

ANIMAL WELFARE ACT
(CAP. 439)

The Keeping of Wild Animals in Zoos Regulations, 2020

IN exercise of the powers conferred by article 8 (1) of the Animal Welfare Act, the Minister for Agriculture, Fisheries and Animal Rights has made the following regulations:-

1. (1) The title of these regulations is the 'Keeping of Wild Animals in Zoos Regulations, 2020

Citation, scope and commencement.

(2) The objectives of these regulations are; to protect wild fauna and to conserve biodiversity by providing for the adoption of licensing, registration and inspection of zoos on the territory of Malta in order to strengthen the role of zoos in the conservation of biodiversity; to protect the health and well being of animals and to protect the public from these animals.

(3) The scope of these regulations is to incorporate the provisions found under European Union Council Directive 1999/22/EC relating to the keeping of wild animals in zoos previously implemented by Legal Notice 265 of 2003, which is being repealed by this enactment.

(4) These regulations shall apply to animals found or intended to be kept in licensed zoos.

(5) These regulations shall come into force on the date of publication.

Definitions and interpretation.

2. (1) For the purposes of these regulations and unless the context otherwise requires, the following definitions shall apply:

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- a) "Act" shall refer to the Animal Welfare Act;
- b) "animal" means all living members of the animal kingdom,

- c) "dangerous animal" means any species of animal deemed dangerous by the Director whether because it may cause injury or damage to humans and/or other animals or otherwise, as published from time to time on the government gazette as per SL 439.19 (Owning and Keeping of Dangerous animals Regulations)
- d) "Director" means the Director responsible for Veterinary Services or an officer nominated by him;
- e) "enclosure" means any confined space within which an animal is to be kept in terms of these regulations;
- f) "zoo-keeper" means a person authorized by the Director to keep animals in a zoo and who is the responsible person of the animals within that zoo.
- g) "Malta" means the island of Malta and all of its constitutive islands;
- h) "register" means the the National Dangerous Animal Register.
- i) "Veterinary Services" includes, to the extent of the authority given, any person or authority authorised by the Director to act in that behalf for the purposes of these regulations;
- j) 'Veterinarian' means any veterinary surgeon, warranted in Malta, designated by the zookeeper as responsible for the zoo;
- k) 'Zoos' means all permanent establishments where animals of wild species are kept for exhibition to the public other than for the purposes of a circus, with the exception of petshops and establishments which the Veterinary Services exempts from the requirements of these regulations on the grounds that they do not exhibit a significant number of animals or species to the public and that the exemption will not jeopardise the objectives of these regulations.

L.N. 265 of 2003.

(2) Unless the context otherwise requires, words and phrases used in these regulations which are not defined herein shall have the same meaning assigned to them in article 2 of the Act.

3. (1) No dangerous animal shall be exhibited in a zoo before it is registered in the Register and the required written approval is given by the Director in terms of this regulation.

Application for registration as a zoo-keeper.

(2) Any person who intends to open a zoo may do so only when all the requirements in these regulations are adhered to, the site is licenced and registered and a written approval is issued by the Director.

(3) If animals are already found in the intended location of the zoo, then any dangerous animals must be registered under the register after the Director would have confirmed that the housing is adequate for that animal.

(4) Applicants shall submit to the Director all the details required in the application available on government portal, including:

- a) non-reversible means of identification of the animals;
- b) appropriateness of the site and enclosure for the animals;
- c) the measures to be taken by the applicant to secure the safety and well-being of the animal and the general public;
- d) any other proof or document as the Director may from time to time require.

(5) The non-reversible means of identification shall be in the form of a tattoo, intra-capsular device that complies with iso-standard 11784 or Annex A iso-standard 11785 or a DNA profile depending on which method is best suited to the animal or any other means that the Director may deem appropriate when deemed necessary by the Director. The Director shall require the DNA test as compulsory for the species indicated in the Schedule B of S.L.439.19.

(6) The Director shall within 8 weeks from the application decide whether the applicant fulfills the requirements set out in these regulations.¹

(7) The Director may refuse an application for the license of a zoo or for the introduction of an animal into a zoo for any reason he deems valid in the interest animal health or animal welfare and the safety of the general public.

¹ Provided that this sub-regulation shall come into force within 3 months from the coming into force of these Regulations.

(8) No person shall deliberately release or attempt to release an animal falling within the ambit of these regulations into the environment or otherwise dispose of any such animal in his possession.

(9) The Director may only uphold an application where he is satisfied that the site and enclosures:

a) are in accordance with the animal's physiological and behavioural needs and that space allocation is sufficient for the specific needs of the animals, in particular movements and exercise.

b) are equipped with appropriate enclosure enrichment and with specific facilities according to the animal's needs and social behaviour and

c) are equipped with appropriate climatic conditions.

(10) The Director may only uphold an application for a zoo where he is satisfied that the applicant :

a) is sufficiently knowledgeable as to the proper organisation and running of the establishment and in the proper handling of animals and be able to satisfy their physiological and behavioural needs during their entire keeping.

b) has sufficient knowledge regarding the conditions to prevent any animal from escaping and putting in place measures to be taken in the event of any escape, keeping in mind the aggressiveness of any animal and to possible risk for human safety and health.

c) is able to fulfill the requirements of these regulations and any other applicable laws or regulations as well as any conditions which may be imposed upon him.

d) has not been found guilty, at any time, of any offence involving the ill-treatment of animals.

(11) The Director may uphold an application for the introduction of any animal/s into a licensed zoo where he is satisfied that the applicant is sufficiently knowledgeable as to the animal/s basic physiological and behavioural needs, their care, handling, welfare and safety requirements relative to the particular animal/s.

(12) Upon upholding an application for registration of a zoo or for the keeping of an animal therein, the Director may impose any conditions he deems fit on the authorized zoo-keeper with regards to the animal/s and any other relevant matters.

(13) Any offspring of any animal which is found in a zoo, in terms of these regulations, shall be notified to the Director within one week from birth through written communication sent by registered mail or email with receipt of delivery.

(14) The offspring has to be registered according to these regulations within four weeks of birth.

The eventual deaths of offspring shall be communicated through an official email within three working days to the Director, who shall carry out an inspection to verify this.

(15) The offspring of any animal not deemed as dangerous may be transferred to any other appropriate zoo or any licensed private collection once the appropriate transfer forms are filled and authorisation granted by the Director.

Appropriateness of enclosure.

4. (1) All animals kept in terms of these regulations shall be kept in an adequate and safe enclosure that respects the animals' requirements including in terms of health, cleanliness, micro-climate and space necessary for such animals' well being.

(2) All sites and enclosures designated to accommodate or form part of a zoo shall have all the necessary permits as may be required from any governmental or national authority, and shall remain in compliance with all the relative conditions.

(3) The proposed enclosure shall be inspected and approved by the Director who shall, in particular, ascertain its appropriateness with regard to size, comfort and safety with reference to the species of the animal kept within it, with due reference to any permitted breeding.

(4) The enclosures housing the animals shall be built of sturdy and durable material in a manner that limits the possibility of harm to any animal as well as the possibility of escape.

(5) Enclosures may, depending on the animal being or intending to be housed within them, be required by the Director:

- a) to have an ante-room with a separate door made of material which is strong and durable. Each door must be easily lockable for the animal's custodian to lock and unlock it with ease, as required, without permitting the animal to unlock the same.
- b) to comprise a restraining system for the restraining of the animal for the necessary period of time to access the enclosure for feeding, cleaning, the administration of medication or otherwise.

(6) The Director may require enclosures to be monitored by closed circuit television systems (CCTV) for twenty four hours a day, seven days a week with recordings for the previous three months remaining available for production upon request by the Director in a manner consistent with the requirement to ascertain the health conditions and behavior of the animal.

(7) Enclosures shall have sufficient artificial lighting. This shall be used only upon purpose of verifying the wellbeing of the animal/s.

(8) The zoo keeper will be responsible for the health and welfare of the animals under his care. For this reason, animals or cubs can only be exposed to or handled by the public with the scope of petting or taking pictures or any other interaction, under the responsibility of the veterinarian responsible for the zoo to ensure that this does not compromise the normal mother/cub relationship or compromise the psychological integrity of the animal and the safety of the public.

(9) An animal kept in terms of these regulations shall not leave the enclosure housing it except in such cases deemed necessary and with the prior written approval of the Director.

Responsibility
for the animal.

5. (1) A zoo-keeper in terms of these regulations shall be solely and fully responsible for all the animals and for any matter relating to the health and safety of the animal and the general public.

(2) The zoo-keeper shall ascertain that no individual shall come into direct physical contact with any dangerous animal kept in a zoo, except when that individual is

- a) a trained professional employee or contractor of the zoo;
- b) a warranted veterinarian or a veterinary student accompanying the veterinarian;
- c) an individual directly supporting a conservation program of the zoo

Dangerous
animals.

6. (1) The Director may deem any animal to be a dangerous animal.

(2) From the date of publication of this law, a dangerous animal shall only be kept in a zoo. No other dangerous animal shall be allowed apart those already registered in term of the Owning and Keeping of Dangerous Animals Regulations, SL 439.19

(3) The list of dangerous animals shall be found on the schedule of SL439.19.

(4) All dangerous animals in a zoo shall be neutered within six (6) months from the date of publication of these regulations unless an exemption is obtained from the Director in terms of Regulation 7(2) below. The Director shall issue guidelines detailing the conditions for exemption.

(5) Any animal which is deemed dangerous may be transferred to another licenced zoo. Where no other licensed zoo is able to take in such an animal, the Director may seek the assistance of a licensed keeper as approved in accordance with the Owning and Keeping of Dangerous Animals Regulations. or confiscate that animal and dispose of it in the manner he deems most appropriately.

Requirements
applicable to
animals.

7. The Director shall take all measures under these regulations to ensure that all zoos implement all the conditions and conservation measures provided by these regulations and in particular:

- a) Participating in research from which conservation benefits accrue to the species, and/or training in relevant conservation skills, and or the exchange of information relating to species conservation, repopulation or reintroduction of species into the wild;
- b) No captive breeding is allowed. An exemption may be issued in writing by the Director, following the evaluation of the conditions of the zoo and upon a recommendation by the veterinarian responsible for the zoo and the application is made on grounds of species conservation or any collaboration with an approved research facility.
- c) Promoting public education and awareness in relation to the conservation of biodiversity, particularly by providing information about the species exhibited and their natural habitats,
- d) accommodating their animals under conditions which aim to satisfy the biological and conservation requirements of the individual species, *inter alia*, by providing species appropriate enrichment of the enclosures; and maintaining a high standard of animal husbandry with a programme of preventative and curative veterinary care and nutrition developed by a warranted veterinary surgeon;
- e) The veterinarian responsible for the zoo, will also carry out the eventual risk assessment related to overpopulation.
- f) Preventing the escape of animals in order to avoid possible ecological threats to indigenous species and preventing intrusion of outside pests and vermin.
- g) Keeping up to date records of the zoos collection appropriate to the species recorded.
- h) The records shall be transmitted once a year to the Director, before the expiry date of the licence.
- i) All dangerous animals kept in a zoo have to be individually licenced and identified as dangerous into the Register

Licensing and
inspection.

8. (1) The Director, shall adopt measures for licensing and inspection of existing and new zoos in order to ensure that the requirements of regulation 7 are met.

(2) Every zoo shall have a license before they are open to the public.

(3) Regular inspections by the Director to verify that the conditions are being adhered to shall be made at least once a year. Before granting, refusing, extending the period of, or significantly amending a license, an inspection by the Director shall be carried out in order to determine whether or not the licensing conditions or proposed licensing conditions are met.

(4) If the zoo is not licensed in accordance with these regulations or the licensing conditions are not met, the zoo or part thereof-

(a) shall be closed to the public by the Director with the aid of the Police.

And, or

(b) shall comply with appropriate requirements imposed by the Director to ensure that the licensing conditions are met.

(5) Should these requirements not be complied with within an appropriate period to be determined within one year, the Director shall close the zoo or part thereof and dispose of the animals as he may deem appropriate. The Police shall assist the Director in the operations of closure and confiscation. In case of confiscation, the premises shall be kept under responsibility of the Police.

(6) In the event of a zoo or part thereof being closed, the Veterinary Services shall ensure that the animals concerned are treated or disposed of under conditions granted by this same Director and consistent with the purposes and provisions of these regulations.

Keeping of
substances and
instruments.

9. (1) A zoo-keeper authorized to keep animal/s in terms of these regulations may be required to keep particular substances, instruments or both substances and instruments deemed necessary to ensure the safety of the animal and of the general public.

(2) A zoo-keeper in terms of these regulations, may, when necessary, be required to keep a tranquilizer gun and / or any other appropriate instrument or device on the site where the animal is kept. Such device or instrument shall only be used in case of extreme necessity when the animal is out of control or is subjecting a human to danger.

(3) Any substance available to a zoo-keeper in terms of this regulation shall:

- a) be procured by leave from the Director through submission by the keeper of the form prescribed in application form and;
- b) be replenished by leave from the Director as necessary following a renewed notification by the keeper.

Provided that the Director may refuse authorisation for the keeping of any substances by any keeper and shall keep a record in the register established by regulation 8 of the type and quantity of the substance kept and used by keepers and of any reason for refusing to authorize the keeping of any substance by any particular keeper.

(4) Zoo-keepers shall immediately inform the Director of;

- a) any use made of any substance held by them;
- b) the quantity in which the same substance is used, and;
- c) the time, place and reason why the substance was used.

Provided that the Director shall have the right to access records kept by the keeper in terms of regulation 9.

Provided that the Director shall not authorize the replenishment of any used amounts of any substance unless satisfied of the necessity that required the use thereof and the necessity to replenish the same.

(5) Zoo-keepers required keeping a tranquilizer gun and / or any other appropriate instrument or device in terms of these regulations shall comply with all relevant laws and regulations relating to such instruments.

10. (1) The Director shall keep an appropriate Register of all licenced zoos and shall keep the list of all the dangerous animals therein in the National Dangerous Animal Register.

National Dangerous
Animal Register.

(2) A person authorized to keep animal/s in terms of these regulations shall be registered as a zoo-keeper in the register and the site designated for the animal/s shall be registered as a licensed zoo.

3) The register shall indicate:

- a) the name, surname, identity card number and place of residence of the keeper;
- b) the number and species of animals authorized to be kept by the zoo-keeper;
- c) the non-reversible means of identification of the animal as required by the application form, regulation 3(4)(a) and regulation 3(5);
- d) the full address of the zoo where the animals are kept;
- e) the batch number and quantity of any substance notified to the Director for keeping by the zoo-keeper in terms of regulation 7 or the reasons related to the proviso to sub-regulation 7 (3);
- f) details on the use of substances kept by the keeper in terms of regulation 7 and the quantities in which such substances are used;
- g) any other information as the Director may from time to time require.
- h) The full register of the animals kept in the zoo premises and where appropriate the identification number.

(3) The Director reserves the right to communicate data contained in the register to any other local or international authority or entity as may be required.

(4) Prior to any transfer of any animal from the registered zoo-keeper onto a third person or entity, the transfer shall be communicated to the Director who shall approve the transfer or otherwise in terms of these regulations.

Cap. 440. (5) Notwithstanding anything contained in the Data Protection Act, no prior warning shall be given to the persons whose name and other details appear in the register regarding the use or processes to which the data contained in the register shall be subjected.

Record keeping. **11.** A registered zoo-keeper who is subject to these regulations shall keep records in the zoo relating to the animals . Such records shall include:

- a) The origin of the animals including the name, address and contact details of the person or entity from which the animal was acquired;
- b) The animals' medical history including veterinary prescriptions relative to the same;
- c) Any births, deaths, disposals and escapes of animals;
- d) Causes of any such deaths;
- e) Any document related to the animals' importation or transfer; and
- f) The Director may issue guidelines on the keeping of these records mentioned above.

12. (1) An animal which is kept or present on a site without the Director's authorization in terms of these regulations, may be placed under the authority of the Director and may be relocated to a suitable destination. This may be even outside the country, and will be carried out by the person responsible for the animal's introduction onto the site in collaboration with the Director, who shall ensure the smooth return of the animal.

Return of an animal lacking necessary authorisation.

(2) The Director may seize the animal and may dispose of including the sale or public auction.

(3) All expenses relating to the process in this sub regulation shall be solely borne by the person responsible for the animal's introduction onto the site.

(4) The Director shall in no case be responsible for anything that may happen to the animal which is being relocated or disposed of during its relocation or its disposal.

13. (1) The Director shall have the authority to enter without prior notification any registered private establishment or licensed zoo or any site where there is a suspicion that animals are being kept without the required authorisations.

Director's authority to inspect.

(2) The Director's authority to inspect extends to any enclosure, equipment, substances and registers with a view of ascertaining the proper keeping, health and welfare of any animal as well as the proper administration of substances and equipment and compliance with these and any other applicable regulations or conditions imposed on the keeper.

(3) Where the Director has reason to believe that he may be hindered in his right of entry for the purpose of inspection, he shall request and obtain the assistance of the police.

14. (1) The Director shall serve an enforcement notice on any keeper when satisfied of the occurrence of any matter established in sub-regulation (2):

Enforcement
notice.

(2) An enforcement notice shall be served on any keeper who:

- a) is keeping an animal in an inappropriate manner which is inconsistent with these regulations, its safety or welfare or the safety or welfare of the general public;
- b) is keeping an animal in an enclosure which fails to fulfill the requirements imposed on the keeper by these regulations;
- c) has otherwise breached these regulations, any other applicable laws or regulations or any condition imposed upon him.

(3) An enforcement notice shall require the keeper to:

- a) conform to these or any other laws or regulations within sixteen days or a period which the Director may decide;
- b) conform with any condition imposed upon him by the Director within sixteen days or a period which the Director may decide;
- c) carry out such works or take such steps as the Director may deem necessary and appropriate to remedy or prevent the continuation or repetition of any breach to which the enforcement relates within sixteen days or a period which the Director may decide, or;
- d) relinquish his authorisation as a keeper in terms of these regulations.

(4) An enforcement notice shall:

- a) state the period of time within which the keeper is to comply with the order contained therein;

- b) inform the keeper of the right of appeal under these regulations.

Provided that the period of time within which the keeper is to comply with an order contained in an enforcement notice shall be reasonable depending on the circumstances.

(5) The Director may at any time:

- a) withdraw the enforcement notice;
- b) extend the period for compliance with any requirement contained in the enforcement notice;
- c) modify the enforcement notice.

15. (1) Keepers authorised to keep animals by virtue of these regulations shall inform the Director through written communication sent by registered mail or email with receipt of delivery immediately upon the occurrence of any of the following circumstances:

Notification of escape or death.

- a) the escape of the animal;
- b) the demise of the animal.

(2) Disposal of the animal's carcass shall be carried out in line with Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption.

(3) In the interest of public safety and national security, any escape shall be immediately reported by the keeper to the competent authorities.

16. (1) Decisions of the Director in terms of these regulations shall be subject to a right of appeal to the Administrative Review Tribunal established by article 5 (1) of the Administrative Justice Act.

Right of appeal.

(2) An appeal in terms of this regulation shall be filed within twenty days from the notification of the Director's decision.

Provided that the Director's decision shall become immediately applicable and enforceable and shall remain applicable throughout the term of appeal until final judgment by the Administrative Review Tribunal and shall remain applicable unless it is overturned by the Tribunal or withdrawn by the Director.

(3) The provisions of the Code of Organisation and Civil Procedure regarding the right to appeal shall, *mutatis mutandis*, be applicable to these regulations. Cap. 16.

Insurance. **17.** All registered keepers and licensed zoos are obliged to have an insurance coverage as a safeguard for any potential loss or damage that the animal may cause in particular to third parties, before any zoo licence can be issued.

Applicability of other laws. **18.** (1) The provisions of these regulations shall in no way be interpreted as to limit, substitute or exclude the applicability of any other laws or regulations including those relating to trade, movement or importation of animals and the holding of substances or arms.

Cap. 9. (2) The provisions of article 23 and 30 (1) of the Criminal Code shall, *mutatis mutandis*, apply to proceedings in respect of offences against these regulations.

(3) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Courts of Magistrates (Gozo) as the case may be and shall be held in accordance with the provisions of the Criminal Code regulating procedure before the said courts as courts of criminal jurisdiction.

(4) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgment given by the Court of Magistrates.

Power of Minister to make regulations. **19.** The Minister may, from time to time by regulation provide for any additional provision or requirement with regards to the keeping of an animal and shall, in particular, be authorized to make provision

for the holding of examinations aimed at ascertaining an applicant's knowledge of a particular animal's welfare and safety requirements prior to authorising an applicant to keep any animal.

20. Any person who contravenes or acts in violation of these regulations shall on conviction be guilty of an offence and shall be liable to the penalties established in the Act.

Offences and penalties.

21. These regulations are repealing legal notice 265 of 2003 in its entirety.