

EXHIBITED ANIMALS PROTECTION REGULATION 2010

- Made under the *Exhibited Animals Protection Act 1986*
- As at 1 September 2010
- Reg 444 of 2010

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PART 1 - PRELIMINARY

1 Name of Regulation

This Regulation is the *Exhibited Animals Protection Regulation 2010* .

2 Commencement

This Regulation commences on 1 September 2010.

Note: This Regulation replaces the *Exhibited Animals Protection Regulation 2005* , which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989* .

3 Definitions

(1) 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 or a permit.

"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.

"farm" means a place at which one or more animals of a species set out in Schedule 1 are kept for the primary purpose of primary production.

"fence" includes a wall or other barrier.

"fixed establishment" means premises that are an animal display establishment not being a mobile establishment.

"licensed premises" means premises to which a licence relates.

"minor establishment" means a fixed establishment at which no more than 30 animals are exhibited.

"mobile establishment" means an animal display establishment comprising premises that are of a type referred to in section 22 (2) of the Act.

"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.

"the Act" means the *Exhibited Animals Protection Act 1986* .

"veterinary practitioner" has the same meaning as in the *Veterinary Practice Act 2003* .

(2) Notes included in this Regulation do not form part of this Regulation.

PART 2 - ANIMAL DISPLAY ESTABLISHMENTS

4 Exemptions from licensing requirements

(1) Freshwater fish 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 landscaped 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.

(2) Saltwater fish 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 saltwater fish that are kept 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.

(3) Wildlife sanctuaries For the purposes of section 4 (1) of the Act, an animal display establishment is exempt from the requirement to be licensed in respect of an animal if the animal is in an enclosed area and the Director-General is satisfied that:

(a) the animal is in a wild state, and

(b) given the nature and circumstances of the animal and establishment concerned, it would be unreasonable to require the use of the establishment to be licensed (and comply with the licensing requirements) under the Act.

Note: Certain wildlife sanctuaries require and maintain very limited human interaction with the animals kept on those premises. In such cases the Director-General may form the view that it is unreasonable to require the operator of the sanctuary to comply with the strict requirements of a licence under the Act.

5 Exhibitions exempted from the operation of the Act

(1) 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) that the animal is a lawful captive and is part of a competitive display of household pets,
- (c) that the animal is part of a competitive display of domestic farm animals,
- (d) that the animal is a domestic farm animal being used to demonstrate the acquisition of wool, milk or other produce of a living animal,
- (e) that the animal is of domestic hoof-stock and is performing, or is to perform, in an event at a rodeo,
- (f) that the animal is a lawful captive that is not displayed, or kept for display, to the public,
- (g) that the animal is displayed, or kept for display, in accordance with the authority conferred by a scientific licence in force under section 132C of the *National Parks and Wildlife Act 1974* ,
- (h) 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* ,
- (i) that the animal, being an animal of a species listed in Schedule 3 and not being an animal kept pursuant to an approval or permit or at a licensed animal display establishment, is an animal used only for riding or racing,
- (j) that the animal is kept in a pet shop for display and not for sale,
- (k) that the animal, being an animal of a species listed in Schedule 1 and not being an animal kept pursuant to an approval or 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 on which the animal is kept,
- (l) that the animal, being an animal of a species listed in Schedule 1, and not being an animal kept pursuant to an approval or permit or at a licensed animal display establishment, is displayed, or kept for display, for the purposes of promoting an agricultural product derived from that species of animal and:
 - (i) the animal is one of no more than 10 animals displayed, or kept for display, for this purpose at any one time, and
 - (ii) any display lasts for no more than 2 days at a time and is conducted at least 5 days after any previous display of the animal, and

(iii) the animal is displayed near a display of the relevant agricultural product or shortly before or after such a display, and

(iv) the person who normally cares for the animal attends the animal for the duration of any display,

(m) that the animal is a fish that is kept (otherwise than in a habitat display) at:

(i) a fish hatchery, or

(ii) a fish farm,

for the purpose of:

(iii) commercial food production, or

(iv) re-stocking of lakes, dams or waterways,

(n) that the animal is a lawful captive and is being displayed, or kept for display, at a meeting of an association dedicated to the keeping of that type of animal,

(o) that the animal is being displayed, or kept for display, by a school student at a school for a single "show-and-tell" activity.

(2) If the display of any animal that constitutes exhibition for the purposes of the Act and the display of any animal that does not constitute exhibition for the purposes of the Act (by virtue of subclause (1)) takes place at the same time on the same premises, any authority issued in relation to the premises applies to all animals at the premises.

Note: For example, if a pony ride (which is not exhibition for the purposes of the Act by virtue of clause 5 (1) (i)) takes place at an exhibition or display farm to which an approval relates, the approval, and any terms, conditions or standards that have effect under the approval, also apply to the pony ride.

6 Zoological parks

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.

7 Classes of animal display establishments

(1) For the purposes of section 12 of the Act, fixed establishments are a prescribed class of animal display establishments.

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

(a) fixed establishments, and

(b) mobile establishments.

8 Standards for animal display establishments

(1) For the purposes of sections 14 and 25 of the Act, the following standards (published by the Department of Industry and Investment or any of its predecessors) are prescribed:

General Standards for Exhibiting Animals in New South Wales (published in March 2004)

Policy on Exhibiting Primates in New South Wales (published in March 2000)

Standards for Exhibiting Animals at Mobile Establishments in New South Wales (published in October 2008)

Standards for Exhibiting Animals during Temporary Removals in New South Wales (published in October 2008)

Standards for Exhibiting Australian Mammals in New South Wales (published in April 2006)

*Standards for Exhibiting Bottle-nosed Dolphins (*Tursiops truncatus*) in New South Wales* (published in April 1994)

Standards for Exhibiting Captive Raptors in New South Wales (published in May 2010)

Standards for Exhibiting Carnivores in New South Wales (published in May 2005)

Standards for Exhibiting Circus Animals in New South Wales (published in January 2009)

Standards for Exhibiting Seals in New South Wales (published in October 2008)

(2) 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.

(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.

9 Exhibitions of species of animals that require permits

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

10 Application for issue, renewal or variation of authority

(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 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) 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.

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

11 Fees

(1) The fee for 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 month other than July, the applicant is to pay:

(a) the applicable lodgement fee (if any), and

(b) the applicable issue fee adjusted on a pro-rata basis.

(4) In this clause:

"minor exhibitor" means a person who exhibits or is to exhibit no more than 30 animals.

Table

Application for	Lodgment fee	Issue fee
Approval under section	\$230	nil

18 of the Act		
Licence under section 18 of the Act	nil	\$285 for minor establishments, otherwise \$1,035
Renewal of licence under section 18 of the Act	\$115	\$285 for minor establishments, otherwise \$1,035
Approval under section 19 of the Act	\$46	nil
Approval under section 22 of the Act	\$230	\$285 for minor exhibitors, otherwise \$1,035
Renewal of approval under section 22 of the Act	\$115	\$285 for minor exhibitors, otherwise \$1,035
Permit under section 24 of the Act	\$23 per species	nil if applicant holds current licence or approval, \$285 if the applicant is a minor exhibitor, otherwise \$1,035
Renewal of permit under section 24 of the Act	nil if applicant holds current licence or approval, otherwise \$23 per species	nil if applicant holds current licence or approval, \$285 if the applicant is a minor exhibitor, otherwise \$1,035
Transfer of licence under section 27 of the Act	\$230	\$285 for minor establishments, otherwise \$1,035
Variation of authority under section 27 of the Act	\$23	nil

12 Duration of authority

For the purposes of section 29 of the Act, an authority remains in force (unless it is earlier cancelled or 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.

Division 2 - Conditions

13 Conservation education

It is a condition of every authority that the authority holder is to provide education to the public concerning the conservation of animals to a standard approved by the Director-General.

14 Australasian Species Management Program

An authority may include a condition requiring the holder to participate in the Australasian Species Management Program of the Zoo and Aquarium Association.

15 Breeding from stock

An authority is subject to a condition that the holder must not engage in the breeding of the animals to which the authority relates if the breeding:

- (a) would adversely affect the welfare of the progeny because of budgetary or space constraints, or
- (b) would, in the opinion of the Director-General, 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 14, 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.

16 Insurance

An authority is subject to a condition requiring the holder to maintain a policy of insurance, providing cover of an amount 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 that arises out of or in connection with an activity authorised by the authority.

17 Exhibition of animals at circuses

It is a condition of every approval under Division 2 of Part 3 of the Act authorising the exhibition of an animal at a circus that the animal will be kept and exhibited in accordance with the *Standards for Exhibiting Circus Animals in New South Wales* approved and published by the Director-General.

18 Imposition of terms and conditions by the Director-General

(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, condition or variation under consideration, the Director-General takes into account any such representations.

(4) Despite any other provision of this clause, the Director-General may, at any time, revoke 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.

PART 4 - OFFENCES

19 Display of authority

The holder of an authority must cause the authority to be at all times publicly displayed in a prominent position:

(a) if the authority is a permit or approval-at the premises at which the animals concerned are being displayed, or

(b) in any other case-on the authorised premises.

Maximum penalty: 10 penalty units.

20 Veterinary drugs

(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 veterinary practitioner or a person authorised by a veterinary practitioner.

Maximum penalty: 10 penalty units.

(2) The holder of an authority must not cause or permit a person, other than a veterinary practitioner, to administer a drug or vaccine to an animal that is exhibited on authorised premises except as directed by a veterinary practitioner.

Maximum penalty: 10 penalty units.

(3) A person other than a veterinary practitioner must not, except as directed by a veterinary practitioner, administer a drug or vaccine to an animal that is exhibited on authorised premises.

Maximum penalty: 10 penalty units.

21 Notification of outbreak of disease

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: 10 penalty units.

22 Disposal of unwanted veterinary equipment

(1) The holder of an authority must not cause or permit a person to dispose of unwanted or contaminated veterinary equipment from authorised premises in such a way so that the equipment becomes a danger to any person.

Maximum penalty: 10 penalty units.

(2) 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.

23 Tethering of animals

(1) A person must not chain or tether an exhibited animal, or cause or permit such an animal to be chained or tethered, to an anchorage except for the purposes of veterinary treatment or grooming.

Maximum penalty: 10 penalty units.

(2) Subclause (1) does not apply:

(a) to elephants or domesticated hoof-stock if the *Standards for Exhibiting Circus Animals in New South Wales* are observed, or

(b) to elephants on licensed premises that are not on display:

(i) at night, or

(ii) during an emergency situation, or

(c) to raptors if the *Standards for Exhibiting Captive Raptors in New South Wales* are observed.

24 Dangerous or unsuitable housing

(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 remove 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: 10 penalty units.

25 Exhibition of unconfined animal

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.

26 Safety in drive-through area

(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.

Maximum penalty: 10 penalty units.

(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.

27 Escape of animal

(1) An exhibitor of a permit animal must, if the animal escapes from the authorised premises, notify the Director-General:

(a) of the escape within 2 hours, and

(b) immediately on recapture of the animal.

(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:

(a) of the escape within 2 hours, and

(b) immediately 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 and immediately on recapture of the animal.

(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.

28 Venomous animals

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

(a) if a suitable antivenom exists, at all times have an appropriate supply of the antivenom 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 envenomed by the animal.

Maximum penalty: 10 penalty units.

29 Reporting of injuries to people

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.

30 Noisy construction and maintenance work

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: 10 penalty units.

31 Acquisition etc animals

(1) The holder of an authority must not:

(a) acquire an animal for exhibition if the holder knows, or ought reasonably to know, that the transaction is with a person who, by acquiring, possessing or selling the animal, committed an offence under the Act or any of the following Acts:

(i) the *Animal Research Act 1985* ,

(ii) the *National Parks and Wildlife Act 1974* ,

(iii) the *Non-Indigenous Animals Act 1987* ,

- (iv) the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, or
- (b) sell an exhibited animal to a person who the holder knows, or ought reasonably to know, by acquiring, possessing or selling the animal would commit an offence under the Act or any other Act referred to in paragraph (a), or
- (c) acquire or sell an animal of a species listed in Schedule 2 without the consent of the Director-General.

Maximum penalty: 10 penalty units.

(2) In this clause, "sell" an animal includes transfer possession of the animal.

32 Removal of exhibited animal

(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: 10 penalty units.

(2) The holder of an authority must not remove an animal from the authorised premises unless an application in the approved form 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 veterinary practitioner, or

(b) it is being kept on the premises of a veterinary practitioner for treatment or observation, or

(c) it is being transported from one authorised premises under an authority to another authorised premises under that authority, or

(d) it is being transported to give effect to its lawful disposition or acquisition.

(4) In this clause, "approved form" means a form approved by the Director-General.

33 Exemption from requirements concerning acquisition, disposal and removal of animals

(1) The Director-General may exempt a holder of an authority, or a class of holder of an authority, from the requirements of clause 31 (1) (c) or 32 (2).

(2) The exemption may be given either unconditionally or subject to conditions.

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

34 Compliance with conditions

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

Maximum penalty: 10 penalty units.

35 Animal records

(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 (or at such other place as is approved by the Director-General) animal records in a form approved by the Director-General.

Maximum penalty: 10 penalty units.

(3) For the purposes of subclause (2), if an authority relates to more than one premises the animal records need only be kept at the premises at which the animal concerned is most often kept.

(4) 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.

(5) The holder of an authority is guilty of an offence if the holder fails to:

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

(b) enter, or allow an entry to be made, in the animal records:

(i) if the records are in a written or printed form-only in ink, or

(ii) if the records are stored in electronic form-only 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 a written or printed form-only by drawing a single line through the entry, or

(ii) if the records are stored in electronic form-only in a manner approved by the Director-General.

Maximum penalty: 10 penalty units.

(6) A person must not enter, or allow an entry to be made, in the animal records that the person knows to be false or misleading in a material particular.

Maximum penalty: 10 penalty units.

(7) The holder of an authority making an 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.

(8) 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.

Maximum penalty: 10 penalty units.

(9) If an authority is surrendered, suspended 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.

36 Other records

(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: 10 penalty units.

37 Species identification

(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: 10 penalty units.

38 Variation of record keeping obligations

The Director-General may, at the request of the holder of an authority or an exhibitor, exempt the holder or exhibitor from any obligation to keep records otherwise applicable to that holder or exhibitor under clause 35, 36 or 37.

39 Attendants and other staff

(1) An exhibitor of animals must employ such number of adequately trained and competent staff as is necessary to maintain daily the level of animal husbandry required by this Regulation.

(2) An exhibitor of animals must employ such number of qualified or experienced animal attendants as is necessary to maintain the level of care of the animals required by this Regulation.

(3) An exhibitor of animals must 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.

PART 5 – MISCELLANEOUS

40 Organisations that may nominate persons to be members of advisory committee

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

Animal Welfare League NSW

Humane Society International

Primates for Primates

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:

Circus Federation of Australia

Mobile Wildlife Educators Association

New South Wales Fauna and Marine Parks Association

Zoo and Aquarium Association

41 Bonds paid as condition of cetacea display licence

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

(a) the prescribed amount is \$60,000, and

(b) an arrangement for a financial institution to guarantee the payment of an amount to the Director-General (not exceeding \$60,000) 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 spent in accordance with that section, and

(b) paid to the Director-General under an arrangement referred to in subclause (1) (b) and that has not, for the time being, been spent in accordance with 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) an authorised deposit-taking institution, or

(b) a financial institution approved by the Director-General.

42 Period of time for return of seized animal

For the purposes of section 41 of the Act, a period of 6 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.

43 Registered particulars relating to licences

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 \$58.

44 Penalty notice offences

For the purposes of section 46A of the Act:

(a) an offence under a provision of the Act or this Regulation specified in Column 1 of Schedule 4 is prescribed as a penalty notice offence, and

(b) the amount specified in Column 2 of Schedule 4 in respect of such an offence is the prescribed amount of penalty for the offence.

45 Savings

Any act, matter or thing that, immediately before the repeal of the *Exhibited Animals Protection Regulation 2005*, had effect under that Regulation is taken to have effect under this Regulation.

SCHEDULE 1 – Exemptions-animals displayed at certain agricultural shows and rural areas

(Clauses 3 and 5 (1) (k) and (l))

Birds (Class Aves)

Alectoris chukar	Chukar Partridge
Anas platyrhynchos	Domestic Duck
Anser species	Domestic Goose
Columba livia	Domestic Pigeon
Coturnix coturnix	Japanese Quail
Dromaius novaehollandiae	Emu
Gallus gallus	Domestic Chicken
Meleagris gallopavo	Domestic Turkey
Numida meleagris	Helmeted Guineafowl
Phasianus colchicus	Ring-necked Pheasant
Struthio camelus	Ostrich

Mammals (Class Mammalia)

Bos taurus and Bos indicus	Domestic Cattle
Canis familiaris	Domestic Dog, but limited to Working Breeds (Farm (Working) Dog)
Capra hircus	Domestic Goat

Cervus dama	Fallow Deer
Cervus elaphus	Red Deer (Wapiti)
Cervus timorensis	Rusa Deer
Cervus unicolor	Sambar Deer
Equus asinus	Domestic Donkey
Equus caballus	Domestic Horse
Lama glama	Llama
Lama pacos	Alpaca
Oryctolagus cuniculus	Domestic Rabbit
Ovis aries	Domestic Sheep
Sus scrofa	Domestic Pig

SCHEDULE 2 – Animals for which a section 24 permit is required

(Clauses 3 and 9)

Part 1 - Sharks and rays (Class Chondrichthyes)

Order Lamniformes	Mackerel Sharks
Family Lamnidae	Mackerel Sharks
Subfamily Lamninae	White Sharks and Mako (Blue Pointer) Sharks
All species	
Family Odontaspidae	Sand Tigers
Carcharias taurus	Grey Nurse Shark

Order Carcharhiniformes	Ground Sharks
Family Carcharhinidae	Requiem Sharks
Subfamily Carcharhininae	Tiger Sharks, Whaler Shark and Reef Sharks
All species	
Family Sphyrnidae	Hammerhead Sharks
All species	
Order Rajiformes	Sawfish, Skates and Rays
Family Dasyatidae	Rays, Rat-tailed Rays and Stingarees
Subfamily Dasyatinae	Stingrays
All species	

Part 2 - Fish (Class Osteichthyes)

Order Scorpaeniformes	Waspfish, Firefish, Scorpion Cods, Stonefishes, Velvetfishes, Gurnards and Flatheads
Family Scorpaenidae	Scorpion Cods
All species	
Family Tetraogidae	Bullroufs
All species	
Family Synanceiidae	Stonefish
All species	
Order Ceratodontiformes	Lungfish
Neoceratodus forsteri	Australian Lungfish

Part 3 - Amphibians (Class Amphibia)

Order Anura	Frogs and Toads
Family Bufonidae	Toads
Bufo marinus	Cane Toad
Family Dendrobatidae	Poison Arrow Frogs
All species	
Family Hylidae	Tree Frogs
Litoria aurea	Green and Gold Bell Frog
Family Leptodactylidae	
Ceratophrys spp.	Horned-frogs
Family Myobatrachidae	Southern Frogs
Pseudophryne spp.	Corroboree Frog
Family Pipidae	
Xenopus laevis	Clawed Toad
Family Ranidae	
Pyxicephalus adspersus	African Bullfrog
Family Rhacophoridae	
Philautus romeri	Romer's Tree-frog
Order Caudata	Newts, Salamanders and Allies
All species except Ambystoma mexicanum -Axolotl	

Part 4 - Reptiles (Class Reptilia)

Order Crocodilia	Crocodiles, Alligators and Allies
All species	
Order Sphenodontia	Tuataras
Family Sphenodidae	Tuataras
All species	
Order Chelonia	Tortoises and Turtles
Family Carettochelyidae	Pitted-shelled Turtles
Carettochelys insculpta	
Family Cheloniidae	Sea Turtles
All species	
Family Chelidae	Freshwater Tortoises
Pseudemydura umbrina	Western Swamp Tortoise
Chelus fimbriatus	Matamata
Platemys platycephala	Twist-necked Turtle
Family Chelydridae	
All species	
Family Dermochelyidae	Leathery Turtles
All species	
Family Emydidae	
All species	
Family Kinosternidae	

All species	
Family Testudinidae	Land Tortoises
All species	
Family Trionychidae	
All species	
Order Squamata	Lizards and Snakes
Sub-Order Lacertilia	Lizards
Family Agamidae	
Calotes spp.	Variable-lizards
Hydrosaurus pustulatus	Philippine Water-lizard; Sail-fin Lizard
Family Anguidae	
Pseudopus apodus	Sheltopusik; Glass-lizard
Family Chamaeleonidae	Chameleons
All species	Chameleons
Family Cordylidae	
Cordylus giganteus	Sungazer
Gerrhosaurus validus	Giant Plated-lizard
Family Gekkonidae	
Eublepharis macularius	Leopard Gekko; Fat-tailed Gekko
Gekko gecko	Tokay
Hemidactylus frenatus	Cheechak; House Gekko

Lepidodactylus lugubris	Mourning Gekko; Sad Gekko
Phelsuma madagascariensis	Madagascar Gekko
Rhacodactylus auriculatus	Eared Caledonian-gekko
Rhacodactylus leachianus	Cuvier's Caledonian-gekko
Family Helodermatidae	Gila Monster and Beaded Lizard
All species	
Family Iguanidae	Iguanas
All species	
Family Lacertidae	
All species	
Family Scincidae	
Tribolonotus gracilis	Crocodile Skink
Family Teiidae	
Tupinambis teguixin	Black and White Tegu
Family Pygopodidae	Legless Lizards
Delma impar	Striped Legless Lizard
Family Varanidae	Monitors
Varanus giganteus	Perentie
Varanus komodoensis	Komodo Dragon
Varanus salvadorii	Salvadori's Monitor; Papuan Monitor
Varanus varius	Lace Monitor

Sub-Order Serpentes	Snakes
Family Acrochordidae	
Acrochordus javanicus	Javan File-snake
Family Boidae	Pythons and Boas
Subfamily Boinae	
All species	
Subfamily Pythoninae	
Bothrochilus boeleni	Boelen's Python
Liasis amethystina	Scrub Python
Morelia boa	Ringed Python
Python curtus	Blood Python; Short Python
Python molurus	Burmese Python
Python regius	Ball Python
Python reticulatus	Reticulated Python
Python sebae	African Rock Python
Family Colubridae	
Boiga dendrophila	Mangrove Snake
Drymarchon corais	Cribos
Elaphe guttata	Corn Snake; Red Rat-snake
Elaphe obsoleta	Black Rat-snake
Elaphe quatorlineata	Four-lined Rat-snake

Elaphe schrenkii	Russian Rat-snake
Elaphe taeniurus	Black-tailed Rat-snake; Taiwan Rat-snake
Lampropeltis getulus	King Snake
Lampropeltis mexicana	Grey-banded Snake
Lampropeltis triangulum	Milk Snake
Pituophis melanoleucus	Bull Snake; Pine Snake
Family Crotalidae	Rattlesnakes
All species	
Family Elapidae	Front-fanged Venomous Snakes
All species of the genera:	
Acanthophis	Death Adders
Austrelaps	Copperhead Snakes
Cryptophis	Small-eyed Snakes
Haemachatus	Spitting Cobras
Hoplocephalus	Broad-headed Snakes
Naja	Cobras
Notechis	Tiger Snakes
Ophiophagus	King Cobras
Oxyuranus	Taipans and Fierce Snakes
Pseudechis	Black Snakes
Pseudonaja	Brown Snakes

Tropidechis	Rough-scaled Snakes
Vermicella	Bandy-Bandy
Family Hydrophiidae	Sea Snakes
All species	
Family Laticaudidae	Sea Kraits
All species	
Family Viperidae	Vipers
All species	

Part 5 - Birds (Class Aves)

Order Struthioniformes	Ostriches
Family Struthionidae	
Struthio camelus	Ostrich
Order Rheiformes	Rheas
All species	
Order Casuariiformes	Cassowaries
Family Casuariidae	Cassowaries
All species	
Order Apterygiformes	Kiwis
All species	
Order Sphenisciformes	Penguins
All species	

Order Procellariiformes	Albatrosses, Shearwaters and Petrels
All species	
Order Ciconiiformes	Hérons, Bitterns, Storks, Ibises, Spoonbills, Hammerheads and Flamingos
Family Threskiornithidae	Ibises and Spoonbills
Platalea regia	Royal Spoonbill
Family Ciconiidae	Storks
Xenorhynchus asiaticus	Black-necked Stork
Family Cathartidae	New World Vultures
All species	
Family Phoenicopteridae	Flamingos
All species	
Order Anseriformes	Swans, Ducks and Geese
Family Anatidae	Swans, Ducks and Geese
Stictonetta naevosa	Freckled Duck
Order Falconiformes	Vultures, Ospreys, Falcons, Kites, Eagles, Harriers, Hawks, Secretary Birds and Buzzards
All species	
Order Galliformes	Pheasants, Quails, Grouse, Turkeys, Guineafowl, Megapodes (mound-nesters), Curassows and Guans
Family Megapodiidae	Megapodes or Mound-builders
Leipoa ocellata	Malleefowl
Order Gruiformes	Cranes, Trumpeters, Rails, Bustards, Button-quails, Seriemas,

	Mesites and Finfoots
Family Turnicidae	Button-quail
<i>Turnix melanogaster</i>	Black-breasted Button-quail
Family Gruidae	Cranes
All species	
Family Rallidae	Rails, Crakes, Moorhens and Coots
<i>Gallirallus sylvestris</i>	Lord Howe Island Woodhen
Family Otidae	Bustards
<i>Ardeotis australis</i>	Australian Bustard
Order Charadriiformes	Plovers, Sandpipers, Stilts, Snipes, Oystercatchers, Curlews and Sheathbills
All species except <i>Larus novaehollandiae</i>	Silver Gull
Order Columbiformes	Pigeons and Doves
Family Columbidae	Pigeons and Doves
<i>Ptilinopus regina</i>	Rose-Crowned Fruit Dove
Order Psittaciformes	Cockatoos and Parrots
Family Cacatuidae	Cockatoos
<i>Cacatua pastinator</i>	Western Long-billed Corella
<i>Callocephalon fimbriatum</i>	Gang Gang Cockatoo
<i>Calyptorhynchus</i> spp.	Black Cockatoos
<i>Probosciger aterrimus</i>	Palm Cockatoo

Family Psittacidae	Parrots
<i>Ara ararauna</i>	Blue and Yellow Macaw
<i>Ara chloroptera</i>	Green-winged Macaw
<i>Ara macao</i>	Scarlet Macaw
<i>Anodorhynchus hyacinthinus</i>	Hyacinth Macaw
<i>Cyanoramphus unicolor</i>	Antipodes Island Green Kakariki
<i>Cyclopsitta diophthalma</i>	Double-eyed Fig-parrot
<i>Eclectus roratus macgilivrayi</i>	Eclectus Parrot (Australian subspecies)
<i>Lathamus discolor</i>	Swift Parrot
<i>Neophema chrysogaster</i>	Orange-bellied Parrot
<i>Neophema petrophila</i>	Rock Parrot
<i>Nestor meridionalis meridionalis</i>	South Island Kaka
<i>Nestor meridionalis septentrionalis</i>	North Island Kaka
<i>Nestor notabilis</i>	Kea
<i>Psephotus chrysopterygius</i>	Golden-shouldered Parrot
<i>Strigops habroptilus</i>	Kakapo
Order Cuculiformes	Cuckoos, Touracos and Hoatzins
All species	
Order Strigiformes	Owls
All species	

Order Caprimulgiformes	Nightjars, Frogmouths, Potoos and Oilbirds
All species except <i>Podargus strigoides</i>	Tawny Frogmouth
Order Coraciiformes	Kingfishers, Rollers, Hornbills and Allies
Family Alcedinidae	Kingfishers and Kookaburras
<i>Todiramphus sanctus</i>	Sacred Kingfisher
Order Passeriformes	Perching Birds
Family Pittidae	Pittas
All species	
Family Menuridae	Lyrebirds
All species	
Family Maluridae	Fairy-wrens
<i>Malurus lamberti lamberti</i>	Variegated Fairy-wren
Family Meliphagidae	Honeyeaters
<i>Lichenostomus melanops cassidix</i>	Helmeted Honeyeater
<i>Manorina melanotis</i>	Black-eared Miner
<i>Xanthomyza phrygia</i>	Regent Honeyeater
Family Passeridae	Finches and Mannikins
<i>Emblema bella</i>	Beautiful Firetail
<i>Stagonopleura oculata</i>	Red-eared Firetail
Family Paradisaeidae	Birds-of-Paradise

All species	
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Part 6 - Mammals (Class Mammalia)

Monotremes (Subclass Prototheria)-egg-laying mammals

Order Monotremata	Platypus and Echidnas
Family Tachyglossidae	Echidnas
Zaglossus bruijini	Long-beaked Echidna
Family Ornithorhynchidae	Platypus
Ornithorhynchus anatinus	Platypus

Marsupials (Subclass Marsupialia)-pouched mammals

Order Dasyuromorphia	Quolls, Tasmanian Devils, Phascogales, Antechinus, Dunnarts and Numbats
Family Dasyuridae	Carnivorous and Insectivorous Marsupials
Dasyercus cristicauda	Mulgara
Dasyurus spp.	Quolls
Parantechinus apicalis	Dibbler
Phascogale spp.	Phascogales
Sarcophilus harrisi	Tasmanian Devil
Family Myrmecobiidae	Numbat
Myrmecobius fasciatus	Numbat
Order Peramelemorphia	Bandicoots and Bilby
Family Peramelidae	Bandicoots
Echymipera rufescens	Long-nosed Echymipera

<i>Isoodon auratus</i>	Golden Bandicoot
<i>Perameles bougainville</i>	Western Barred Bandicoot
<i>Perameles gunnii</i>	Eastern Barred Bandicoot
Family Thylacomyidae	Bilby
<i>Macrotis lagotis</i>	Greater Bilby
Family Peroryctidae	Spiny Bandicoots
All species	
Order Diprotodontia	Koalas, Wombats, Possums, Gliders, Kangaroos, Wallabies and Rat-kangaroos
Family Phascolarctidae	Koala
<i>Phascolarctos cinereus</i>	Koala
Family Vombatidae	Wombats
<i>Lasiornhinus krefftii</i>	Northern Hairy-nosed Wombat
Family Burramyidae	Pygmy-possums
<i>Burramys parvus</i>	Mountain Pygmy-possum
Family Petauridae	Gliders, Striped Possum and Leadbeater's Possum
<i>Dactylopsila</i> spp.	Striped Possums
<i>Gymnobelideus leadbeateri</i>	Leadbeater's Possum
<i>Petaurus australis</i>	Yellow-bellied Glider
<i>Petaurus breviceps papuanus</i>	Sugar Glider (New Guinean subspecies)
<i>Petaurus gracilis</i>	Mahogany Glider
<i>Petaurus norfolcensis</i>	Squirrel Glider

Family Pseudocheiridae	Ringtail Possums and Greater Glider
All species except Pseudocheirus peregrinus	
Family Phalangeridae	Brush-tail Possums, Cuscuses and Scaly-tailed Possums
Phalanger spp.	Cuscus
Spilocuscus spp.	Cuscus
Wyulda squamicaudata	Scaly-tailed possum
Family Hypsiprymnodontidae	Musky Rat-kangaroo
Hypsiprymnodon moschatus	Musky Rat-kangaroo
Family Potoroidae	Bettongs and Potoroos
Bettongia lesueur	Burrowing Bettong
Bettongia tropica	Northern Bettong
Potorous gilberti	Gilbert's Potoroo
Potorous longipes	Long-footed Potoroo
Family Macropodidae	Kangaroos and Wallabies
Dendrolagus spp.	Tree Kangaroos
Dorcopsis spp.	Forest Wallabies
Lagorchestes hirsutus	Mala
Lagostrophus fasciatus	Banded Hare-wallaby
Macropus irma	Western Brush Wallaby
Onychogalea fraenata	Bridled Nailtail Wallaby
Petrogale spp.	Rock-wallabies

Order Notoryctemorphia	Marsupial Moles
All species	

Eutherian mammals (Subclass Eutheria)-placental mammals

Order Soricomorpha	Shrews, Hedgehogs
All species	
Order Scandentia	Tree-Shrews
All species	
Order Pilosa	Sloths and Anteaters
All species	
Order Cingulata	Armadillos
All species	
Order Chiroptera	Flying-foxes and Insectivorous Bats
All species	
Order Primates	Lorises, Bush-babies, Lemurs, Tarsiers, Marmosets, Tamarins, Monkeys and Apes
All species	
Order Carnivora	Dogs, Bears, Raccoons, Weasels, Mongooses, Hyenas, Cats, Seals, Sea-lions and Walruses
All species except the following:	
Canis familiaris	Domestic Dog
Felis catus	Domestic Cat
Mustela putorius	Domestic Ferret

Order Tubulidentata	Aardvark
Ocryctopus after	Aardvark
Order Sirenia	Dungogs and Manatees
All species	
Order Proboscidea	Elephants
All species	
Order Perissodactyla	Asses, Horses, Zebras, Tapirs and Rhinoceroses
All species except the following:	
Equus asinus	Domestic Donkey
Equus caballus	Domestic Horse
Order Artiodactyla	Camels, Llamas, Pigs, Hippopotamuses, Deer, Giraffes, Cattle, Sheep, Antelopes and Peccaries
All species except the following:	
Bos taurus	Domestic Cattle
Bos indicus	Domestic Cattle
Capra hircus	Domestic Goat
Lama glama	Llama
Lama pacos	Alpaca
Ovis aries	Domestic Sheep
Sus scrofa	Domestic Pig, Wild Boar
Order Rodentia	Squirrels, Beavers, Gophers, Mice, Rats, Porcupines and South

	American Cavy-like Rodents
All species except the following:	
Notomys alexis and Pseudomys australis	
Cavia porcellus	Guinea Pig
Mus musculus	House Mouse
Notomys alexis	Spinifex Hopping-mouse
Pseudomys australis	Plains Mouse
Rattus norvegicus	Norwegian Rat
Rattus rattus	Black Rat
Order Cetacea	Whales and Dolphins
All species	

Part 7 - Hybrids

A hybrid of which one parent is, or both parents are, of a species listed in Parts 1 to 6.

SCHEDULE 3 – Exemptions-animals used for riding or racing

(Clause 5 (1) (i))

Bos taurus and Bos indicus	Domestic Cattle
Camelus dromedarius	Arabian Camel
Canis lupus familiaris	Domestic Dog
Capra hircus	Domestic Goat
Equus caballus	Domestic Horse

Equus asinus	Domestic Donkey
Equus caballus x asinus	Domestic Mule

SCHEDULE 4 – Penalty notices

(Clause 44)

Column 1	Column 2
Provision	Penalty
	Exhibited Animals Protection Act 1986
Section 12	\$500
Section 18 (1)	\$500
Section 19	\$500
Section 22 (2)	\$500
Section 24	\$500
Section 31 (1)	\$200
Section 31 (2) (a), (b) or (d)	\$500
Section 44	\$500
Section 45	\$500
	Exhibited Animals Protection Regulation 2010
Clause 19	\$200
Clause 20	\$200
Clause 21	\$200

Clause 22	\$200
Clause 23 (1)	\$200
Clause 24 (2)	\$200
Clause 25	\$200
Clause 26	\$200
Clause 27	\$200
Clause 28	\$200
Clause 29	\$200
Clause 31 (1) (c)	\$200
Clause 32	\$200
Clause 34	\$200
Clause 35 (2), (4), (5) or (7)-(9)	\$200
Clause 36	\$200
Clause 37	\$200
Clause 39 (3)	\$200

NOTES

- Made under the *Exhibited Animals Protection Act 1986* - As at 1 September 2010 - Reg 444 of 2010

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Exhibited Animals Protection Act 1986*.

Minister for Primary Industries

Table of amending instruments

Exhibited Animals Protection Regulation 2010 (444). LW 20.8.2010. Date of commencement, 1.9.2010, cl 2.