

Nature Conservation and Other Legislation Amendment Regulation (No. 1) 2016

Explanatory notes for SL 2016 No. 121

made under the

Nature Conservation Act 1992

State Penalties Enforcement Act 1999

General Outline

Short title

Nature Conservation and Other Legislation Amendment Regulation (No. 1) 2016 (Amendment Regulation)

Authorising law

Section 175 of the *Nature Conservation Act 1992*.

Section 165 of the *State Penalties Enforcement Act 1999*.

Policy objectives and the reasons for them

The policy objective of the Amendment Regulation is to reflect the transfer of the licensing framework for exhibiting and displaying protected wildlife from subordinate legislation under the *Nature Conservation Act 1992* to the *Exhibited Animals Act 2015*. As of 1 July 2016 the *Exhibited Animals Act 2015* is the primary legislative instrument authorising exhibiting and demonstrating activities of protected wildlife.

Achievement of policy objectives

The objective of this Amendment Regulation is to reflect commencement of the framework for exhibiting and dealing with exhibited animals in the *Exhibited Animals Act 2015* by repealing provisions related to exhibitor and demonstrator licences in the *Nature Conservation (Wildlife Management) Regulation 2006*, *Nature Conservation (Estuarine Crocodile) Conservation Plan 2007* and *Nature Conservation (Koala) Conservation Plan 2006*. This amendment regulation also removes offence provisions for exhibitors and demonstrators under the *Nature Conservation (Wildlife Management) Regulation 2006* and *Nature Conservation (Administration) Regulation 2006* through consequential amendments to the *State Penalties Enforcement Regulation 2014*.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the main objectives of the *Nature Conservation Act 1992* which are the protection and maintenance of nature while allowing for its ecologically sustainable use.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation. The proposed amendments are consequential amendments, resulting from commencement of provisions in the *Exhibited Animals Act 2015* on 1 July 2016.

Benefits and costs of implementation

The Amendment Regulation contains amendments that do not increase or decrease the regulatory requirements for Government or the wildlife exhibiting and demonstrating industries.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles, as defined under the *Legislative Standards Act 1992*.

The purpose of the Amendment Regulation is to align regulatory provisions relating to exhibiting and demonstrating protected animals under the *Nature Conservation Act 1992* and the *Exhibited Animals Act 2015*. The *Exhibited Animals Act 2015* will become the primary legislative instrument authorising exhibiting and demonstrating activities of protected wildlife.

The Amendment Regulation has no adverse impact on the rights and liberties of individuals or on the institution of Parliament.

Consultation

The Department of Environment and Heritage Protection (EHP) did not undertake formal public consultation on these proposed amendments. The *Exhibited Animals Act 2015* was subject to a separate Regulatory Impact Statement process undertaken by the Department of Agriculture and Fisheries (DAF). Public consultation on this Amendment Regulation was not necessary as these amendments are a necessary consequence of commencement of provisions in the *Exhibited Animals Act 2015*.

However, EHP did consult with demonstrator and exhibitor licence holders on these amendments as part of a consultation forum chaired by DAF in relation to a consultation draft of the *Exhibited Animals Regulation 2016*.

The Office of Best Practice Regulation, Queensland Productivity Commission has confirmed that the amendments are unlikely to have a significant impact, and for this reason the Regulation is excluded from the Regulatory Impact Statement System.

DAF was consulted during preparation of the Regulation.

Notes on provisions

Clause 1 Short title

This clause states that the subordinate legislation may be cited as the *Nature Conservation and Other Legislation Amendment Regulation (No. 1) 2016*.

Clause 2 Regulation amended

This clause states that the following amendments are to be made to the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2007*.

Clause 3 Amendment of Part 3 (Provisions about particular wildlife authorities for crocodiles)

This clause removes 'wildlife' from the heading of Part 3 of the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2007* to reflect the intent of the provision to cover all authorities issued for crocodiles including exhibitor licences issued under the *Exhibited Animals Act 2015*.

Clause 4 Omission of Part 3, Division 1 (Restriction on grant of wildlife demonstrator licence)

This clause removes Part 3, Division 1 of the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2007* due to the repeal of the wildlife demonstrator licence provisions under the *Nature Conservation (Wildlife Management) Regulation 2006*. Demonstrator licences will be managed under the *Exhibited Animals Act 2015* from 1 July 2016.

Clause 5 Amendment of s34 (Purpose of div 2)

This clause amends the heading of section 34 of the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2007* to remove '2' and insert 'division' as a consequence of Clause 5 and 6.

Clause 6 Amendment of Part 3, Division 3 (Carrying out activities under wildlife authority)

This clause amends the heading of Part 3, Division 3 of the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2007* to replace 'wildlife authority' with 'authorities' to maintain legislative consistency.

Clause 7 Amendment of Part 3, Division 2 and 3 (Limitation on activities authorised under wildlife authorities and Carrying out activities under wildlife authority)

This clause renumbers Part 3, Division 2 and 3 of the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2007* to Part 3, Division 1 and 2 as a consequence of Clause 5.

Clause 8 Amendment of s37 (Particular estuarine crocodiles must be tagged and marked)

This clause amends section 37 of the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2007* to include an exhibited animal authority issued under the *Exhibited Animals Act 2015* in addition to a holder of a wildlife authority. This amendment will ensure activities carried out by authorities issued under the *Exhibited Animals Act 2015* are reflected accurately.

Clause 9 Amendment of Schedule (Dictionary)

This clause amends schedule (Dictionary) of the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2007* to include new definitions of ‘Queensland crocodile licence’ to only define the licence to mean a wildlife farming licence for crocodiles. Previously the definition included wildlife exhibitor licence that will be administered by the *Exhibited Animals Act 2015* from 1 July 2016.

Clause 10 Regulation amended

This clause states that the following amendments are to be made to the *Nature Conservation (Koala) Conservation Plan 2006*.

Clause 11 Amendment of s19 (Restriction on grant of wildlife authorities allowing release of koalas into the wild)

This clause amends section 19 of the *Nature Conservation (Koala) Conservation Plan 2006* to remove reference to ‘wildlife exhibitor licence’ due to the repeal of the wildlife exhibitor licence provisions under the *Nature Conservation (Wildlife Management) Regulation 2006*. Exhibited animal authorities will be issued under the *Exhibited Animals Act 2015* from 1 July 2016.

Clause 12 Amendment of s20 (Restriction on grant of wildlife exhibitor licence or rehabilitation permit allowing release of koalas into the wild)

This clause amends the heading of section 20 of the *Nature Conservation (Koala) Conservation Plan 2006* to remove ‘wildlife exhibitor licence or’ due to the repeal of the wildlife exhibitor licence provisions under the *Nature Conservation (Wildlife Management) Regulation 2006*.

The clause also amends section 20(1) and (2) of the *Nature Conservation (Koala) Conservation Plan 2006* to omit from ‘wildlife exhibitor’ to ‘or permit’ and insert ‘rehabilitation permit authorising the holder of the permit’ to accurately reflect the repeal of the wildlife exhibitor licence provisions under the *Nature Conservation (Wildlife Management) Regulation 2006*. The amendment will provide for the provision to retain the restrictions of the chief executive when dealing with rehabilitation permits. Exhibited animal authorities will be issued under the *Exhibited Animals Act 2015* from 1 July 2016.

Clause 13 Regulation amended

This clause states that the following amendments are to be made to the *Nature Conservation (Wildlife Management) Regulation 2006*.

Clause 14 Amendment of s30 (Persons to whom holders may sell or give wildlife)

This clause amends section 30(2)(b) of the *Nature Conservation (Wildlife Management) Regulation 2006* to allow the holder of a wildlife authority to sell or give wildlife to a person who is an exhibitor animal authority holder authorised under the *Exhibited Animals Act 2015*. In this provision, ‘the Act’ is deemed to be the *Nature Conservation Act 1992*. This maintains consistency with requirements in effect before commencement of provisions of the *Exhibited Animals Act 2015*.

Clause 15 Amendment of s31 (Persons from whom holders may buy or accept wildlife)

This clause amends section 31(2) of the *Nature Conservation (Wildlife Management) Regulation 2006* to allow the holder of a wildlife authority to buy or accept wildlife from person who is an exhibitor animal authority holder authorised under the *Exhibited Animals Act 2015*. In this provision, ‘the Act’ is deemed to be the *Nature Conservation Act 1992*. This maintains consistency with requirements in effect before commencement of provisions of the *Exhibited Animals Act 2015*.

Clause 16 Amendment of s72 (Restriction about activities for which licence may be granted)

This clause amends section 72 of the *Nature Conservation (Wildlife Management) Regulation 2006* to have consideration of an ‘exhibited animal authority’ issued under the *Exhibited Animals Act 2015* as a more appropriate licence type for the interaction activity as decided by the chief executive.

Clause 17 Insertion of new Chapter 3, Part 5, Division 4 (Exhibited animal authority)

This clause inserts a new section 240A and section 240B into the *Nature Conservation (Wildlife Management) Regulation 2006* under Chapter 3, Part 5, Division 4 to provide for the chief executive to give notice regarding sampling and implanting to the holder of an exhibited animal authority issued under the *Exhibited Animals Act 2015*. A notice issued under section 240A may require the holder to take a sample tissue and supply to an approved scientific institution; or either insert an approved electromagnetic implant and provide the identification code or provide the identification code where the implant has been completed as required under the *Exhibited Animals Act 2015*. A notice under section 240B provides how an exhibited animal authority holder complies with section 240A after an animal’s death. Penalty infringement offences will be applied to the new sections consistent with section 32 and section 33 that applies to identical activities.

Clause 18 Amendment of s337 (Record of identification of person selling or giving away protected, international or prohibited wildlife)

This clause amends section 337(1)(a)(ii) and (b)(iii) of the *Nature Conservation (Wildlife Management) Regulation 2006* to ensure that, when buying or accepting protected, international or prohibited wildlife, a holder of a wildlife authority inspects and records the licence details of a seller who holds an exhibited animal authority issued under the *Exhibited Animals Act 2015*.

Clause 19 Amendment of s338 (Record of identification of person buying or accepting)

This clause amends section 338(1)(a)(ii) and (b)(iii) of the *Nature Conservation (Wildlife Management) Regulation 2006* to ensure that, when selling or giving away protected, international or prohibited wildlife, a holder of a wildlife authority inspects and records the licence details of a buyer who holds an exhibited animal authority issued under the *Exhibited Animals Act 2015*. This maintains consistency with requirements in effect before commencement of provisions of the *Exhibited Animals Act 2015*.

Clause 20 Amendment of Schedule 5 (Dictionary)

This clause amends schedule 5 (Dictionary) of the *Nature Conservation (Wildlife Management) Regulation 2006* to include new definitions of ‘exhibited animals authority’ and ‘Exhibited Animals Act 2015’ to coincide with the commencement of the *Exhibited Animals Act 2015*.

Clause 21 Regulation amended

This clause states that the following amendments are to be made to the *State Penalties Enforcement Regulation 2014*.

Clause 22 Amendment of Schedule 1 (Infringement notice offences and fines for nominated laws)

This clause amends Schedule 1 of the *State Penalties Enforcement Regulation 2014* to omit the infringement notice offence for section 126 of the *Nature Conservation (Administration) Regulation 2006*. The amendments are a consequence of the repeal of the wildlife exhibitor and demonstrator licence provisions under the *Nature Conservation (Wildlife Management) Regulation 2006* as these licences will be issued and managed under the *Exhibited Animals Act 2015* from 1 July 2016.

This clause also amends Schedule 1 of the *State Penalties Enforcement Regulation 2014* to omit a number of infringement notice offences under *Nature Conservation (Wildlife Management) Regulation 2006*. The amendment will delete the infringement notice offences and fines (penalty unit) identified in the table below. The amendments are a consequence of the repeal of the wildlife demonstrator and exhibitor licence provisions under the *Nature Conservation (Wildlife Management) Regulation 2006* as these licences will be issued and managed under the *Exhibited Animals Act 2015* from 1 July 2016.

Column 1 – Infringement notice offence	Column 2 – Infringement notice fine (penalty unit)
section 128(1)	5

section 129(2)	3
section 129(3)	3
section 130(1)	3
section 130(4)	3
section 131	3
section 132	3
section 133(1)	3
section 134(1)	4
section 135(1)	4
section 143(1)	3
section 143(4)	3
section 144	3
section 145	3
section 146(1)	4
section 147(5)	3
section 148(2)	1
section 149(2)	1
section 149 (4)	1
section 150(1)	4
section 151(1)	4

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This clause also amends Schedule 1 of the *State Penalties Enforcement Regulation 2014* to insert two infringement notice offences under *Nature Conservation (Wildlife Management) Regulation 2006*. The new infringement notice offences apply to new section 240A and section 240B as provided for in Clause 17 dealing with sampled or implanted protected animals.