

FIRST PRINT

## NON-INDIGENOUS ANIMALS BILL 1987

NEW SOUTH WALES



### EXPLANATORY NOTE

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

The object of this Bill is to control and regulate the importation, keeping and movement of certain species of animals not native to Australia.

---

### PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 defines certain terms used in the Bill. In particular, in so far as the Bill refers to an animal the reference is only to certain vertebrate animals, that is, mammals, birds, reptiles and amphibians. "Importation" of an animal includes importation from interstate or overseas.

Clause 4 states that the proposed Act is to bind the Crown and defines the relationship of the proposed Act to certain other enactments.

Clause 5 allows the regulations under the proposed Act to exempt, to a prescribed extent or in prescribed circumstances, persons or premises from the operation of the proposed Act or any requirement made by or under it.

Clause 6 states that for the purposes of the proposed Act, non-indigenous animals may be classified, according to species, into categories. The Minister will determine which animals fall within each category.

*Non-Indigenous Animals 1987*

---

**PART 2—THE NON-INDIGENOUS ANIMALS ADVISORY COMMITTEE**

Clause 7 establishes the Non-Indigenous Animals Advisory Committee, comprised of officers or temporary employees of the Department of Agriculture and persons from the private sector nominated by interest groups.

Clause 8 sets out the principal functions of the advisory committee.

Clause 9 provides for the advisory committee to be serviced by staff from the public service and any consultants the Minister sees fit to hire.

**PART 3—OFFENCES CONCERNING NON-INDIGENOUS ANIMALS**

Clause 10 prohibits the importation into the State of animals in category 1, 2 or 3, except by the holders of permits authorising their importation. The penalty for a breach of the prohibition varies according to the category of the imported animal.

Clause 11 prohibits the keeping or taking charge of animals in category 1, 2 or 3, except by the holders of licences authorising their keeping. The penalty for a breach of the prohibition varies according to the category of the animal concerned.

Clause 12 prohibits the movement or transportation of animals in category 1, 2 or 3, except by the holders of permits authorising their movement or transfer. The penalty for a breach of the prohibition varies according to the category of the animal concerned.

Clause 13—

- (a) prohibits the liberation from captivity of animals in categories 1, 2 and 3;
- (b) prohibits any person from permitting an animal's escape; and
- (c) obliges persons from whose keeping or charge animals have escaped to take all reasonable steps to cause the escape to be reported to the Director-General of the Department of Agriculture.

The penalties for breaches of the prohibitions described in paragraphs (a) and (b) vary according to the categories of the animals concerned.

**PART 4—LICENCES AND PERMITS**

Clause 14 provides for the making of applications for licences and renewals of licences.

Clause 15 provides for the grant and renewal of licences authorising the keeping of animals. The clause sets out general criteria to be taken into account by the Minister in deciding whether to grant the licence or renewal.

Clause 16 states the duration of licences (3 years, unless otherwise provided by the regulations).

Clause 17 allows conditions to be attached to licences.

Clause 18 provides for the cancellation of licences in certain circumstances.

Clause 19 provides for the grant of permits authorising the importation, or the movement or transportation, of animals.



*Non-Indigenous Animals 1987*

---

Clause 20 provides a right of appeal (to a Local Court) to persons whose applications for a licence or renewal of a licence, or for a permit, have been refused, whose licences or permits have been cancelled or who are dissatisfied with the imposition of conditions on their licences or permits.

PART 5—GENERAL

Clause 21 enables the Minister to require returns to be furnished by licensees.

Clause 22 requires persons in charge of travelling circuses and other itinerant shows to notify the Minister of their itineraries and any changes in their itineraries.

Clause 23 sets out the powers of authorised officers under the proposed Act, including power to enter premises, inspect books and accounts and give directions for the safety of persons and property.

Clause 24 provides for the issue of a search warrant to enter, if necessary, premises used, or part of which is used, as a dwelling.

Clause 25 provides for the seizure, or destruction if necessary, of animals unlawfully kept or at large. The costs of seizure or destruction (or of attempted seizure or destruction) may be recovered from a person who unlawfully kept them or allowed them to escape.

Clause 26 prohibits the hindrance or obstruction of authorised officers and any failure to comply with requirements lawfully made by them under the proposed Act.

Clause 27 provides for offences under the proposed Act to be dealt with summarily in a Local Court.

Clause 28 provides for the service of notices under the proposed Act and regulations.

Clause 29 enables the making of regulations in aid of the proposed Act.

Clause 30 amends section 10 of the Search Warrants Act 1985 so as to include, in the definition of "search warrant" for the purposes of that Act, a reference to section 24 of the proposed Act.

Clause 31 amends Schedule 4 to the Exhibited Animals Protection Act 1986 so as to provide that, in the event of an inconsistency between provisions made by or under that Act and provisions made by or under the proposed Act, the latter provisions will prevail to the extent of the inconsistency.

Schedule 1 contains provisions relating to the members of the advisory committee.

Schedule 2 contains provisions relating to the procedure of the advisory committee.

---





# NON-INDIGENOUS ANIMALS BILL 1987

## NEW SOUTH WALES



### TABLE OF PROVISIONS

#### PART 1—PRELIMINARY

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

#### PART 2—THE NON-INDIGENOUS ANIMALS ADVISORY COMMITTEE

7. The advisory committee
8. Principal functions of the advisory committee
9. Staff of the advisory committee

#### PART 3—OFFENCES CONCERNING NON-INDIGENOUS ANIMALS

10. Importation of animals
11. Keeping of animals
12. Movement of animals
13. Release or escape of animals

#### PART 4—LICENCES AND PERMITS

14. Application for licence
15. Grant and renewal of licences
16. Duration of licences
17. Licence conditions
18. Cancellation of licences
19. Permits
20. Appeals

#### PART 5—GENERAL

21. Licensees' returns
22. Travelling circuses and shows
23. Powers of authorised officers

*Non-Indigenous Animals 1987*

---

- 24. Search warrant
- 25. Seizure of animals
- 26. Obstruction of authorised officer
- 27. Proceedings for offences
- 28. Service of notices
- 29. Regulations
- 30. Amendment of Search Warrants Act 1985, s. 10 (Interpretation)
- 31. Amendment of Exhibited Animals Protection Act 1986, Sch. 4 (Relationship to other Acts, etc.)

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

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

---

# NON-INDIGENOUS ANIMALS BILL 1987

NEW SOUTH WALES



No. , 1987

---

## A BILL FOR

An Act to control and regulate the introduction into the State of certain species of animals and the movement and keeping of those animals within the State.

---



*Non-Indigenous Animals 1987*

**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:

5

**PART 1****PRELIMINARY****Short title**

1. This Act may be cited as the "Non-Indigenous Animals Act 1987".

**Commencement**

- 10 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.

**15 Interpretation**

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

"advisory committee" means the Non-Indigenous Animals Advisory Committee constituted by this Act;

- 20 "animal" means a non-human vertebrate animal, being a mammal, bird, reptile or amphibian, and includes the eggs or semen, or other living stage, of any such animal;

- 25 "authorised officer" means a person authorised by the Director-General of the Department of Agriculture to exercise the functions of an authorised officer for the purposes of this Act and the regulations;

"importation", in relation to an animal, means—

- (a) the bringing of the animal into the State from another State or Territory of the Commonwealth or from a place outside Australia; or
- 30 (b) the bringing of the animal from any place in the State where it is confined, in accordance with any law relating to quarantine or to the importation of animals into Australia, to another place in the State where it is not so confined;

*Non-Indigenous Animals 1987*

“licence” means a licence in force under this Act;

“licensed accommodation” means the premises, vehicle or other accommodation specified in a licence or in a condition of a licence as the accommodation to be provided for animals kept under the authority of the licence;

“permit” means a permit in force under this Act;

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

“regulations” means regulations under this Act.

10 (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, if the function is a duty, a reference to the performance of the duty.

#### 15 Application of Act

4. (1) This Act binds the Crown.

(2) Nothing in this Act affects the operation of any of the following Acts:

Pastures Protection Act 1934.

Fisheries and Oyster Farms Act 1935.

20 National Parks and Wildlife Act 1974.

Prevention of Cruelty to Animals Act 1979.

#### Exemptions

5. (1) The regulations may—

25 (a) exempt, to the extent or in the circumstances prescribed, any person or premises specified in the regulations, or of a class so specified, from the operation of this Act; or

(b) exempt, to the extent or in the circumstances prescribed, any person or premises specified in the regulations, or of a class so specified, from any requirement of or made under this Act,

30 either unconditionally or subject to conditions.

(2) If an exemption is given subject to conditions, the exemption is not operative while any of the conditions is not being complied with.



*Non-Indigenous Animals 1987*

---

**Classification of animals**

6. (1) For the purposes of this Act, animals not indigenous to Australia may be classified, according to species, as follows:

- 5 (a) category 1 (animals posing a major threat to agriculture or the environment, the importation or keeping of which requires the strictest security);
- (b) category 2 (animals posing a threat to the health or safety of persons, domestic animals or native fauna);
- (c) category 3 (animals requiring control to limit their pest potential).
- 10 (2) The Minister may, by notification published in the Gazette—
- (a) classify an animal, previously unclassified, as belonging to one of the categories referred to in subsection (1);
- (b) reclassify an animal that belonged to one such category as belonging to another such category; or
- 15 (c) declassify an animal that belonged to any such category.

(3) The regulations may, for any of the purposes of this Act or the regulations, distinguish subcategories of animals in any category.

(4) Subsection (2) applies to the classification of animals into subcategories in the same way as it applies to the classification of animals  
20 into categories.

(5) Before publishing a notification under this section that affects any birds, the Minister shall consult any persons or bodies prescribed for the purposes of this subsection.

(6) Subsection (5) does not apply in a case where the Minister believes  
25 that, because of—

- (a) likely significant agricultural or environmental damage; or
- (b) likely danger to the health or safety of persons, domestic animals or native fauna,

a notification must be published without delay.

---



## PART 2

## THE NON-INDIGENOUS ANIMALS ADVISORY COMMITTEE

**The advisory committee**

7. (1) There is constituted by this Act a Non-Indigenous Animals  
5 Advisory Committee.

(2) The advisory committee—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this Act or any other law; and
- 10 (b) 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 10 members who shall be appointed by the Minister.

(4) Of the members—

- 15 (a) two shall be officers or temporary employees of the Department of Agriculture;
- (b) one shall be a person employed in the National Parks and Wildlife Service nominated by the Minister for Planning and Environment;
- 20 (c) one shall be a person nominated by the Zoological Parks Board of New South Wales;
- (d) one shall be a person employed in the Australian Museum, nominated by the Minister for the Arts;
- (e) one shall be a member of the Council of Advice (being the Council elected by the Conference of the Pastures Protection Boards' Association of New South Wales) nominated by that Council;
- 25 (f) one shall be a person selected by the Minister from 3 nominees of the New South Wales Association of Fauna and Marine Parks;
- (g) one shall be a person having the prescribed qualifications who is interested in the keeping of private collections of animals (other than birds);
- 30 (h) one shall be a nominee of one or more prescribed organisations interested in the keeping of birds in aviaries; and
- (i) one shall be a nominee of the Royal Society for the Prevention of Cruelty to Animals.

*Non-Indigenous Animals 1987*

---

(5) In so far as an appointment under this section requires a person or body to nominate one or more persons for the purposes of subsection (4), the Minister may, in default by any such person or body in furnishing any or a sufficient number of nominees when required by the Minister to do so, 5 appoint such person as the Minister considers qualified to represent the person or body concerned.

(6) Schedule 1 has effect with respect to the members of the advisory committee.

10 (7) Schedule 2 has effect with respect to the procedure of the advisory committee.

**Principal functions of the advisory committee**

8. The principal functions of the advisory committee are—

(a) to advise the Minister as to—

15 (i) the proper classification of animals in categories for the purposes of this Act; and

(ii) any other matter that may be the subject of regulations under this Act;

(b) to advise the Minister as to general criteria in relation to the granting of licences and permits; and

20 (c) to provide such other advice as may from time to time be required by the Minister in relation to the operation of this Act.

**Staff of the advisory committee**

9. (1) The advisory committee may—

(a) with the approval of the Minister; and

25 (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.

30 (2) The Minister may engage persons having suitable qualifications and experience as consultants to the advisory committee.

(3) The terms and conditions under which consultants are engaged shall be such as are from time to time determined by the Minister.

---



**PART 3****OFFENCES CONCERNING NON-INDIGENOUS ANIMALS****Importation of animals**

10     **10. (1)** A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, imports an animal in category 1 or 2 is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

10     **(2)** A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, imports an animal in category 3 is guilty of an offence and liable to a penalty not exceeding \$2,000.

**Keeping of animals**

15     **11. (1)** A person who, otherwise than under the authority of a licence and in accordance with any conditions attached to it, takes charge of or keeps an animal in category 1 or 2 is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

**(2)** A person who, otherwise than under the authority of a licence and in accordance with any conditions attached to it, takes charge of or keeps an animal in category 3 is guilty of an offence and liable to a penalty not exceeding \$2,000.

**20 Movement of animals**

25     **12. (1)** A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, moves or transports an animal in category 1 or 2 within New South Wales is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

**(2)** A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, moves or transports an animal in category 3 within New South Wales is guilty of an offence and liable to a penalty not exceeding \$2,000.



*Non-Indigenous Animals 1987***Release or escape of animals****13. (1) A person who—**

(a) liberates from confinement, anywhere in New South Wales, an animal in category 1 or 2; or

5 (b) wilfully or negligently permits the escape of any such animal kept by the person or of which the person is in charge,

is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

**(2) A person who—**

10 (a) liberates from confinement, anywhere in New South Wales, an animal in category 3; or

(b) wilfully or negligently permits the escape of any such animal kept by the person or of which the person is in charge,

is guilty of an offence and liable to a penalty not exceeding \$2,000.

**15 (3) A person—**

(a) from whose keeping an animal in category 1, 2 or 3 has escaped; or

(b) who was in charge of such an animal immediately before it escaped,

and who does not take all reasonable steps to cause a report of the escape to be promptly given to the Director-General of the Department of

20 Agriculture or a prescribed officer is guilty of an offence and liable to a penalty not exceeding \$2,000.

**PART 4****LICENCES AND PERMITS****Application for licence**

25 **14. (1)** An application for a licence or the renewal of a licence shall be made as prescribed and shall be accompanied by the prescribed fee.

(2) An application for renewal of a licence shall be made not later than 30 days before the expiry of the licence.

30 (3) Subsection (2) does not prevent the granting of a renewal pursuant to an application made out of time, on payment of any late fee prescribed.

**Grant and renewal of licences**

15. (1) The Minister may grant, and from time to time renew, a licence authorising the holder to keep such animals as may be specified in the licence.
- 5 (2) In considering whether to grant a licence or renewal, the Minister shall have regard to—
- (a) the premises, vehicle or other accommodation intended to be provided as the licensed accommodation for the animals proposed to be kept;
  - 10 (b) the number of animals kept or proposed to be kept;
  - (c) the capacity of the applicant for the licence to care for the animals, taking into account any previous experience of the applicant in caring for animals of that or a similar species;
  - 15 (d) the character of the applicant, taking into account any conviction of the applicant, known to the Minister, for an offence under—
    - (i) this Act;
    - (ii) the Prevention of Cruelty to Animals Act 1979; or
    - 20 (iii) any other law (whether of the State or of the Commonwealth or another State or Territory of the Commonwealth) relating to the keeping or protection of animals;
  - (e) the listing of the animals under the Australian Species Management Scheme operated by the Association of Zoo Directors of Australia and New Zealand or any prescribed scheme relating to the management of animal species;
  - 25 (f) any law in force relating to quarantine; and
  - (g) any prescribed matter.
- (3) In considering whether to grant or renew a licence, the Minister may employ a higher or lower standard in relation to the criteria set out in subsection (2), depending on the prescribed category of the animals intended to be kept under the authority of the licence or renewed licence.
- 30 (4) If the Minister decides not to grant or renew a licence, notice shall, as soon as practicable after the decision is made, be given to the applicant or licensee stating the reason.



**Duration of licences**

16. Subject to this Act, a licence shall be in force for a period of 3 years (or, if some other period is prescribed in respect of the licence, the period so prescribed) commencing on a date specified in the licence.

**5 Licence conditions**

17. (1) A licence may be granted unconditionally or subject to conditions.

(2) Conditions may be imposed on a licence—

- 10 (a) by endorsing them on or attaching them to the licence when it is granted; or
- (b) by notice in writing served on the licensee at any time after it is granted.

(3) The conditions of a licence may be varied by notice in writing to the licensee.

- 15 (4) A condition, or the variation of a condition, imposed or effected after the grant of the licence shall, subject to section 20, take effect 21 days after service of the notice.

**Cancellation of licences**

18. (1) The Minister may, by notice in writing served on the licensee,  
20 cancel a licence—

- (a) if the conditions of the licence have not been, or are not being, complied with;
- 25 (b) if the licensee has not complied or the licensed premises do not comply with any requirement or standard prescribed by the regulations; or
- (c) for such reason as the Minister thinks sufficient, having regard to any of the criteria set out in section 15 (2).

(2) The notice—

- (a) shall specify the reason for the cancellation; and
- 30 (b) shall, subject to section 20, take effect 21 days after it is served.



*Non-Indigenous Animals 1987***Permits**

19. (1) The Minister may, on application by a licensee made as prescribed and accompanied by the prescribed fee, grant a permit authorising—

- 5 (a) the importation of an animal for keeping in the licensed accommodation;
- (b) the movement or transportation of an animal from that licensee's licensed accommodation to another licensee's licensed accommodation; or
- 10 (c) the transportation of an animal for any purpose approved by the Minister.

(2) The Minister shall not refuse to grant a permit authorising the importation of an animal for keeping in the licensed accommodation unless the animal—

- 15 (a) poses such a threat of disease affecting persons, domestic animals (including livestock) or native fauna; or
- (b) poses such a threat to agriculture or the environment,

that the importation of the animal represents an unacceptable risk.

(3) A permit shall be subject to any conditions specified in it.

- 20 (4) The conditions to which the permit is subject shall be conditions designed to—

- (a) prevent or minimise the threat of any disease of the kind described in subsection (2) (a);
- 25 (b) prevent or minimise any threat to agriculture or the environment; or
- (c) ensure the secure custody of the animal—
  - (i) during movement or transportation or in any temporary holding area during the journey; and
  - (ii) at its intended destination,

- 30 or both.

(5) A permit may authorise the importation, movement or transportation of animals on one or more specified occasions or, if the permit so provides, from time to time.

*Non-Indigenous Animals 1987*

---

(6) The Minister may, by notice in writing served on the holder of a permit, cancel the permit if any conditions of the permit are not being complied with.

(7) The notice—

- 5 (a) shall specify the reason for the cancellation; and  
(b) shall, subject to section 20, take effect when it is served.

**Appeals**

20. (1) A person—

- 10 (a) whose application for a licence or renewal of a licence, or for a permit, has been refused;  
(b) on whose licence or permit any condition has been imposed which the person considers unreasonable; or  
(c) whose licence or permit has been cancelled,

15 may appeal as prescribed to a Local Court within 21 days of being given notice of the refusal, condition or cancellation.

(2) The court shall have and may exercise the functions of the Minister in respect of the matter the subject of the appeal.

(3) An appeal shall not be heard unless notice of the appeal has been given, not later than 7 days before the hearing, to the Minister.

20 (4) The Minister or an authorised representative of the Minister is entitled to appear as respondent.

25 (5) If the appeal is against a cancellation of or failure to renew a licence, or against the imposition of a condition of a licence, the cancellation or expiry of the licence or the imposition of the condition, as the case may be, shall be stayed by lodgment of the appeal, pending its outcome.

---



PART 5  
GENERAL

**Licensees' returns**

21. (1) The Minister may from time to time by notice in writing served  
5 on a licensee require the licensee to furnish a return containing information  
of a prescribed kind relating to the keeping of animals by the licensee.

(2) The licensee shall furnish the return within such reasonable time as  
may be specified in the notice.

Penalty: \$2,000.

10 **Travelling circuses and shows**

22. The person in charge of a travelling circus or other itinerant show  
in which any animals in category 1, 2 or 3 are used or exhibited shall submit  
to the Minister, as prescribed, details of the itinerary of the circus or show  
and any change in that itinerary.

15 Penalty: \$2,000.

**Powers of authorised officers**

23. (1) An authorised officer may—

(a) with or without assistants, enter any licensed accommodation or any  
premises or vehicle where the officer reasonably believes that a  
20 provision of this Act or the regulations has been or is being  
contravened and there—

(i) examine any animal or inspect the accommodation for any  
animal; and

(ii) generally inspect such things and make such inquiries as may  
25 be necessary to ascertain whether the provisions of this Act or  
the regulations are being complied with;

(b) require the production (by any person believed to have them or  
control of them) of accounts, records, books, documents and other  
things relating to the importation, breeding, keeping, movement,  
30 transportation or sale of an animal in any prescribed category, and  
make copies of or take extracts from them;

(c) seize any accounts, records, books, documents and other things  
relating to any such suspected offence;



*Non-Indigenous Animals 1987*

---

- (d) remove any animals seized under this Act, or cause any such animals to be removed, to such place as the authorised officer thinks fit;
- (e) transport animals seized under this section to a place approved by the Minister and obtain veterinary treatment for those animals;
- 5 (f) when accompanied by a member of the police force, stop, detain and search any vehicle or vessel which is being used or which the authorised officer 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 or permit issued under this  
10 Act or the regulations;
- (g) employ such assistance or force as is necessary in the exercise of the functions conferred or imposed on the authorised officer by or under this Act;
- (h) by order in writing, direct a person who has failed to comply with—  
15 (i) this Act or the regulations; or  
(ii) the terms or conditions of any licence 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; and
- 20 (i) for the safety of persons and property (including land), give reasonable directions to any person keeping or having charge of an animal in any prescribed category.
- (2) Nothing in this section authorises an authorised officer to enter any premises or a part of any premises used as a dwelling without a warrant  
25 under section 24.

**Search warrant**

24. (1) An authorised officer may apply to—

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

for a warrant authorising entry by the officer of premises or a part of any premises used as a dwelling for the purpose of exercising such of the functions of an authorised officer under this Act as are specified in the warrant.

*Non-Indigenous Animals 1987*

(2) The Magistrate or justice, if satisfied that there are reasonable grounds for doing so, may issue such a warrant.

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

## 5 Seizure of animals

25. (1) An authorised officer may seize and take charge of an animal in category 1, 2 or 3 which is unlawfully in any person's keeping or charge or which is at large.

10 (2) An animal seized under this section becomes, upon seizure, the property of the Crown and may be dealt with in accordance with directions given by the Minister.

(3) An animal in category 1, 2 or 3 which is at large and poses an immediate threat to life or property may be destroyed by an authorised officer or any other person.

15 (4) Any costs and expenses incurred on behalf of the Crown as a result of the efforts (whether successful or not) of an authorised officer to seize or destroy an animal pursuant to this section, or in keeping it after seizure and before its disposal, may be recovered, to an amount not greater than \$10,000, in a Local Court as a debt due to the Crown from—

20 (a) a person in whose unlawful keeping or charge the animal was at the time of seizure or attempted seizure; or

(b) a person whose contravention of section 13 caused the animal to be at large.

25 (5) A document purporting to be a certificate of the Minister stating the amount of any costs and expenses referred to in subsection (4) shall, in the absence of evidence to the contrary, be accepted as proof of that amount in any legal proceedings for their recovery.

30 (6) An authorised officer attempting to capture an animal which is at large shall afford any person entitled to keep or take charge of the animal a reasonable opportunity to effect or assist in its recapture and return to the place where it is authorised to be kept.

## Obstruction of authorised officer

26. (1) A person shall not—

35 (a) hinder or obstruct an authorised officer in the exercise of any of the functions of an authorised officer under this Act;



*Non-Indigenous Animals 1987*

(b) neglect or fail to comply with any direction or requirement (including any requirement to answer a question or furnish information) lawfully given or made by an authorised officer; or

5 (c) furnish information to an authorised officer knowing it to be false or misleading in a material particular.

Penalty: \$2,000.

(2) A person is not guilty of an offence under this section by reason of any act of hindrance or obstruction, or any default in compliance with a requirement, unless it is established that the authorised officer—

10 (a) identified himself or herself as an authorised officer; and

(b) warned the person that the act or default constituted an offence.

(3) If a person, in compliance with a requirement made by an authorised officer to answer a question or furnish information, gives an answer or furnishes information that tends to incriminate the person, neither—

15 (a) the terms of the requirement; nor

(b) the answer or information given or furnished in compliance with the requirement,

may be used in any proceedings against the person (other than proceedings for an offence under subsection (1) (c)).

## 20 Proceedings for offences

27. Proceedings for an offence against this Act may be taken and dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

### Service of notices

25 28. (1) A notice required or authorised by or under this Act to be given to the Minister may, in the absence of advice to the contrary by the Minister to the person required to give the notice, and subject to the regulations, be given by delivering or posting it to a prescribed address.

30 (2) A notice required or authorised by or under this Act to be served on any person may be served—

(a) by delivering it to that person; or

(b) by sending it by post to an address shown in any record kept in the Department of Agriculture and appearing to be the person's last known postal address.



**Regulations**

29. (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  
5 prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), regulations may be made for or with respect to—

- (a) standards of housing, fencing, caging and security of animals;
- (b) standards of husbandry and hygiene for the keeping of animals;
- 10 (c) licences and permits, including their transfer;
- (d) applications and information to be made or supplied under this Act;
- (e) the seizure and relocation of animals; and
- (f) records to be kept by licensees or other persons.

(3) A regulation may create an offence punishable by a penalty not  
15 exceeding \$1,000.

(4) 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
- 20 (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.

**Amendment of Search Warrants Act 1985, s.10 (Interpretation)**

30. The Search Warrants Act 1985 is amended by inserting in the  
25 definition of “search warrant” in section 10, in appropriate alphabetical order, the following matter:

section 24 of the Non-Indigenous Animals Act 1987;

*Non-Indigenous Animals 1987***Amendment of Exhibited Animals Protection Act 1986, Sch. 4 (Relationship to other Acts, etc.)**

31. The Exhibited Animals Protection Act 1986 is amended by inserting in clause 3 of Schedule 4 after the matter "1979" the words "or the Non-Indigenous Animals Act 1987".

**SCHEDULE 1**

(Sec. 7 (6))

**PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY COMMITTEE****10 Age of members**

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

**Chairperson and secretary of the advisory committee**

2. (1) Of the members of the advisory committee referred to in section 7 (4) (a)—
- 15 (a) one shall, in and by the instrument of the member's appointment or another instrument executed by the Minister, be appointed as Chairperson of the advisory committee; and
- (b) one shall, in and by the instrument of the member's appointment or another instrument executed by the Minister, be appointed as Secretary of the advisory committee and shall have and may exercise the functions of a secretary but shall
- 20 have no right to vote on any matter before the committee.

- (2) 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**

- 25 3. Subject to this Schedule, a member of the advisory committee 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**

- 30 4. A member of the advisory committee 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 of the advisory committee becomes vacant, a person shall be appointed to fill the vacancy.



*Non-Indigenous Animals 1987*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued***Casual vacancies**

6. (1) A member of the advisory committee shall be deemed to have vacated office if the member—

- (a) dies;
- 5 (b) absents himself or herself from 4 consecutive meetings of the advisory committee of which reasonable notice has been served on the member, 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;
- 10 (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, a forensic patient within the meaning of the  
15 Mental Health Act 1983 or 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 penal servitude or imprisonment for 12 months or upwards or is convicted elsewhere  
20 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) reaches 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 of the advisory committee from office.

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

**Disclosure of pecuniary interests**

7. (1) A member of the advisory committee who has a direct pecuniary interest—

- 30 (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 possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the advisory committee.



*Non-Indigenous Animals 1987*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued*

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

- 5 (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

- 10 (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 on payment of such fee as may be determined by the advisory committee from time to time.

- 15 (4) After a member of the advisory committee has, or is deemed to have, disclosed the nature of an interest in any matter or thing, 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,

- 20 as the case requires.

(5) Notwithstanding that a member of the advisory committee 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.

- 25 (6) Nothing in this clause applies to or in respect of an interest of a member of the advisory committee in a matter or thing which arises only because the member is a member of or associated with any institution, organisation or body mentioned in section 7 (4).

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

30 **Effect of certain other Acts**

8. (1) If by or under any other Act provision is made—

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or

*Non-Indigenous Animals 1987*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued*

(b) 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 of the advisory committee or from accepting and retaining  
5 any remuneration payable to the person under this Act as such a member.

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

## SCHEDULE 2

(Sec. 7 (7))

10 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  
15 advisory committee.

**Quorum**

2. The quorum for a meeting of the advisory committee is 5 members.

**Presiding member**

3. (1) The Chairperson or, in the absence of the Chairperson, another member elected  
20 to chair 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**

25 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.

*Non-Indigenous Animals 1987*

---

SCHEDULE 2—*continued*PROVISIONS RELATING TO THE PROCEDURE OF THE ADVISORY  
COMMITTEE—*continued***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.

**5 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.



NON-INDIGENOUS ANIMALS BILL

---

*Schedule of the amendment referred to in Legislative Assembly  
Message of 17 September, 1987.*

---

Page 5, clause 7, line 22. Omit "the Arts", insert instead "**Heritage**".

---





# NON-INDIGENOUS ANIMALS BILL 1987

## NEW SOUTH WALES



## TABLE OF PROVISIONS

### PART 1—PRELIMINARY

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

### PART 2—THE NON-INDIGENOUS ANIMALS ADVISORY COMMITTEE

7. The advisory committee
8. Principal functions of the advisory committee
9. Staff of the advisory committee

### PART 3—OFFENCES CONCERNING NON-INDIGENOUS ANIMALS

10. Importation of animals
11. Keeping of animals
12. Movement of animals
13. Release or escape of animals

### PART 4—LICENCES AND PERMITS

14. Application for licence
15. Grant and renewal of licences
16. Duration of licences
17. Licence conditions
18. Cancellation of licences
19. Permits
20. Appeals

### PART 5—GENERAL

21. Licensees' returns
22. Travelling circuses and shows
23. Powers of authorised officers

*Non-Indigenous Animals 1987*

---

- 24. Search warrant
- 25. Seizure of animals
- 26. Obstruction of authorised officer
- 27. Proceedings for offences
- 28. Service of notices
- 29. Regulations
- 30. Amendment of Search Warrants Act 1985, s. 10 (Interpretation)
- 31. Amendment of Exhibited Animals Protection Act 1986, Sch. 4 (Relationship to other Acts, etc.)

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

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

---



*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, , 1987*

## NEW SOUTH WALES



**Act No. , 1987**

An Act to control and regulate the introduction into the State of certain species of animals and the movement and keeping of those animals within the State.

*Non-Indigenous Animals 1987*

---

**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 "Non-Indigenous Animals Act 1987".

**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.

**Interpretation**

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

"advisory committee" means the Non-Indigenous Animals Advisory Committee constituted by this Act;

"animal" means a non-human vertebrate animal, being a mammal, bird, reptile or amphibian, and includes the eggs or semen, or other living stage, of any such animal;

"authorised officer" means a person authorised by the Director-General of the Department of Agriculture to exercise the functions of an authorised officer for the purposes of this Act and the regulations;

"importation", in relation to an animal, means—

- (a) the bringing of the animal into the State from another State or Territory of the Commonwealth or from a place outside Australia;  
or
- (b) the bringing of the animal from any place in the State where it is confined, in accordance with any law relating to quarantine or to the importation of animals into Australia, to another place in the State where it is not so confined;



*Non-Indigenous Animals 1987*

---

“licence” means a licence in force under this Act;

“licensed accommodation” means the premises, vehicle or other accommodation specified in a licence or in a condition of a licence as the accommodation to be provided for animals kept under the authority of the licence;

“permit” means a permit in force under this Act;

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

“regulations” means regulations under this Act.

(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, if the function is a duty, a reference to the performance of the duty.

**Application of Act**

4. (1) This Act binds the Crown.

(2) Nothing in this Act affects the operation of any of the following Acts:

Pastures Protection Act 1934.

Fisheries and Oyster Farms Act 1935.

National Parks and Wildlife Act 1974.

Prevention of Cruelty to Animals Act 1979.

**Exemptions**

5. (1) The regulations may—

- (a) exempt, to the extent or in the circumstances prescribed, any person or premises specified in the regulations, or of a class so specified, from the operation of this Act; or
- (b) exempt, to the extent or in the circumstances prescribed, any person or premises specified in the regulations, or of a class so specified, from any requirement of or made under this Act,

either unconditionally or subject to conditions.

(2) If an exemption is given subject to conditions, the exemption is not operative while any of the conditions is not being complied with.

*Non-Indigenous Animals 1987*

---

**Classification of animals**

6. (1) For the purposes of this Act, animals not indigenous to Australia may be classified, according to species, as follows:

- (a) category 1 (animals posing a major threat to agriculture or the environment, the importation or keeping of which requires the strictest security);
- (b) category 2 (animals posing a threat to the health or safety of persons, domestic animals or native fauna);
- (c) category 3 (animals requiring control to limit their pest potential).

(2) The Minister may, by notification published in the Gazette—

- (a) classify an animal, previously unclassified, as belonging to one of the categories referred to in subsection (1);
- (b) reclassify an animal that belonged to one such category as belonging to another such category; or
- (c) declassify an animal that belonged to any such category.

(3) The regulations may, for any of the purposes of this Act or the regulations, distinguish subcategories of animals in any category.

(4) Subsection (2) applies to the classification of animals into subcategories in the same way as it applies to the classification of animals into categories.

(5) Before publishing a notification under this section that affects any birds, the Minister shall consult any persons or bodies prescribed for the purposes of this subsection.

(6) Subsection (5) does not apply in a case where the Minister believes that, because of—

- (a) likely significant agricultural or environmental damage; or
- (b) likely danger to the health or safety of persons, domestic animals or native fauna,

a notification must be published without delay.

---



## PART 2

## THE NON-INDIGENOUS ANIMALS ADVISORY COMMITTEE

**The advisory committee**

7. (1) There is constituted by this Act a Non-Indigenous Animals Advisory Committee.

(2) The advisory committee—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this Act or any other law; and
- (b) 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 10 members who shall be appointed by the Minister.

(4) Of the members—

- (a) two shall be officers or temporary employees of the Department of Agriculture;
- (b) one shall be a person employed in the National Parks and Wildlife Service nominated by the Minister for Planning and Environment;
- (c) one shall be a person nominated by the Zoological Parks Board of New South Wales;
- (d) one shall be a person employed in the Australian Museum, nominated by the Minister for Heritage;
- (e) one shall be a member of the Council of Advice (being the Council elected by the Conference of the Pastures Protection Boards' Association of New South Wales) nominated by that Council;
- (f) one shall be a person selected by the Minister from 3 nominees of the New South Wales Association of Fauna and Marine Parks;
- (g) one shall be a person having the prescribed qualifications who is interested in the keeping of private collections of animals (other than birds);
- (h) one shall be a nominee of one or more prescribed organisations interested in the keeping of birds in aviaries; and
- (i) one shall be a nominee of the Royal Society for the Prevention of Cruelty to Animals.



---

*Non-Indigenous Animals 1987*

---

(5) In so far as an appointment under this section requires a person or body to nominate one or more persons for the purposes of subsection (4), the Minister may, in default by any such person or body in furnishing any or a sufficient number of nominees when required by the Minister to do so, appoint such person as the Minister considers qualified to represent the person or body concerned.

(6) Schedule 1 has effect with respect to the members of the advisory committee.

(7) Schedule 2 has effect with respect to the procedure of the advisory committee.

**Principal functions of the advisory committee**

8. The principal functions of the advisory committee are—

- (a) to advise the Minister as to—
  - (i) the proper classification of animals in categories for the purposes of this Act; and
  - (ii) any other matter that may be the subject of regulations under this Act;
- (b) to advise the Minister as to general criteria in relation to the granting of licences and permits; and
- (c) to provide such other advice as may from time to time be required by the Minister in relation to the operation of this Act.

**Staff of the advisory committee**

9. (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 Minister may engage persons having suitable qualifications and experience as consultants to the advisory committee.

(3) The terms and conditions under which consultants are engaged shall be such as are from time to time determined by the Minister.

---

**PART 3****OFFENCES CONCERNING NON-INDIGENOUS ANIMALS****Importation of animals**

10. (1) A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, imports an animal in category 1 or 2 is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

(2) A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, imports an animal in category 3 is guilty of an offence and liable to a penalty not exceeding \$2,000.

**Keeping of animals**

11. (1) A person who, otherwise than under the authority of a licence and in accordance with any conditions attached to it, takes charge of or keeps an animal in category 1 or 2 is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

(2) A person who, otherwise than under the authority of a licence and in accordance with any conditions attached to it, takes charge of or keeps an animal in category 3 is guilty of an offence and liable to a penalty not exceeding \$2,000.

**Movement of animals**

12. (1) A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, moves or transports an animal in category 1 or 2 within New South Wales is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

(2) A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, moves or transports an animal in category 3 within New South Wales is guilty of an offence and liable to a penalty not exceeding \$2,000.



*Non-Indigenous Animals 1987*

---

**Release or escape of animals****13. (1) A person who—**

- (a) liberates from confinement, anywhere in New South Wales, an animal in category 1 or 2; or
- (b) wilfully or negligently permits the escape of any such animal kept by the person or of which the person is in charge,

is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

**(2) A person who—**

- (a) liberates from confinement, anywhere in New South Wales, an animal in category 3; or
- (b) wilfully or negligently permits the escape of any such animal kept by the person or of which the person is in charge,

is guilty of an offence and liable to a penalty not exceeding \$2,000.

**(3) A person—**

- (a) from whose keeping an animal in category 1, 2 or 3 has escaped; or
- (b) who was in charge of such an animal immediately before it escaped,

and who does not take all reasonable steps to cause a report of the escape to be promptly given to the Director-General of the Department of Agriculture or a prescribed officer is guilty of an offence and liable to a penalty not exceeding \$2,000.

---

**PART 4****LICENCES AND PERMITS****Application for licence**

**14. (1)** An application for a licence or the renewal of a licence shall be made as prescribed and shall be accompanied by the prescribed fee.

**(2)** An application for renewal of a licence shall be made not later than 30 days before the expiry of the licence.

**(3)** Subsection (2) does not prevent the granting of a renewal pursuant to an application made out of time, on payment of any late fee prescribed.



**Grant and renewal of licences**

15. (1) The Minister may grant, and from time to time renew, a licence authorising the holder to keep such animals as may be specified in the licence.

(2) In considering whether to grant a licence or renewal, the Minister shall have regard to—

- (a) the premises, vehicle or other accommodation intended to be provided as the licensed accommodation for the animals proposed to be kept;
- (b) the number of animals kept or proposed to be kept;
- (c) the capacity of the applicant for the licence to care for the animals, taking into account any previous experience of the applicant in caring for animals of that or a similar species;
- (d) the character of the applicant, taking into account any conviction of the applicant, known to the Minister, for an offence under—
  - (i) this Act;
  - (ii) the Prevention of Cruelty to Animals Act 1979; or
  - (iii) any other law (whether of the State or of the Commonwealth or another State or Territory of the Commonwealth) relating to the keeping or protection of animals;
- (e) the listing of the animals under the Australian Species Management Scheme operated by the Association of Zoo Directors of Australia and New Zealand or any prescribed scheme relating to the management of animal species;
- (f) any law in force relating to quarantine; and
- (g) any prescribed matter.

(3) In considering whether to grant or renew a licence, the Minister may employ a higher or lower standard in relation to the criteria set out in subsection (2), depending on the prescribed category of the animals intended to be kept under the authority of the licence or renewed licence.

(4) If the Minister decides not to grant or renew a licence, notice shall, as soon as practicable after the decision is made, be given to the applicant or licensee stating the reason.

**Duration of licences**

16. Subject to this Act, a licence shall be in force for a period of 3 years (or, if some other period is prescribed in respect of the licence, the period so prescribed) commencing on a date specified in the licence.

**Licence conditions**

17. (1) A licence may be granted unconditionally or subject to conditions.

(2) Conditions may be imposed on a licence—

- (a) by endorsing them on or attaching them to the licence when it is granted; or
- (b) by notice in writing served on the licensee at any time after it is granted.

(3) The conditions of a licence may be varied by notice in writing to the licensee.

(4) A condition, or the variation of a condition, imposed or effected after the grant of the licence shall, subject to section 20, take effect 21 days after service of the notice.

**Cancellation of licences**

18. (1) The Minister may, by notice in writing served on the licensee, cancel a licence—

- (a) if the conditions of the licence have not been, or are not being, complied with;
- (b) if the licensee has not complied or the licensed premises do not comply with any requirement or standard prescribed by the regulations; or
- (c) for such reason as the Minister thinks sufficient, having regard to any of the criteria set out in section 15 (2).

(2) The notice—

- (a) shall specify the reason for the cancellation; and
- (b) shall, subject to section 20, take effect 21 days after it is served.



**Permits**

**19. (1)** The Minister may, on application by a licensee made as prescribed and accompanied by the prescribed fee, grant a permit authorising—

- (a) the importation of an animal for keeping in the licensed accommodation;
- (b) the movement or transportation of an animal from that licensee's licensed accommodation to another licensee's licensed accommodation; or
- (c) the transportation of an animal for any purpose approved by the Minister.

**(2)** The Minister shall not refuse to grant a permit authorising the importation of an animal for keeping in the licensed accommodation unless the animal—

- (a) poses such a threat of disease affecting persons, domestic animals (including livestock) or native fauna; or
- (b) poses such a threat to agriculture or the environment,

that the importation of the animal represents an unacceptable risk.

**(3)** A permit shall be subject to any conditions specified in it.

**(4)** The conditions to which the permit is subject shall be conditions designed to—

- (a) prevent or minimise the threat of any disease of the kind described in subsection (2) (a);
- (b) prevent or minimise any threat to agriculture or the environment; or
- (c) ensure the secure custody of the animal—
  - (i) during movement or transportation or in any temporary holding area during the journey; and
  - (ii) at its intended destination,or both.

**(5)** A permit may authorise the importation, movement or transportation of animals on one or more specified occasions or, if the permit so provides, from time to time.



*Non-Indigenous Animals 1987*

---

(6) The Minister may, by notice in writing served on the holder of a permit, cancel the permit if any conditions of the permit are not being complied with.

(7) The notice—

(a) shall specify the reason for the cancellation; and

(b) shall, subject to section 20, take effect when it is served.

**Appeals**

20. (1) A person—

(a) whose application for a licence or renewal of a licence, or for a permit, has been refused;

(b) on whose licence or permit any condition has been imposed which the person considers unreasonable; or

(c) whose licence or permit has been cancelled,

may appeal as prescribed to a Local Court within 21 days of being given notice of the refusal, condition or cancellation.

(2) The court shall have and may exercise the functions of the Minister in respect of the matter the subject of the appeal.

(3) An appeal shall not be heard unless notice of the appeal has been given, not later than 7 days before the hearing, to the Minister.

(4) The Minister or an authorised representative of the Minister is entitled to appear as respondent.

(5) If the appeal is against a cancellation of or failure to renew a licence, or against the imposition of a condition of a licence, the cancellation or expiry of the licence or the imposition of the condition, as the case may be, shall be stayed by lodgment of the appeal, pending its outcome.

---

**PART 5**  
**GENERAL**

**Licenseses' returns**

**21. (1)** The Minister may from time to time by notice in writing served on a licensee require the licensee to furnish a return containing information of a prescribed kind relating to the keeping of animals by the licensee.

**(2)** The licensee shall furnish the return within such reasonable time as may be specified in the notice.

Penalty: \$2,000.

**Travelling circuses and shows**

**22.** The person in charge of a travelling circus or other itinerant show in which any animals in category 1, 2 or 3 are used or exhibited shall submit to the Minister, as prescribed, details of the itinerary of the circus or show and any change in that itinerary.

Penalty: \$2,000.

**Powers of authorised officers**

**23. (1)** An authorised officer may—

- (a)** with or without assistants, enter any licensed accommodation or any premises or vehicle where the officer reasonably believes that a provision of this Act or the regulations has been or is being contravened and there—
  - (i)** examine any animal or inspect the accommodation for any animal; and
  - (ii)** generally inspect such things and make such inquiries as may be necessary to ascertain whether the provisions of this Act or the regulations are being complied with;
- (b)** require the production (by any person believed to have them or control of them) of accounts, records, books, documents and other things relating to the importation, breeding, keeping, movement, transportation or sale of an animal in any prescribed category, and make copies of or take extracts from them;
- (c)** seize any accounts, records, books, documents and other things relating to any such suspected offence;



*Non-Indigenous Animals 1987*

---

- (d) remove any animals seized under this Act, or cause any such animals to be removed, to such place as the authorised officer thinks fit;
- (e) transport animals seized under this section to a place approved by the Minister and obtain veterinary treatment for those animals;
- (f) when accompanied by a member of the police force, stop, detain and search any vehicle or vessel which is being used or which the authorised officer 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 or permit issued under this Act or the regulations;
- (g) employ such assistance or force as is necessary in the exercise of the functions conferred or imposed on the authorised officer by or under this Act;
- (h) by order in writing, direct a person who has failed to comply with—
  - (i) this Act or the regulations; or
  - (ii) the terms or conditions of any licence 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; and

- (i) for the safety of persons and property (including land), give reasonable directions to any person keeping or having charge of an animal in any prescribed category.

(2) Nothing in this section authorises an authorised officer to enter any premises or a part of any premises used as a dwelling without a warrant under section 24.

**Search warrant**

24. (1) An authorised officer may apply to—

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

for a warrant authorising entry by the officer of premises or a part of any premises used as a dwelling for the purpose of exercising such of the functions of an authorised officer under this Act as are specified in the warrant.



*Non-Indigenous Animals 1987*

---

(2) The Magistrate or justice, if satisfied that there are reasonable grounds for doing so, may issue such a warrant.

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

**Seizure of animals**

25. (1) An authorised officer may seize and take charge of an animal in category 1, 2 or 3 which is unlawfully in any person's keeping or charge or which is at large.

(2) An animal seized under this section becomes, upon seizure, the property of the Crown and may be dealt with in accordance with directions given by the Minister.

(3) An animal in category 1, 2 or 3 which is at large and poses an immediate threat to life or property may be destroyed by an authorised officer or any other person.

(4) Any costs and expenses incurred on behalf of the Crown as a result of the efforts (whether successful or not) of an authorised officer to seize or destroy an animal pursuant to this section, or in keeping it after seizure and before its disposal, may be recovered, to an amount not greater than \$10,000, in a Local Court as a debt due to the Crown from—

(a) a person in whose unlawful keeping or charge the animal was at the time of seizure or attempted seizure; or

(b) a person whose contravention of section 13 caused the animal to be at large.

(5) A document purporting to be a certificate of the Minister stating the amount of any costs and expenses referred to in subsection (4) shall, in the absence of evidence to the contrary, be accepted as proof of that amount in any legal proceedings for their recovery.

(6) An authorised officer attempting to capture an animal which is at large shall afford any person entitled to keep or take charge of the animal a reasonable opportunity to effect or assist in its recapture and return to the place where it is authorised to be kept.

**Obstruction of authorised officer**

26. (1) A person shall not—

(a) hinder or obstruct an authorised officer in the exercise of any of the functions of an authorised officer under this Act;

*Non-Indigenous Animals 1987*

---

- (b) neglect or fail to comply with any direction or requirement (including any requirement to answer a question or furnish information) lawfully given or made by an authorised officer; or
- (c) furnish information to an authorised officer knowing it to be false or misleading in a material particular.

Penalty: \$2,000.

(2) A person is not guilty of an offence under this section by reason of any act of hindrance or obstruction, or any default in compliance with a requirement, unless it is established that the authorised officer—

- (a) identified himself or herself as an authorised officer; and
- (b) warned the person that the act or default constituted an offence.

(3) If a person, in compliance with a requirement made by an authorised officer to answer a question or furnish information, gives an answer or furnishes information that tends to incriminate the person, neither—

- (a) the terms of the requirement; nor
- (b) the answer or information given or furnished in compliance with the requirement,

may be used in any proceedings against the person (other than proceedings for an offence under subsection (1) (c)).

**Proceedings for offences**

27. Proceedings for an offence against this Act may be taken and dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

**Service of notices**

28. (1) A notice required or authorised by or under this Act to be given to the Minister may, in the absence of advice to the contrary by the Minister to the person required to give the notice, and subject to the regulations, be given by delivering or posting it to a prescribed address.

(2) A notice required or authorised by or under this Act to be served on any person may be served—

- (a) by delivering it to that person; or
- (b) by sending it by post to an address shown in any record kept in the Department of Agriculture and appearing to be the person's last known postal address.



*Non-Indigenous Animals 1987*

---

**Regulations**

29. (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.

(2) Without limiting the generality of subsection (1), regulations may be made for or with respect to—

- (a) standards of housing, fencing, caging and security of animals;
- (b) standards of husbandry and hygiene for the keeping of animals;
- (c) licences and permits, including their transfer;
- (d) applications and information to be made or supplied under this Act;
- (e) the seizure and relocation of animals; and
- (f) records to be kept by licensees or other persons.

(3) A regulation may create an offence punishable by a penalty not exceeding \$1,000.

(4) 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.

**Amendment of Search Warrants Act 1985, s.10 (Interpretation)**

30. The Search Warrants Act 1985 is amended by inserting in the definition of “search warrant” in section 10, in appropriate alphabetical order, the following matter:

section 24 of the Non-Indigenous Animals Act 1987;



*Non-Indigenous Animals 1987***Amendment of Exhibited Animals Protection Act 1986, Sch. 4 (Relationship to other Acts, etc.)**

31. The Exhibited Animals Protection Act 1986 is amended by inserting in clause 3 of Schedule 4 after the matter "1979" the words "or the Non-Indigenous Animals Act 1987".

---

**SCHEDULE 1**

(Sec. 7 (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 of the advisory committee or to act in the office of a member.

**Chairperson and secretary of the advisory committee**

2. (1) Of the members of the advisory committee referred to in section 7 (4) (a)—

- (a) one shall, in and by the instrument of the member's appointment or another instrument executed by the Minister, be appointed as Chairperson of the advisory committee; and
- (b) one shall, in and by the instrument of the member's appointment or another instrument executed by the Minister, be appointed as Secretary of the advisory committee and shall have and may exercise the functions of a secretary but shall have no right to vote on any matter before the committee.

(2) 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 of the advisory committee 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 of the advisory committee 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 of the advisory committee becomes vacant, a person shall be appointed to fill the vacancy.

*Non-Indigenous Animals 1987*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued***Casual vacancies**

6. (1) A member of the advisory committee shall be deemed to have vacated office if the member—

- (a) dies;
- (b) absents himself or herself from 4 consecutive meetings of the advisory committee of which reasonable notice has been served on the member, 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, a forensic patient within the meaning of the Mental Health Act 1983 or 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 penal servitude or 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) reaches 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 of the advisory committee from office.

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

**Disclosure of pecuniary interests**

7. (1) A member of the advisory committee who has a direct 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 possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the advisory committee.



*Non-Indigenous Animals 1987*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued*

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

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The advisory committee shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the advisory committee from time to time.

(4) After a member of the advisory committee has, or is deemed to have, disclosed the nature of an interest in any matter or thing, 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 of the advisory committee 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 of the advisory committee in a matter or thing which arises only because the member is a member of or associated with any institution, organisation or body mentioned in section 7 (4).

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

**Effect of certain other Acts**

8. (1) If by or under any other Act provision is made—

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or

*Non-Indigenous Animals 1987*

---

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

- (b) 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 of the advisory committee or from accepting and retaining any remuneration payable to the person under this Act as such a member.

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

## SCHEDULE 2

(Sec. 7 (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 5 members.

**Presiding member**

3. (1) The Chairperson or, in the absence of the Chairperson, another member elected to chair 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.



*Non-Indigenous Animals 1987*

---

SCHEDULE 2—*continued*

PROVISIONS RELATING TO THE PROCEDURE OF THE ADVISORY  
COMMITTEE—*continued*

**Authentication of documents**

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

**First meeting of the advisory committee**

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

# NON-INDIGENOUS ANIMALS ACT 1987 No. 166

## NEW SOUTH WALES



## TABLE OF PROVISIONS

### PART 1—PRELIMINARY

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

### PART 2—THE NON-INDIGENOUS ANIMALS ADVISORY COMMITTEE

7. The advisory committee
8. Principal functions of the advisory committee
9. Staff of the advisory committee

### PART 3—OFFENCES CONCERNING NON-INDIGENOUS ANIMALS

10. Importation of animals
11. Keeping of animals
12. Movement of animals
13. Release or escape of animals

### PART 4—LICENCES AND PERMITS

14. Application for licence
15. Grant and renewal of licences
16. Duration of licences
17. Licence conditions
18. Cancellation of licences
19. Permits
20. Appeals

### PART 5—GENERAL

21. Licensees' returns
22. Travelling circuses and shows
23. Powers of authorised officers



*Non-Indigenous Animals 1987*

---

- 24. Search warrant
- 25. Seizure of animals
- 26. Obstruction of authorised officer
- 27. Proceedings for offences
- 28. Service of notices
- 29. Regulations
- 30. Amendment of Search Warrants Act 1985, s. 10 (Interpretation)
- 31. Amendment of Exhibited Animals Protection Act 1986, Sch. 4 (Relationship to other Acts, etc.)

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

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

---

# NON-INDIGENOUS ANIMALS ACT 1987 No. 166

## NEW SOUTH WALES



### Act No. 166, 1987

An Act to control and regulate the introduction into the State of certain species of animals and the movement and keeping of those animals within the State. [Assented to 25 November 1987]

*Non-Indigenous Animals 1987*

---

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 "Non-Indigenous Animals Act 1987".

**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.

**Interpretation**

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

"advisory committee" means the Non-Indigenous Animals Advisory Committee constituted by this Act;

"animal" means a non-human vertebrate animal, being a mammal, bird, reptile or amphibian, and includes the eggs or semen, or other living stage, of any such animal;

"authorised officer" means a person authorised by the Director-General of the Department of Agriculture to exercise the functions of an authorised officer for the purposes of this Act and the regulations;

"importation", in relation to an animal, means—

- (a) the bringing of the animal into the State from another State or Territory of the Commonwealth or from a place outside Australia; or
- (b) the bringing of the animal from any place in the State where it is confined, in accordance with any law relating to quarantine or to the importation of animals into Australia, to another place in the State where it is not so confined;



*Non-Indigenous Animals 1987*

---

“licence” means a licence in force under this Act;

“licensed accommodation” means the premises, vehicle or other accommodation specified in a licence or in a condition of a licence as the accommodation to be provided for animals kept under the authority of the licence;

“permit” means a permit in force under this Act;

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

“regulations” means regulations under this Act.

(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, if the function is a duty, a reference to the performance of the duty.

**Application of Act**

4. (1) This Act binds the Crown.

(2) Nothing in this Act affects the operation of any of the following Acts:

Pastures Protection Act 1934.

Fisheries and Oyster Farms Act 1935.

National Parks and Wildlife Act 1974.

Prevention of Cruelty to Animals Act 1979.

**Exemptions**

5. (1) The regulations may—

- (a) exempt, to the extent or in the circumstances prescribed, any person or premises specified in the regulations, or of a class so specified, from the operation of this Act; or
- (b) exempt, to the extent or in the circumstances prescribed, any person or premises specified in the regulations, or of a class so specified, from any requirement of or made under this Act,

either unconditionally or subject to conditions.

(2) If an exemption is given subject to conditions, the exemption is not operative while any of the conditions is not being complied with.

**Classification of animals**

6. (1) For the purposes of this Act, animals not indigenous to Australia may be classified, according to species, as follows:

- (a) category 1 (animals posing a major threat to agriculture or the environment, the importation or keeping of which requires the strictest security);
- (b) category 2 (animals posing a threat to the health or safety of persons, domestic animals or native fauna);
- (c) category 3 (animals requiring control to limit their pest potential).

(2) The Minister may, by notification published in the Gazette—

- (a) classify an animal, previously unclassified, as belonging to one of the categories referred to in subsection (1);
- (b) reclassify an animal that belonged to one such category as belonging to another such category; or
- (c) declassify an animal that belonged to any such category.

(3) The regulations may, for any of the purposes of this Act or the regulations, distinguish subcategories of animals in any category.

(4) Subsection (2) applies to the classification of animals into subcategories in the same way as it applies to the classification of animals into categories.

(5) Before publishing a notification under this section that affects any birds, the Minister shall consult any persons or bodies prescribed for the purposes of this subsection.

(6) Subsection (5) does not apply in a case where the Minister believes that, because of—

- (a) likely significant agricultural or environmental damage; or
- (b) likely danger to the health or safety of persons, domestic animals or native fauna,

a notification must be published without delay.

---



## PART 2

## THE NON-INDIGENOUS ANIMALS ADVISORY COMMITTEE

**The advisory committee**

7. (1) There is constituted by this Act a Non-Indigenous Animals Advisory Committee.

(2) The advisory committee—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this Act or any other law; and
- (b) 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 10 members who shall be appointed by the Minister.

(4) Of the members—

- (a) two shall be officers or temporary employees of the Department of Agriculture;
- (b) one shall be a person employed in the National Parks and Wildlife Service nominated by the Minister for Planning and Environment;
- (c) one shall be a person nominated by the Zoological Parks Board of New South Wales;
- (d) one shall be a person employed in the Australian Museum, nominated by the Minister for Heritage;
- (e) one shall be a member of the Council of Advice (being the Council elected by the Conference of the Pastures Protection Boards' Association of New South Wales) nominated by that Council;
- (f) one shall be a person selected by the Minister from 3 nominees of the New South Wales Association of Fauna and Marine Parks;
- (g) one shall be a person having the prescribed qualifications who is interested in the keeping of private collections of animals (other than birds);
- (h) one shall be a nominee of one or more prescribed organisations interested in the keeping of birds in aviaries; and
- (i) one shall be a nominee of the Royal Society for the Prevention of Cruelty to Animals.



*Non-Indigenous Animals 1987*

---

(5) In so far as an appointment under this section requires a person or body to nominate one or more persons for the purposes of subsection (4), the Minister may, in default by any such person or body in furnishing any or a sufficient number of nominees when required by the Minister to do so, appoint such person as the Minister considers qualified to represent the person or body concerned.

(6) Schedule 1 has effect with respect to the members of the advisory committee.

(7) Schedule 2 has effect with respect to the procedure of the advisory committee.

**Principal functions of the advisory committee**

8. The principal functions of the advisory committee are—

(a) to advise the Minister as to—

(i) the proper classification of animals in categories for the purposes of this Act; and

(ii) any other matter that may be the subject of regulations under this Act;

(b) to advise the Minister as to general criteria in relation to the granting of licences and permits; and

(c) to provide such other advice as may from time to time be required by the Minister in relation to the operation of this Act.

**Staff of the advisory committee**

9. (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 Minister may engage persons having suitable qualifications and experience as consultants to the advisory committee.

(3) The terms and conditions under which consultants are engaged shall be such as are from time to time determined by the Minister.

---

**PART 3****OFFENCES CONCERNING NON-INDIGENOUS ANIMALS****Importation of animals**

10. (1) A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, imports an animal in category 1 or 2 is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

(2) A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, imports an animal in category 3 is guilty of an offence and liable to a penalty not exceeding \$2,000.

**Keeping of animals**

11. (1) A person who, otherwise than under the authority of a licence and in accordance with any conditions attached to it, takes charge of or keeps an animal in category 1 or 2 is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

(2) A person who, otherwise than under the authority of a licence and in accordance with any conditions attached to it, takes charge of or keeps an animal in category 3 is guilty of an offence and liable to a penalty not exceeding \$2,000.

**Movement of animals**

12. (1) A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, moves or transports an animal in category 1 or 2 within New South Wales is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

(2) A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, moves or transports an animal in category 3 within New South Wales is guilty of an offence and liable to a penalty not exceeding \$2,000.



*Non-Indigenous Animals 1987*

---

**Release or escape of animals****13. (1) A person who—**

- (a) liberates from confinement, anywhere in New South Wales, an animal in category 1 or 2; or
- (b) wilfully or negligently permits the escape of any such animal kept by the person or of which the person is in charge,

is guilty of an offence and liable to a penalty not exceeding \$10,000 or imprisonment for 6 months, or both.

**(2) A person who—**

- (a) liberates from confinement, anywhere in New South Wales, an animal in category 3; or
- (b) wilfully or negligently permits the escape of any such animal kept by the person or of which the person is in charge,

is guilty of an offence and liable to a penalty not exceeding \$2,000.

**(3) A person—**

- (a) from whose keeping an animal in category 1, 2 or 3 has escaped; or
- (b) who was in charge of such an animal immediately before it escaped,

and who does not take all reasonable steps to cause a report of the escape to be promptly given to the Director-General of the Department of Agriculture or a prescribed officer is guilty of an offence and liable to a penalty not exceeding \$2,000.

---

**PART 4****LICENCES AND PERMITS****Application for licence**

**14. (1)** An application for a licence or the renewal of a licence shall be made as prescribed and shall be accompanied by the prescribed fee.

**(2)** An application for renewal of a licence shall be made not later than 30 days before the expiry of the licence.

**(3)** Subsection (2) does not prevent the granting of a renewal pursuant to an application made out of time, on payment of any late fee prescribed.



**Grant and renewal of licences**

15. (1) The Minister may grant, and from time to time renew, a licence authorising the holder to keep such animals as may be specified in the licence.

(2) In considering whether to grant a licence or renewal, the Minister shall have regard to—

- (a) the premises, vehicle or other accommodation intended to be provided as the licensed accommodation for the animals proposed to be kept;
- (b) the number of animals kept or proposed to be kept;
- (c) the capacity of the applicant for the licence to care for the animals, taking into account any previous experience of the applicant in caring for animals of that or a similar species;
- (d) the character of the applicant, taking into account any conviction of the applicant, known to the Minister, for an offence under—
  - (i) this Act;
  - (ii) the Prevention of Cruelty to Animals Act 1979; or
  - (iii) any other law (whether of the State or of the Commonwealth or another State or Territory of the Commonwealth) relating to the keeping or protection of animals;
- (e) the listing of the animals under the Australian Species Management Scheme operated by the Association of Zoo Directors of Australia and New Zealand or any prescribed scheme relating to the management of animal species;
- (f) any law in force relating to quarantine; and
- (g) any prescribed matter.

(3) In considering whether to grant or renew a licence, the Minister may employ a higher or lower standard in relation to the criteria set out in subsection (2), depending on the prescribed category of the animals intended to be kept under the authority of the licence or renewed licence.

(4) If the Minister decides not to grant or renew a licence, notice shall, as soon as practicable after the decision is made, be given to the applicant or licensee stating the reason.

**Duration of licences**

16. Subject to this Act, a licence shall be in force for a period of 3 years (or, if some other period is prescribed in respect of the licence, the period so prescribed) commencing on a date specified in the licence.

**Licence conditions**

17. (1) A licence may be granted unconditionally or subject to conditions.

(2) Conditions may be imposed on a licence—

- (a) by endorsing them on or attaching them to the licence when it is granted; or
- (b) by notice in writing served on the licensee at any time after it is granted.

(3) The conditions of a licence may be varied by notice in writing to the licensee.

(4) A condition, or the variation of a condition, imposed or effected after the grant of the licence shall, subject to section 20, take effect 21 days after service of the notice.

**Cancellation of licences**

18. (1) The Minister may, by notice in writing served on the licensee, cancel a licence—

- (a) if the conditions of the licence have not been, or are not being, complied with;
- (b) if the licensee has not complied or the licensed premises do not comply with any requirement or standard prescribed by the regulations; or
- (c) for such reason as the Minister thinks sufficient, having regard to any of the criteria set out in section 15 (2).

(2) The notice—

- (a) shall specify the reason for the cancellation; and
- (b) shall, subject to section 20, take effect 21 days after it is served.



**Permits**

19. (1) The Minister may, on application by a licensee made as prescribed and accompanied by the prescribed fee, grant a permit authorising—

- (a) the importation of an animal for keeping in the licensed accommodation;
- (b) the movement or transportation of an animal from that licensee's licensed accommodation to another licensee's licensed accommodation; or
- (c) the transportation of an animal for any purpose approved by the Minister.

(2) The Minister shall not refuse to grant a permit authorising the importation of an animal for keeping in the licensed accommodation unless the animal—

- (a) poses such a threat of disease affecting persons, domestic animals (including livestock) or native fauna; or
- (b) poses such a threat to agriculture or the environment,

that the importation of the animal represents an unacceptable risk.

(3) A permit shall be subject to any conditions specified in it.

(4) The conditions to which the permit is subject shall be conditions designed to—

- (a) prevent or minimise the threat of any disease of the kind described in subsection (2) (a);
- (b) prevent or minimise any threat to agriculture or the environment; or
- (c) ensure the secure custody of the animal—
  - (i) during movement or transportation or in any temporary holding area during the journey; and
  - (ii) at its intended destination,or both.

(5) A permit may authorise the importation, movement or transportation of animals on one or more specified occasions or, if the permit so provides, from time to time.



*Non-Indigenous Animals 1987*

---

(6) The Minister may, by notice in writing served on the holder of a permit, cancel the permit if any conditions of the permit are not being complied with.

(7) The notice—

- (a) shall specify the reason for the cancellation; and
- (b) shall, subject to section 20, take effect when it is served.

**Appeals**

20. (1) A person—

- (a) whose application for a licence or renewal of a licence, or for a permit, has been refused;
- (b) on whose licence or permit any condition has been imposed which the person considers unreasonable; or
- (c) whose licence or permit has been cancelled,

may appeal as prescribed to a Local Court within 21 days of being given notice of the refusal, condition or cancellation.

(2) The court shall have and may exercise the functions of the Minister in respect of the matter the subject of the appeal.

(3) An appeal shall not be heard unless notice of the appeal has been given, not later than 7 days before the hearing, to the Minister.

(4) The Minister or an authorised representative of the Minister is entitled to appear as respondent.

(5) If the appeal is against a cancellation of or failure to renew a licence, or against the imposition of a condition of a licence, the cancellation or expiry of the licence or the imposition of the condition, as the case may be, shall be stayed by lodgment of the appeal, pending its outcome.

---

## PART 5

## GENERAL

**Licenses' returns**

21. (1) The Minister may from time to time by notice in writing served on a licensee require the licensee to furnish a return containing information of a prescribed kind relating to the keeping of animals by the licensee.

(2) The licensee shall furnish the return within such reasonable time as may be specified in the notice.

Penalty: \$2,000.

**Travelling circuses and shows**

22. The person in charge of a travelling circus or other itinerant show in which any animals in category 1, 2 or 3 are used or exhibited shall submit to the Minister, as prescribed, details of the itinerary of the circus or show and any change in that itinerary.

Penalty: \$2,000.

**Powers of authorised officers**

23. (1) An authorised officer may—

(a) with or without assistants, enter any licensed accommodation or any premises or vehicle where the officer reasonably believes that a provision of this Act or the regulations has been or is being contravened and there—

(i) examine any animal or inspect the accommodation for any animal; and

(ii) generally inspect such things and make such inquiries as may be necessary to ascertain whether the provisions of this Act or the regulations are being complied with;

(b) require the production (by any person believed to have them or control of them) of accounts, records, books, documents and other things relating to the importation, breeding, keeping, movement, transportation or sale of an animal in any prescribed category, and make copies of or take extracts from them;

(c) seize any accounts, records, books, documents and other things relating to any such suspected offence;



*Non-Indigenous Animals 1987*

---

- (d) remove any animals seized under this Act, or cause any such animals to be removed, to such place as the authorised officer thinks fit;
- (e) transport animals seized under this section to a place approved by the Minister and obtain veterinary treatment for those animals;
- (f) when accompanied by a member of the police force, stop, detain and search any vehicle or vessel which is being used or which the authorised officer 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 or permit issued under this Act or the regulations;
- (g) employ such assistance or force as is necessary in the exercise of the functions conferred or imposed on the authorised officer by or under this Act;
- (h) by order in writing, direct a person who has failed to comply with—
  - (i) this Act or the regulations; or
  - (ii) the terms or conditions of any licence 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; and
- (i) for the safety of persons and property (including land), give reasonable directions to any person keeping or having charge of an animal in any prescribed category.

(2) Nothing in this section authorises an authorised officer to enter any premises or a part of any premises used as a dwelling without a warrant under section 24.

**Search warrant**

24. (1) An authorised officer may apply to—

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

for a warrant authorising entry by the officer of premises or a part of any premises used as a dwelling for the purpose of exercising such of the functions of an authorised officer under this Act as are specified in the warrant.



*Non-Indigenous Animals 1987*

---

(2) The Magistrate or justice, if satisfied that there are reasonable grounds for doing so, may issue such a warrant.

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

**Seizure of animals**

25. (1) An authorised officer may seize and take charge of an animal in category 1, 2 or 3 which is unlawfully in any person's keeping or charge or which is at large.

(2) An animal seized under this section becomes, upon seizure, the property of the Crown and may be dealt with in accordance with directions given by the Minister.

(3) An animal in category 1, 2 or 3 which is at large and poses an immediate threat to life or property may be destroyed by an authorised officer or any other person.

(4) Any costs and expenses incurred on behalf of the Crown as a result of the efforts (whether successful or not) of an authorised officer to seize or destroy an animal pursuant to this section, or in keeping it after seizure and before its disposal, may be recovered, to an amount not greater than \$10,000, in a Local Court as a debt due to the Crown from—

- (a) a person in whose unlawful keeping or charge the animal was at the time of seizure or attempted seizure; or
- (b) a person whose contravention of section 13 caused the animal to be at large.

(5) A document purporting to be a certificate of the Minister stating the amount of any costs and expenses referred to in subsection (4) shall, in the absence of evidence to the contrary, be accepted as proof of that amount in any legal proceedings for their recovery.

(6) An authorised officer attempting to capture an animal which is at large shall afford any person entitled to keep or take charge of the animal a reasonable opportunity to effect or assist in its recapture and return to the place where it is authorised to be kept.

**Obstruction of authorised officer**

26. (1) A person shall not—

- (a) hinder or obstruct an authorised officer in the exercise of any of the functions of an authorised officer under this Act;

*Non-Indigenous Animals 1987*

---

- (b) neglect or fail to comply with any direction or requirement (including any requirement to answer a question or furnish information) lawfully given or made by an authorised officer; or
- (c) furnish information to an authorised officer knowing it to be false or misleading in a material particular.

Penalty: \$2,000.

(2) A person is not guilty of an offence under this section by reason of any act of hindrance or obstruction, or any default in compliance with a requirement, unless it is established that the authorised officer—

- (a) identified himself or herself as an authorised officer; and
- (b) warned the person that the act or default constituted an offence.

(3) If a person, in compliance with a requirement made by an authorised officer to answer a question or furnish information, gives an answer or furnishes information that tends to incriminate the person, neither—

- (a) the terms of the requirement; nor
- (b) the answer or information given or furnished in compliance with the requirement,

may be used in any proceedings against the person (other than proceedings for an offence under subsection (1) (c)).

**Proceedings for offences**

27. Proceedings for an offence against this Act may be taken and dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

**Service of notices**

28. (1) A notice required or authorised by or under this Act to be given to the Minister may, in the absence of advice to the contrary by the Minister to the person required to give the notice, and subject to the regulations, be given by delivering or posting it to a prescribed address.

(2) A notice required or authorised by or under this Act to be served on any person may be served—

- (a) by delivering it to that person; or
- (b) by sending it by post to an address shown in any record kept in the Department of Agriculture and appearing to be the person's last known postal address.



**Regulations**

29. (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.

(2) Without limiting the generality of subsection (1), regulations may be made for or with respect to—

- (a) standards of housing, fencing, caging and security of animals;
- (b) standards of husbandry and hygiene for the keeping of animals;
- (c) licences and permits, including their transfer;
- (d) applications and information to be made or supplied under this Act;
- (e) the seizure and relocation of animals; and
- (f) records to be kept by licensees or other persons.

(3) A regulation may create an offence punishable by a penalty not exceeding \$1,000.

(4) 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.

**Amendment of Search Warrants Act 1985, s.10 (Interpretation)**

30. The Search Warrants Act 1985 is amended by inserting in the definition of “search warrant” in section 10, in appropriate alphabetical order, the following matter:

section 24 of the Non-Indigenous Animals Act 1987;



*Non-Indigenous Animals 1987***Amendment of Exhibited Animals Protection Act 1986, Sch. 4 (Relationship to other Acts, etc.)**

31. The Exhibited Animals Protection Act 1986 is amended by inserting in clause 3 of Schedule 4 after the matter "1979" the words "or the Non-Indigenous Animals Act 1987".

**SCHEDULE 1**

(Sec. 7 (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 of the advisory committee or to act in the office of a member.

**Chairperson and secretary of the advisory committee**

2. (1) Of the members of the advisory committee referred to in section 7 (4) (a)—

(a) one shall, in and by the instrument of the member's appointment or another instrument executed by the Minister, be appointed as Chairperson of the advisory committee; and

(b) one shall, in and by the instrument of the member's appointment or another instrument executed by the Minister, be appointed as Secretary of the advisory committee and shall have and may exercise the functions of a secretary but shall have no right to vote on any matter before the committee.

(2) 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 of the advisory committee 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 of the advisory committee 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 of the advisory committee becomes vacant, a person shall be appointed to fill the vacancy.

*Non-Indigenous Animals 1987*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued***Casual vacancies**

6. (1) A member of the advisory committee shall be deemed to have vacated office if the member—

- (a) dies;
- (b) absents himself or herself from 4 consecutive meetings of the advisory committee of which reasonable notice has been served on the member, 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, a forensic patient within the meaning of the Mental Health Act 1983 or 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 penal servitude or 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) reaches 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 of the advisory committee from office.

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

**Disclosure of pecuniary interests**

7. (1) A member of the advisory committee who has a direct 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 possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the advisory committee.



*Non-Indigenous Animals 1987*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COMMITTEE—*continued*

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

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The advisory committee shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the advisory committee from time to time.

(4) After a member of the advisory committee has, or is deemed to have, disclosed the nature of an interest in any matter or thing, 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 of the advisory committee 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 of the advisory committee in a matter or thing which arises only because the member is a member of or associated with any institution, organisation or body mentioned in section 7 (4).

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

**Effect of certain other Acts**

8. (1) If by or under any other Act provision is made—

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or



*Non-Indigenous Animals 1987*

---

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

- (b) 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 of the advisory committee or from accepting and retaining any remuneration payable to the person under this Act as such a member.

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

## SCHEDULE 2

(Sec. 7 (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 5 members.

**Presiding member**

3. (1) The Chairperson or, in the absence of the Chairperson, another member elected to chair 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.

*Non-Indigenous Animals 1987*

---

SCHEDULE 2—*continued*

PROVISIONS RELATING TO THE PROCEDURE OF THE ADVISORY  
COMMITTEE—*continued*

**Authentication of documents**

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

**First meeting of the advisory committee**

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