

# Information You Need To Know

## Specialist Permit to Keep and Sell Protected Animals (Fauna Dealer) (Class 2)

### as per Schedule 1 of the *National Parks and Wildlife (Wildlife) Regulations 2019*

The Specialist Permit to Keep and Sell Protected Animals (Fauna Dealer) (Class 2), as set out in Schedule 1 of the *National Parks and Wildlife (Wildlife) Regulations 2019*, is granted pursuant to section 58 of the *National Parks and Wildlife Act 1972* (the Act) and subject to the Act and the Regulations and Proclamations made under the Act.

The permit entitles the holder in the course of carrying on a business of dealing in protected animals to which the permit relates to keep and sell—

- (a) protected animals of the species listed in Schedule 6 of the *National Parks and Wildlife (Wildlife) Regulations 2019*; and
- (b) specialist animals identified in the permit by reference to their species or other class to which they belong.

Under the Act, a protected animal is:

- a) any mammal, bird or reptile indigenous to Australia; or
- b) any migratory mammal, bird or reptile that periodically or occasionally migrates to, and lives in, Australia; or
- c) any animal of a species referred to in Schedule 7, 8 or 9; or
- d) any animal of a species declared by regulation to be a species of protected animals, but is not any of the animals referred to in Schedule 10 of the Act or any animals declared by regulation to be unprotected.

In addition to the limitations, restrictions and conditions included in the permit, the permit holder must also comply with the legislative and regulatory provisions which relate to the permit. A summary of the relevant provisions relating to the Specialist Permit to Keep and Sell Protected Animals (Fauna Dealer) (Class 2), as described in Schedule 1 of the *National Parks and Wildlife (Wildlife) Regulations 2019*, is set out below. The legislation and regulations can be viewed in their entirety at [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au)

### ***National Parks and Wildlife Act 1972***

#### **Keeping and sale of protected animals (section 58)**

Under section 58 of the Act, unless you are authorised by a permit granted under section 58, it is a criminal offence to:

- keep more than one animal that is a protected animal of a prescribed species ( these are the basic species listed in Schedule 6 of the *National Parks and Wildlife (Wildlife) Regulations 2019*); and

- keep a protected animal of any other species (all other protected animals that are not listed in Schedule 6 or Schedule 7 of the *National Parks and Wildlife (Wildlife) Regulations 2019*; and)
- sell or give away a protected animal or the carcass or eggs or a protected animal.

A permit granted under section 58 of the Act does not apply to animals that have been taken or brought into South Australia illegally.

If you have been granted a permit under section 58 of the Act, you must provide the Minister with the information that is required by the *National Parks and Wildlife (Wildlife) Regulations 2019*.

### **Movement of protected animals into or out of South Australia (section 59)**

Pursuant to section 59 of the Act, unless acting under a permit granted under section 59, it is a criminal offence to export out of South Australia, or import into South Australia a protected animal or the carcass or egg of a protected animal.

### **Illegal possession of animals etc (section 60)**

Under section 60 of the Act, you must not have in your possession or control an animal, the carcass of an animal or an egg, that has been illegally taken or acquired. This includes animals illegally taken or acquired outside of South Australia.

### **Permits (section 69(3))**

A permit granted under the Act is subject to the limitations, restrictions and conditions included in the permit. If you fail to comply with any limitation, restriction or condition of your permit then your permit can be revoked.

### **Obligation to produce permit (section 70)**

If you are requested by a warden (appointed under the Act) to produce your permit for inspection then you must do so as soon as practicable after the request was made. Failure to comply with this request is a criminal offence.

### **Failure to comply (section 70A)**

If you, or a person acting with your authority, contravenes or fails to comply with a limitation, restriction, condition or provision of your permit then you are guilty of an offence.

### **False or misleading statement (section 72)**

It is a criminal offence to make, or cause to be made, a false or misleading statement in an application, return or other document required under the Act.

### **Additional penalty (section 74)**

If you are convicted of an offence against the Act involving any unlawful act in relation to animals and the court is satisfied that more than one animal was involved in the offence, the court must impose a fine, based on the number of animals involved in the commission of the offence. This fine is in addition to the penalty that may be imposed under the relevant section of the Act the offence was committed against.

Important note: a breach of the *National Parks and Wildlife Act 1972* may incur an expiation fee. You may also be liable to criminal prosecution, and if found guilty of an offence, convicted and fined. The maximum penalties and expiation fees which may be imposed for an offence against the Act, are provided in the relevant section of the Act which can be viewed at [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au)

## ***National Parks and Wildlife (Wildlife) Regulations 2019***

### **Information relating to certain section 58 or 60C permits to be kept in record book (regulation 8)**

You will be supplied with a record book by the Director. You must keep a record of the following information in the record book:

- a. the species of animals or eggs, and the number of animals or eggs of each species, acquired or disposed of pursuant to the permit;
- b. the date and method of acquisition or disposal (including the permit number of any import or export permit used in that acquisition or disposal);
- c. the name and address of, and the number of the permit (if any) held by, the person from whom the animals or eggs were acquired or to whom the animals or eggs were disposed;
- d. the species of animals, and the number of individuals of each species, born to animals kept pursuant to the permit, together with the dates on which the births occurred (and, in the case of a Retain Protected Animals Unfit for Release permit, if any such additional animals were not at the time of birth authorised to be held or disposed of under the permit, the authority under which the animals so born are now held, or were disposed of, by the person);
- e. the species of animals, and the number of individuals of each species, that have died or escaped while being kept pursuant to the permit;
- f. (all other information (if any) that the person is required under the regulations to include in a return.

### **Where record book is to be kept (regulation 10)**

You must keep your record book in a safe and secure place at the premises at which you keep your animals. If you keep animals at more than one premises, you must keep a separate record book at each premises.

### **Record book for section 58 class 2 permit to be provided to Director (regulation 11)**

You must provide your record book or copy of the record book to the Director within 14 days after 30 September, 31 December, 31 March and 30 June in each year.

### **Entries to be made in record book or return within 48 hours (regulation 16)**

You must ensure that you record every transaction or event that occurs in relation to the animals within 48 hours after the occurrence of the transaction or event.

### **Notification of loss of record books or copies of returns (regulation 17)**

If you lose or damage your record book or copy of your return you must notify the Director within 7 days after becoming aware of the loss or damage.

### **Record books and copies of returns to be produced for inspection at request of warden (regulation 18)**

You (or a person who has custody or control of your books or returns as agent) must, if requested by a warden, produce the book or copies for inspection by the warden.

### **Record books, return books etc to be returned to Director or provided to court (regulation 19)**

If you no longer hold a permit or you have completed your record book, you must return your record book to the Director within 14 days.

**Notification of change of address or name (regulation 20)**

If you change your address or name during the period that your permit remains in force you must, within 14 days after changing your address or name—

(a) notify the Director in writing of the change; and

(b) provide documentary evidence to the satisfaction of the Director of the new address or change of name.

**Exemption from Division (regulation 21)**

The Director may exempt a person from compliance with any provision of Division 1 of the Wildlife Regulations (Records, returns, reports etc) other than regulation 6, 7 or 20.

**Director to supply record books, returns etc (regulation 22)**

The Director must supply you with the record book, return book or individual return form.

If you lose your record book or required additional record books you may be required to pay a fee for the supply of each additional book.

**Record books, return books and returns in electronic form (regulation 23)**

You are required to record information in a record book and return form. If the Director authorises that the record book or return can be maintained in electronic form or provided to the Director by means of an electronic communication then you may do so. The electronic record book and return form must be kept in a safe and secure place at the premises specified in your permit and be readily accessible.

**Form of applications, notifications etc (regulation 24)**

If you make an application to the Director for an approval, authorisation or exemption, or a waiver, under the regulations then it must be made in the manner and form approved by the Director and include the information required by the Director.

Where, under the regulations, you are required to give notice or provide information to the Director then this must be provided in writing and signed by you.

**Requirement for signature (regulation 25)**

Where you are required to sign a document (e.g. record, return, notification, etc) that is provided in electronic form by the Director then the requirement to sign will be satisfied if an electronic signature (or other method approved by the Director) is used to identify you as the person providing the document.

**Approvals, exemptions etc by Director and wardens (regulation 26)**

If a warden grants you an approval subject to a limitation, restriction or condition then you (or a person acting in the employment or with your authority) must not contravene or fail to comply with the limitation, restriction or condition.

If you are granted a permission or other authority by the Director, it is an offence under section 70A(1) of the Act if you (or a person acting in the employment or with the authority of the holder) fail to comply with any limitation, restriction, condition or provision of that permission or other authority.

**Sell or gift only to permit holder (regulation 27)**

You must not sell or give a protected animal or the egg of a protected animal to a person who is required by the Act to hold such a permit if they do not hold the required permit.

A person may be entitled under the Act to keep a protected animal, or have possession or control of an egg of a protected animal, without a permit if (for example) the number of animals or eggs does not exceed a number permitted under the Act.

Note: a permit is not required to keep or sell exempt protected animals (those protected animals listed in Schedule 7 of the regulations). A permit is not required to keep 1 basic protected animal (a protected animal listed in Schedule 6 of the regulations). However a Class 9 Sell Protected Animal permit is required to sell that 1 basic protected animal.

**Purchase or receipt as gift only permit holder (regulation 28)**

You must not purchase or receive as a gift a protected animal or the carcass or egg of a protected animal, from a person unless they hold the required permit or have an additional written authorisation from the Director (as a condition of the permit) for the sale or gift.

You must not sell or give a protected animal or the carcass or egg of a protected animal unless you have produced your permit (or any other document you are required to hold) for inspection.

**Advertisement for sale of protected animal to include permit number (regulation 29)**

If you advertise your protected animal for sale then you must state in the advertisement your permit number that authorises the sale.

**Sale of juvenile animals (regulation 30)**

You must not sell a protected animal (or an unprotected animal) if in the case of a bird the bird is too young to fly or to feed itself; or in the case of a mammal the mammal is unweaned.

**Premises from which protected animals may be sold under section 58 permit (regulation 31)**

You must only sell a protected animal from the premises specified in your permit. Any sale of protected animals from additional premises requires the Director's approval prior to the sale taking place.

**Prohibition on carrying on business of dealing in protected animals except under section 58 class 2 permit (regulation 32)**

You must not carry on a business of dealing in protected animals (other than protected animals of an exempt species) unless you hold a Class 2 Fauna Dealer permit granted pursuant to section 58 of the Act.

**Restrictions on carrying on business of dealing in protected animals under section 58 class 2 permit (regulation 33)**

You must only carry on a business of dealing in protected animals at premises approved the Director (and identified in the permit). You will be taken to carry on a business of dealing in protected animals at all premises at which you keep those protected animals.

A prescribed fee is payable for each additional premises identified in the permit.

You must display at all premises where you carry on a business of dealing in protected animals a certificate that states you are a dealer and holder of a class 2 permit. The certificate must be signed by or on behalf of the Director.

You must not, except with the approval of the Director or a warden, sell a protected animal to which the permit relates unless the animal has been in your possession for at least 7 days. The Director may exempt you from this requirement. Note: this may occur under special circumstances. Each request is considered on a case by case basis.

### **Prevention of escape and facilitation of inspection of protected animals (regulation 37)**

You must keep your protected animal(s) in a cage or enclosure that is adequate in size and is constructed, located and maintained so as to prevent the animal from escaping, enable the cage or enclosure to be secured against unauthorised access and to facilitate the inspection of the animal by a warden under the Act.

You must also ensure that the cage or enclosure in which an animal that is dangerous or constitutes a biological hazard is kept is securely locked or otherwise secured to prevent unauthorised access, except when you are present.

**Note-** It is an offence under section 13 of the *Animal Welfare Act 1985* for a person to ill-treat an animal. Under that section, ill treatment includes intentionally, unreasonably or recklessly causing the animal unnecessary harm and, in the case of the owner of the animal, includes failing to provide it with appropriate and adequate food, water, living conditions or exercise.

### **Hybridization (regulation 38)**

You must not, except with the approval of the Director, permit a protected animal to mate with an animal of another species or sub-species if conception and production of live offspring may result from the union.

### **Construction and labelling of containers for transportation of protected animals, carcasses or eggs (regulation 39)**

If you transport a protected animal or egg of a protected animal from one location to another location then the container, cage or package you use must be designed, constructed and maintained to withstand the transportation process.

| Transport container, cage or package | Requirement  |
|--------------------------------------|--|
| For an animal                        | <ul style="list-style-type: none"><li>• The container, cage or package must</li><li>• protect the animal against injury and against other animals likely to injure or kill it; and</li><li>• prevent the animal from escaping; and</li><li>• resist unauthorised interference with the animal; and</li><li>• allow adequate airflow.</li></ul> |

There is also a requirement to label the transport container, cage or package with information.

| Transport of protected animals, carcasses or eggs   | Label requirement   |
|---|---|
| Transported by the permit holder or a person authorised by the permit holder (other than a third party carrier) | <ul style="list-style-type: none"> <li>the number of the permit; and</li> <li>such other information as the Director may require.</li> </ul>  |
| Transported by a third party carrier  | <ul style="list-style-type: none"> <li>the name and residential or business address of the owner of the animal; and</li> <li>if the owner is the permit holder—the number of the permit; and</li> <li>the common name of the type of animal that is being transported and the number of such animals; and</li> <li>such other information as the Director may require.</li> </ul>   |
| If the animal is dangerous, or if the animal constitutes a biological hazard                                    | <ul style="list-style-type: none"> <li>the name and residential or business address of the owner of the animal; and</li> <li>if the owner is the permit holder—the number of the permit; and</li> <li>the common name of the type of animal that is being transported and the number of such animals;</li> <li>a statement that the animal is dangerous or constitutes a biological hazard; and</li> <li>such other information as the Director may require.</li> </ul> |

The label information must be clearly displayed on the outside of the cage, container or package (whether by means of a securely attached label or otherwise) and in a position and manner that allows it to easily be read.

If the protected animal is transported to a destination outside of the State of South Australia then the Export Permit (or copy) meets the requirements of a label.

### **Importing and exporting protected animals, carcasses or eggs (regulations 41 and 42)**

#### *Importing*

If you import a protected animal or the carcass or egg of a protected animal into South Australia then you must not sell, give or otherwise dispose of the animal, carcass or egg for at least 6 months after importation (except with the approval of the Director or a warden).

#### *Exporting*

The Export Permit (or copy) must be securely attached in a conspicuous position to the cage, container or package containing the protected animal or the carcass or egg to be exported.

The driver of a vehicle transporting the protected animal must not knowingly transport for export the protected animal unless the Export Permit (or copy) is securely attached in a conspicuous position to the cage, container or package containing the protected animal.

### **Permit not to be used by another (regulation 45)**

You must not allow your permit to be used by any other person.

Important note: a breach of the *National Parks and Wildlife (Wildlife) Regulations 2019* may incur an expiation fee of \$160 or maximum penalty of \$1250.

### ***Animal Welfare Act 1985***

The care of all animals must comply with the *Animal Welfare Act 1985*.

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