The Owning and Keeping of Animals Regulations, 2015

IN exercise of the powers conferred by article 8 (1) of the Animal Welfare Act, the Minister for Sustainable Development, the Environment and Climate Change has made the following regulations:

1. (1) The title of these regulations is the Owning and Keeping of Animals Regulations, 2015.

(2) These regulations lay down the procedures for the registration as keeper and the proper keeping of animals in Malta.

(3) These regulations shall not apply to:

   a) The housing or keeping of animals, in pet shops (excluding dangerous animals), and;

   b) The housing and keeping of food-producing animals registered or licensed with the Veterinary Regulation Directorate in terms of the Prevention of Diseases Ordinance and the Veterinary Services Act.

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

2. (1) For the purposes of these regulations and unless the context otherwise requires, the following definitions shall apply:
a) "Act" shall refer to the Animal Welfare Act;
b) "animal" means all living members of the animal kingdom, other than human beings, with the exception of domestic equines and those animals defined as a 'pet animal' in Regulation (EU) No. 576/2013 of the European Parliament and of the Council of June 12, 2013 other than those animals deemed as dangerous by the Director;
c) "dangerous animal" means any species of animal deemed dangerous by the Director whether because it may cause injury or damage to humans or otherwise;
d) "Director" means the Director responsible for Veterinary Regulation and includes, to the extent of the authority given, any person or authority authorised by him to act on his behalf for any of the purposes of these regulations;
e) "domestic equines" means all equines with the exception of zebras;
f) "enclosure" means any confined space within which an animal is to be kept in terms of these regulations;
g) "keeper" means a person or entity authorised by the Director to keep an animal in terms of regulation 3;
h) "Malta" means the island of Malta and all of its constitutive islands;
i) "register" means the National Animals Register which shall be kept by the Director;
j) "site" means an area or place where an animal is housed or kept according to these regulations;
k) "venom" means a secretion produced by the animal which if introduced into another body, whether by contact, inhalation, ingestion or otherwise, would alter the normal physiological characteristics of that body;
l) "venomous animal" means an animal which possesses the ability to produce venom;
m) "Veterinary Services Department" 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;
n) "zoo" shall have the same meaning assigned to it in the Keeping of Wild Animals in Zoos Regulations.
(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) An animal shall not be brought into a site before the required written approval is given by the Director in terms of this regulation.

(2) Any person who intends to be a keeper of an animal shall apply to the Director for registration as a keeper through submission of the form established in Schedule A.

(3) Any person who at the time of publication of these regulations is already in possession of an animal shall apply to the Director through submission of the form established in Schedule A within ninety days from the publication of these regulations.

(4) Applicants shall submit to the Director all the details required by the form prescribed in Schedule A including:

   a) non-reversible means of identification of the animal proposed for keeping;
   b) proof of the appropriateness of the site and enclosure proposed for the keeping of the animal;
   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.

(6) Upon submission of the application form prescribed in Schedule A, the applicant shall pay a fee of twenty five euro (€ 25) per animal to be registered. The fee shall:

   a) be levied annually and;
   b) be revised from time to time by the Director.
(7) The Director shall within 8 weeks from the application decide whether the applicant fulfills the requirements set out in these regulations.¹

(8) The Director may refuse any application for any reason he deems valid in the interest of the animal's own safety and well-being as well as the safety of the general public.

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

(10) The Director may only uphold an application for the keeping of an animal where he is satisfied that the applicant is sufficiently knowledgeable as to the basic care, handling, welfare and safety requirements relative to the particular animal and 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.

(11) Upon upholding an application for registration as a keeper of an animal the Director may impose any conditions he deems fit on the authorized keeper with regards to the animal and any other relevant matters.

(12) When an animal becomes pregnant or produces a clutch of eggs its keeper shall notify the Director immediately of such event.

(13) Any offspring of any animal kept by a keeper 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.

¹ Provided that this sub-regulation shall come into force within 3 months from the coming into force of these Regulations.
The offsprings have to be registered according to these regulations within three weeks of birth.

4. (1) An animal kept in terms of these regulations shall be kept in an adequate and safe enclosure that respects the animal's requirements including in terms of health, cleanliness and microclimate necessary for such animal's well being.

(2) 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 intended to be kept within it.

(3) The enclosure intended to house the animal shall be built of sturdy and durable material in a manner that limits the possibility of harm to the animal or by the animal as well as the possibility of escape.

(4) Enclosures may, depending on the animal intended 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 enough to contain the particular animal and withstand its strength. 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, even accidentally; A mechanism must be put in place whereby the door will close automatically behind him.

   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.

(5) 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.
(6) Enclosures shall have sufficient artificial lighting to locate the animal without difficulty, including at night, without affecting the animal's circadian rhythm, hibernation or general well-being.

(7) 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.

5. A keeper of an animal in terms of these regulations shall be solely and fully responsible for the animal and for any matter relating to the health and safety of the animal and the general public.

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

(2) A dangerous animal shall only be kept in a zoo.

(3) A dangerous animal shall be identified as such in a notice published by the Director in the Government Gazette.

7. (1) A keeper authorised to keep an animal 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 keeper of a venomous animal shall be required to have the antidote for the particular venom produced by the animal in the quantities that would be necessary to reverse the venom's effects.

(3) A keeper of any animal in terms of these regulations, whether venomous or otherwise, may, when necessary, be required to keep a tranquilizer gun and / or any other appropriate weapon, regard being had to the particular animal, on the site where the animal is kept. Such an arm shall only be used in case of extreme necessity when the animal is out of control or is subjecting a human to danger.
(4) Any substance available to a 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 Schedule B 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.

(5) 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.

(6) Keepers required to keep a tranquilizer gun and / or any other appropriate weapon in terms of these regulations shall comply to all relevant laws and regulations relating to such instruments.

8. (1) Any person authorised to keep an animal in terms of these regulations shall be registered as a keeper in the register.

(2) The register shall indicate:

a) the name, surname, identity card number and place of residence of the keeper;
b) the species of animal authorised to be kept by the keeper;
c) the non-reversible means of identification of the animal as required by Schedule A, regulation 3(4)(a) and regulation 3(5);
d) the full address of the site where at the animal is kept;
e) the batch number and quantity of any substance notified to the Director for keeping by the keeper in terms of regulation 7 or the reasons related to the proviso to sub-regulation 7 (4);
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.

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

(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.

9. A registered keeper of an animal subject to these regulations shall keep records relating to the particular animal on the site wherein the animal is located. Such records shall include:

a) The origin of the animal including the name, address and contact details of the person or entity from which the animal was acquired;
b) The animal's medical history including a list of medication currently administered to it and the veterinary's prescription relative to the same;
c) Any document related to the animal’s importation or transfer; and
d) Any use of tranquilizer or venom antidote that is made by the keeper, the quantity of substance used, the date when such substance was used and the reasons why.

10. (1) An animal which is kept or present on a site without the Director's authorisation in terms of these regulations shall be immediately returned to its place of origin, even if it had to be outside the country, by the person responsible for its introduction onto the site in collaboration with the Director who shall ensure the smooth return of the animal.

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

11. (1) Any Director specified in the Act shall have the authority to enter any site within which an animal is kept in order to inspect the same.

(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.

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

(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 used or misused any substance or arm in a manner which is inappropriate or inconsistent with these regulations or unreasonably, unnecessarily and intentionally harmful to the animal;
d) 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 and proceed to return the animal to its country of origin in terms of regulation 10.

(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.

13. (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:

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


14. (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.

(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.

15. Registered keepers shall obtain insurance coverage with a reputable insurance agency to a minimum amount of
as a safeguard for any potential loss or damage that the animal may cause in particular to third parties.

16. (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.

(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 they 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 judicature.

(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.

17. 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.

18. 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.
SCHEDULE A
Application for Registration as Keeper
Regulation 3

1. Date of application: __________________

2. Applicant's name: __________________

3. Applicant's identity card number: ________________

4. Applicant's residential address: __________________

5. Address proposed for keeping of the animal:

________________________________________________

6. Species and non-reversible means of identification of the animal:

________________________________________________

7. Plans and details relative to the enclosure within which the animal is to be kept (please attach separate sheets - please include evidence of installation of CCTV equipment covering the enclosure as well as lighting available within and around the enclosure).

8. Measures to be taken to secure the safety and well-being of the animal and the general public (please attach separate statement).

9. Proof of knowledge of the requirements for the keeping and rearing of the animal (please attach proof of any training or certification available).

10. Please indicate whether in your opinion your keeping of the animal will require you to keep any substances (sedatives, venom antidotes etc) and any instruments such as a tranquilizer gun and / or any other appropriate weapon.

Payable Fee: EUR 25.00
SCHEDULE B
Notification of the Keeping of Substances and/or Instruments
Regulation 7

1. Date: _______________________

2. Notifier's name: _______________________

3. Notifier's identity card number: _______________________

4. Notifier's residential address: _______________________

5. Species of animal:
_______________________________________________

6. Non-reversible means of identification of the animal:
_______________________________________________

7. List of substances:
_______________________________________________

8. Proposed substance suppliers:
_______________________________________________