

Australian Capital Territory

Nature Conservation (Licensing of non-exempt animals) Conservator Guidelines 2021

Notifiable instrument NI2021–434

made under the

Nature Conservation Act, s 23 (Conservator—Guidelines)

1 Name of instrument

This instrument is the *Nature Conservation (Licensing of non-exempt animals) Conservator Guidelines 2021*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conservator guidelines for licensing non-exempt animals

I make the conservator guidelines at schedule 1 for licensing non-exempt animals in the ACT.

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Conservator of Flora and Fauna
14 July 2021

Schedule 1

(refer to Section 3)

Conservator guidelines - Licensing of non-exempt animals under the *Nature Conservation Act 2014*

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1. INTRODUCTION

1.1. Background

These guidelines have been developed to provide greater certainty for persons wishing to apply for a Nature Conservation licence to keep an animal in the Australian Capital Territory. When deciding an application for a licence to keep a non-exempt animal (see Box 1 below), the Conservator of Flora and Fauna (the Conservator) must ensure that any decision made is consistent with implementing these guidelines.

These guidelines replace the ACT Reptile Policy which was developed under the *Nature Conservation Act 1980* (repealed).

Readers of these guidelines are encouraged to refer directly to the [Nature Conservation Act 2014](#) (NC Act) as the source of legal obligations, functions and duties, including offences.

Box 1 Statutory protection of animals

For the purposes of these guidelines, 'Animal' means a member, dead or alive, of the animal kingdom and includes a part of an animal (such as skin, feathers, horns, shell, egg yolk), animal reproductive material but does not include:

- i a human, or
- ii a fish unless the fish has special protection status or is a protected native species, or
- iii an invertebrate unless the invertebrate has special protection status or is a protected native species

All native animals in the ACT are protected under the Act, except for declared pest animals. It is an offence to kill, harm, endanger, take from the wild or keep these animals.

The Conservator has declared several species of native and exotic animals to be exempt animals in the [Nature Conservation \(Exempt Animals\) Declaration 2019](#) (Exempt Animal Declaration). These animals include widely kept domestic species such as dogs, cats, livestock, some commonly kept fish and birds along with five native reptile species and the tadpoles and juveniles of three native amphibians. Even though keeping these animals does not require a licence, it is still an offence to take them from the wild.

Any animal not listed in the Exempt Animal Declaration is known as a non-exempt animal, and a Nature Conservation licence is required to import, keep, sell, export or release these species. Licensing these species is one of the ways the ACT Government protects animal welfare and prevents wild and captive bred animals from entering the illegal wildlife trade.

1.2. Purpose

The purpose of these guidelines is to:

- inform decisions by the Conservator to issue licences under the NC Act for any activity involving non-exempt animals, including keeping, selling, import, export or placing on public display
- assist understanding by proponents about requirements for a Nature Conservation licence to keep, import, export, sell or display non-exempt animals under the NC Act
- ensure that a consistent approach is applied to the assessment of all licence applications.

1.3. Objective

The objective of these guidelines is to provide guidance for licensing so that public safety is protected, conservation risks are minimised, and the welfare requirements of captive animals are met.

1.4. Scope

These guidelines apply to all applications to keep, import, export, sell and display non-exempt animals except:

- applications for activities authorised by an animal ethics committee constituted under the [Animal Welfare Act 1992](#) (the Animal Welfare Act)
- activities of zoos that operate from a fixed site within the NC ACT holding accreditation as a Regional Member by the Zoo Aquarium Association Australasia Board
- holders of existing Nature Conservation licences that authorise activities contrary to these Guidelines
- government agencies or statutory authorities
- applications to take from the wild, kill, injure, endanger animals or destroy nests.

1.5. Categories of Nature Conservation licences for keeping animals

For administrative and fee purposes Nature Conservation licences for animals are grouped into five categories:

1. **Keep non-exempt animal** – includes keeping for non-commercial, commercial and wildlife rehabilitation purposes.
2. **Keep non-exempt animal for public display**
3. **Import non-exempt animal** – includes importing into the ACT for non-commercial and commercial purposes.
4. **Export non-exempt animal** - includes exporting from the ACT for non-commercial and commercial purposes.
5. **Sell non-exempt animal.** – including barter, exchange, offering for sale and possessing for sale.

1.6. Definitions

Unless otherwise stated, all terms have the same meaning as in the NC Act and the [Nature Conservation Regulation 2015](#) (NC Regulation).

2. LICENSING GUIDELINES BY CATEGORY

2.1. Keep non-exempt animals

It is an offence under section 133 of the NC Act to keep a non-exempt animal without a licence to do so. Non-exempt animals may be considered suitable for private keeping, provided the Conservator is satisfied that:

- they are readily sourced from captive-bred populations
- their basic welfare needs are known and can be managed in a captive environment
- the risks to human safety are negligible.

2.1.1. Animals prohibited from keeping

There are some animal species such as endangered native wildlife, native mammals and venomous snakes, which may not be kept as pets. Endangered species, native mammals and some exotic species require higher standards of care than most domestic pets, and it is difficult to adequately provide for them. In many cases they require specialised husbandry and facilities to mimic their natural environment and meet their physiological and ecological requirements. Keeping these animals as pets may pose risks to:

- animal welfare;
- human health and safety; and/or
- biodiversity and the environment.

Due to risks to the animal and potential risk to the environment and/or the public, no licence will be issued or amended to authorise the keeping of the following non-exempt species:

- alligators, crocodiles and gharials (*Crocodylidae*, *Alligatoridae*, *Gavialis* species)
- sea turtles (*Cheloniidae* and *Dermochelyidae* species)
- sea snakes and krait (*Hydrophiidae* and *Laticaudidae* species)
- venomous snakes
- non-native (exotic) reptiles
- native mammals
- non-native (exotic) mammals other than ferrets (*Mustela putorius furo*)
- the following birds:
 - Tawny Frogmouth (*Podargus strigoides*)
 - owls (native and non-native)
 - kookaburras (*Dacelo* species)
 - ratites (e.g. cassowaries and emus)
 - raptors (birds of prey)
 - crows, ravens, magpies, etc (*Corvidae* species)
- exotic amphibians except for axolotls (*Ambystoma mexicanum*)
- Collie's Snake-necked Turtle (*Chelodina colliei*)
- Steindachner's Snake-necked Turtle (*Chelodina steindachneri*)
- Saw-shelled Turtle (*Wollumbinia latisternum*)
- Tree Dtella (*Gehyra variegata*)
- Canberra Grassland Earless Dragon (*Tympanocryptis lineata*)
- non-local subspecies of Eastern Water Dragon (*Intellagama lesueurii lesueurii*).

Except for venomous snakes the above prohibitions do not apply to animal rehabilitation and release organisations such as ACT Wildlife Incorporated.

2.1.2. Licence to keep an animal assessment criteria

Applications to keep non-exempt animals will be considered by the Conservator against the following criteria:

- the conservation status of the animal in the wild
- evidence that the animal has been sourced from a captive-bred population and has not been obtained in breach of any State or Territory legislation
- for reptiles, the risk associated with keeping the reptile according to the “*Technical Report 31: risk assessment for the importation of native reptiles into the ACT*”¹
- whether the animal poses an unacceptable danger to the keeper or the general public
- the effect any escaped or released individuals of the species may have on existing species, ecosystems or residents in the ACT
- welfare needs of the animal, including:
 - the suitability of the housing facilities to be provided relating to the adult size of the animal and its ability to escape from an enclosure
- the suitability of the location at which the animal will be kept
- the suitability of the applicant, including experience/expertise/qualifications of the applicant in relation to the husbandry (care) requirements of the animal. Applicants may nominate referees or be interviewed by a conservation officer to demonstrate the necessary knowledge.

Box 2 Animal Welfare Act considerations

In addition to a Nature Conservation licence to keep a non-exempt animal, a separate licence under the Animal Welfare Act may be required for the keeping of any animal for research, teaching or breeding purposes. Schedule 2 of the [Animal Welfare Regulation 2001](#) specifies which animals used for teaching in schools are exempted from a licence under the Animal Welfare Act.

2.1.3. Licenses to keep wildlife for rehabilitation and release purposes

The Conservator will only issue a licence to keep non-exempt native animals for the purpose of rehabilitation and release to incorporated associations that possess appropriate facilities, skill, knowledge and experience to provide care to sick and injured local wildlife. Non-exempt animals may not be kept permanently in rehabilitation and any animal assessed as being unsuitable for release must be euthanised as soon as possible.

Box 3 Dealing with injured wildlife

A Nature Conservation licence is not required to take a diseased, ill or injured animal from the wild for the purposes of giving the animal to a conservation officer, a veterinary surgeon or someone licensed to accept the animal such as ACT Wildlife. The animal must be handed over as soon as possible and, in any case, cannot be kept for more than 48 hours. Injured kangaroos, wombats and snakes are dangerous and should not be approached or handled. Injured kangaroos and wombats must be reported to Access Canberra on 132 281. Licensed snake relocators can remove dangerous reptiles from buildings and yards for a fee.

¹ Osborne, W. & Evans, M., 2015. *Risk assessment for the importation of native reptiles into the ACT*, Canberra: Conservation Planning and Research, ACT Government.

Incorporated wildlife rehabilitation associations must demonstrate that necessary hygiene, safety and welfare standards can be met and that appropriate treatment for an animal's injuries, disease or illness can be provided or sought.

A licence will not be issued for the rehabilitation of venomous reptiles.

2.1.4. Additional assessment criteria for wildlife rehabilitation and release purposes

When assessing an application to keep a non-exempt animal for rehabilitation and release purposes the Conservator must consider all the following:

- any relevant Controlled Native Species Management Plan
- whether the animal poses a danger to the keeper or the general public
- the adult size of the animal
- the captive diet
- its ability to escape from an enclosure
- the expertise/qualifications of the applicant in relation to the husbandry (care) requirements of the animal. This experience must be supported by evidence of previous keeping. Applicants may nominate referees or be interviewed by a conservation officer to demonstrate the necessary knowledge
- the suitability of the housing facilities to be provided
- the suitability of the location at which the animal will be kept
- the effect any escaped or released individuals of the species may have on existing species, ecosystems or residents in the ACT.

2.1.5. Licence to keep animal parts

A licence is required to keep any animal, or parts of an animal, if that animal is not listed in the Exempt Animals Declaration. This includes keeping, selling or importing animal parts for taxidermy, and using animal parts for art or craft purposes. Applications in relation to elephant tusk or rhinoceros' horn will be assessed against their CITES status.

Box 4 Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES)

CITES is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. Roughly 5,800 species of animals and 30,000 species of plants are protected by CITES against over-exploitation through international trade. Species are grouped according to how threatened they are by international trade. Further information about CITES is available here: <https://www.cites.org/eng>.

2.1.5.1. Licence to keep animal parts or taxidermy specimens

Professional and amateur taxidermists need a licence to keep non-exempt animal specimens. A licence to keep is also required by anyone who keeps preserved specimens of non-exempt animals or animal parts (like eggs, claws or bones).

Applications to take dead native animals from the wild will not be approved. Applicants must provide evidence that any dead non-exempt animal or animal part was held under a licence whilst alive and bred and raised in captivity.

For threatened species or birds of prey (such as eagles or owls), a taxidermist licence will only be issued for scientific or educational uses, for example, to keep at a school or other educational facility or by a museum. A licence may not be issued to a private person, or to a non-educational facility, to possess a specimen of a bird of prey or a threatened species, unless the applicant can demonstrate there is a legitimate and worthwhile public scientific or educational reason for possessing the specimen.

Taxidermy specimens may only be sold or traded to appropriately licensed persons.

2.1.5.2. Licence to keep non-exempt animal parts to make and sell animal-based art or crafts

A licence is required to use non-exempt or wild native animals or their parts to make jewellery, handicrafts or artwork that may be sold or displayed. This includes both native and non-native animals. For threatened species or birds of prey (such as eagles or owls), a licence will not be issued. Applications to take dead native animals from the wild will not be approved.

2.1.6. Licence to farm a native animal species

A licence is required to farm non-exempt or native animals, such as emus for their meat, skin, oil, eggs and feathers. A licence to farm an animal listed as prohibited under an instrument of the [Pest Plants and Animals Act 2005](#) will not be considered.

All animals used for commercial farming must be derived from farm-reared or captive stock.

The Conservator must be satisfied that the welfare needs of the farmed animals will be met, including:

- the suitability of the location at which the animal will be kept, including any enclosures and fencing
- the expertise/qualifications of the applicant in relation to the husbandry (care) requirements of the animal;
- knowledge of, and compliance with, the relevant codes of practice under the Animal Welfare Act.

Applicants may nominate referees or be interviewed by a conservation officer to demonstrate the necessary knowledge.

2.1.7. Animal keeper licence terms

A licence to keep non-exempt animals for non-commercial purposes will be issued for a maximum period of three (3) years from date of issue, to ensure the ongoing welfare of animals.

The term of:

- a) a taxidermy licence for non-exempt animals
- b) a licence to make or sell art or crafts from non-exempt animal parts
- c) a licence to farm native animals

will be assessed using a risk-based approach. Licences for low-risk activities may be issued for a period of up to five years from date of issuing. Licences for activities assessed as medium- or high-risk may be issued for periods between one and three years.

2.2. Keep non-exempt animal for public display

The keeping of non-exempt animals for public display, e.g. a travelling zoo or circus, requires a nature conservation licence issued by the Conservator under the Act. Note that specific animal welfare legislation also applies (see Box 5 below).

Box 5 Animal welfare legislation requirements for circus and travelling zoo

Keeping animals for the purposes of a “travelling zoo” or “circus” requires a permit under the Animal Welfare Act, whether or not they are exempt animals under the exempt animals’ declaration. A permit under the Animal Welfare Act will not be granted for “prohibited animals”, including bear, elephant, giraffe, primate (other than a human), feline (other than a domestic cat), or any other animal prescribed by regulation.

2.2.1. Consideration of animals for public exhibition

An interstate Nature Conservation licence application (e.g. New South Wales) to import, export or exhibit non-exempt animals for public display will only be considered from accredited or certified members of the Australian Zoo and Aquarium Association.

The following animals will not be considered for import, export or exhibiting at a circus or travelling zoo (except for existing ACT zoological licence holders):

- native reptile species assessed as high-risk in *Technical Report 31: risk assessment for the importation of native reptiles into the ACT*
- threatened native species
- alligators, crocodiles and gharials (*Crocodylidae*, *Aalligatoridae*, *Gavialis* species)
- sea turtles (*Cheloniidae* and *Dermochelyidae* species)
- sea snakes and krait (*Hydrophiidae* and *Laticaudidae* species)
- venomous snakes
- non-native (exotic) reptiles
- non-exempt mammals (both native and exotic) except for ferrets (*Mustela putorius furo*)
- ratites (e.g. cassowaries and emus)
- raptors (birds of prey)
- exotic amphibians except for axolotls (*Ambystoma mexicanum*)

A circus or travelling zoo does not require a Nature Conservation licence to import, export or exhibit an animal on the exempt species list.

2.2.2. Public display licence assessment

When assessing an application to keep, import or export a non-exempt animal for the purposes of public display, the Conservator must consider all of the following:

- the conservation status of the animal in the wild
- evidence that the animal has been sourced from a captive bred population and has not been obtained in breach of any State or Territory legislation
- whether the animal poses a danger to the keeper or the general public
- welfare needs of the animal including:
 - the suitability of the housing facilities to be provided relating to the adult size of the animal and its ability to escape from an enclosure
 - the suitability of the location at which the animal will be kept

- dietary and water requirements
- quarantine requirements
- reproductive management
- euthanasia (including the appropriate method of euthanasia)
- capture, handling and restraint (including any written procedures that will be used, equipment and facilities available)
- transportation
- the suitability of staff members, including expertise/qualifications of the staff in relation to the husbandry (care) requirements of the animal. Applicants may nominate referees or be interviewed by a conservation officer to demonstrate the necessary knowledge
- the effect any escaped or released individuals of the species may have on existing species, ecosystems or residents in the ACT
- a risk management plan in accordance with AS/NZS ISO 3100:2018 risk management guidelines.

Box 6 ISO 31000 Risk management guidelines

ISO 31000:2018, Risk management – Guidelines, provides a process for managing risk. Using the guidelines improves the identification of threats and the resources necessary to treat them.

2.2.3. Additional requirements for public display licences

Applicants who wish to import animals into the ACT must be able to provide details of the relevant State or Territory authority under which the animals were previously held, and of the authority to export.

Section 11 of the NC Regulation further prescribes that licences authorising the keeping of an animal for public display are subject to the condition that the licensee must comply with a risk management plan approved by the Conservator for the licence.

Any animals kept for public display must be kept according to the proposed Australian standards and guidelines for exhibited animals (<https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/exhibit/standards,-guidelines-and-policies>), or any of its subsequent ratified documents.

2.2.4. Public display licence term

Public display licences will be issued for a maximum term of 1 year.

2.3. Import non-exempt animals

A licence is required to import a non-exempt animal into the ACT from another Australian State or Territory.

Box 7 Commonwealth import requirements

Australia is an active signatory of CITES, and the importation of wildlife from overseas is strictly controlled under the [Environment Protection and Biodiversity Conservation Act 1999](#) (EPBC Act). Importation of animals from outside Australia will usually require a permit from the Commonwealth Department of Agriculture, Water and the Environment under the EPBC Act.

2.3.1. Import licence assessment criteria

When assessing an application to import a non-exempt animal the Conservator must consider all of the following:

- the conservation status of the animal in the wild;
- evidence that the animal has been sourced from a captive bred population and has not been obtained in breach of any State or Territory legislation;
- whether the animal poses a danger to the keeper or the general public;
- welfare needs of the animal;
- the effect any escaped or released individuals of the species may have on existing species, ecosystems or residents in the ACT;
- method of transportation and transport enclosure;
- Relevant knowledge, skills and experience of the person seeking to import the animal.
- a risk management plan in accordance with AS/NZS ISO 3100:2018 risk management guidelines.

2.3.2. Import licence term

Licences to import non-exempt animals for non-commercial purposes are issued for a maximum period of 3 months, and commercial import licences are issued for a period of 1 year.

2.4. Export non-exempt animals

A licence is required to export a non-exempt animal from the ACT to another Australian State or Territory.

Box 8 Commonwealth export requirements

Australia is an active signatory of CITES, and the export of wildlife is strictly controlled under the EPBC Act. Exportation of animals outside Australia will usually require a permit from the Commonwealth Department of Agriculture, Water and the Environment under the EPBC Act.

2.4.1. Export licence assessment criteria

When assessing an application to export a non-exempt animal the Conservator must consider all of the following:

- the conservation status of the animal in the wild
- evidence that the animal has been sourced from a captive bred population and has not been obtained in breach of any State or Territory legislation
- whether the animal poses a danger to the keeper or the general public
- welfare needs of the animal
- relevant knowledge, skills and experience of the person seeking to export the animal
- method of transportation and transport enclosure.

2.4.2. Export licence term

A licence to export an animal from the ACT will only be issued for a maximum period of 3 months.

2.5. Sell non-exempt animals

A Nature Conservation licence is also required to sell non-exempt animals. Selling includes:

- sell by wholesale, retail, auction or tender
- barter or exchange
- supply for profit or other commercial gain
- offer for sale, receive for sale or expose for sale
- have in possession for sale.

Box 9 Code of Practice for the Sale of Animals in the ACT

A mandatory code of practice for the sale of animals under the Animal Welfare Act applies to the sale of all animals other than stock animals or commercial scale poultry. The Code of Practice contains strict requirements for enclosures, nutrition, safety and hygiene. Any sellers should familiarise themselves with the Code which is available for viewing here - <https://www.legislation.act.gov.au/di/2013-223/>.

2.5.1. Licence to sell assessment criteria

In addition to adhering to the licence terms and conditions, sale of non-exempt animals must meet the following criteria:

- non-exempt animals may only be kept at the location specified on the licence
- evidence of the licence to sell must be provided to potential buyers and listed in any advertisement
- non-exempt animals may only be sold to another holder of an appropriate Nature Conservation licence (e.g. the buyer must hold a licence to keep the specific type of animal)
- the welfare needs of the animal for sale must be met, including:
 - the suitability of the transport of the animal to the place where it will be sold.

2.5.2. Licence to sell term

The term of a licence to sell non-exempt animals is fixed at 1 year.