

# Non-Indigenous Animals Act 1987 No 166

[1987-166]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [Local Land Services Act 2013 No 51](#) (not commenced — to commence on 1.1.2014)
  - [Civil and Administrative Legislation \(Repeal and Amendment\) Act 2013 No 95](#) (not commenced — to commence on 1.1.2014)

### Authorisation

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New South Wales

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# Non-Indigenous Animals Act 1987 No 166



New South Wales

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.

## Part 1 Preliminary

### 1 Name of Act

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

### 2 Commencement

- (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.

### 3 Definitions

- (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 to exercise the functions of an authorised officer for the purposes of this Act and the regulations.

**controlled category** means a category of animals identified under section 6 as a controlled category.

**Department** means the Department of Industry and Investment.

**Director-General** means the Director-General of the Department.

**higher-risk category** means a category of animals identified under section 6 as a

higher-risk category.

**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.

**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.

**lower-risk category** means a category of animals identified under section 6 as a lower-risk category.

**non-indigenous animal** means an animal not native to Australia before European settlement.

**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.

**vehicle** means any road or rail vehicle or trailer or any aircraft or watercraft.

(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.

#### **4 Application of Act**

(1) This Act binds the Crown.

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

*Rural Lands Protection Act 1998.*

*Fisheries Management Act 1994.*

*National Parks and Wildlife Act 1974.*

*Prevention of Cruelty to Animals Act 1979.*

*Threatened Species Conservation Act 1995.*

## **5 Exemptions**

(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.

## **6 Classification of animals**

For the purposes of this Act, the regulations may from time to time:

- (a) prescribe categories of animals, and
- (b) identify any such prescribed categories as controlled categories, and
- (c) identify any such controlled categories as either higher-risk or lower-risk categories, and
- (d) classify animals, by species, as belonging to any prescribed category.

### **6A Basis of animal classification**

(1) Classification of animals under section 6 is to be based on:

- (a) the animal's pest potential with respect to agricultural and pastoral interests and the environment, and
- (b) any danger posed by the animal to humans, and
- (c) security requirements for keeping or transporting the animal, and
- (d) the degree to which the animal, if actually or potentially a pest, is already established, and
- (e) any other factors identified by the regulations.

(2) In recommending the making of a regulation for the purposes of section 6, the

Minister is to have regard to any scheme of classification currently used by the National Vertebrate Pests Committee of the Standing Committee on Agriculture and Resource Management or by any other persons or bodies prescribed for the purposes of this subsection.

- (3) Before recommending the making of a regulation for the purposes of this section in relation to any birds, the Minister is to consult any persons or bodies prescribed for the purposes of this subsection.

## **Part 2 The Non-Indigenous Animals Advisory Committee**

### **7 The advisory committee**

- (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 11 members who shall be appointed by the Minister.
- (4) Of the members:
- (a) two shall be officers or temporary employees of the Department,
  - (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 director of a board nominated by the State Management Council of Livestock Health and Pest Authorities constituted under the [Rural Lands Protection Act 1998](#),
  - (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,
  - (i) one shall be a nominee of the Royal Society for the Prevention of Cruelty to Animals, and
  - (j) one shall be a member of the NSW Farmers' Association nominated by that Association.
- (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.

## **8 Principal functions of the advisory committee**

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.

## **9 Staff of the advisory committee**

- (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 Commissioner,
- 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**

#### **10 Importation of animals**

- (1) A person who, otherwise than under the authority of a permit and in accordance with any conditions attached to it, imports an animal belonging to a higher-risk category is guilty of an offence and liable to a penalty not exceeding 100 penalty units 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 belonging to a lower-risk category is guilty of an offence and liable to a penalty not exceeding 20 penalty units.

#### **11 Keeping of animals**

- (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 belonging to a higher-risk category is guilty of an offence and liable to a penalty not exceeding 100 penalty units 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 belonging to a lower-risk category is guilty of an offence and liable to a penalty not exceeding 20 penalty units.

#### **12 Movement of animals**

- (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 belonging to a higher-risk category within New South Wales is guilty of an offence and liable to a penalty not exceeding 100 penalty units 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 belonging to a lower-risk category within New South Wales is guilty of an offence and liable to a penalty not exceeding 20 penalty units.

#### **13 Release or escape of animals**

- (1) A person who:
  - (a) liberates from confinement, anywhere in New South Wales, an animal belonging to a higher-risk category, 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 100 penalty units or imprisonment for 6 months, or both.

(2) A person who:

(a) liberates from confinement, anywhere in New South Wales, an animal belonging to a lower-risk category, 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 20 penalty units.

(3) A person:

(a) from whose keeping an animal belonging to a controlled category 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 or a prescribed officer is guilty of an offence and liable to a penalty not exceeding 20 penalty units.

## **Part 4 Licences and permits**

### **14 Application for licence**

(1) An application for a licence or the renewal of a licence shall be made as prescribed.

(1A) An applicant for a licence or the renewal of a licence must pay the prescribed fee at the same time as the application is made or as provided by the regulations.

(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 but no renewal application may be made or accepted after the date of expiry of the licence.

(4) The regulations may make provision for or with respect to the following:

(a) times for the payment of fees for licences or renewals of licences,

(b) the payment of such fees by instalments,

(c) the waiver or refund of the whole or any part of such fees.

## 15 Grant and renewal of licences

- (1) The Director-General 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 Director-General 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 Director-General, 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 Director-General 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 Director-General 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.

## 16 Duration of licences

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.

### **17 Licence conditions**

- (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.

### **18 Cancellation of licences**

- (1) The Director-General 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 accommodation does not comply with any requirement or standard prescribed by the regulations, or
  - (c) for such reason as the Director-General 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.

### **19 Permits**

- (1) The Director-General 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 Director-General.
- (2) The Director-General 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.
  - (6) The Director-General 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.

## **20 Applications for review by Administrative Decisions Tribunal**

- (1) A person may apply to the Administrative Decisions Tribunal for a review of any of the following decisions:
  - (a) a decision refusing the person's application for a licence or renewal of a licence, or for a permit,
  - (b) a decision imposing any condition on the person's licence or permit that the person considers unreasonable,
  - (c) a decision cancelling the person's licence or permit.
- (2) Despite the provisions of Division 2 of Part 3 of Chapter 5 of the *Administrative*

*Decisions Tribunal Act 1997*, if an application for a review of a decision referred to in subsection (1) is made to the Tribunal, the cancellation or expiry of the licence or the imposition of the condition (as the case may be) is stayed by lodgment of the application, pending its outcome.

## **Part 5 General**

### **21 Licensees' returns**

- (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.

Maximum penalty: 20 penalty units.

### **22 (Repealed)**

### **23 Powers of authorised officers**

- (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) open and inspect any cage, container or enclosure, and
    - (iii) 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,
  - (d) remove any animals, cages or containers seized under this Act, or cause any such animals, cages or containers 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.

## **24 Search warrant**

- (1) An authorised officer under this Act may apply to an authorised officer within the meaning of the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#) 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.
- (2) The authorised officer within the meaning of the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#), if satisfied that there are reasonable grounds for doing so, may issue such a warrant.
- (3) Division 4 of Part 5 of the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#) applies to a warrant issued under this section.

## **25 Seizure of animals**

- (1) An authorised officer may seize and take charge of an animal belonging to a controlled category which is unlawfully in any person's keeping or charge or which is at large. When seizing an animal in any person's keeping or charge, the authorised officer may also seize and take charge of any cage or other transportable container

that may reasonably be suspected of having been used to keep the animal, and may retain any such cage or container for as long as is reasonably necessary to deal further with the animal in accordance with this Act.

- (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 Director-General.
- (3) An animal belonging to a controlled category 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 the 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 Director-General 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.

## **26 Obstruction of authorised officer**

- (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,
  - (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.

Maximum penalty: 20 penalty units.



- (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)).

## **27 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations may be taken and dealt with summarily before the Local Court.
- (2) Any such proceedings must be commenced not later than 2 years from when the offence was alleged to have been committed.

## **27A Penalty notices**

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:

- (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (9) In this section, **authorised officer** includes a person of a class prescribed by the regulations as a class of persons who may issue penalty notices under this section.

## 28 Service of notices

- (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 and appearing to be the person's last known postal address.

## 29 Regulations

- (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 10 penalty units.
- (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.

#### **29A Delegation**

The Minister and the Director-General may each delegate any of their respective functions (other than this power of delegation) to any officer of the Department.

#### **29B Savings and transitional provisions**

Schedule 3 has effect.

#### **30, 31 (Repealed)**

### **Schedule 1 Provisions relating to the members of the advisory committee**

(Section 7 (6))

#### **1 (Repealed)**

#### **2 Chairperson and secretary of the advisory committee**

- (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.

### **3 Term of office**

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.

### **4 Remuneration**

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.

### **5 Filling of vacancy in office of member**

If the office of any member of the advisory committee becomes vacant, a person shall be appointed to fill the vacancy.

### **6 Casual vacancies**

(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 mentally incapacitated person,
- (e) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable,
- (f) resigns the office by instrument in writing addressed to the Minister, or
- (g) (Repealed)
- (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.

## **7 Disclosure of pecuniary interests**

- (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.
- (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.

## **8 Effect of certain other Acts**

- (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
  - (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 Provisions relating to the procedure of the advisory committee**

(Section 7 (7))

### **1 General procedure**

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.

### **2 Quorum**

The quorum for a meeting of the advisory committee is 6 members.

### **3 Presiding member**

- (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.

#### **4 Voting**

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.

#### **5 Minutes**

The advisory committee shall cause full and accurate minutes to be kept of the proceedings of each meeting of the advisory committee.

#### **6 Authentication of documents**

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.

#### **7 First meeting of the advisory committee**

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

### **Schedule 3 Savings and transitional provisions**

(Section 29B)

#### **1 Regulations**

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*Non-Indigenous Animals Amendment Act 1996*

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done, or omitted to be done, before the date of its publication.

#### **2 Saving of certain licences**

The amendments made to this Act by the *Non-Indigenous Animals Amendment Act 1996*

do not affect the validity of any licence or permit issued by the Minister.