



New South Wales

Exhibited Animals Protection Amendment (Miscellaneous) Regulation 2019

under the

Exhibited Animals Protection Act 1986

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

NIALL BLAIR, MLC
Minister for Primary Industries

Explanatory note

The objects of this Regulation are as follows:

- (a) to clarify the different classes of animal display establishments (being fixed, off-display and mobile establishments),
- (b) to prescribe the classes of animal display establishments that are required to be licensed under the Act and clarify the circumstances in which approvals and permits for the exhibition of animals are required,
- (c) to confirm the types of conditions that may be imposed on approvals and permits for mobile exhibitions of animals under the Act,
- (d) to clarify an offence relating to removal of an exhibited animal from animal display establishments to reflect the nature of off-display establishments,
- (e) to remove an offence exemption that enabled authority holders to move animals from one authorised premises to another authorised premises under the same authority without consent,
- (f) to prescribe updated standards to replace certain existing standards prescribed for the purposes of the Act,
- (g) to prescribe the applicable fees for applications for, and for renewal of, licences and certain approvals under the Act if lodged by the applicant at the same time,
- (h) to make provision for savings and transitional issues.

This Regulation is made under the *Exhibited Animals Protection Act 1986*, including sections 12, 13, 14, 15, 18, 25 and 53 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Exhibited Animals Protection Amendment (Miscellaneous) Regulation 2019*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Exhibited Animals Protection Regulation 2010

[1] Clause 3 Definitions

Omit the definitions of *fixed establishment* and *mobile establishment* from clause 3 (1).

Insert in appropriate order:

fixed establishment means an animal display establishment comprising premises used, on an ongoing basis, for the display, and the keeping for display, of animals, not being the following:

- (a) a mobile establishment,
- (b) an off-display establishment.

mobile establishment means an animal display establishment comprising premises used, on a temporary basis, for the display of the following animals, but only while the animals are displayed or kept for display at the premises:

- (a) animals that are the subject of an approval under section 22 of the Act,
- (b) animals that are the subject of a permit.

off-display establishment means an animal display establishment comprising premises used for the keeping for display of animals, but not the display of animals, that are:

- (a) the subject of an approval under section 22 of the Act, or
 - (b) the subject of a permit, or
 - (c) ordinarily exhibited at a fixed establishment,
- and includes the land, buildings, enclosures and facilities used for that purpose.

[2] Clause 4 Exemptions from licensing requirements

Insert after clause 4 (3) (after the note):

(4) Circus layovers

For the purposes of section 4 (1) of the Act, an off-display establishment is exempt from the requirement to be licensed if:

- (a) the animals that are being kept for display at the off-display establishment are animals that are authorised to be exhibited by a circus, and
- (b) those animals are being kept for display at the off-display establishment on a temporary and short term basis, and
- (c) the off-display establishment is not an off-display establishment at which those animals are ordinarily kept for display when the circus is not exhibiting those animals.

[3] Clause 7

Omit the clause. Insert instead:

7 Classes of animal display establishments: section 13

- (1) The following are prescribed as classes of animal display establishments for the purposes of the Act (other than sections 12, 15 and 18 of the Act):
 - (a) fixed establishments,
 - (b) mobile establishments,

- (c) off-display establishments.
- (2) For the purposes of sections 12, 15 and 18 of the Act, the following classes of animal display establishments are prescribed:
 - (a) fixed establishments,
 - (b) off-display establishments.

[4] Clause 8 Standards for animal display establishments

Omit “*General Standards for Exhibiting Animals in New South Wales* (published in September 2015)” from clause 8 (1).

Insert instead “*General Standards for Exhibiting Animals in New South Wales* (published in February 2019)”.

[5] Clause 8 (1)

Omit “*Standards for Exhibiting Animals at Mobile Establishments in New South Wales* (published in October 2008)”.

Insert instead “*Standards for Exhibiting Animals at Mobile Establishments in New South Wales* (published in February 2019)”.

[6] Clause 8 (1)

Omit “*Standards for Exhibiting Animals during Temporary Removals in New South Wales* (published in October 2008)”.

Insert instead “*Standards for Exhibiting Animals during Temporary Removals in New South Wales* (published in February 2019)”.

[7] Clause 8 (1)

Omit “*Standards for Exhibiting Circus Animals in New South Wales* (published in January 2009)”.

Insert instead “*Standards for Exhibiting Circus Animals in New South Wales* (published in February 2019)”.

[8] Clause 11 Fees

Insert after the matter relating to “Renewal of licence under section 18 of the Act” in the Table:

Licence under section 18 of the Act, and approval under section 22 of the Act, if applications lodged by applicant at the same time	total fee for both applications—\$230	total fee for issue of licence and approval—the higher of the issue fee applying to the issue of the licence and that applying to the issue of the approval, if applied for individually
Renewal of licence under section 18 of the Act, and renewal of approval under section 22 of the Act, if applications lodged by applicant at the same time	total fee for both applications—\$115	total fee for issue of licence and approval—the higher of the issue fee applying to renewal of the licence and that applying to renewal of the approval, if applied for individually

[9] Clause 14A

Insert after clause 14:

14A Conditions on approvals for mobile exhibitions

To avoid doubt, an approval under section 22 of the Act may include a condition requiring the holder to comply with requirements with respect to the temporary or movable structures and facilities, and any vehicle, used at a mobile exhibition for the display, or the keeping for display, of the animals the subject of the approval.

[10] Clause 32 Removal of exhibited animal

Omit clause 32 (1). Insert instead:

- (1) The holder of a licence for a fixed establishment must not, without the written consent of the Secretary, keep an exhibited animal, or cause or permit an exhibited animal to be kept, outside:
 - (a) the fixed establishment in which it is ordinarily exhibited, or
 - (b) an off-display establishment associated with or used in connection with the fixed establishment.

Maximum penalty: 10 penalty units.

[11] Clause 32 (3) (c)

Omit the paragraph. Insert instead:

- (c) in the case of an animal ordinarily kept for display in an off-display establishment—it is being taken to, or returned from, premises outside the off-display establishment for display at those premises in accordance with an approval under section 22 of the Act or a permit, or

[12] Clause 45 Savings and transitional

Insert at the end of the clause:

- (2) If, on the commencement of the *Exhibited Animals Protection Amendment (Miscellaneous) Regulation 2019*, a holder of an approval or permit (the **existing authority**) is required by operation of that Regulation to hold a licence, the existing authority is taken to be the required licence until the expiry of the existing authority.