

FIRST PRINT

## EXHIBITED ANIMALS PROTECTION BILL 1986

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The following Bills are cognate with this Bill:

Search Warrants (Exhibited Animals) Amendment Bill 1986;

Zoological Parks Board (Exhibited Animals) Amendment Bill 1986.

The objects of this Bill are—

- (a) to constitute an Exhibited Animals Advisory Committee and to confer on that committee various functions relating to the scheme governing the exhibition of animals established under the proposed Act;
- (b) to provide for the regulation of the exhibition of animals at zoological and marine parks and at circuses and other places where animals are exhibited for public entertainment; and
- (c) to make specific provision with respect to the exhibition of dolphins and whales.

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### PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day or days to be appointed by the Governor-in-Council.

Clause 3 states that the proposed Act binds the Crown and defines the relationship of the proposed Act to the Prevention of Cruelty to Animals Act 1979.

Clause 4 provides for the exemption of a specified person or specified premises or persons or premises of a specified class from the operation of the proposed Act and the exemption of persons or premises or classes of persons or premises from any requirement made by or under the proposed Act.

Clause 5 is an interpretation provision and includes definitions of the expressions "animal display establishment", "exhibit" and "zoological park".

## PART 2—THE EXHIBITED ANIMALS ADVISORY COMMITTEE

Clause 6 and Schedules 1 and 2 provide for the constitution and procedure of the Exhibited Animals Advisory Committee. The committee is to consist of 6 members representative of governmental and other bodies having an interest in the regulation of the exhibition of animals.

Clause 7 provides for the use of the services of the staff and facilities of government departments, administrative offices and public authorities and the engagement of consultants to assist the committee in the exercise of its functions.

Clause 8 provides that the committee has the following functions:

- (a) to advise the Zoological Parks Board so as to promote a co-ordinated approach in policy and administration between the board 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 the proposed Act and to recommend any changes to the board which appear to the committee to be necessary for the efficient operation of that scheme;
- (c) to carry out any function delegated to the committee by the board.

Clause 9 enables the committee to initiate the inspection of licensed animal display establishments and to authorise any of its members to be present while such an inspection is being carried out.

Clause 10 requires the committee to furnish recommendations and reports made by it to the board and, at the request of the Minister, to the Minister.

Clause 11 provides for the delegation of the committee's functions.

## PART 3—LICENCES, APPROVALS AND PERMITS

### DIVISION 1—*Licensing of animal display establishments*

Clause 12 requires the licensing under the proposed Act of animal display establishments of a prescribed class. The clause makes it clear that the provision does not require licensing of a zoological park established, maintained or controlled by the board.



Clause 13 provides that there shall be such classes of animal display establishments as may be prescribed.

Clause 14 and Schedule 3 provide for standards to be prescribed with respect to facilities for the exhibition of animals at, and the conduct of, animal display establishments of any class.

Clause 15 states requirements relating to the issue of a licence. A licence will not be issued unless the animal display establishment conforms to and will be conducted in accordance with standards prescribed under proposed section 14.

Clause 16 states the particulars to be specified in a licence.

Clause 17 states the authority conferred by a licence.

Clause 18 requires the approval of the board to the erection of an animal display establishment or the conversion of any premises into such an establishment.

Clause 19 requires the approval of the board before a licensed animal display establishment is altered or extended and for any alterations or extensions to be carried out in accordance with the approval given.

Clause 20 provides for a register to be kept and for the entry in the register of various particulars relating to licensed animal display establishments.

Clause 21 requires the board to supply copies of the registered particulars in respect of a licensed animal display establishment on application and payment of a prescribed fee.

#### DIVISION 2—*Approvals for the exhibition of animals at circuses, etc.*

Clause 22 requires a person exhibiting certain species of animals 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 to hold, or be supervised by the holder of, an approval.

Clause 23 states requirements relating to the issue of an approval. An approval will not be issued unless the person to whom it is issued has appropriate qualifications or experience, or both, to exhibit animals of that species. The clause also states the authority conferred by an approval.

#### DIVISION 3—*Permits for the exhibition of certain animals*

Clause 24 requires a person exhibiting an animal of a prescribed species to be the holder, or to be supervised by the holder, of a permit.

Clause 25 states requirements relating to the issue of a permit. A permit will not be issued unless the board is satisfied that the animal will be exhibited in accordance with the standards prescribed in respect of animals of that species.

#### DIVISION 4—*General*

Clause 26 defines the word “authority” for the purposes of Division 4 as meaning a licence, an approval or a permit issued under Part 3 of the proposed Act.

Clause 27 contains provisions applicable generally to applications for authorities.

Clause 28 states the ways in which authorities are made subject to terms and conditions. Terms and conditions may be prescribed in the regulations or be imposed by the board when an authority is issued or at a later time.

Clause 29 provides for the duration of authorities and for their renewal. The duration of authorities will be fixed by the regulations.

Clause 30 provides for the suspension (for not more than 60 days) of an authority and for its cancellation by the board. The clause states the circumstances in which an authority may be so suspended or cancelled.

Clause 31 creates an offence of contravening terms or conditions of an authority and certain other offences relating to an authority.

#### DIVISION 5—*Appeals*

Clause 32 enables appeals to be made to the Minister against the refusal of an application for the issue, or the cancellation by the board, of a licence, an approval or a permit issued under Part 3 of the proposed Act.

Clause 33 enables appeals to be made to a Local Court against the refusal of an application for the issue of, or the suspension or cancellation of, a licence, an approval or a permit issued under Part 3 of the proposed Act or against terms or conditions to which it is made subject by the board.

### PART 4—PROVISIONS RELATING TO THE EXHIBITION OF DOLPHINS AND WHALES

Clause 34 defines the term “cetacea display establishment” for the purposes of Part 4 of the proposed Act as meaning an animal display establishment used for the exhibition of captive dolphins (defined so as to include porpoises) and whales.

Clause 35 provides that the board shall not, without the approval of the Minister, issue—

- (a) an approval for the erection or conversion of premises into a cetacea display establishment; or
- (b) a licence for a cetacea display establishment where, after issue of the licence, more than one such licence would be in force, or if the establishment in respect of which the licence is sought was not in existence before the commencement of Part 4 of the proposed Act.

Clause 36 enables the board to specify as a term of a licence issued under Part 3 of the proposed Act that only dolphins and whales kept in captivity, at the commencement of Part 4 of the proposed Act, at the premises the subject of the licence or their progeny born in captivity may be exhibited.



Clause 37 enables the board to require, as a condition of the issue of a licence for a cetacea display establishment, that a bond (not exceeding a prescribed amount) be deposited with the board or that the holder enter other prescribed arrangements securing payment of money to the board. The bond may be used by the board to pay any expense incurred by it in caring for, rehabilitating or returning to its natural environment any dolphin or whale placed in the care of the board by the holder of the licence or cared for by the board as a consequence of that holder's failing to care for the dolphin or whale in accordance with the proposed Act or the regulations or a term or condition of the licence.

#### PART 5—INSPECTORS

Clause 38 provides for the appointment of inspectors for the purposes of the proposed Act.

Clause 39 provides for the issue of certificates of identification to inspectors. An inspector will be required to produce the certificate if requested to do so when exercising the power conferred by proposed section 40.

Clause 40 confers specified powers on inspectors for the purposes of the proposed Act. An inspector will have the power of entry and search in relation to certain land. In the exercise of these powers, an inspector will be empowered to examine animals, materials and documents and to seize any animal, material or document where the inspector believes, on reasonable grounds, that an offence against the proposed Act or the regulations has been committed.

Clause 41 empowers the sale, disposal, condemning, destruction or placement in the care of the board, either indefinitely or for rehabilitation and return to its natural environment, of any animal seized under proposed section 40 in connection with the commission of an offence.

Clause 42 provides that an inspector may obtain a search warrant from an authorised justice to authorise the entry of a dwelling in certain circumstances.

Clause 43 creates certain offences to ensure that the powers of inspectors granted by the proposed Act may be exercised and that certain requirements made by inspectors in the exercise of those powers shall be complied with.

#### PART 6—SUPPLEMENTARY

Clause 44 prohibits a person from making false or misleading statements in or in relation to any application under the proposed Act or in purported compliance with any requirement under the proposed Act.

Clause 45 prohibits the unlawful disclosure of information obtained in connection with the administration or execution of the proposed Act.

Clause 46 provides that proceedings for offences against the proposed Act shall be dealt with summarily before a Local Court constituted by a Magistrate.

Clause 47 provides that, where an offence is committed by a corporation, the directors of the corporation may be proceeded against in respect of the offence.

Clause 48 provides for the recovery of any charge, fee or other money due to the board under the proposed Act or the regulations or under the terms or conditions of a licence, an approval or a permit issued under the proposed Act or the regulations.

Clause 49 provides that a certificate, signed by a person authorised by the board for the purposes of the proposed section, and certifying certain facts is admissible in proceedings under the proposed Act and is evidence of the facts so certified.

Clause 50 ensures that no person is personally liable for anything done or omitted to be done by the person in good faith in the exercise of that person's functions under the proposed Act.

Clause 51 provides for the service of notices under the proposed Act.

Clause 52 provides for refunds of a proportional part of certain fees paid under the proposed Act.

Clause 53 empowers the making of regulations under the proposed Act.

Clause 54 is a formal provision which gives effect to Schedule 4.

Schedules 1 and 2 provide for the constitution and procedure of the Exhibited Animals Advisory Committee.

Schedule 3 states certain matters that may be the subject of licensing standards prescribed under the proposed Act.

Schedule 4 defines the relationship between the proposed Act and other Acts and statutory instruments in force in New South Wales.

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# EXHIBITED ANIMALS PROTECTION BILL 1986

NEW SOUTH WALES



## TABLE OF PROVISIONS

### PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Application of Act
4. Exemptions
5. Interpretation

### PART 2—THE EXHIBITED ANIMALS ADVISORY COMMITTEE

6. The advisory committee
7. Staff of the advisory committee
8. Functions of the advisory committee
9. Inspections
10. Recommendations and reports
11. Delegation

### PART 3—LICENCES, APPROVALS AND PERMITS

#### DIVISION 1—*Licensing of animal display establishments*

12. Licence required for animal display establishment
13. Classes of establishments
14. Licensing standards
15. Issue of licences
16. Particulars to be specified in licences
17. Authority conferred by licence
18. Approval of erection of animal display establishment
19. Alteration of licensed animal display establishment
20. Register
21. Certificate of registered particulars

DIVISION 2—*Approvals for the exhibition of animals at circuses, etc.*

- 22. Persons to be authorised to exhibit animals
- 23. Issue of approvals

DIVISION 3—*Permits for the exhibition of certain animals*

- 24. Certain animals may be displayed only with permit
- 25. Issue of permits

DIVISION 4—*General*

- 26. Interpretation
- 27. Applications
- 28. Terms and conditions
- 29. Duration
- 30. Suspension and cancellation
- 31. Offences relating to licences, approvals and permits

DIVISION 5—*Appeals*

- 32. Appeals to Minister
- 33. Appeals to Local Court

PART 4—PROVISIONS RELATING TO THE EXHIBITION OF DOLPHINS AND WHALES

- 34. Interpretation
- 35. Issue of licences
- 36. Limitation on dolphins and whales that may be exhibited
- 37. Bonds

PART 5—INSPECTORS

- 38. Appointment of inspectors
- 39. Identification certificates
- 40. Powers of inspectors
- 41. Care of seized animals
- 42. Search warrant
- 43. Offences relating to inspectors

PART 6—SUPPLEMENTARY

- 44. False or misleading information
- 45. Disclosure of information
- 46. Proceedings for offences
- 47. Offences by corporations
- 48. Recovery of charges, etc.
- 49. Evidentiary certificates
- 50. Liability
- 51. Service of notices
- 52. Refund
- 53. Regulations
- 54. Relationship to other Acts, etc.



SCHEDULE 1—PROVISIONS RELATING TO THE MEMBERS OF THE  
ADVISORY COMMITTEE

1. Age of members
2. Chairperson of the advisory committee
3. Term of office
4. Remuneration
5. Filling of vacancy in office of member
6. Casual vacancies
7. Disclosure of pecuniary interests
8. Effect of certain other Acts

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

1. General procedure
2. Quorum
3. Presiding member
4. Voting
5. Minutes
6. Authentication of documents
7. First meeting of the advisory committee

SCHEDULE 3—LICENSING STANDARDS

SCHEDULE 4—RELATIONSHIP TO OTHER ACTS, ETC.

1. Effect of other provisions relating to exhibition of animals
  2. Effect of licences, approvals, permits, etc.
  3. Inconsistent provisions
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# EXHIBITED ANIMALS PROTECTION BILL 1986

NEW SOUTH WALES



No.           , 1986

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## A BILL FOR

An Act with respect to the exhibition of animals at marine or zoological parks, circuses and other places.

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See also Search Warrants (Exhibited Animals) Amendment Bill 1986; Zoological Parks Board (Exhibited Animals) Amendment Bill 1986.

*Exhibited Animals Protection 1986*

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

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PART 1  
PRELIMINARY

**Short title**

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

10 **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  
15 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.

20 **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

25 (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  
30 does not have effect while any of the conditions is not being complied with.

*Exhibited Animals Protection 1986*

(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.

**Interpretation**

- 5     **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;
- 10     “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;
- 15     “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;
- 20     (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;
- 25     “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;
- 30     “licensing standard” means a standard prescribed under section 14;
- “member” means a member of the advisory committee;
- “occupier”, in relation to premises—



*Exhibited Animals Protection 1986*

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- (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;

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

“premises” includes any land or place (whether built upon or not) and any part thereof;

“register” means the register referred to in section 20;

“regulation” means a regulation made under this Act;

10 “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;

15 “species” includes order, class and description;

“zoological park” means—

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

20 in which animals are displayed, or kept for display, for educational, cultural, scientific or recreational purposes.

(2) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
  - 25 (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.
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## PART 2

## THE EXHIBITED ANIMALS ADVISORY COMMITTEE

**The advisory committee**

6. (1) There is constituted by this Act an Exhibited Animals Advisory  
5 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;
- 10 (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  
15 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;
- 20 (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;
- 25 (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.

*Exhibited Animals Protection 1986*

(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)—

- 5 (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.

10 (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
- 15 (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.

20 (2) The board 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 board with the approval of the Minister.

**25 Functions of the advisory committee**

8. The advisory committee has the following functions:

- (a) to advise the board so as to promote a co-ordinated approach in policy and administration between the board and government departments administering legislation relating to the importation, control, care and welfare of animals;
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*Exhibited Animals Protection 1986*

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- 5 (b) to monitor the effectiveness of the scheme governing the exhibition of animals established under Part 3 and to recommend to the board 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 board.

**Inspections**

9. (1) The advisory committee may at any time request the board to  
10 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.

**15 Recommendations and reports**

10. (1) The advisory committee shall forward to the board 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 board shall, at such times as the Minister may request, forward  
20 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—
- 25 (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  
30 delegation.

*Exhibited Animals Protection 1986*

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(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.

5 (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.

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PART 3

LICENCES, APPROVALS AND PERMITS

10 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 \$2,000 or to imprisonment for not more than 6  
15 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.

20 **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.

**Licensing standards**

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

- 25 (a) the facilities for the exhibition of animals at; and  
(b) the conduct of,

animal display establishments of any class.



*Exhibited Animals Protection 1986*

(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 **15. (1)** A licence for an animal display establishment of a prescribed class shall not be issued unless the board 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.

15 (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**

20 **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**

25 **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 board.

Penalty: \$2,000 or imprisonment for 6 months, or both.

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



*Exhibited Animals Protection 1986*

(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 board 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.

10 (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**

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

(a) approval of the board is first obtained for the alteration or extension; and

20 (b) the animal display establishment is altered or extended in accordance with that approval.

Penalty: \$2,000 or imprisonment for 6 months, or both.

**Register**

20. (1) The board shall cause a register to be kept as prescribed.

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

25 (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

30 (e) such further particulars as may be prescribed.

*Exhibited Animals Protection 1986*

(3) The board 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.

**5 Certificate of registered particulars**

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

(2) Where the board receives an application under this section, the board 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**

15 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;
- 20 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.

25 (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  
30 holder, of an approval authorising the holder to exhibit animals of that species.

Penalty: \$2,000 or imprisonment for 6 months, or both.



*Exhibited Animals Protection 1986***Issue of approvals**

23. (1) An approval authorising the exhibition of animals of a species shall not be issued unless the board is satisfied that the person to whom it is issued has appropriate qualifications or experience, or both, to exhibit  
5 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.

10           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.

15    Penalty: \$2,000 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 board is satisfied that the animal will be exhibited in accordance with the standards prescribed in respect of  
20 animals 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  
25 the animal is or animals are exhibited in accordance with the terms and conditions to which the permit is subject.

DIVISION 4—*General***Interpretation**

26. In this Division—  
30    “authority” means a licence, an approval or a permit.



*Exhibited Animals Protection 1986*

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**Applications**

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

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

(3) The application shall be considered by the board which may grant or refuse the application.

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

- 10 (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 board and the applicant,

the application shall be deemed (for the purposes only of any appeal) to have  
15 been refused.

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

(6) Where the board refuses to grant an authority, the board shall, as soon as practicable after so refusing, cause notice of the refusal, and of the reasons  
20 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  
25 issued; and  
(c) any terms and conditions imposed by the board 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.

*Exhibited Animals Protection 1986*

(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.

5 (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

10 (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**

15 30. (1) The board 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—

20 (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;

25 (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;

30 (d) if the authority was issued pursuant to a false or misleading document, statement or representation;

(e) if for any other reason the board is of the opinion that the holder is not a fit and proper person to hold the authority;



*Exhibited Animals Protection 1986*

(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 board shall return it to  
5 the former holder on the expiration of the period of suspension.

(3) Before suspending or cancelling a licence under subsection (1) (c) (i),  
the board 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  
10 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—

15 (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 board or of an inspector an authority that has been suspended  
or cancelled under this Act or the regulations.

20 Penalty: \$1,000.

(2) A person shall not—

(a) falsely advertise or claim to hold an authority issued under this  
Act or the regulations;

25 (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.

Penalty—subsection (2): \$2,000.



*Exhibited Animals Protection 1986*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  
5 by the board 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

10 (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.

15 (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 board and the appellant and shall be carried into effect accordingly.

20 (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—

25 (a) by the refusal of an application for the issue, renewal, variation or transfer of, or by the suspension or cancellation by the board of, any licence, approval or permit under this Act or the regulations; or

30 (b) by the terms or conditions specified in or imposed by the board on any such licence, approval or permit or by the variation by the board 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.

*Exhibited Animals Protection 1986*

(2) The decision of a Local Court on an appeal under this section is final and is binding on the board and the appellant and shall be carried into effect accordingly.

## PART 4

5 PROVISIONS RELATING TO THE EXHIBITION OF DOLPHINS  
AND WHALES**Interpretation**

34. In this Part—

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

“dolphin” includes porpoise.

**Issue of licences**

35. The board shall not issue—

15 (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

20 (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**

25 36. The board 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.



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**Bonds**

37. (1) The board 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 board by the holder  
5 of the licence or that the holder enter into other prescribed arrangements securing the payment of money to the board.

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

(a) placed in the care of the board by the holder of the licence; or

(b) cared for by the board 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  
15 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 licence ceases to have effect.

(4) Nothing in this section limits any right of recovery of the board under  
20 section 48.

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PART 5  
INSPECTORS

**Appointment of inspectors**

38. (1) Inspectors may be appointed for the purposes of this Act under  
25 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  
30 subsection (2).



*Exhibited Animals Protection 1986*

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(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 board shall cause each inspector to be issued with a  
5 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  
10 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—

- 15 (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;
- 20 (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;
- 25 (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;
- 30 (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;

*Exhibited Animals Protection 1986*

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- (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;
- 5 (h) remove any animals seized under this Act 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;
- 10 (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;
- 15 (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;
- 20 (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;
- 25 (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;
- 30 (n) transport animals seized under this section to a place approved by the board and obtain veterinary treatment for those animals; and
- 35 (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.



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(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

5 (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.

10 (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  
15 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**

20 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 board either indefinitely or for rehabilitation and return to its natural environment; or

25 (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  
30 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.



*Exhibited Animals Protection 1986*

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**Search warrant**

42. (1) In this section—

“authorised justice” means—

(a) a Magistrate; or

5 (b) a justice of the peace employed in the Local Courts Administration, Attorney General’s Department.

(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  
10 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—

15 (a) to enter the dwelling; and

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

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

20 **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  
25 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  
30 or misleading answer to any such question;

*Exhibited Animals Protection 1986*

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- (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;
- 5 (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
- 10 (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;
- 15 (f) prevent, or attempt to prevent, a person from appearing before or being questioned by an inspector; or
- (g) impersonate an inspector.

Penalty: \$2,000.

- 20 (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
- 25 (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.

Penalty: \$2,000.

**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.

Penalty: \$2,000.

**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.



*Exhibited Animals Protection 1986*

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(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 by the board as a debt due in a court of competent jurisdiction.

**Evidentiary certificates**

49. A certificate that is signed by a person authorised in writing by the board 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;
- 20 (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 board 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 board.

**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 board, 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 board and advisory committee in relation to the investigation of applications made to the board 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;



*Exhibited Animals Protection 1986*

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- 5 (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;
- 10 (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;
- 15 (m) without limiting the generality of paragraph (l), 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—
- 20 (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,
- 25 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—
- 30 (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.



*Exhibited Animals Protection 1986*

(4) A regulation may create an offence punishable by a penalty not exceeding \$1,000 or imprisonment for 3 months, or both.

**Relationship to other Acts, etc.**

54. Schedule 4 has effect.

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SCHEDULE 1

(Sec. 6 (6))

PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE

**Age of members**

10 1. A person of or above the age of 70 years is not eligible to be appointed as a member or to act in the office of a member.

**Chairperson of the advisory committee**

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

15 (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**

20 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 re-appointment.

**Remuneration**

25 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;

*Exhibited Animals Protection 1986*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued*

- 5 (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;
- 10 (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 VII of that Act or becomes a protected person within the meaning of the Protected Estates Act 1983;
- 15 (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;
- (g) attains the age of 70 years; or
- (h) is removed from office by the Minister under subclause (2) or (3).
- 20 (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**
- 25 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.
- 30 (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
- 35 (c) has some other specified interest relating to a specified company or other body or a specified person,



*Exhibited Animals Protection 1986*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued*

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.

5 (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—

10 (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.

15 (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

20 (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.

25 **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.

30 (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.



*Exhibited Animals Protection 1986*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued*

(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

(Sec. 6 (7))

5 PROVISIONS RELATING TO THE PROCEDURE OF THE ADVISORY  
COMMITTEE**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  
10 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  
15 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**

20 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.

25 **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.

*Exhibited Animals Protection 1986*SCHEDULE 2—*continued*PROVISIONS RELATING TO THE PROCEDURE OF THE ADVISORY  
COMMITTEE—*continued***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

5

(Secs. 14, 25)

## LICENSING STANDARDS

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.
- 10 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.

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## SCHEDULE 4

(Sec. 54)

## RELATIONSHIP TO OTHER ACTS, ETC.

**Effect of other provisions relating to exhibition of animals**

- 20 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.**

- 25 2. The holder of a licence, 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 instrument made under an Act,
- in exhibiting an animal under the authority conferred by the licence, approval or permit.

*Exhibited Animals Protection 1986*

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SCHEDULE 4—*continued*RELATIONSHIP TO OTHER ACTS, ETC.—*continued***Inconsistent provisions**

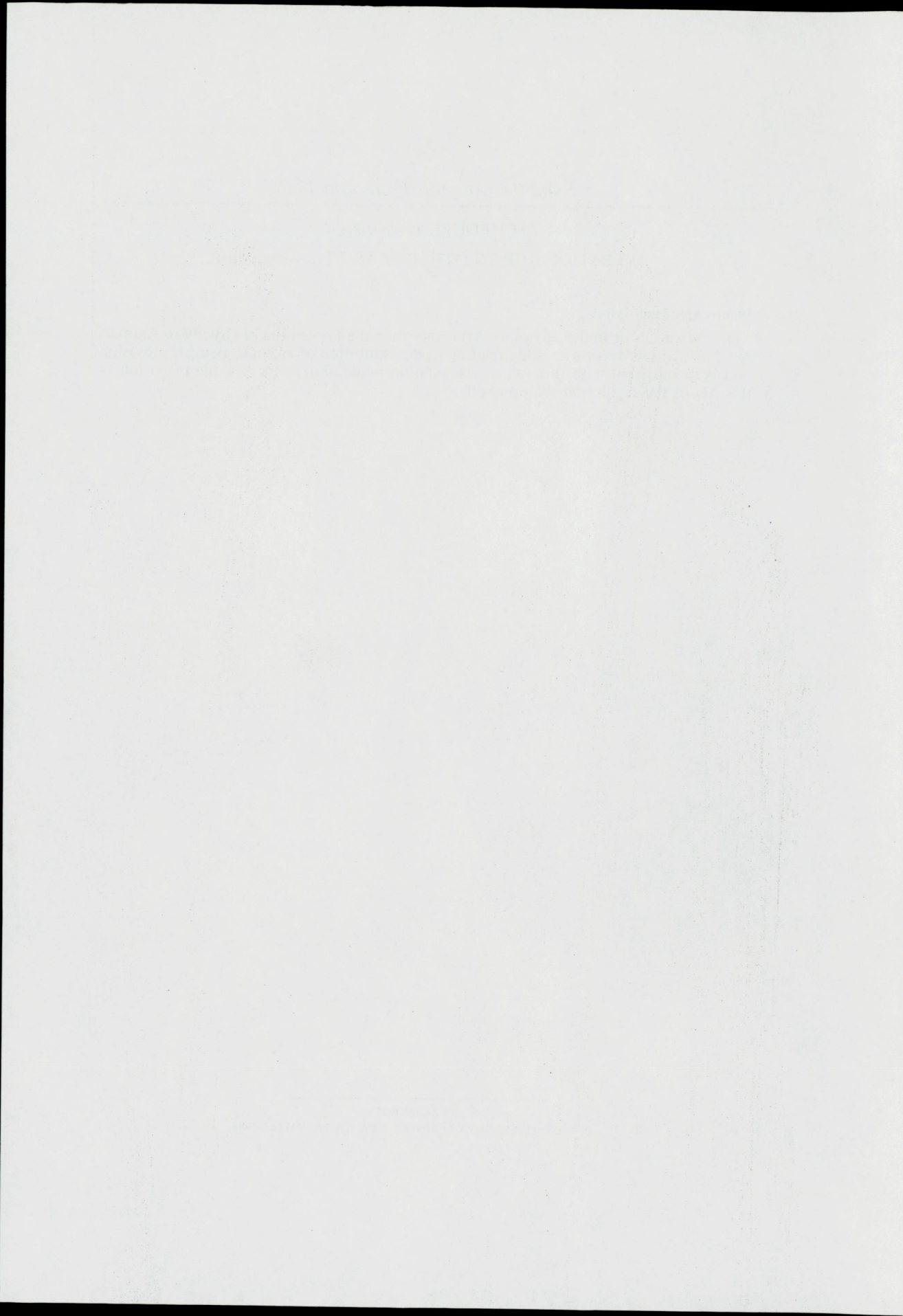
3. Where by or under any other Act (other than the Prevention of Cruelty to Animals Act 1979) any provision is made relating to the exhibition of animals, being a provision that is inconsistent with this Act or a regulation made under this Act, the provision of  
5 this Act or the regulation shall prevail.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986





# EXHIBITED ANIMALS PROTECTION ACT 1986 No. 123

NEW SOUTH WALES



## TABLE OF PROVISIONS

### PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Application of Act
4. Exemptions
5. Interpretation

### PART 2—THE EXHIBITED ANIMALS ADVISORY COMMITTEE

6. The advisory committee
7. Staff of the advisory committee
8. Functions of the advisory committee
9. Inspections
10. Recommendations and reports
11. Delegation

### PART 3—LICENCES, APPROVALS AND PERMITS

#### DIVISION 1—*Licensing of animal display establishments*

12. Licence required for animal display establishment
13. Classes of establishments
14. Licensing standards
15. Issue of licences
16. Particulars to be specified in licences
17. Authority conferred by licence
18. Approval of erection of animal display establishment
19. Alteration of licensed animal display establishment
20. Register
21. Certificate of registered particulars

DIVISION 2—*Approvals for the exhibition of animals at circuses, etc.*

- 22. Persons to be authorised to exhibit animals
- 23. Issue of approvals

DIVISION 3—*Permits for the exhibition of certain animals*

- 24. Certain animals may be displayed only with permit
- 25. Issue of permits

DIVISION 4—*General*

- 26. Interpretation
- 27. Applications
- 28. Terms and conditions
- 29. Duration
- 30. Suspension and cancellation
- 31. Offences relating to licences, approvals and permits

DIVISION 5—*Appeals*

- 32. Appeals to Minister
- 33. Appeals to Local Court

PART 4—PROVISIONS RELATING TO THE EXHIBITION OF DOLPHINS AND WHALES

- 34. Interpretation
- 35. Issue of licences
- 36. Limitation on dolphins and whales that may be exhibited
- 37. Bonds

PART 5—INSPECTORS

- 38. Appointment of inspectors
- 39. Identification certificates
- 40. Powers of inspectors
- 41. Care of seized animals
- 42. Search warrant
- 43. Offences relating to inspectors

PART 6—SUPPLEMENTARY

- 44. False or misleading information
- 45. Disclosure of information
- 46. Proceedings for offences
- 47. Offences by corporations
- 48. Recovery of charges, etc.
- 49. Evidentiary certificates
- 50. Liability
- 51. Service of notices
- 52. Refund
- 53. Regulations
- 54. Relationship to other Acts, etc.



SCHEDULE 1—PROVISIONS RELATING TO THE MEMBERS OF THE  
ADVISORY COMMITTEE

1. Age of members
2. Chairperson of the advisory committee
3. Term of office
4. Remuneration
5. Filling of vacancy in office of member
6. Casual vacancies
7. Disclosure of pecuniary interests
8. Effect of certain other Acts

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

1. General procedure
2. Quorum
3. Presiding member
4. Voting
5. Minutes
6. Authentication of documents
7. First meeting of the advisory committee

SCHEDULE 3—LICENSING STANDARDS

SCHEDULE 4—RELATIONSHIP TO OTHER ACTS, ETC.

1. Effect of other provisions relating to exhibition of animals
  2. Effect of licences, approvals, permits, etc.
  3. Inconsistent provisions
-



**EXHIBITED ANIMALS PROTECTION ACT 1986 No. 123**

NEW SOUTH WALES



**Act No. 123, 1986**

An Act with respect to the exhibition of animals at marine or zoological parks, circuses and other places. [Assented to, 27 November 1986]

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See also Search Warrants (Exhibited Animals) Amendment Act 1986; Zoological Parks Board (Exhibited Animals) Amendment Act 1986.



*Exhibited Animals Protection 1986*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

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.

*Exhibited Animals Protection 1986*

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(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.

**Interpretation**

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;

“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—

*Exhibited Animals Protection 1986*

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- (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) 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.

(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.
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## 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.

*Exhibited Animals Protection 1986*

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(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 board 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 board with the approval of the Minister.

**Functions of the advisory committee**

8. The advisory committee has the following functions:

- (a) to advise the board so as to promote a co-ordinated approach in policy and administration between the board and government departments administering legislation relating to the importation, control, care and welfare of animals;

*Exhibited Animals Protection 1986*

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- (b) to monitor the effectiveness of the scheme governing the exhibition of animals established under Part 3 and to recommend to the board 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 board.

**Inspections**

9. (1) The advisory committee may at any time request the board 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 board 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 board 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.



*Exhibited Animals Protection 1986*

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(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.

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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 \$2,000 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.

**Licensing 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.

*Exhibited Animals Protection 1986*

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(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 board 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 board.

Penalty: \$2,000 or imprisonment for 6 months, or both.

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



*Exhibited Animals Protection 1986*

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

Penalty: \$2,000 or imprisonment for 6 months, or both.

**Register**

20. (1) The board 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.



*Exhibited Animals Protection 1986*

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(3) The board 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 board for a copy of the registered particulars in respect of a licensed animal display establishment.

(2) Where the board receives an application under this section, the board 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.

Penalty: \$2,000 or imprisonment for 6 months, or both.

*Exhibited Animals Protection 1986*

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**Issue of approvals**

23. (1) An approval authorising the exhibition of animals of a species shall not be issued unless the board 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.

Penalty: \$2,000 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 board is satisfied that the animal will be exhibited in accordance with the standards prescribed in respect of animals 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***Interpretation**

26. In this Division—

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



*Exhibited Animals Protection 1986*

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**Applications**

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

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

(3) The application shall be considered by the board which 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 board 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, as the case may require, shall be issued by the board.

(6) Where the board refuses to grant an authority, the board 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 board 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.



*Exhibited Animals Protection 1986*

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(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 board 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 board is of the opinion that the holder is not a fit and proper person to hold the authority;

*Exhibited Animals Protection 1986*

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- (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 board 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 board 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 board or of an inspector an authority that has been suspended or cancelled under this Act or the regulations.

Penalty: \$1,000.

(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.

Penalty—subsection (2): \$2,000.



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 board 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 board 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 board 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 board on any such licence, approval or permit or by the variation by the board 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.



*Exhibited Animals Protection 1986*

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(2) The decision of a Local Court on an appeal under this section is final and is binding on the board and the appellant and shall be carried into effect accordingly.

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## PART 4

PROVISIONS RELATING TO THE EXHIBITION OF DOLPHINS  
AND WHALES**Interpretation**

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 licences**

35. The board 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 board 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.

*Exhibited Animals Protection 1986*

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**Bonds**

37. (1) The board 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 board by the holder of the licence or that the holder enter into other prescribed arrangements securing the payment of money to the board.

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

- (a) placed in the care of the board by the holder of the licence; or
- (b) cared for by the board 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 licence ceases to have effect.

(4) Nothing in this section limits any right of recovery of the board under section 48.

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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).

*Exhibited Animals Protection 1986*

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(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 board 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;



*Exhibited Animals Protection 1986*

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- (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 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 board 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.

*Exhibited Animals Protection 1986*

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(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 board 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” means—

- (a) a Magistrate; or
- (b) a justice of the peace employed in the Local Courts Administration, Attorney General’s Department.

(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 III 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;



*Exhibited Animals Protection 1986*

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- (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.

Penalty: \$2,000.

(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.
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## 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.

Penalty: \$2,000.

**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.

Penalty: \$2,000.

**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.

*Exhibited Animals Protection 1986*

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(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 by the board as a debt due in a court of competent jurisdiction.

**Evidentiary certificates**

49. A certificate that is signed by a person authorised in writing by the board 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 board 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 board.

**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 board, 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 board and advisory committee in relation to the investigation of applications made to the board 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;

*Exhibited Animals Protection 1986*

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- (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 (l), 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.



*Exhibited Animals Protection 1986*

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(4) A regulation may create an offence punishable by a penalty not exceeding \$1,000 or imprisonment for 3 months, or both.

**Relationship to other Acts, etc.**

54. Schedule 4 has effect.

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SCHEDULE 1

(Sec. 6 (6))

PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE

**Age of members**

1. A person of or above the age of 70 years is not eligible to be appointed as a member or to act in the office of a member.

**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 re-appointment.

**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;



*Exhibited Animals Protection 1986*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued*

- (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 VII 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;
  - (g) attains the age of 70 years; or
  - (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,

*Exhibited Animals Protection 1986*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued*

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.

(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.



*Exhibited Animals Protection 1986*

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SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued*

(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.

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## SCHEDULE 2

(Sec. 6 (7))

PROVISIONS RELATING TO THE PROCEDURE OF THE ADVISORY  
COMMITTEE**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.



*Exhibited Animals Protection 1986*SCHEDULE 2—*continued*PROVISIONS RELATING TO THE PROCEDURE OF THE ADVISORY  
COMMITTEE—*continued***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

(Secs. 14, 25)

## LICENSING STANDARDS

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

(Sec. 54)

## RELATIONSHIP TO OTHER ACTS, ETC.

**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 licence, 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 instrument made under an Act,

in exhibiting an animal under the authority conferred by the licence, approval or permit.

*Exhibited Animals Protection 1986*

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SCHEDULE 4—*continued*RELATIONSHIP TO OTHER ACTS, ETC.—*continued***Inconsistent provisions**

3. Where by or under any other Act (other than the Prevention of Cruelty to Animals Act 1979) 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.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986







