

[Act 1996 No 23]



New South Wales

# Non-Indigenous Animals Amendment Bill 1996

## Explanatory note.

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to amend the *Non-Indigenous Animals Act 1987*:

- (a) so that non-indigenous animals may in future be classified, for the purposes of controlling their importation, movement and keeping under that Act, in accordance with the system of classification of species used by the National Vertebrate Pests Committee of the Standing Committee on Agriculture and Resource Management, and
  - (b) to make other amendments relating to the administration of that Act.
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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Non-Indigenous Animals Act 1987* set out in Schedule 1.

## Schedule 1 Amendments

### Classification of animals

**Schedule 1 [4]** repeals and substitutes section 6 of the Act, and inserts a new section 6A, to provide for classification of animals by regulation according to specified criteria. The criteria are drawn from the animal classification scheme now in use by the National Vertebrate Pests Committee, and include factors such as the pest potential of an animal, any danger it may pose to humans and any necessary security precautions that need to be taken in respect of its keeping or transportation. Regulations made from time to time to implement or revise animal classification for the purposes of the Act must be drawn up with due regard to animal classification schemes used by the Committee or otherwise in use nationally. The new provisions replace existing machinery for classification of animals by the Minister by Gazette notice.

In keeping with the national classification scheme, animals in some categories (called “controlled categories”) will be subject to the control provisions of Part 3 of the Act, while non-indigenous species in some residual categories (for example, farm animals), although classified, will not be subject to such controls. The control provisions of the Act generally prohibit importation or keeping of animals or enable their importation and keeping, under licence, for the purposes of zoos or other established collections.

**Schedule 1 [7]–[9]** amend sections 10, 11, 12, 13 and 25 of the Act as a consequence of the amendments made by Schedule 1 [4]. (These sections identify offences that depend on animal categories.)

### **Vesting of functions in the Director-General**

**Schedule 1 [11]** amends sections 15, 18, 19 and 25 of the Act so as to provide that certain functions currently vested in the Minister will in future be vested in the Director-General of the Department of Agriculture. The functions involved relate to the grant and renewal of licences and to the seizure and disposal of animals under the Act.

### **Itineraries for travelling circuses and shows**

**Schedule 1 [12]** repeals section 22 of the Act, which currently requires the promoters of circuses and travelling shows to submit details of their itineraries to the Minister.

### **Seizure of cages or other housing for animals**

**Schedule 1 [16]** amends section 25 of the Act so as to provide that, when seizing any animal in accordance with the Act, an authorised officer may also seize any cage or other container used to keep the animal.

### **Self-incriminating admissions**

Section 26 of the Act currently provides that, although a person cannot refuse to comply with a requirement under the Act to provide information to an authorised officer on the grounds that to do so might incriminate the person, the answer or document produced cannot be used in evidence in proceedings for whatever offence it tends to confirm. **Schedule 1 [17]** amends the section so as to provide that the answer or document will only be inadmissible if the person furnishing it has claimed the privilege of inadmissibility, before furnishing the answer or document, by stating that it might be incriminating.

### **Delegation of powers by Minister and Director-General**

**Schedule 1 [18]** inserts a new section 29A to provide statutory authority for delegation by the Minister and the Director-General of their respective functions under the Act.

### **Minor amendments**

**Schedule 1 [1]** makes a consequential amendment.

**Schedule 1 [2]** inserts definitions of the expressions *Director-General*, *controlled category*, *higher-risk category*, *lower-risk category*, *non-indigenous animal* and *vehicle* for the purposes of the Act.

**Schedule 1 [3], [5] and [6]** make amendments purely to reflect administrative **changes** since the Act was enacted.

**Schedule 1 [10]** amends section 14 of the Act so as to make it clear that no application for renewal of a licence may be made or accepted after the date of expiry of the licence.

**Schedule 1 [13]-[15]** amend section 23 of the Act so as to provide authorised officers, when carrying out an inspection of any premises in accordance with the Act, with specific power to inspect cages and containers that might be used to house or hide an animal.

**Schedule 1 [18] and [19]** give effect to a Schedule of savings and transitional provisions.