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Statutory Rules 1984 No. 1

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Wildlife Protection (Regulation of Exports and Imports) Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and in pursuance of section 4 of the *Acts Interpretation Act 1901*, hereby make the following Regulations under the *Wildlife Protection (Regulation of Exports and Imports) Act 1982*.

Dated 4 April 1984.

N. M. STEPHEN

Governor-General

By His Excellency's Command,

(Sgd) Barry Cohen

Minister of State for
Home Affairs and Environment

Citation

1. These Regulations may be cited as the Wildlife Protection (Regulation of Exports and Imports) Regulations.

Interpretation

2. (1) In these Regulations, unless the contrary intention appears—

“research or investigation” means research or investigation in connection with scientific research;

“the Act” means the *Wildlife Protection (Regulation of Exports and Imports) Act 1982*.

(2) For the purposes of these Regulations, an animal or a plant shall be deemed to have been taken in the wild—

- (a) in the case of an animal—if it was not bred in captivity as defined in regulation 8; and
- (b) in the case of a plant—if it was not artificially propagated as defined in regulation 9.

(3) For the purposes of these Regulations—

- (a) where a live animal (other than animal reproductive material) that was taken in the wild dies, the dead animal and specimens derived from the dead animal shall be taken to be specimens derived from that live animal; and
- (b) where a live plant (other than plant reproductive material) that was taken in the wild dies, the dead plant and specimens derived from the dead plant shall be taken to be specimens derived from that live plant.

Prescribed class of scientific organizations

3. For the purposes of the definition of “prescribed scientific organization” in sub-section 4 (1) of the Act, the following class of scientific organizations is declared to be a prescribed class of scientific organizations, namely scientific organizations that—

- (a) have research or investigation into or involving specimens as their major function;
- (b) are non-profit making and primarily non-commercial;
- (c) where situated in Australia or an external Territory—engage in commercial transactions in specimens only where those specimens are, or are derived from animals and plants that are—
 - (i) bred in captivity or artificially propagated;
 - (ii) native Australian animals or native Australian plants;
 - (iii) specimens specified in Part I of Schedule 2 to the Act that have been taken in accordance with an approved management program; or
 - (iv) specimens not specified in Part I of Schedule 1, Part I of Schedule 2 or Part I of Schedule 3, to the Act;
- (d) where situated outside Australia or an external Territory—do not engage in commercial transactions in—
 - (i) specimens that are, or are derived from, native Australian animals or native Australian plants; or
 - (ii) specimens specified in Part I of Schedule 1 to the Act, unless they have been, or are derived from animals or plants that have been, bred in captivity or artificially propagated and are not native Australian animals or native Australian plants;
- (e) use specimens, the export or import of which is regulated under the Act, for no purpose other than undertaking research or investigation or carrying out public education programs;

- (f) possess resources and qualifications that enable the undertaking of research or investigation;
- (g) publish or otherwise make available to the public or the government of the country in which they are situated the results of their research or investigation into or involving specimens;
- (h) during, and upon completion of, research or investigation or a public education program—
 - (i) involving a specimen that has been imported under the Act—will not allow that specimen to become an object of trade unless it is—
 - (A) a specimen specified in Part I of Schedule 1, Part I of Schedule 2 or Part I of Schedule 3, to the Act, that has been, or is derived from an animal or plant that has been, bred in captivity or artificially propagated;
 - (B) a specimen specified in Part I of Schedule 2 to the Act that has been taken in accordance with an approved management program or is derived from an animal or plant that has been so taken; or
 - (C) a specimen not specified in Part I of Schedule 1, Part I of Schedule 2 or Part I of Schedule 3 to the Act; or
 - (ii) involving a specimen that has been exported under the Act—will not allow that specimen to become an object of trade unless—
 - (A) it is a specimen specified in Part I of Schedule 1, Part I of Schedule 2 or Part I of Schedule 3, to the Act, that has been, or is derived from an animal or plant that has been, bred in captivity or artificially propagated; and
 - (B) it is not a specimen that is, or is derived from, a native Australian animal; and
- (j) import or export a specimen that has been taken in the wild only if a specimen that has been bred in captivity or artificially propagated cannot be used for the purposes of the research or investigation, or public education program, for which that specimen is required.

Prescribed person for the purposes of sub-section 8 (4) of the Act

4. For the purposes of sub-section 8 (4) of the Act, the Director of Quarantine under the *Quarantine Act 1908* is a prescribed person.

Approved management programs

5. (1) For the purposes of sub-section 10 (2) of the Act, the Minister shall not, subject to sub-regulation (2), declare a management program to be an approved management program unless he is satisfied—

- (a) that there is available to the Designated Authority sufficient information concerning the biology of each species subject to the management program, and the role of that species in the ecosystems in which it

occurs, to enable the Designated Authority to evaluate a management program for that species;

(b) that—

(i) in relation to permitting the import of specimens taken, or specimens derived from specimens that have been taken, in accordance with the management program—the Designated Authority has received and considered information relating to the management program; or

(ii) in relation to permitting the export of specimens taken, or specimens derived from specimens that have been taken, in accordance with the management program—discussions have been held by the Designated Authority with the relevant body or bodies having powers or duties under any law of the Commonwealth, a State or a Territory for the protection, conservation or management of animals or plants, or of both, subject to the management program;

(c) after receiving and considering advice from the Designated Authority—that the management program contains measures to ensure that the taking in the wild, under that management program, of any specimen—

(i) will not be detrimental to the survival of the species or sub-species to which that specimen belongs; and

(ii) will be carried out at minimal risk to the continuing role of that species or sub-species in the ecosystems in which it occurs and so as to maintain the species or sub-species in a manner that is not likely to cause irreversible changes to, or long term deleterious effects on, the species, sub-species or its habitat; and

(d) after receiving and considering advice from the Designated Authority—that the management program provides for adequate periodic monitoring and assessment of the effects of the taking of specimens under that management program on the species or sub-species to which those specimens belong, their habitat and such other species or sub-species as are specified in writing by the Designated Authority as likely to be affected by that taking.

(2) In the case of native Australian plants, the Minister shall not declare a management program to be an approved management program, unless he is satisfied, in relation to the management program—

(a) that the requirements set out in paragraphs (1) (a) to (d) (inclusive) have been satisfied; or

(b) that any specimen taken in the wild under the management program is taken under a licence granted under a law of a State or Territory on the satisfaction of requirements substantially equivalent to those set out in paragraphs (1) (c) and (d).

Approved institutions

6. For the purposes of sub-section 11 (2) of the Act, the Designated Authority shall not declare an organization to be an approved institution in relation to a class or classes of specimens unless he is satisfied that the organization is suitably equipped to, and will—

(a) manage, confine and care for; and

(b) where appropriate, house,

live animals or live plants belonging to that class, or those classes, of specimens and will—

(c) maintain adequate records relating to the matters referred to in paragraphs (a) and (b) and to the breeding, mortality, and disposal, of such live animals or live plants; and

(d) produce those records when required to do so by the Designated Authority.

Approved zoological organizations

7. For the purposes of sub-section 12 (2) of the Act, the Designated Authority shall not declare a zoological organization, other than a wildlife authority administered by the Commonwealth or by a State or Territory, to be an approved zoological organization in relation to a class, or classes, of specimens, unless he is satisfied—

(a) that the zoological organization is owned by the Commonwealth, a State or a Territory, or by a government in another country;

(b) that the zoological organization is administered by—

(i) the Commonwealth, a State or a Territory;

(ii) an instrumentality of the Commonwealth, a State or a Territory; or

(iii) a government in, or an instrumentality of a government in, another country; or

(c) that a learned zoological society owns the zoological organization, administers it or controls its administration,

and that—

(d) the breeding or public exhibition of specimens is the major function of the zoological organization;

(e) the zoological organization is a non-profit making and primarily non-commercial organization;

(f) in the case of a zoological organization that is situated in Australia or an external Territory—the zoological organization does not engage in commercial trade in specimens, unless the specimens are—

(i) bred in captivity;

(ii) native Australian animals;

- (iii) specimens specified in Part I of Schedule 2 to the Act that have been taken in accordance with an approved management program; or
- (iv) specimens not specified in Part I of Schedule 1, Part I of Schedule 2, or Part I of Schedule 3, to the Act;
- (g) in the case of a zoological organization that is not situated in Australia or an external Territory—the organization does not engage in commercial trade in specimens that are—
 - (i) native Australian animals; or
 - (ii) specified in Part I of Schedule 1 to the Act, other than specimens that have been bred in captivity; and
- (h) the zoological organization will only import or export a specimen that has been taken in the wild if a specimen that has been bred in captivity cannot be used for breeding or public exhibition.

Breeding in captivity

8. (1) For the purposes of section 14 of the Act, any live animal shall be taken to have been bred in captivity if that live animal was born or otherwise produced—

- (a) where reproduction is sexual—of parents that mated, or otherwise transferred gametes, in a controlled environment as defined in sub-regulation (2); or
- (b) where reproduction is asexual—from an animal that was in a controlled environment as defined in sub-regulation (2) when development of the progeny began,

as part of a program for breeding live animals in captivity that—

- (c) has been established in a manner not detrimental to the survival in the wild of the kind of animal to which that animal belongs;
- (d) is maintained without augmentation from the wild, except for the addition, from time to time, of animals, eggs or gametes of that kind of animal in order to prevent deleterious inbreeding, with the magnitude of such additions being determined by the need for new genetic material and for no other reason; and
- (e) is managed in a manner that has been demonstrated to be capable of reliably producing second generation offspring in a controlled environment as defined in sub-regulation (2).

(2) In this regulation, “controlled environment” means an environment that—

- (a) is intensively manipulated by humans for the purpose of producing the kind of animal to which the animal born, or otherwise produced, in that environment belongs;
- (b) has boundaries designed to prevent the unintended entry, departure, introduction or removal of animals, eggs or gametes of the kind of

animal to which the animal born, or otherwise produced, in that environment belongs; and

- (c) includes facilities such as artificial housing, waste removal, health care, protection from predators and artificially supplied food.

Artificial propagation

9. (1) For the purposes of section 15 of the Act, the following circumstances are declared to be circumstances the propagation in which of any live plant would constitute artificial propagation, namely—

- (a) that the plant was grown by humans from seeds, cuttings, callus tissue, spores or other propagules under controlled conditions as defined in sub-regulation (2); and
- (b) the seeds, cuttings, callus tissue, spores or other propagules from which that plant is grown are—
 - (i) established and maintained in a manner not detrimental to the survival in the wild of the kind of plant to which that plant belongs; and
 - (ii) managed in a manner designed to maintain the breeding stock indefinitely.

(2) In sub-regulation (1), “controlled conditions” means the growing of a live plant in an environment that—

- (a) is intensively manipulated by humans for the purpose of producing the kind of plant to which that plant belongs; and
- (b) includes characteristics such as weed control, irrigation, tillage, fertilization and nursery operations such as potting, bedding and protection from the weather.

Register of scientific organizations

10. (1) For the purposes of sub-section 40 (4) of the Act, the Designated Authority shall not enter in the register maintained under sub-section 40 (1) the name of a scientific organization situated in a State or Territory unless he is satisfied—

- (a) that the acquisition and possession of specimens by the scientific organization is in accordance with the laws of the Commonwealth, or that State or Territory;
- (b) in relation to the acquisition or possession of those specimens by the scientific organization, that—
 - (i) the specimens are acquired by the scientific organization primarily for research purposes;
 - (ii) the preparation of specimens and arrangement of collections by the scientific organization are carried out so as to ensure their utility;

- (iii) the collections of specimens of the scientific organization and the records relating to such collections are permanently housed and professionally curated by the scientific organization;
- (iv) all specimens specified in Part I of Schedule 1 to the Act are centrally housed under the direct control of the scientific organization and are managed so as to prevent their use as decoration or trophies or for other purposes incompatible with the purposes of the Convention;
- (v) all specimens under the control of the scientific organization are accessible to all qualified users, including those from other scientific organizations registered for the purposes of section 41 of the Act;
- (vi) all accessions are recorded by the scientific organization in a catalogue maintained for that purpose;
- (vii) the data on specimen labels and in catalogues and other records are accurate;
- (viii) the results of research carried out by the scientific organization on its specimens are published in recognized scientific publications; and
- (ix) records of loans and donations to, or exchanges with, other institutions are maintained by the scientific organization,

or, in relation to plant specimens not specified in Part I of Schedule 1 or Part I of Schedule 2, to the Act, that the organization is listed in the most recent edition of the book called the "Index Herbariorum", as compiled under the auspices of the International Bureau for Plant Taxonomy and Nomenclature; and

- (c) in relation to the non-commercial loan, donation or exchange of specimens carried out in accordance with an authority given under sub-section 41 (3) of the Act—the scientific organization will take whatever steps are scientifically appropriate to secure the return, in accordance with sub-regulation (3), of any specimen exported by it and subsequently designated as a holotype of a native Australian animal or native Australian plant, not being a specimen that, immediately before its export, was on loan to the organization from outside Australia or an external Territory.

(2) For the purposes of sub-section 40 (4) of the Act, the Designated Authority shall not enter in the register maintained under sub-section 40 (1) of the Act the name of a scientific organization that is not situated in Australia or an external Territory unless he is satisfied that—

- (a) the acquisition and possession of specimens by the scientific organization is in accordance with the laws of the country in which the organization is situated;
- (b) the scientific organization will not export from Australia or an external Territory specimens that are, or are derived from, native

Australian animals or native Australian plants, other than those specified in Part I of Schedule 4 to the Act;

- (c) where the scientific organization is situated in a country that is a party to the Convention—the organization is registered with a relevant authority;
- (d) where the scientific organization is situated in a country that is not a party to the Convention—the organization complies, where applicable, with the requirements set out in paragraph (1) (b); and
- (e) in relation to the non-commercial loan, donation or exchange of specimens carried out in accordance with an authority given under sub-section 41 (3) of the Act—the scientific organization will, where scientifically appropriate, return, in accordance with sub-regulation (3), any specimen obtained by it from Australia, if that specimen is subsequently designated as a holotype of a native Australian animal or a native Australian plant, unless the specimen was obtained from another scientific organization to which it was on loan from outside Australia or an external Territory.

(3) A specimen the return of which is secured in accordance with paragraph (1) (c) or which is returned in accordance with paragraph (2) (e) shall be returned—

- (a) to the scientific organization from which it was obtained; or
- (b) to a museum owned or controlled by the government of the Commonwealth, a State or a Territory.

Definition of “Commonwealth aircraft”

11. For the purposes of the definition of “Commonwealth aircraft” in sub-section 62 (10)—

- (a) the Royal Australian Air Force Ensign; and
- (b) the insignia, being the roundels and flashes described in Schedule 1, are prescribed.

Definition of “Commonwealth ship”

12. For the purposes of the definition of “Commonwealth ship” in sub-section 62 (10), the Australian White Ensign is prescribed.

Evidence of change in possession

13. For the purposes of sub-section 74 (1) of the Act, a record substantially in accordance with Form 1 in Schedule 2 shall be kept of any change in possession of a specimen or item seized under the Act.

Service of notices under the Act

14. For the purposes of paragraph 81 (c) of the Act, a notice under the Act may be served on a person by—

- (a) delivering the notice to him personally; or
- (b) sending the notice by prepaid post addressed to him at his usual or last-known place of residence or business.

Wildlife protection statement

15. (1) A person arriving in Australia or an external Territory shall complete a form substantially in accordance with Form 2 in Schedule 2 or an approved translation of that Form.

(2) For the purposes of sub-regulation (1) an approved translation is a translation made by a person approved by the Minister.

(3) A person shall be taken to have complied with sub-regulation (1) where—

- (a) the substance of Form 2 is contained in a form containing other material; and
- (b) the person is required to complete, and completes, that form.

Fees

16. (1) Subject to sub-regulation (2) the fee specified in Column 3 of Schedule 3 in an item in that Schedule is, in respect of the granting of a permit, or the giving of an authority, referred to in Column 2 of that Schedule in that item in relation to that fee, payable to the Commonwealth on the granting of that permit or the giving of that authority, as the case may be, by the person to whom the permit is granted or the authority is given.

(2) Where—

- (a) an application under section 23 of the Act is made to the Minister for the grant of a permit in relation to a specimen included in a consignment;
- (b) more than one permit is required to permit the exportation or importation of that consignment; and
- (c) the permits so required are granted under section 24 of the Act by the Minister,

the total fee payable in respect of the granting of all of those permits is an amount equal to the greatest of the individual fees that would otherwise be payable in respect of a permit granted in respect of that consignment.

SCHEDULE 1

Regulation 11

DESCRIPTION OF PRESCRIBED INSIGNIA

Roundels

1. Roundels consist of a red "kangaroo in motion" silhouette, imposed on a white inner circle, surrounded by a blue circle. The outside diameter of the white circle is two thirds of the outside diameter of the blue circle. The relative position of the kangaroo silhouette in aircraft roundels is—

- (a) in the case of fuselage roundels—the kangaroo faces towards the front of the aircraft;
- (b) in the case of wing roundels—the kangaroo faces forward with feet pointing inboard; and
- (c) in the case of rotary wing aircraft—the kangaroo silhouette in the roundel on the underneath surface of the fuselage faces forward with the feet pointing to port.

Flashes

2. Flashes consist of rectangles or rhomboids divided into three vertical sections, coloured red, white and blue respectively, which are applied to both sides of the fin or vertical stabilizer of an aircraft. In all cases, the red portion is to the front with the blue to the rear.

SCHEDULE 2

FORM 1

Regulation 13

Wildlife Protection (Regulation of Exports and Imports) Act 1982

**RECORD OF CHANGE IN POSSESSION OF SPECIMENS OR OTHER ITEMS SEIZED
UNDER THE ACT**

1. Description of specimen(s)/other item(s):

2. Date of seizure:

3. Place of seizure:

4. Possession of the above specimen(s)/item(s) is transferred from:

Name	Rank/title	Department and address
------	------------	------------------------

to:

Name	Rank/title	Department and address
------	------------	------------------------

for the following purpose:

Signature.....

Date

5. The above specimen(s)/item(s) were despatched by:

Name	Rank/title	Department and address
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SCHEDULE 2—continued

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Signature.....

Date

I have received the above specimen(s)/item(s) from on

Signature

(Print name)

FORM 2

Regulation 15

COMMONWEALTH OF AUSTRALIA
Wildlife Protection (Regulation of Exports and Imports) Regulations
WILDLIFE PROTECTION STATEMENT

WARNING

- Please read carefully and complete the whole statement
- If you do not understand any question, do not sign the statement
- Translations of the form are available
- Failure to answer the questions correctly may result in severe penalties and loss of goods

Ship/Aircraft Flight No.

Date

Family name (*print*)

Number of persons covered by this statement:

..... Wife/husband

..... Person making statement

..... Children under the age of 18 years

Total

Please indicate by a tick (✓) in the appropriate box whether you have in your possession or in the baggage accompanying you—

plants or parts of plants, live or dead, including fruits, nuts, seeds, bulbs, flowers, mushrooms, straw, bamboo, wooden articles or articles made of plant material

Yes ☐

No ☐

animals or parts of animals (mammals, reptiles, fish, birds or insects, alive or dead, stuffed or mounted)

Yes ☐

No ☐

animal products such as semen, feathers, skins, shells and hatching eggs, and including articles manufactured from wildlife such as turtles, lizards, crocodiles, snakes, elephants, rhinoceri and members of the cat family

Yes ☐

No ☐

biological specimens, including vaccines, cultures and blood

Yes ☐

No ☐

Signature Dated 19

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SCHEDULE 3

Regulation 16

FEES

Column 1 Item	Column 2 Permit or authority	Column 3 Fee
		\$
1	Permit under section 24 of the Act to export a specimen— (a) in the case of a specimen of the family <i>Macropodidae</i> —where the Designated Authority has advised the Minister that he is satisfied that sub-paragraph 31 (c) (iv) of the Act applies in respect of the specimen (b) in any other case concerning native Australian animals or plants—where the Designated Authority has advised the Minister that he is satisfied that sub-paragraph 29 (d) (iv) or (e) (iii) or 31 (b) (ii), (c) (iv) or (d) (iii) of the Act applies in respect of the specimen	26 5
2	Permit for the purposes of an inter-zoological gardens transfer	10
3	Permit for the purposes of prescribed scientific research	10
4	Permit to an approved institution that is neither a prescribed scientific organization nor an approved zoological organization—where the permit is granted in respect of a specimen being a live animal that is not a specimen specified in Schedule 1, 2 or 3 to the Act	50
5	Permit to a prescribed scientific organization or to an approved zoological organization—where the permit is granted in respect of a specimen being a live animal that is not a specimen specified in Schedule 1, 2 or 3 to the Act	10
6	Permit in respect of a specimen being a live animal where— (a) the permit is not granted to a natural person; (b) the permit is not granted to an approved institution, a prescribed scientific organization or an approved zoological organization; and (c) the Designated Authority has advised the Minister that he is satisfied that sub-paragraph 28 (d) (iii), 29 (d) (iii), 31 (b) (i), 36 (c) (iii) or 37 (c) (iii) or (c) (iv) applies in respect of the specimen	50
7	Permit under section 24 of the Act to export a specimen that is a household pet	10
8	Permit to export from Australia or an external Territory a specimen that has been imported into Australia or that Territory, as the case requires— (a) in the case where the permit is granted to a prescribed scientific organization, to an approved zoological organization or to a natural person (b) in any other case	10 40
9	Permit to a natural person in respect of a specimen that is an artificially propagated plant	10
10	Permit in respect of a specimen that is an artificially propagated plant—where the permit is granted to a person other than to a natural person, to an approved zoological organization or to a prescribed scientific organization	14
11	Permit in circumstances in respect of which no other provision is made in this Schedule— (a) in the case where the permit is granted to a natural person, to a prescribed scientific organization or to an approved zoological organization (b) in any other case	10 40
12	Authority under section 41 of the Act	15
13	Authority under section 42 of the Act	14
14	Authority under section 43 of the Act	25

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

1984.

11 April/

Printed by Authority by the Commonwealth Government Printer