
 - (a) with a floor consisting entirely of concrete; or
 - (b) with an enclosing fence of galvanised metal mesh or concrete extending below ground level to a depth of at least 1 metre and then extending horizontally within the enclosure for at least 1 metre; or
 - (c) as approved by the Director-General.

Outer fence

27. Except to the extent that the Director-General otherwise approves, an animal display establishment (other than a temporary establishment) must have an outer fence sufficient to discourage unauthorised entry to the establishment.

Gates, doors and slides

28. (1) Except as provided by subclause (2), a gate or door on the perimeter of an enclosure must open inwards to the enclosure.
- (2) If an entrance to an enclosure (other than the entrance corridor to a drive-through area) is a safety entrance through successive gates or doors, they must open inwards towards the enclosure.
- (3) A gate, door or slide giving entrance to an enclosure must be so designed that an animal in the enclosure cannot:
- (a) lift the gate or door off its hinges or a slide off its tracks; or
 - (b) unfasten the security device.

Dangerous animals

29. (1) The entrance to an enclosure (other than a reptile pit) in which a dangerous animal is kept must be by means of a safety entrance through successive gates or doors which are kept locked by key or combination unless a person is within the enclosure.
- (2) If the doors or gates through which such an enclosure is entered are electrically operated, they must be provided with alternative means by which they may be manually operated without risk to the operator.
- (3) The operating position for gates, doors, slides or other means of access must provide for:
- (a) a safe means of access; and
 - (b) a clear view of the gates, doors, slides and other means of access and the immediately surrounding area.

Stand-off barriers

30. (1) If, but for this clause, direct contact between a dangerous animal and the public would be possible, the animal must be separated from the public by a barrier so designed that:

- (a) direct contact with the animal is avoided; and
 - (b) evasion of the barrier by the public (especially children) is made as difficult as is reasonably practicable.
- (2) A pit containing dangerous snakes must be of sufficient depth to eliminate the possibility of physical contact between the public and the snakes.
- (3) Subclause (1) does not apply in relation to a drive-through area.

Warning signs

31. (1) If an enclosure:

- (a) contains an animal that is known to be dangerous, or may reasonably be suspected of being dangerous; or
- (b) is dangerous because it includes an electrified fence, the enclosure must be provided with an adequate number of clearly visible and legible signs giving proper warning, by means of words or signs, or both, of the danger.

- (2) The signs in a drive-through area must warn visitors to the area:
- (a) not to leave the motor vehicle; and
 - (b) to keep all the doors of the motor vehicle locked; and
 - (c) to keep closed all the windows, and any sun-roof, of the motor vehicle; and
 - (d) if the motor vehicle breaks down-to sound the horn, or flash the headlamps and warning lamps, and await the arrival of a rescue vehicle.

Exit signs

32. (1) The means of egress from an animal display establishment must be clearly marked.
(2) An animal display establishment must be provided with an adequate number of signs that clearly indicate the direction to be followed to locate the means of egress from the establishment.

Safety of structures

33. If entry to a structure, or part of a structure, on authorised premises would present a threat to the health or safety of the public:
- (a) access to the structure or part must be kept locked against access by the public; and
 - (b) there must be placed, so that they are readily seen and comprehended by the public, notices warning that entry to the structure or part is unsafe and that entry by the public is prohibited.

Entry to, and departure from, drive-through area

34. A drive-through area must be so constructed that entry to, and departure from, the area is available to the public only through a corridor that:
- (a) commences at the perimeter fence of the area and extends within the area for a distance of at least 25 metres; and
 - (b) is formed by fences of the same construction, and of at least the same height, as the perimeter fence; and
 - (c) has at each end gate of a height and construction approved by the Director-General and so devised that, unless one of them is securely closed, the other cannot be opened; and
 - (d) is continuously monitored or operated by a suitably trained person while members of the public are inside the enclosure.

Access points between separate enclosures

35. If there are access points between separate enclosures within a drive-through area, they must be so controlled as to prevent an animal in one enclosure from entering of its own accord into another.

One-way traffic only

36. The road system within a drive-through area must, when used by the public, provide for one-way traffic only.

SCHEDULE 2- ANIMALS FOR WHICH SECTION 24 PERMIT

(Cil. 3, 11, 23)

PART 1 - MAMMALIA

SUB - CLASS 1 - EUTHERIA

ORDER CARNIVORA

All species except those listed in Schedule 3

ORDER PINNIPEDIA

All species

ORDER PRIMATES

All species

ORDER RODENTIA

All species except those listed in Schedule 3

ORDER ARTIODACTYLA

All species except those listed in Schedule 3

ORDER PERISSODACTYLA

All species except those listed in Schedule 3

ORDER EDENTATA

Family Myrmecophagidae

Myrmecophaga tridactyla (Giant Anteater)

Family Choloepidae

Choloepus hoffmanni (Hoffman's Sloth)

ORDER CHIROPTERA

All species except Family Pteropodidae

SUBCLASS 2 - PROTOTHERIA

ORDER MONOTREMATA

FAMILY TACHYGLOSSIDAE

Zaglossus bruijni (Long-beaked Echidna)

FAMILY ORNITHORHYNCHIDAE

Ornithorhynchus anatinus (Platypus)

SUBCLASS 3 - METATHERIA

ORDER POLYPROTODONTA

FAMILY DASYURIDAE

Phascogale tapoatafa (Brush-tailed Phascogale)

Dasyercus cristicauda (Mulgara)

Dasyurus geoffroii (Western Quoll)

Dasyurus maculatus (Tiger Quoll)

Myrmecobius fasciatus (Numbat)

FAMILY PERAMELIDAE

Perameles gunnii (Eastern Barred Bandicoot)

FAMILY THYLACOMYDAE

Macrotis lagotis (Greater Bilby)

ORDER - DIPROTODONTA

FAMILY PHALANGERIDAE

Spilocuscus maculatus (Common Spotted Cuscus)

FAMILY BURRAMYIDAE

Burrhamys parvus (Mountain Pygmy-possum)

FAMILY PETAURIDAE

Gymnobelideus leadbeateri (Leadbeater's Possum)

Petaurus australis (Yellow-bellied Glider)

Petaurus norfolcensis (Squirrel Glider)

FAMILY POTOROIDAE

Potorous longipes (Long-footed Potoroo)

Bettongia penicillata (Brush-tailed Bettong)

FAMILY MACROPODIDAE

Dendrolagus goodfellowi (Goodfellow's Tree Kangaroo)

Dendrolagus matschiei (Matschie's Tree Kangaroo)

Dorcopsis luctuosa (Grey Dorcopsis Wallaby)

***Macropus irma* (Western Brush Wallaby)**

Petrogale penicillata (Brush-tailed Rock-wallaby)

Petrogale xanthopus (Yellow-footed Rock-wallaby)

FAMILY PHASCOLARCTIDAE

Phascolarctos cinereus (Koala)

PART 2 - AVES

ORDER FALCONIFORMES

All species

ORDER STRIGIFORMES

All species

ORDER PROCELLARIIFORMES

All species

ORDER CHARADRIIFORMES

All species except *Larus novaehollandiae* (Silver Gull)

ORDER CUCULIFORMES

All species

ORDER CAPRIMULGIFORMES

All species except *Podargus strigoides* (Tawny Frogmouth)

ORDER CASUARIIFORMES

FAMILY CASUARIIDAE

Casuarius casuarius (Southern Cassowary)

ORDER RHEIFORMES

FAMILY RHEIDAE

Rhea americana (Common Rhea)

ORDER STRUTHIONIFORMES

FAMILY STRUTHIONIDAE

Struthio camelus (Ostrich)

ORDER CICONIIFORMES

FAMILY CICONIIDAE

Xenorhynchus asiaticus (Black-necked Stork)

FAMILY PHOENICOPTERIDAE

Phoenicopterus chilensis (Chilean Flamingo)

Phoenicopterus ruber (Greater Flamingo)

ORDER ANSERIFORMES

FAMILY ANATIDAE

Cygnus olor (Mute Swan)

Stictonetta naevosa (Freckled Duck)

***Branta canadensis* (Canada Goose)**

Alopochen aegyptiacus (Egyptian Goose)

Tadorna ferruginea (Ruddy Shelduck)

Tadoma radjah (Radjah Shelduck)

Malacorhynchus membranaceus (Pink-eared Duck)

Aythya novaeseelandiae (New Zealand Scaup)

Aix galericulata (Mandarin Duck)

Oxyura australis (Blue-billed Duck)

ORDER GALLIFORMES

FAMILY MEGAPODIIDAE

Leipoa ocellata (Malleefowl)

FAMILY CRACIDAE

Crax mitu (Razor-billed Curassow)

FAMILY PHASIANIDAE

Lophura leucomelana (Nepal Kalij Pheasant)

Lophura swinhoei (Swinhoe's Pheasant)

Lophura diardi (Siamese Fireback Pheasant)

Pavo muticus (Green Peafowl)

ORDER GRIFORMES

FAMILY TURNICIDAE

Turnix melanogaster (Black-breasted Button-quail)

FAMILY GRUIDAE

Grus rubicundus (Brolga)

Balearica regulorum (East African Crowned Crane)

FAMILY OTIDIDAE

Ardeotis australis (Australian Bustard)

ORDER COLUMBIFORMES

FAMILY COLUMBIDAE

Goura victoria (Victoria Crowned Pigeon)

Phaps histrionica (Flock Bronzewing)

Petrophassa scripta (Squatter Pigeon)

Caloenas nicobarica (Nicobar Pigeon)

Gallicolumba luzonica (Luzon Bleeding-heart Pigeon)

ORDER PSITTACIFORMES

All species of Genus *Probosciger*, *Calyptorhynchus* (Black Cockatoo) and *Callocephalon* (Gang Gang Cockatoo)

FAMILY PSITTACIDAE

Nestor notabilis (Kea)

Eclectus roratus (Eclectus Parrot)

Psittacus erithacus (African Grey Parrot)

Ara ararauna (Blue and Yellow Macaw)

Ara macao (Scarlet Macaw)

Ara chloroptera (Green-winged Macaw)

FAMILY OOPSITTIDAE

Cyclopsitta diophthalma (Double-eyed Fig-parrot)

FAMILY PLATYCERCIDAE

Psephotus chrysopterygius (Golden-shouldered Parrot)

Northiella haematogaster (Naretha Blue Bonnet)

Neophema petrophila (Rock Parrot)

ORDER PASSERIFORMES

All species Family Pittidae (Pittas)

All species Family Menuridae (Lyrebirds)

FAMILY PASSERIDAE

Euplectes orix (Red Bishop)

FAMILY ESTRILDIDAE

Poephila cincta (Black-throated Finch)

Stagonopleura oculata (Red-med Firetail)
Emblema bella (Beautiful Firetail)
Lonchura malacca (Black-headed Mannikin)

FAMILY FRINGILLIDAE

Fringilla coelebs (European Chaffinch)
Carduelis cucullata (Red Siskin)
Paroaria coronata (Red-crested Cardinal)

FAMILY PARADISAEIDAE

All species

PART 3-REPTILIA
ORDER CROCODILIA

All species

ORDER TESTUDINES

All species of the Family:
CHELONIIDAE (Sea Turtles)
Dermochelyidae (Leathery Turtles)
Carettochelyidae (Pitted-shelled Turtles)

FAMILY EMYDIDAE

Clemmys insculpta (Wood Turtle)

FAMILY KINOSTERNIDAE

Staurotypus triporcatus (Mexican Mud Turtle)

FAMILY TESTUDINIDAE

Geochelone elephantopus (Galapagos Tortoise)
Geochelone emys (Burmese Tortoise)
Geochelone gigantea (Aldabra Giant Tortoise)
Geochelone radiata (Radiated Tortoise)
Testudo graeca (Spur-thighed Tortoise)
Testudo hermanni (Hermann's Tortoise)

FAMILY CHELIDAE

Pseudemydura umbrina (Western Swamp Tortoise)

ORDER SQUAMATA
(Sub-Order SAURIA)

FAMILY IGUANIDAE

Brachylophus fasciatus (Fijian Banded Iguana)
Brachylophus vitiensis (Fijian Crested Iguana)
Cyclura cornuta (Rhinoceros Iguana)
Iguana iguana (Common Iguana)

FAMILY SCINCIDAE

Tribolonotus novaeguinea (Crocodile Skink)

FAMILY ANGUIDAE

Ophisaurus apodus (Scheltopusik)

FAMILY HELODERMATIDAE

Heloderma suspectum (Gila Monster)

FAMILY VARANIDAE

Varanus komodoensis (Komodo Dragon)

ORDER SQUAMATA

(Sub-Order Serpentes)

FAMILY BOIDAE

Bothrochilus albertisi (D'Albertis' Python)

Bothrochilus stimsoni (Stimson's Python)

Python curtus (Blood Python)

Python molurus (Burmese Python)

All species of the Genus:

Acanthophis (Death Adder)

Austrelaps (Copperhead Snake)

Cryptophis (Small-eyed Snake)

Notechis (Tiger Snake)

Oxyuranus (Taipan)

Parademansia (Fierce Snake)

Pseudechis (Black Snake)

Pseudonaja (Brown Snake)

Tropidechis (Rough-scaled Snake)

All species of the Family:

Crotalidae (Rattlesnakes)

Hydrophiidae (Sea Snakes)

Laticaudidae (Sea Kraits)

Viperidae (Vipers)

PART 4-HYBRIIDS

A hybrid of which one parent is, or both parents are, of a species listed in Parts 1-3.

SCHEDULE 2A-EXEMPTIONS (CI- 4A (2) G))

Bos taurus and *Bos indicus* (Domestic Cattle)

Camelus dromedarius (Arabian Camel)

Canis familiaris (Domestic Dog), except *Canis familiaris dingo* (Dingo) and *Canis familiaris hallstromi* (New Guinea Wild Dog)

Capra hircus (Domestic Goat)

Equus caballus and *Equus asinus* (Domestic Horse), except

Equus caballus przewalski (Przewalski's Horse)

Equus equus x asinus (Domestic Mule)

SCHEDULE 3 - UNRESTRICTED TRANSFERS (CI. 40)

1-BIRDS
DIVISION I-NATIVE BIRDS

***Coturnix notumix* (Stubble Quail)**
Coturnix australis (Brown Quail)
Coturnix chinensis (King Quail)
Cacatua galerita (Sulphur-crested Cockatoo)
Taeniopygia guttata (Zebra Finch)
***Dromaius novaehollandiae* (Emu)**
Dendrocygna eytoni (Plumed Whistling-duck)
Fulica atra (Eurasian Coot)
Platycercus eximius (Eastern Rosella)
Dacelo novaeguineae (Kookaburra)
Platycercus elegans (Crimson Rosella)
Cacatua tenuirostris (Long-billed Corella)
Melopsittacus undulatus (Budgerigar)
Anas gibberifrons (Grey Teal)
Ardeola ibis (Cattle Egret)
Geopelia placida (Peaceful Dove)
Geopelia cuneata (Diamond Dove)
Cacatua roseicapilla (Galah)
Nymphicus hollandicus (Cockatiel)
Anas superciliosa (Black Duck)
Chenonetta jubata (Maned Duck)
Porphyrio porphyrio (Purple Swamphen)
Threskiornis aethiopica (Sacred Ibis)
Trichoglossus chlorolepidotus (Scaly-breasted Lorikeet)
Gymnorhina tibicen (Australian Magpie)
Cacatua sanguinea (Little Corella)
Anas castanea (Chestnut Teal)
Gallinula tenebrosa (Dusky Moorhen)
Podargus strigoides (Tawny Frogmouth)

DIVISION 2-NON-INDIGENOUS BIRDS

Serinus canaria (Domestic Canary)
Anas platyrhynchos (Domestic Duck other than Mallard)
Anser spp. (Domestic Goose)
Columba livia (Domestic Pigeon)
Streptopelia decaocto and
Streptopelia "risoria" (Ring-necked Turde Dove)
Gallus gallus (Domestic Chicken)
Pavo cristatus (Blue (Indian) Peafowl)
Numida meleagris (Helmeted Guineafowl)

PART 2 - MAMMALS
DIVISION 1-NATIVE MAMMALS

***Pseudocheirus peregrinus* (Common Ringtail Possum)**
Wallabia bicolor (Swamp Wallaby)
Macropus giganteus (Eastern Grey Kangaroo)
Macropus fuliginosis (Western Grey Kangaroo)
Trichosurus vulpecula (Common Brushtail Possum)

Macropus rufogriseus (Red-necked Wallaby)
Macropus rufus (Red Kangaroo)
Macropus eugenii (Tammar Wallaby)
Thylogale thetis (Red-necked Pademelon)
Macropus robustus (Common Wallaroo)
Thylogale billardieri (Red-bellied Pademelon)
Thylogale stigmatica (Red-legged Pademelon)

DIVISION 2-NON-INDIGENOUS MAMMALS

Mus musculus (House Mouse)
Rattus rattus (Black Rat)
Rattus norvegicus (Norwegian Rat)
Cavia porcellus (Guinea Pig)
Oryctolagus cuniculus (Domestic Rabbit)
Sus scrofa (Domestic Pig)
Equus caballus and *Equus asinus* (Domestic Horse) except *E.c. przewalski* (Przewalski's Horse)
Bos taurus and *Bos indicus* (Domestic Cattle)
Ovis aries (Domestic Sheep)
Canis familiaris (Domestic Dog) except *C.F. dingo* (Dingo) and *C.F. hallstromi* (New Guinea Wild Dog)
Felis catus (Domestic Cat)
Capra hircus (Domestic Goat)

PART 3-REPTILES

Morelia spilota (Carpet or Diamond Python)
Physignathus lesueurii (Eastern Water Dragon)
Tiliqua scincoides (Blue-tongued Lizard)
Chelodina longicollis (Common Long-necked Tortoise)

SCHEDULE 4 - FEES (APPROVALS UNDER SECTION 22) (Cl. 14)

Definition

1. In this Schedule:

“**applicable authority**” means an approval under section 22 of the Act (which relates to the exhibition of animals in temporary or movable structures).

Categories of applicable authorities

2. For the purposes of this Schedule, applicable authorities are divided into the following categories:

Category No. 1 in which:

- (a) the total number of animals is less than 10; and
- (b) the total number of species is less than 5.

Category No. 2 in which:

- (a) the total number of animals is 10 or more but less than 20; or
- (b) the total number of species is 5 or more but less than 10.

Category No. 3 in which:

- (a) the total number of animals is 20 or more but less than 50; or
- (b) the total number of species is 10 or more but less than 25.

Category No. 4 in which:

- (a) the total number of animals is 50 or more; or
- (b) the total number of species in 25 or more.

Fees

3. The prescribed fee for an application for, or for the renewal of, an applicable authority is:

- Category No. 1-\$100
- Category No. 2-\$200
- Category No. 3-\$300
- Category No. 4-\$500.

References to numbers and species – application for applicable authority

4. For the purposes of an application for an applicable authority, references in this Schedule to a total number of animals, or a total number of species of animals, are references to the total number of animals or species proposed to be exhibited under the authority.

References to numbers and species--application -for renewal of applicable authority

5. For the purposes of an application for renewal of an applicable authority, references in this Schedule to a total number of animals or species of animals are references respectively to those totals as shown on 30 April last preceding the application in the pages of the animal record book required by clause 41 to be lodged with the application.

Schedule 5 - Certificate of Identification
(Cl. 21)

Exhibited Animals Protection Act 1986
Section 40

Pursuant to the Exhibited Animals Protection Act 1986 the holder of this Authority

.....
(Insert name of holder)

Is authorised to exercise the powers conferred by section 40 of the exhibited Animals Protection Act 1986

Affix photograph here

SIGNED.....
(Minister)

SIGNED.....
(Holder)

Exhibited Animals Protection Regulation 1989 published in Gazette of 9.6.1989 and amended in Gazettes of 29.6.1990, 20.7.1990, 10.8.1990, 28.12.1990, 15.3.1991, 27.3.1992, 31.7.1992, 25.6.1993 and 29.10.1993.

TABLE OF AMENDMENTS

- Cl. 3-Am. 28.12.1990; 27.3.1992.
- Cl. 4A-Ins. 20.7.1990. Am. 31.7.1992..
- Cl. 6-Am. 28.12.1990.
- Cl. 6A-Ins. 28.12.1990.
- Cll. 7-10-Am. 27.3.1992.
- Cl. 12-Am. 27.3.1992.
- Cl. 13-Am. 10.8.1990; 27.3.1992.
- Cl. 14-Am. 29.6.1990; 10.8.1990; 28.12.1990; 15.3.1991; 25.6.1993.
- Cll. 15, 17, 19, 20, 24-26, 29, 32, 35, 37, 39, 40-Am. 27.3.1992.
- Cl. 40A-Ins. 29.10.1993.
- Cll. 41-43-Am. 27.3.1992.
- Cl. 45Am. 29.10.1993.
- Sch. 1-Am. 27.3.1992.
- Sch. 2A-Ins. 31.7.1992.

Notice

Copyright in Legislation

(Published in Gazette No. 94 of 27 August 1993)

Recognising that the Crown has copyright in the legislation of New South Wales and in certain other material, including but not limited to prerogative rights and privileges of the Crown in the nature of copyright, and that it is desirable in the interests of the people of New South Wales that access to such legislation should not be impeded except in limited special circumstances:

I, The Honourable John Planta Hannaford MLC, Attorney General for the State of New South Wales, make and publish this instrument on behalf of the State of New South Wales.

Definitions

1. In this instrument:

“**authorisation**” means the authorisation granted by this instrument;

“**copyright**” includes any prerogative right or privilege of the Crown in the nature of copyright;

“**legislation of New South Wales**” means:

- (a) Acts of the Parliament of New South Wales; and
- (b) Regulation, rules, by-laws and ordinances made under an Act of New South Wales and made, approved or confirmed by the Governor acting with the advice of the Executive Council; and
- (c) Any such Acts, regulations, rules, by-laws and ordinances in the form in which they are officially printed or reprinted, with or without the inclusion of amendments; and
- (d) Provisions applying as a law of New South Wales, by virtue of an Act of the Parliament of New South Wales; and
- (e) Official Explanatory Notes in connection with any such legislation;

“**State**” means the State of New South Wales, and includes the Crown in right of the State of New South Wales.

Authorisation

2. Any publisher is by this instrument authorised to publish and otherwise deal with any legislation of New South Wales, subject to the following conditions:
 - (a) copyright in the legislation of New South Wales continues to reside in the State;
 - (b) the State reserves the right at any time to revoke, vary or withdraw the authorisation if the conditions of its grant are breached and otherwise on reasonable notice;
 - (c) any publication of material pursuant to the authorisation must not indicate directly or indirectly that it is an official version of the material;
 - (d) the arms of the State must not be used in connection with the publication of material pursuant to the authorisation, except with the further authority of the Governor (acting with the advice of the Executive Council) or of the Attorney General;
 - (e) any publication of material pursuant to the authorisation, except with the further authority of the Governor (acting with the advice of the Executive Council) or of the Attorney General;

Non-enforcement of copyright

3. The State will not enforce copyright in legislation of New South Wales to the extent that it is published or otherwise dealt with in accordance with the authorisation. For this purpose, the authorisation has effect as a licence binding on the State.

Revocation, variation or withdrawal of authorisation

4. Any revocation, variation or withdrawal of the authorisation may be effected generally or in relation to specified publishers or specified classes of publishers. The authorisation may also be revoked, varied or withdrawn in relation to specified legislation of New South Wales or specified classes of such legislation. Any such revocation, variation or withdrawal may be by notice in the Government Gazette, or by notice to any particular publisher, or in any other way as determined from time to time by the Attorney General.

Unauthorised Documents Act 1922

5. Attention is drawn to the Unauthorised Documents Act 1922, which restricts use of the State coat of arms.

Copyright Act 1968 of the Commonwealth

6. Nothing in this instrument affects the rights of any person (other than the State) under the Copyright Act 1968 of the Commonwealth.

Interim arrangements

7. The authorisation does not apply to the publication of legislation of New South Wales in electronic form (including by way of disk, tape or on-line access) during the period of six months commencing on the date of publication of this instrument in the Government Gazette, except with the further approval of the Attorney General.

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Exhibited Animals Protection Regulation 1989 Regulatory Impact Statement 26 April 1995

1. Introduction

1.1 Purpose of this Document

This Document is a Regulatory Impact Statement of a Regulation to be made under the *Exhibited Animals Protection Act 1986*.

1.2 Title of Regulatory Proposal

Exhibited Animals Protection Regulation 1995.

1.3 Name of Proponent and Responsible Minister

The proponent is the Director-General of NSW Agriculture. The responsible Minister is the Hon Richard Amery MP, Minister for Agriculture.

1.4 What is a Regulatory Impact Statement?

The preparation of Regulatory Impact Statements is required under the *NSW Subordinate Legislation Act 1989*.

In an effort to reduce unnecessary regulation the NSW Subordinate Legislation Act 1989 requires departments and authorities to consider the economic costs and social aspects of any new Regulation and to consider optional ways of meeting the new Regulation's objectives. The option that produces the greatest net public good is then chosen.

The *NSW Subordinate Legislation Act 1989* provides for the preparation of a Regulatory Impact Statement (RIS) and public consultation prior to making a Regulation as part of the mechanism by which the option which produces the greatest net public good can be chosen. *The NSW Subordinate Legislation Act 1989* details provisions applying to the preparation of Regulatory Impact Statements.

The underlying purpose of the RIS procedure is to ensure that the approved Regulation is the preferred course of action in achieving a policy objective. The RIS procedure aims to ensure that:

- The Regulation is the most efficient and effective way of achieving defined policy objectives, and
- The Regulation entails minimum cost to the community or produces an outcome where the expected benefits resulting from it outweigh the expected costs to the community.

2. Objectives of Regulatory Proposal

2.1 Background

The proposed Statutory Rule is required to complement the Exhibited Animals Protection Act 1986 and to enable the objectives of the Act to be achieved.

The existing Regulation will automatically be repealed on 1 September 1995. It is proposed the existing Regulation be remade with some minor changes to remedy certain flaws that have become apparent over time.

2.2 Objectives

The major thrust of the Regulation is to provide the Director-General with the means to ensure that exhibited animals are managed in a manner acceptable to the general community.

Thus the Regulation provides the Director-General with the means to address community concerns regarding, amongst other things, animal welfare, public safety, and display quality in relation to animals exhibited for educational, cultural, scientific or recreational purposes.

The specific objectives of the regulatory proposal can be found in Appendix 1.

3. Options to Achieve Objectives

A number of options to achieve management and control of the exhibited animals industry have been considered:

- 1) Repeal the Regulation
 - (a) Allow industry to self regulate
 - (b) Provide an industry awareness program only
- 2) Maintain the Regulation (including limited self regulation) and make changes to make it more workable.
- 3) Status quo – no changes to the Regulation.

4. Costs and Benefits of the Preferred Statutory Rule

Option 2 is considered to be the preferred option for industry, consumers and government.

Option 2 Maintain the Regulation and make changes to make it more workable.

The need to provide and implement acceptable uniform standards in all aspects of animal display and the consequences of failure means that Government intervention is necessary. Industry members recognised this when they requested the Government to implement controlling legislation in 1986. The current Exhibited Animals legislation was drafted with full industry cooperation. Adequate powers to enforce proper standards of operation and practice, where necessary, must be available to ensure animal welfare, public safety, educational and recreational opportunities are maintained for the benefit of the visiting public.

4.1 Affected Parties

The parties affected by the Regulation are described as follows:

NSW Government

- The Director-General and staff of NSW Agriculture
- Members of the Exhibited Animals Advisory Committee
- Staff of the NSW National Parks and Wildlife Service
- Inspectors authorised under the Prevention of Cruelty to Animals Act

Industry

- Persons who exhibit vertebrate animals
- Persons operating tour companies which arrange tours to animal exhibits
- Persons who operate venues which are visited by itinerant animal exhibits.

Community

- Persons who view an exhibit of vertebrate animals
- Persons who wish to gain a knowledge and appreciation of vertebrate life forms and their associated habitats.
- Non-government organisations with an interest in the conservation and/or welfare of exhibited animals

Cost of Industry	Benefit to Industry
<ul style="list-style-type: none"> • increased licence fees for some exhibitors (government financed exhibitors, mobile exhibitors and permit holders). 	<ul style="list-style-type: none"> • exhibitors can complete on equal basis. • reduction in regulation size. • simplified regulations. • enhanced flexibility and response time to industry suggested improvements. • reduced application fees for assessment of initial applications. • availability of pro rata fee during initial year of operation. • time saving by opportunity to provide computerised animal records.

Cost to Consumer	Benefit to Consumer
<ul style="list-style-type: none"> • some exhibitors may raise or introduce entry fees to cover increased licence fees. 	<ul style="list-style-type: none"> • upgraded industry • improved public safety through exhibitors of dangerous animals being required to maintain firearms and tranquilizers. • improved recreational and educational opportunities. • improved animal welfare

Cost to Government	Benefit to Government
<ul style="list-style-type: none"> • costs of developing a new system which can process computerised records • cost of developing the conservation education standard. • state and local government 	<ul style="list-style-type: none"> • reduction of resources used to process manual record system • improved ability to scrutinise applicant's qualifications. • improved cost recovery mechanism • greater flexibility to approve

exhibitors will have to pay licence fees. <ul style="list-style-type: none"> • \$ 164000 administration costs. 	changes to prescribed application forms. <ul style="list-style-type: none"> • \$75000 licensing revenue.
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5. Costs and Benefits of Each Alternative Option

Option 1 Repeal the Regulation

a) Self Regulation

An industry association may be able to develop codes of practice for their members. These codes could provide guidelines for the proper keeping and display of animals. Membership of such an association is not compulsory and therefore such codes would not be enforceable.

The option would not prevent unscrupulous exhibitors from entering the industry. The corresponding lack of adequate animal welfare, public safety and acceptable display methods would cause public outcry and jeopardise the entire industry.

As most industry members own privately operated animal displays with varying degrees of financial viability, it is probable that there would be a tendency for the welfare of animals, public safety and quality of displays to be neglected when finances are tight.

Cost to Industry	Benefit to Industry
<ul style="list-style-type: none"> • compulsory membership of a recognised industry organisation. • financial and human resources needed to develop uniform standards and monitor compliance. • non compliance would result in industry being brought into public disrepute and loss of patrons. 	<ul style="list-style-type: none"> • deletion of statutory compliance costs • enhanced self determination.

Cost to Consumer	Benefit to Consumer
<ul style="list-style-type: none"> • higher entry fees if industry self regulation costs are higher than statutory costs. • no independent avenue for public complaint. • if industry non compliance is high, public safety, recreational and educational opportunities will be diminished. • distress when observing results of lack of animal welfare. 	<ul style="list-style-type: none"> • lower entry fees if industry self regulation costs are lower than statutory costs.

Cost to Government	Benefit to Government
<ul style="list-style-type: none"> • limited opportunity to respond to public complaints. • loss of credibility to government for 	<ul style="list-style-type: none"> • saving of costs involved in resourcing regulation of the Act. (\$ 164000 p.a.)

<p>abrogating responsibility for public safety, public recreational and educational opportunities and animal welfare in this industry.</p> <ul style="list-style-type: none"> • loss of licensing revenue (\$ 75000 p.a.) 	
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b) Industry Awareness

Industry awareness is an important adjunct to proper management.

Effective awareness can help to ensure that acceptable standards of animal welfare, public safety and the expected quality of animal displays are maintained.

A program is already well into the planning stage to provide industry with an educational opportunity in the proper management and operation of a fauna or marine park.

This will make possible a quality assurance accreditation scheme, designed to provide significant areas of deregulation within the industry.

However, this option on its own is not adequate to ensure the proper control of animal welfare issues or the availability of a safe, recreational and educational opportunity for members of the public at animal display venues.

Cost to Industry	Benefit to Industry
<ul style="list-style-type: none"> • non compliance would result in industry being brought into public disrepute and loss of patronage. • Cost of attending educational venues. • Possible loss of self determination. • Loss of human resources to the business during training seminar attendance. 	<ul style="list-style-type: none"> • deletion of statutory compliance costs. • improved understanding and upgrading of skills in animal display management.

Cost to Consumer	Benefit to Consumer
<ul style="list-style-type: none"> • no independent avenue for public complaint. • if industry non compliance remains high because of non attendance, public safety, recreational and educational opportunities will be diminished. • Distress when observing the results of lack of animal welfare. 	<ul style="list-style-type: none"> • higher quality displays, animal welfare and public safety when exhibitors absorb information provided.

Cost to Government	Benefit to Government
<ul style="list-style-type: none"> • limited opportunity to respond to specific public complaints. 	<ul style="list-style-type: none"> * saving of costs involved in resourcing regulation of the Act (\$ 164000 p.a.)

<ul style="list-style-type: none"> • Some loss of credibility to government for reducing involvement in public safety, public recreational and educational opportunities and animal welfare issues. • Cost of resourcing industry awareness program. (monetary costs dependent on level of involvement) 	
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Option 3 *Status quo* – no changes to the Regulation.

The existing regulation contains numerous unnecessary provisions, an inequitable fee structure, and standards which could be dealt with best by reference. Other unnecessary wording and presentation deficiencies have been identified. Remaking the Regulation without changes would pass over the opportunity to rectify the identified deficiencies.

Cost to Industry	Benefit to Industry
<ul style="list-style-type: none"> • some authority holders will continue to suffer competitive disadvantage from inequitable fee structure • required to comply with identified unnecessary and complicated provisions. • entry of unqualified and unskilled exhibitors to the industry would continue 	<ul style="list-style-type: none"> • avoid re-education costs. • Some authority holders will continue to benefit from inequitable fee structure.

Cost to Consumer	Benefit to Consumer
<ul style="list-style-type: none"> • loss of opportunity to benefit from upgraded industry 	<ul style="list-style-type: none"> • continue to obtain the benefits of the established regulatory regime

Cost to Government	Benefit to Government
<ul style="list-style-type: none"> • current costs (\$164000 p.a.) • opportunity cost of lost revenue from implementing option 2. • lost opportunity of rectifying identified deficiencies in current system. 	<ul style="list-style-type: none"> • none

6. Recognition of the Need to Ensure that Costs and Benefits Considered are *Incremental*

As mentioned earlier, it is the impact of the Regulation which is the focus of this Impact Statement.

Any impacts which would have occurred even if the Regulation was not made can be ignored.

Expressed another way, the costs and benefits incurred by the community as a result of the making of the regulation must be *incremental*. Thus the RIS can consider only those costs and benefits which result from changes brought by the Regulation. Any costs and benefits that are created by the Act itself cannot be included in this Impact Statement. It is important for the reader to keep this in mind.

7. Exclusion of Transfer Costs

Transfer items are monetary costs and benefits which flow from one group in the community to another without changing net economic benefit. Examples of transfer items are direct and indirect taxes, subsidies, bounties and fines imposed for non-compliance.

Thus these types of cash flows have not been included in the costs and benefits of the subject Regulation.

8. Overall Assessment

The public viewing of display animals, in their many forms, has been popular in New South Wales since the early 1800s.

The tasteful exhibition to the public of various species of animals is important for the educational and family recreational value provided and just as importantly, because it tends also to encourage an increased public understanding of and responsibility for, animals and their environment. Researching the ways of displayed animals also provides knowledge that may be used to assist in the conservation and management of their free-living counterparts.

The New South Wales Zoological Parks Board and New South Wales Fauna and Marine Parks Association have recognized the value of providing quality animal displays. As there is no other self-regulatory scheme likely to be operated by the industry, they have fully cooperated with Government in designing appropriate standards to regulate all members of the animal display industry throughout the State. The Circus Federation of Australia have also recognised the need for standards which cater for itinerant animal exhibitors and are working with government to establish an appropriate set of standards.

The benefits of maintaining a well operated exhibited animals industry in New South Wales provides a growing income to the State from overseas and interstate tourist visitations and an educational and recreational opportunity for the public generally.

In addition the maintenance of the Regulation will ensure that the NSW Exhibited Animals Industry maintains its position of leading the rest of Australia in creating improved standards for animal exhibition.

9. Consultation

Individuals and organizations will be invited to comment on the Regulation in the following ways;

- Publication of a notice in the Sydney Morning Herald
- Individual letter of notice and invitation to comment on the Regulation

The following representative groups will be informed of the Regulation and of this Regulatory Impact:

Zoological Parks Board of New South Wales
New South Wales Association of Fauna and Marine Parks
Circus Federation of Australia
Australasian Society of Zoo Keepers
New South Wales National Parks and Wildlife Service
Animal Welfare League (NSW)
RSPCA (NSW)
Australasian Association for Zoological Parks and Aquaria
NSW TAFE Commission – Rural and Mining Division
Work cover Authority
Vertebrate Pest Committee
Non-Indigenous Animals Advisory Committee
NSW Animal Welfare Advisory Committee
Exhibited Animals Advisory Committee
NSW Tourism Commission
NSW Department of Education

Appendix 1.

Specific Objectives

- To provide appropriate licensing standards for animal exhibition facilities in New South Wales.
- To provide appropriate licensing standards for the conduct of animal exhibits in New South Wales.
- To provide machinery provision in relation to specific regulatory stipulation in the Act.
- To provide machinery provisions in relation to specific licensing stipulation in the Act.
- To aid implementation of the regulatory system by laying down the duties of inspectors.
- To impose conditions on authority holder's relation to controlled breeding and public liability insurance.
- To create offences for failures relation to certain matters.

Objectives in more detail

The machinery provisions relating to specific licensing stipulation in the Act:

- describe the classes of animal display establishments;
- describe persons and/or types of animal exhibits which are exempt from the operation of the Act;
- lay down the manner in which applications for the issue, renewal, variation or transfer of authorities may be made;
- set application fees for these applications;
- set the period for which an authority shall remain in force;
- lay down the procedures which must be followed when imposing or varying conditions on authorities;
- set the maximum amount of money which the Director-General of NSW Agriculture may require the holder or a cetacea display establishment licence to deposit as a bond;
- describe the manner in which an appeal may be made to the Minister;
- set the time within which an aggrieved person may appeal to a Local Court;
- describe the licensing records which must be kept by the Director-General;

The machinery provisions relating to specific regulatory stipulation in the Act set the maximum period after which a seized animal must be returned to the person it was seized from unless earlier dealt with under the Act;

Offences are created for failures relating to:

- authority conditions
- display of authority
- use of veterinary drugs and equipment
- notification of disease outbreaks, animal escapes and injuries to people
- safety of the public
- welfare of tethered animals, unsuitably housed animals, and animals disturbed by noisy construction work
- movement of animals
- animal records
- species identification
- appropriate staffing

Exhibited Animals Protection Regs 1995 – upd Sept 02

Zoological Parks Board Act 1973 No 34