

# 9 Zoo and Circus Animals

## 9.1 Summary

Under the transitional arrangements in the HSNO Act animals at existing registered zoos and circuses are deemed to be new organisms under the Act and the registrations are deemed to be approvals to import into containment. The approvals are then subject to the condition that the animals remain at the place of registration, and to the relevant controls in the Zoological Gardens Regulations 1977 carried forward as part of the transitional provisions.

A number of issues have been identified as necessary to complete the transition to the HSNO regime for animals in zoos and circuses that are new organisms.

It is proposed that the HSNO Act be amended to achieve this. These proposed amendments include giving ERMA the discretion to apply, on a case-by-case basis, containment controls and any other controls necessary to give effect to the purpose of the Act to animals that are new organisms in existing registered zoos and circuses.

In other respects, these animals will be treated as any other new organism in containment. This means that the Animal Welfare Act 1999 will deal with animal welfare matters. The relevant containment standard will apply and registration and other matters relevant to the containment facility and its operation would be dealt with by MAF under the Biosecurity Act. However, current MAF registrations as zoos and circuses will need to be replaced with MAF approvals as containment facilities.

## 9.2 Controls on animals in existing zoos and circuses

### 9.2.1 Current transitional arrangements

Under the transitional arrangements in the HSNO Act animals at existing registered zoos and circuses are deemed to be new organisms under the Act and the registrations are deemed to be approvals to import into containment. The approvals are then subject to the condition that the animals remain at the place of registration, and to the relevant controls in the Zoological Gardens Regulations 1977 carried forward as part of the transitional provisions. The Zoological Gardens Regulations were originally made under the Animals Act and outline the registration and other requirements for both zoos and circuses.

## 9.2.2 What can be achieved under the HSNO Act?

The controls that may be imposed under the HSNO Act are limited by the purpose of the Act (to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms). In addition, the HSNO Act focuses on approval of *new organisms*, and not of *facilities* such as zoos and circuses, and does not specifically address matters such as animal health and welfare. Approval of facilities and animal health matters are dealt with under the Biosecurity Act, while animal welfare matters are addressed under the Animal Welfare Act 1999.

From the HSNO perspective, the aim is complete the transition to the HSNO regime for existing zoo and circus animals, including replacement of the provisions in the Zoological Gardens Regulations that apply to the keeping of zoo and circus animals under the deemed approvals in a manner consistent with the requirements for new organisms generally, such that the adverse effects on the environment and human health are addressed.

## 9.2.3 Proposed amendment

It is proposed that existing zoo and circus animals that are new organisms should in principle be treated in the same way as other new organisms approved under the HSNO Act. It is proposed that the Act be amended to give ERMA the discretion to apply, on a case-by-case basis, containment controls and any other controls necessary to give effect to the purpose of the Act, to the approvals for these animals.

**9a Do you agree or disagree with this proposal?**

**9b What alternative approaches might there be to replace the Zoological Gardens Regulations?**

Please explain your answer by setting out possible illustrative examples and by relating your suggestions to the HSNO Act's present requirements.

## 9.2.4 HSNO controls

The matters that are to be addressed by containment controls under the HSNO Act are provided in the Third Schedule to that Act. In addition, the Act provides that an approval may include additional controls that provide for any other matters in order to give effect to the purpose of the Act.

**9c Are there any additional controls specific to zoo and circus animals that you think should be:**

- (a) considered by ERMA for existing zoo and circus animals or**
- (b) expressly listed in the Third Schedule and that might be applied to future approvals for new zoo and circus animals?**

Please explain your answer by setting out possible illustrative examples and by relating your suggestions to the HSNO Act's present requirements.

## **9.3 What does this proposal mean for existing zoos and circuses?**

### **9.3.1 Registration**

Under this proposal, registration and other matters relevant to the facility and its operation would be dealt with by MAF under the Biosecurity Act. However, current MAF registrations of zoos and circuses as such will expire when the Zoological Gardens Regulations expire, and those zoos and circuses will need to be approved as containment facilities. The HSNO Act will not distinguish between zoos and circuses and any other places of public display (such as butterfly houses) or from containment facilities in general, except through the requirements of the relevant containment standards. MAF will still maintain a register of all approved containment facilities.

### **9.3.2 Containment standards**

The proposal would mean that containment requirements for all zoo and circus animals will be set out in containment standards. A draft standard for zoo animals is being prepared by ERMA and MAF, and a circus animal standard will follow. Both will be circulated for public comment.

However, no provision currently exists in the HSNO Act to approve containment standards, although this function is conferred on ERMA by the Biosecurity Act. An amendment to the HSNO Act is therefore also needed to enable containment standards to be approved under the HSNO Act.

### **9.3.3 Enforcement**

The inspection and enforcement of zoo and circus containment controls would continue to be undertaken under the Biosecurity Act. MAF-appointed inspectors would ensure compliance with the controls applied to the HSNO approvals. Any organism that escaped from a containment facility would also be managed under the Biosecurity Act.

In section 10 of this discussion paper it is proposed that MAF's enforcement role for new organisms in containment under the HSNO Act should be formalised. This decision will not change the way the new organism provisions are currently enforced and so should not create any exceptional enforcement issues for zoo and circus animals.

### **9.3.4 Animal welfare**

With the proposed change in regulation of zoos and circuses, there will be a division between matters of control and containment and those of animal welfare. This division will be the same as that which currently applies for all new organisms. The HSNO Act, together with the Biosecurity Act for the containment facilities, will cover how animals should be contained, their health, and how any adverse effects on the environment and human health should be managed. The Animal Welfare Act 1999 will deal with matters to do with animal welfare.

Codes of welfare for zoo and circus animals are in place under the Animal Welfare Act. These codes are being reviewed, and the revised codes are expected to be in place by the end of 2002.

### **9.3.5 Transfer**

Zoo and circus animals are sometimes transferred both internationally and within New Zealand (for example, for the continuation of captive breeding programmes), including temporary absence from the containment facility (such as a visit to the vet). Existing zoos and circuses are subject to a condition that the animals remain at the place of registration. It is expected that this kind of transfer would be provided for through the containment controls and the relevant containment standards being developed. The HSNO Act may therefore need to be amended to remove that condition.

### **9.3.6 Purpose of containment**

The HSNO Act lists purposes for which ERMA may approve the importation of new organisms into containment. These include 'public display', which lists zoos and circuses as examples. Other possible purposes are the conservation of genetic material and research. The Act may also need to be amended to allow for additional purposes for the approval of existing zoo and circus animals.

### **9.3.7 Transitional arrangements**

Existing zoos and circuses will need to meet the requirements of both the HSNO controls that are applied to the approvals and the relevant containment standard. A transitional period would need to be provided for in the legislation to enable any zoos and circuses that have not yet met the requirements of a standard or the HSNO controls to meet these requirements.

**9d Do you agree that a transition period should apply to existing zoos and circuses that do not meet either the requirements of a containment standard or HSNO controls? If so, what factors would impact on the ability to meet those requirements?**