

6/04/2016

Bird Shows, Sales and Auctions in Victoria: Frequency, Size, History, Welfare and Legislative Reality

This paper is a cooperative effort compiled by The Finch Society of Australia Inc. with input, support and approval from a broad range of avicultural organisations throughout Victoria and nationally. The paper is endorsed and submitted in conjunction with the Canary and Caged Bird Federation of Australia (CCBFA), the National Finch and Softbill Association (NFSA) and the Victorian Avicultural Council (VAC). Together these bodies represent the vast majority of Avicultural clubs and aviculturists throughout Victoria and nationally. Appendix 1 is a complete list of stakeholder organisations whose input and direct support was central to the compilation of this document.

As we see it, misunderstanding and ignorance is THE issue that has evolved into the current legislative restrictions regarding the trading of birds at bird shows, sales and auction. In this paper our central objective is to educate and inform legislators, bureaucrats and the wider public with regard to the frequency, size and history of bird shows, sales and auctions. Aviculture has been self-regulating itself for decades, in some cases centuries, with a range of successful welfare initiatives which are continually refined to improve outcomes and meet changing welfare expectations.

All of Aviculture unanimously agrees that welfare of birds is paramount at all times. This is particularly so during times when birds are moved for show, sale or auction. Please be clear that on welfare issues we have a zero tolerance for breaches. On welfare principles all parties are largely in agreement, it is how we regulate and ensure compliance with agreed welfare standards that is at issue. Coordination and cooperation is key to achieving improvements in compliance.

The aim of this paper is to explore the issue, present the evidence, and recommend evidence based changes that protect the welfare of animals in our care.

The paper is in 4 parts:

1. The frequency, size, nature and history of bird shows, sales and auctions
2. Welfare at bird shows, sales and auctions
3. A review of relevant Victorian legislation
4. Recommendations from Aviculture

Parts 1 through 3 present the facts upon which our observations and recommendations in part 4 rest.

An invitation to meet with Minister Jaala Pulford's office was extended to Sam Davis as President of the Finch Society of Australia. It is at this meeting on April 7th 2016 where this paper will be presented to the Minister via her Chief of Staff. Dr Stacey Gelis (Avian Veterinarian), David Renshaw (President VAC), Dr Gary Fitt (NFSA Vice President), and Sam Davis (FSA President and CCBFA Vice President) will attend.

Part 1. The frequency, size, nature and history of bird shows, sales and auctions

The facts:

- 1.1 Public bird sales operated by avicultural associations.
 - 1.1.1 Large bird sales are managed by avicultural societies according to well defined, publicly available codes of practice focussed on bird welfare.
 - 1.1.2 Birds sales/expos run by the 14 affiliated clubs of the VAC are authorised by DELWP Amnesty (Appendix7) at the request of the VAC Bird sale co-ordinator. These sales are conducted under the VAC bird sale code of practice (Appendix 3) which is regularly updated to ensure the welfare of birds at these events.
 - 1.1.3 Bird sales have been operating in Victoria and nationally for in excess of 30 years. These sales are major opportunities for education and promotion of aviculture as well as for the trade and exchange of breeding stock.
 - 1.1.4 Bird sales are major social and economic events – particularly in country towns. Over the bird sale weekend, local hotels and motels are booked out, restaurants are full and other small business and attractions experience greater sales.
 - 1.1.5 Bird sales, particularly those in country areas, provide an annual opportunity for local breeders to trade stock with breeders throughout the region at one place and at one time.
 - 1.1.6 Many specialist species and varieties of birds are only made available via bird sales. By contrast pet shops hold limited species that are popular and of interest to the general public.
 - 1.1.7 The best source of management and breeding advice comes direct from breeders. Sellers at bird sales are predominantly breeders who offer on the spot advice as well as their contact details for future follow up advice.
 - 1.1.8 Public bird sales avoid the security concerns for individual breeders through having members of the public visiting their homes. Bird thefts are a real and unfortunate issue.
 - 1.1.9 Local pet shops and specialist bird traders routinely have sales and promotion stands at bird sales. This includes sale of birds as well as accompanying feed and accessories.
- 1.2 Canary club meetings, shows and sales (see Appendix 2).
 - 1.2.1 Canaries have been exhibited and sold at public sales and auctions worldwide for hundreds of years.
 - 1.2.2 In Victoria there are currently 14 specialist Canary clubs. Each holds regular meetings and at least one annual show. It is routine practice to trade excess stock at any or all of these events.
 - 1.2.3 Club sales provide choice to buyers whilst alleviating security concerns for sellers.
 - 1.2.4 The aim of clubs is to promote the hobby through the provision of information to those purchasing canaries. Meetings and club journals provide ongoing education.
 - 1.2.5 There have been Canary Clubs in Victoria since at least 1886 without incident.

- 1.3 Exhibition budgerigar shows, sales and auctions.
 - 1.3.1 Budgerigar shows, sales and auctions are professionally run events that have been occurring routinely throughout Victoria, Australia and the world for well in excess of 100 years.
 - 1.3.2 All budgerigar clubs hold shows, sales and auctions on behalf of their members. This is the primary means of trading stock and is a promotion and major entry into the hobby for members of the public.
 - 1.3.3 Budgerigars are selectively bred according to strict show standards. These birds are highly prized stud animals of significant value, both financial and in terms of maintaining bloodlines. Sales and auctions provide a means for trading birds securely.
- 1.4 Fancy pigeons
 - 1.4.1 Pigeon clubs have been operating throughout Australia since the early 1900s.
 - 1.4.2 Birds are sold by either word of mouth (private sale), or through internet trading sites such as (Gum Tree) or at pigeon shows that are held annually by most clubs.
 - 1.4.3 There are approximately 80 different breeds of fancy pigeon in Australia each having its own breed standard. Birds are bred and shown to these standards.
 - 1.4.4 There is a National Show that is held in a different state of Australia each year. Affiliated clubs generally hold a show in their area for the benefit of members
- 1.5 Racing Pigeons
 - 1.5.1 Racing Pigeon Clubs have been operating in Victoria since the 1890's.
 - 1.5.2 There are in excess of 70 clubs in Metropolitan and Rural Victoria comprising over 1000 members. Many more in other States.
 - 1.5.3 Racing pigeons are not "livestock" nor "exotic animals". They may be "caged birds", although this is not admitted as the birds generally have the ability of free flight outside of a "cage". There does not appear to be a definition of "caged birds" but a listing of many varieties of birds included or excluded from the effect of legislation.
 - 1.5.4 They also are sold by either word of mouth (private sale), or through internet trading sites specialising in high quality birds or at pigeon shows or auctions that are held annually by most Federations or by individual fanciers when retiring from the sport.
 - 1.5.5 The welfare of racing pigeons is paramount as it is with race horses and protocols are in place to ensure this.
- 1.6 Exhibition poultry, pheasant, waterfowl, reptile, rabbit, guinea pig, mouse and other species are also routinely traded at shows, sales and auctions.

Part 2. Welfare at bird shows, sales and auctions

The facts:

- 2.1. The Victorian Avicultural Council (VAC) Code of Practice is strictly enforced at all bird sales and expos run by their affiliates and also by many other Victorian clubs. (refer Appendix3). Avicultural societies elsewhere in Australia utilise similar codes of practice to ensure welfare during sales.
- 2.2. All bird shows, sales and auctions operated and managed by avicultural societies appoint stewards. The stewards are responsible for monitoring the health and welfare of birds during the event. This includes ensuring compliance with provisions of the Code of Practice including cage size, cleanliness, feed and water for all birds.
- 2.3. Large bird sales and expos engage avian qualified veterinarians as stewards to monitor the health and welfare of birds prior to and during the event.
- 2.4. The VAC recently conducted training for 40 bird expo stewards on the care and welfare of birds at bird expos. The training was carried out by Dr Stacey Gelis BVSc (Hons) MACVSc (Avian Vet).
- 2.5. Organisers work closely with staff and inspectors from DELWP, RSPCA and Local Councils.
- 2.6. DELWP Secretary Adam Fennessy congratulated the VAC on its ongoing commitment to welfare as recently as November 2015 (Appendix 10).
- 2.7. The RSPCA has advised that they have no records of cruelty, welfare breaches or enforcement action at bird shows, sales or auctions. This is an enviable record given the frequency of such events over more than a century.
- 2.8. No aviculturist keeps their birds in show cages, display cages or transport boxes long term. These cages are specifically for use during shows, sales and auctions. The large majority of birds live in large aviaries.
- 2.9. The duration of each show, sale and auction is such that birds need only be in display cages for a minimum time period no longer than 24 hours. Generally, sale events last in the region of 4 hours.
- 2.10. Pet shops and bird dealerships maintain animals awaiting sale for weeks or perhaps months. As such much larger cages and aviaries are required within these establishments.
- 2.11. Stress and risk of injury is greatly reduced when birds are confined to smaller display and transport cages which provide security and ready access to feed, water and privacy.
- 2.12. Smaller display cages and transport boxes simplify and reduce stress during bird exchanges.
- 2.13. We acknowledge that welfare breaches do, at times, occur. Our compliance operations effectively deal with all but a few very rare cases. To our knowledge no such cases have ever led to charges or prosecution.
- 2.14. Exhibition and show birds are trained and accustomed to show cages. The design of standard show cages for canaries, budgerigars, finches and other exhibited species has been established over decades (or even centuries). In most cases the standard sizes and designs are virtually identical worldwide.
- 2.15. Buyers at shows, sales and auctions obtain expert advice direct from the breeder. Details such as aviary design, aspect, diet, medications and a plethora of other advice leads to ongoing enhanced welfare outcomes for the duration of the bird's life.

Part 3. A review of relevant Victorian legislation

The facts:

- 3.1. There are currently three (3) Victorian Acts relevant and which interact to regulate the sale of birds in Victoria. The relevant sections of these Acts are reproduced in Appendices 4, 5, 6. It is critical to understand the purpose of each Act as a baseline for understanding the issues regarding legislation governing bird sales and auctions.
- 3.2. Wildlife Act 1975 and Wildlife Regulations 2013 (see Appendix 4).
 - 3.2.1. The central purpose of this Act is to protect wildlife. This includes regulating use, access and conduct of persons engaged with wildlife. With regard to aviculture, the Wildlife Act is concerned with regulating the keeping of native species.
 - 3.2.2. Wildlife Basic and Wildlife Advanced Licences are issued to aviculturists to enable them to keep specific native bird species under Section 22 of the Wildlife Act 1975.
 - 3.2.3. Licence conditions included in Wildlife Regulations 2013 require keeping of record books, sale of birds and keeping of birds can only occur at the premises specified on the licence (Reg 31, 39, 62) unless specifically approved in writing by the Secretary.
 - 3.2.4. In recent years an "Amnesty" (reproduced in Appendix 7 and outlined in 3.5 below) against prosecution has been sought and issued by the Secretary to provide exemption from prosecution in regard to Regulations 31, 39 and 62. This Amnesty applies only to the sales specified within the document.
- 3.3. Domestic Animals Act 1994 (see Appendix 5).
 - 3.3.1. The purpose of this Act is to promote responsible ownership of dogs and cats. The responsible keeping of birds is not addressed.
 - 3.3.2. Section 96 is titled "Offence to sell certain animals outside certain places". Note that a place is a physical location.
 - 3.3.3. Section 96 begins with "A person must not sell any animal referred to in the definition of pet shop...". The only time the term "caged bird" appears in the Act is within the definition of a pet shop. This single occurrence of the term "caged bird" is the cause of the entire issue.
 - 3.3.4. A "domestic animal business in a premises" (s96(a)) is a physical place, a "place that is a private residence" (s96(aa)) is a physical place, and hence a "sale [that] is approved under the Wildlife Act 1975" (s96(b)) is also a physical place.
 - 3.3.5. As a consequence of 3.3.2, 3.3.3 and 3.3.4 it is legal under the Domestic Animals Act 1994 for ALL caged birds to be sold from a sale approved under the Wildlife Act 1975.
 - 3.3.6. Apart from Pet Shops or private residences it is illegal under the Domestic Animals Act 1994 for ANY caged birds to be sold at a sale NOT approved under the Wildlife Act 1975. This is the contrapositive to 3.3.5.
 - 3.3.7. Section 5 provides for the Minister (or more accurately Governor in Council) to exempt any animals from provisions of this Act with or without conditions.
 - 3.3.8. In most cases, Local Government is responsible for compliance with the Domestic Animals Act 1994.

- 3.3.9. Under Section 68A of the Domestic Animals Act 1994, councils are required to prepare domestic animal management plans. We are unable to locate any plan mentioning birds. In particular, no mention of training with regard to Section 96 as required under Section 68A (2)(b).
- 3.4. Prevention of Cruelty to Animals Act 1986 (see Appendix 6).
 - 3.4.1. The purpose of this Act is to prevent cruelty to animals, encourage the considerate treatment of animals and improve the level of community awareness about the prevention of cruelty to animals.
 - 3.4.2. Section 9(1) protects birds (and all animals) against cruelty in all its many manifestations. It is this Section that legally protects the welfare of birds at shows, sales and auctions.
 - 3.4.3. In most cases, the RSPCA is responsible for compliance with the Prevention of Cruelty to Animals Act 1986.
- 3.5. Amnesty 2016 Sales (Appendix 7).
 - 3.5.1. Use of the term "Amnesty" is confusing. An amnesty is a pardon for past crimes. In this case the "Amnesty" document is an approval by the Secretary using his authority provided within the Wildlife Regulations 2013 - specifically r39(b), r62(1). We can't locate legal authority used by the Secretary to ignore breaches of r31 - but that is a trivial technicality of little consequence.
 - 3.5.2. Section 1 of the "Amnesty" states "All individual participants of those events listed in Section 3 of this Amnesty will require a relevant wildlife licence issued under the Wildlife Act 1975". This approval by the Secretary is permitted due to Wildlife Regulations 2013 r39(b). Therefore, it is only licence holders who can "buy, sell or enter into a transaction to dispose of wildlife" (r39) at the events in Section 3 of the Amnesty.
 - 3.5.3. Who are the licence holders? Examining the Wildlife Act 1975, licences are issued under s22 with detail in the accompanying Wildlife Regulations 2013, specifically r6, r7 and r8 (together with Schedules 2, 3, 7). The two licence types of relevance are "Wildlife Basic Licence" and "Wildlife Advanced Licence".
 - 3.5.4. Species covered by licence holders are specified in Schedules 2, 3, and 7 of the Wildlife Regulations 2013.
 - 3.5.5. The buying and selling of exotic species is unregulated by the Wildlife Act 1975 (or the "Amnesty").
 - 3.5.6. The exemptions in Regulation 49(1) and 49(7) permits the sale of unlicensed birds specified in Schedule 4 such as budgerigars, cockatiels and other commonly kept native species under the Wildlife Act 1975, contradicting 3.5.2.
 - 3.5.7. Individuals who DO NOT hold either a "Wildlife Basic Licence" or "Wildlife Advanced Licence" are not legally permitted to buy, sell or enter into transactions" at the specified sales in Section 3 of the "Amnesty".

Part 4. Recommendations from Aviculture

Based on the facts above we make the following observations leading to recommendations:

- 4.1. Unfortunately, fact 3.3.5 conflicts with assertions made by bureaucrats. This has been the major source of disagreement to date. The documents reproduced in Appendix 8 detail the exchange between the Finch Society of Australia (FSA) and the Minister.
- 4.2. Conflict regarding differing interpretations of the meshing of the Domestic Animals Act 1994 with the Wildlife Act 1975 are irrelevant in terms of ensuring the welfare of birds at bird shows, sales and auctions.
 - 4.2.1. Whether or not a bird is displayed or a bird is offered for sale has no bearing on the welfare of that bird at the show, sale or auction.
 - 4.2.2. Whether or not a bird is native or exotic to Australia is irrelevant in terms of the welfare of that bird at the show, sale or auction.
- 4.3. Local Government compliance officers (3.3.8) and other appointed officers do not possess the skills to distinguish between avian exotic and native species and hence Domestic Animals Act 1994 Section 96 compliance operations are not currently possible.
 - 4.3.1. Records of correspondence obtained via FOI from Frankston City Council (Appendix 9) confirm such difficulties.
 - 4.3.2. We are unable to locate any “Domestic animal management plan” by any Victorian Local Government that mentions birds whatsoever (refer 3.3.9).
- 4.4. The sales detailed within the Amnesty (Appendix 7) have been the source of the current issue. Numerous other bird shows, sales and auctions have been in operation within Victoria for decades or in some cases centuries (refer Part 1).
- 4.5. There is no evidence of any significant welfare concerns at any bird shows, sales or auctions. This record proves that welfare has been effectively self-regulated by aviculture for decades and in some cases centuries (refer Part 2).
- 4.6. Regulating places where animals can be sold does not address welfare concerns. It is the manner in which the animal is managed during the sale process that is central to the animal’s welfare.
- 4.7. The Prevention of Cruelty to Animals Act 1986 is the legislative tool that regulates animal welfare issues in Victoria (refer 3.4). Attempts to regulate outside this Act are unwise and only serve to confuse compliance operations unnecessarily.

Recommendation 1.

Minister immediately recommends Governor in Council exempt all “Caged birds” from all provisions in the Domestic Animals Act 1994 – Section 96. (refer 3.3.7).

Minister immediately recommends Governor in Council retrospectively extends the above exemption to the day the Domestic Animals Act 1994 was enacted.

Recommendation 2.

Repeal the Domestic Animals Act 1994 – Section 96.

Appendix 1. — Avicultural Stakeholders

The following stakeholder representative organisations provided input and/or direct support central to the compilation of this document.

- The Canary and Cage Bird Federation of Australia Inc. (CCBFA)
- Victorian Avicultural Council. (VAC)
- The Avicultural Society of Australia (ASA)
- National Finch and Softbill Association (NFSA)
- The Finch Society of Australia Inc. (FSA)
- Australian National Budgerigar Council (ANBC)
- The Budgerigar Council of Victoria (BCV)
- The Budgerigar Society of New South Wales (BSNSW)
- Australian National Pigeon Association (ANPA)

The following 82 Victorian clubs formally endorse this document directly or via affiliation with one or more of the above representative bodies. In addition, there are 43 exhibition poultry clubs and in excess of 70 racing pigeon clubs who have indicated preliminary support but due to time constraints have not yet formally endorsed the paper.

1. Ararat Branch of The ASA
2. Australian Canary Association Inc
3. Australian Carrier Club
4. Australian Jacobin Club
5. Australian Long Faced Tumbler Club
6. Australian National Pekin Club Inc.
7. Australian Oriental Frill, Owl and Turbit Club
8. Australian Plainhead Preservation Club Inc.
9. Australian Pouter & Cropper Club
10. Australian Show Birmingham Roller Club
11. Australian Showpen Homer Association
12. Ballarat & District Budgerigar Society Inc.
13. Ballarat Branch of The ASA
14. Ballarat Canary Improvement Society
15. Ballarat Canary Society Inc
16. Baw Baw Budgerigar Society Inc.
17. Bendigo Branch of The ASA
18. Bendigo Budgerigar Club Inc.
19. Border District Budgerigar Society Inc.
20. Border Fancy Canary Club of Victoria

21. British Show Racer Club of Australia
22. Centre West Branch of The ASA
23. Colac Budgerigar Society Inc.
24. Colour Canary Breeders Association of Victoria
25. Combined & National Canary Exhibition of Victoria Inc.
26. Dandenong Budgerigar Society Inc.
27. Dandenong Canary Society Inc
28. Dandenong Fancy Pigeon Society Inc
29. Dragoon Club of Australia
30. Eastern District Budgerigar Society Inc.
31. Fife Fancy Canary Club of Victoria
32. Geelong & District "All Breeds" Pigeon Club Inc
33. Geelong & District Budgerigar Society Inc.
34. Geelong Branch of The ASA
35. Geelong Canary Improvement Society Inc.
36. Gippsland Branch of The ASA
37. Gippsland Budgerigar Society Inc.
38. Gippsland Cage Bird Society Inc
39. Gippsland Canary Club Inc
40. Glenroy Budgerigar Society Inc.
41. Gloster Club of Victoria Inc
42. Goulburn Valley Branch of The ASA
43. Goulburn Valley Budgerigar Club
44. Horsham District Budgerigar & Caged Bird Society Inc.
45. Kialla Pigeon Club
46. King Club of Australia
47. Kyabram & District Budgerigar & Caged Bird Society.
48. Latrobe Valley Avicultural Club Inc.
49. Lizard Canary Society of Victoria
50. Maryborough Pigeon Society
51. Melbourne Border Fancy Canary Club Inc
52. Melbourne Canary Improvement Society Inc
53. Melbourne Pigeon Society
54. Melbourne Regional Fife Canary Club Inc
55. Melton & District Budgerigar Society.
56. Mildura and District Bird Club

57. Monash Budgerigar Society Inc.
58. Mornington Peninsula Avicultural Society
59. Mount Gambier Budgerigar Society Inc.
60. Mountain District Budgerigar Society Inc.
61. Myrtleford Budgerigar Society Inc.
62. Nepean Budgerigar Society.
63. Norwich Club of Victoria
64. Riverina Budgerigar Society.
65. Showpen Homer Specialist Club
66. South West Budgerigar Society Inc.
67. Swan Hill Branch of The ASA
68. The Border Fancy Canary Club of Victoria Inc
69. The Colour Canary Breeders Assoc of Vic
70. The Southern Blowers Club
71. The Yorkshire Canary Club of Vic Inc
72. Twin Cities Fancy Pigeon Club
73. United Budgerigar Society Inc.
74. United Nun Club Australian District
75. Victorian Canary Society Inc
76. Victorian Lizard Canary Society
77. Victorian Norwich Canary Club Inc
78. Victorian Show Pigeon Federation Inc.
79. Victorian Zebra Finch Inc.
80. Western District Branch of The ASA
81. Western Suburbs Budgerigar Society Inc.
82. Yorkshire Canary Club of Victoria

Appendix 2.

SALE OF CANARIES FROM BIRD CLUB PREMISES

Under the Domestic Animals Act 1994 Section 96 Cage birds including canaries can only be sold from a private residence or a registered Pet Shop. Canaries are included in this Act as 'exotic' birds.

Bird Clubs have been selling members surplus birds for decades in ignorance of this law.

There are 14 specialist Canary Clubs in Victoria with Clubs in Ballarat, Geelong and Gippsland. The rest are based in Melbourne suburbs.

An activist has "unearthed" this old law and informed the Minister Hon Jaala Pulford who instructed her department to enforce the law. The law is required to be enforced by Local Councils and has never been raised as an issue before,

Some native birds including those requiring a licence to hold are currently excluded from the Act by special exemption. A licence is not required to keep or sell canaries.

Fine for selling birds other than by the two specified avenues is \$4,300 per transaction.

Canary breeding and showing has been a hobby of people for hundreds of years. Many people do not belong to Clubs but still enjoy the hobby with aviaries and birdrooms in which to tend to their birds. These people especially look to the bird clubs to replenish their stocks, Pet Shops are far too expensive and going to private homes does not give them the choice they would otherwise have through the clubs sale days. In normal circumstances Club members do not permit buyers at their homes for security reasons.

The Victorian Avicultural Council updated their Code of Practice for Bird Sales in 2014 to ensure that firm standards were met to safeguard the welfare of the birds.

The current position is really ludicrous as the current domestic canary could not survive in the wild and as there are some legitimate ways of obtaining canaries ,there seems to be no valid reason for restricting their sale in this way.

All we want is the Minister to arrange to issue an exemption from the Act to allow Canaries to be sold by Bird Clubs.

Appendix 3.



CODE OF PRACTICE FOR BIRD SALES – 31st October 2014.

A. GENERAL

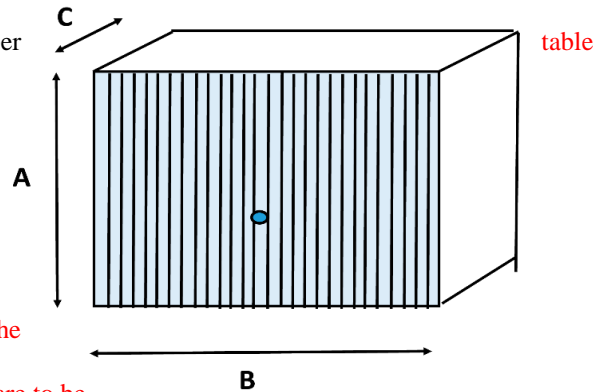
1. This code applies to all avicultural species presented at bird sales.
2. Bird sales are open to all members of the public.
3. Organisers of the Bird Sale are to provide clearly identified stewards that are familiar with this code of practice and are to be in continuous attendance at the venue. A copy of this code of practice is to be displayed in a prominent position at the entrances of the bird sale venue, and copies are to be made available.
4. Stewards have the right to refuse entry to the venue to any person or bird or cage in breach of this code of practice.
5. Bird sales are to be limited to a maximum of four hours and it is recommended that all bird sales start at 11am and finish no later than 3 pm.
6. Only birds and related items are to be made available at bird sales. Other vertebrate species are not permitted.
7. For the safety of birds, with the exception of assistance dogs, other animals including dogs are not permitted to enter the venue, whether on leash, unleashed, contained or carried.
8. There is to be no selling of birds prior to the commencement of the sale.
9. Sale cages containing birds are to be sight covered to prevent pre-selling. Removal of covers is to take place no sooner than 15 minutes before the advertised starting time of the sale unless directed by the stewards to allow them to check compliance with the code of practice for bird sales.
10. Birds being transported to and from bird sale venues are to be carried in an enclosed but well ventilated vehicle.
11. It is recommended that all clubs holding bird sales take prior bookings from all sellers. All sellers are to be made aware of the “Revised Bird Sales Code of Practice” to ensure compliance with the said code and that the code will be strictly enforced by the stewards.
12. Photographing of birds is NOT permitted without the permission of the stewards and bird owners.
13. Entry is conditional upon compliance with the above code of practice for all persons entering the said venue (including buyers, sellers and traders).

B. CAGES

1. **Recommended** cage sizes and bird numbers per as below:

Note:

- Over-crowded cages will not be accepted.
- Airfreight cages shall not be used
- **Variances in sizes of cages will be accepted providing that there is 5cm clearance around the birds when on the perch to prevent overcrowding.**
- **If more birds than the listed number are to be placed in the cage, it is recommended that the cage size be increased in either width or depth by 50% depending on the direction of the perch.**



Size of Bird (Approx length)	No. of Birds	Min Height A	Min Width B	Min Depth C
Up to 100mm Eg Finch Small Canary	6	200mm	250mm	150mm
100-200mm Budgerigar Small parrot Eg Neophema Varied Lorieet Large Canary Lovebird Diamond Dove King Quail	4	300mm	300mm	150mm
200-300mm Eg. Rosella Conure Cockatiel Rainbow lorikeet Masked Dove	2	350mm	350mm	200mm
300-400mm African Grey Amazon Ringneck Bleeding heart pigeon	1-2 Depending On species	450mm	400mm	250mm
400-500mm Eg. King Eclectus Princess Cockatoos	1-2 Depending On species	550mm	400mm	350mm
500+mm Large Cockatoo Macaw	1	800mm	600mm	500mm

2. All-wire cages are not permitted to be use by either sellers or buyers to contain birds. If necessary, these cages can be modified for use by enclosing the top, bottom and three sides with a draft proof solid material. Cloth is not acceptable.
3. Every buyer of birds should provide containers suitable for the species that are intended to be purchased.
4. The bottom of all cages are to be a minimum of 70cm above the floor level of the venue.
5. Only freshly cleaned and well-presented cages are acceptable, must be free from dirt, dust, old droppings and old stale food and should be a light colour inside (eg. white, light blue, light green).
6. Cages are to have:
 - Perches available suitable for the species within (quail and ground dwelling birds excluded). Removable perches may be used to assist with the catching of birds.
 - Suitable material on the cage floor to prevent soiling of the birds feathers
7. Commercial trades people are permitted to sell new all wire cages as part of their goods. Birds are not permitted to be placed in these cages at the sale. All-wire cages purchased must be removed from the sale venue immediately after purchase and must not be taken into the area where the birds are being sold.
8. Sellers must present their birds with an adequate supply of fresh, clean water, seed and /or other appropriate food for the species contained within suitable vessels for the species for the entire period of the sale. This must be done within 30 minutes of benching their birds. Organisers/Stewards of the bird sale MUST ensure compliance.
9. Birds are only to be confined to a transport/display cage for a maximum period of twenty – four hours.

C. VENUE

1. The venue is to be fully roofed and to be able to be securely closed off to enable the containment of any bird due to accidental escape so that the bird can be re-captured. Bird sale organisers are to provide a minimum of two suitable catching nets suitable for the height of the venue to enable the owners or any sanctioned helper(s) to recover any escaped bird. Birds cannot be caught during the sale unless special permission is sought from the bird sale coordinator.
2. Lighting levels within the venue are to be conducive to clearly view the birds within their display cage.
3. Bird sales are to be deferred or cancelled if the ambient dry-bulb temperature is predicted to reach 32°C or above on the day of the sale.
4. The predicted temperature to be used will be the regional temperature of the closest locality to the bird sale as advertised on the ABC evening television news on the day before the sale. All bird sales advertising should warn members of the public of this condition.
5. Bird sale organisers must obtain Public Liability Insurance of at least \$20 million dollars and all incidents, accidents and injuries must be reported to and recorded by the sale organisers and /or ambulance officers if present.

D. BIRDS

1. Only birds in good health, sound physical condition fully feathered and self-sufficient may be offered for sale. The organisers reserve the right to have a steward or recognised Avian Veterinarian inspect any or all of the birds offered for sale by a seller and, at its sole discretion, shall (upon the advice of the Steward/Veterinarian) determine if the birds shall be allowed to be presented for sale.
2. Only one species of bird is permitted per cage.
3. Birds that have been sold by pre-arrangements must not be put on display or exchanged prior to the advertised start time of the bird sale.
4. Poultry (except quail) & domestic pigeons are not permitted in the sale.

E. REGULATORY COMPLIANCE

1. Any person in possession of native birds requiring a licence is to produce their wildlife licence and record book to authorised officers of the Department of Environment and Primary Industries or members of the Victorian Police.
2. Upon transfer of native birds subject to licence, both buyer and seller are to sight and exchange licence details.
3. All licensed native birds sold at bird sales are to be recorded on the Department of Environment and Primary Industry survey forms. These forms **MUST** be returned at the finish of the sale to the bird sale organisers.
4. The sale of crossbred hybrid native species is not permitted.
5. Purchase of non-licensed birds: It is the buyer's responsibility to obtain the name and details of the seller as required.

F. DISCLAIMER

1. The Victorian Avicultural Council Inc; its affiliates, its officers and or its committee shall not be responsible for the health or welfare of any birds sold, transferred and /or purchased by any person, where the health of that bird proves to be defective or not up to the standard anticipated by the purchaser.
2. The Victorian Avicultural Council Inc; its affiliates; its officers and or its committee shall not be held responsible for any disease or virus that are transferred by way of any goods sold, transferred and/or purchased at a bird sale organised by the Victorian Avicultural Council Inc or its affiliates.
3. The Victorian Avicultural Council Inc; its affiliates; its officers and or its committee shall not be held responsible for any disease or virus transferred from a bird to a human being by a bird which has been purchased, transferred and or sold at a bird sale organised by the Victorian Avicultural Council Inc; or its affiliates.

Contacts listed on the following web page

<http://avicouncil.com/VAC%2013a/vacoff.htm>

Appendix 4. — Wildlife Act 1975 and Wildlife Regulations 2013

Relevant sections of the Wildlife Act 1975 and Wildlife Regulations 2013 are reproduced below.

WILDLIFE ACT 1975 - SECT 1A

Purposes

The purposes of this Act are—

- (a) to establish procedures in order to promote—
 - (i) the protection and conservation of wildlife; and
 - (ii) the prevention of taxa of wildlife from becoming extinct; and
 - (iii) the sustainable use of and access to wildlife; and
- (b) to prohibit and regulate the conduct of persons engaged in activities concerning or related to wildlife.

WILDLIFE ACT 1975 - SECT 22

Wildlife licences

(1) Subject to subsection (2), the Secretary may license a person to do all or any of the following—

- (a) take or destroy wildlife (other than specified birds);
- (b) buy, sell, acquire, receive, dispose of, keep, possess, control, breed, process or display wildlife (other than specified birds).

(2) The Game Management Authority may license a person to do all or any of the following in respect of specified birds—

- (a) take or destroy the birds;
- (b) buy, sell, acquire, receive, dispose of, keep, possess, control, breed or display the birds.

(3) A licence—

- (a) must be in a prescribed category; and
- (b) is subject to any conditions, limitations and restrictions—
 - (i) that are prescribed; and

(ii) that the Secretary or the Game Management Authority (as appropriate) imposes on the licence or on that category of licence; and

(c) is subject to the condition that the holder of the licence must allow inspection by an authorised officer, at any reasonable time, of any dwelling house specified in the licence for the purpose of monitoring compliance with this Act, the regulations or the conditions of the licence.

(3A) If the regulations vary the conditions, limitations or restrictions on wildlife licences or a category of wildlife licences, the variation has effect, in relation to a wildlife licence in force at the time the regulation is made, upon the Secretary or the Game Management Authority (as appropriate) giving notice of the variation to the holder of the licence.

(4) A person seeking the issue of a licence must apply to the Secretary or the Game Management Authority (as appropriate) in the prescribed manner for a prescribed category of licence and must pay the appropriate prescribed fee with the application.

(5) A licence issued under this section does not authorise a person to take any wildlife from the wild or to destroy, buy, sell, dispose of, keep, possess, control, breed, process or display any wildlife taken from the wild unless the person is specifically authorised by the licence to do so.

(6) A person who holds a licence who contravenes subsection (5) or any condition, limitation or restriction of the licence is guilty of an offence and liable to a penalty not exceeding 100 penalty units.

(7) In addition to any other penalty to which the holder of a licence is liable under this Act, a court before which the holder is convicted of an offence against subsection (6) may impose any additional condition, limitation or restriction on the licence that the court thinks fit.

WILDLIFE REGULATIONS 2013 (SR NO 64 OF 2013) - REG 31

Storage of record books and return forms

The holder of a wildlife licence must ensure that the record book and copies of return forms are kept in a safe and secure place at the premises specified in the licence.

Penalty: In the case of a natural person, 20 penalty units;

In the case of a body corporate, 30 penalty units.

WILDLIFE REGULATIONS 2013 (SR NO 64 OF 2013) - REG 39

Wildlife to be bought, sold or disposed of only at specified premises

The holder of a wildlife licence must not buy, sell or enter into a transaction to dispose of wildlife unless—

(a) the transaction occurs at the premises specified in the wildlife licence of one of the parties to the transaction; or

(b) the transaction and the place of the transaction have been specifically approved in writing by the Secretary; or

(c) the transaction is with an exempt person.

Penalty: In the case of a natural person, 20 penalty units;

In the case of a body corporate, 30 penalty units.

WILDLIFE REGULATIONS 2013 (SR NO 64 OF 2013) - REG 49 (1,2 AND 7)

Exemptions from offences in the Act relating to protected wildlife

(1) A person who keeps, possesses, buys, sells, acquires, receives, displays or disposes of—

(a) wildlife listed in Part A of Schedule 4; or

(b) infertile eggs of wildlife listed in Schedule 7—

is exempt from the operation of sections 45 and 47 of the Act, to the extent that sections 45 and 47 relate to the keeping, possessing, buying, selling, acquiring, receiving, displaying or disposing of that wildlife by the person in the circumstances set out in subregulation (2).

(2) For the purposes of subregulation (1), the circumstances are that the keeping, possessing, buying, selling, acquiring, receiving, displaying or disposing of that wildlife is not for the purposes of hunting and the wildlife—

(a) has been bred in captivity; or

(b) is from a source approved by the Secretary.

(7) A person who buys, acquires, sells or disposes of wildlife listed in Part B of Schedule 4 for non-commercial purposes and does not sell the wildlife from a shop or business premises is exempt from the operation of section 47 of the Act, to the extent that section 47 relates to the buying, acquiring, selling or disposing of that wildlife by the person, if the wildlife has been bred in captivity or is from a source approved by the Secretary.

WILDLIFE REGULATIONS 2013 (SR NO 64 OF 2013) - REG 62

Specified premises

(1) It is a condition of a specified wildlife licence that the holder of the licence must not keep any wildlife at any premises that is not specified in the licence without the prior written approval of the Secretary.

(2) For the purposes of subregulation (1), specified wildlife licence means a wildlife licence that is not—

- (a) a Wildlife Demonstrator Licence; or
- (b) a Wildlife Controller Licence; or
- (c) a Wildlife Displayer Licence; or
- (d) a Wildlife Farmer Licence.

Appendix 5. — Domestic Animals Act 1994.

Relevant sections of the Domestic Animals Act 1994 are reproduced below.

DOMESTIC ANIMALS ACT 1994 - SECT 1

Purpose

The purpose of this Act is to promote animal welfare, the responsible ownership of dogs and cats and the protection of the environment by providing for—

- (a) a scheme to protect the community and the environment from feral and nuisance dogs and cats; and
- (b) a registration and identification scheme for dogs and cats which recognises and promotes responsible ownership; and
- (c) the identification and control of dangerous dogs, menacing dogs and restricted breed dogs; and
- (d) a registration scheme for domestic animal businesses which promotes the maintenance of standards of those businesses; and
- (e) matters related to the boarding of dogs and cats; and
- (ea) the regulation of the permanent identification of dogs, cats, horses and other animals; and
- (f) payments to the Treasurer from fees received by Councils under this Act; and
- (g) other related matters.

DOMESTIC ANIMALS ACT 1994 - SECT 3

Definitions

- (1) In this Act—

"pet shop" means a shop—

- (a) situated in a permanent location; and
- (b) open not less than 5 days a week, excluding a public holiday appointed under the Public Holidays Act 1993 ; and
- (c) where a dog, cat, rabbit, guinea pig, mouse, reptile, caged bird or any other similar animal of a class or kind prescribed by the regulations is offered for sale, sold or bought and sold;

DOMESTIC ANIMALS ACT 1994 - SECT 5

Governor in Council exemptions

- (1) The Governor in Council may by order published in the Government Gazette exempt—
- (a) any animal or class of animal; or
 - (b) any domestic animal business or class of domestic animal business—

from the operation of all or any of the provisions of this Act.

- (2) The Governor in Council may impose conditions on an exemption that the Governor in Council considers to be appropriate in the circumstances.

DOMESTIC ANIMALS ACT 1994 - SECT 68A

Councils to prepare domestic animal management plans

- (1) Every Council must, in consultation with the Secretary, prepare at 4 year intervals a domestic animal management plan.
- (2) A domestic animal management plan prepared by a Council must—

(a) set out a method for evaluating whether the animal control services provided by the Council in its municipal district are adequate to give effect to the requirements of this Act and the regulations; and

(b) outline programs for the training of authorised officers to ensure that they can properly administer and enforce the requirements of this Act in the Council's municipal district; and

(c) outline programs, services and strategies which the Council intends to pursue in its municipal district—

(i) to promote and encourage the responsible ownership of dogs and cats; and

(ii) to ensure that people comply with this Act, the regulations and any related legislation; and

(iii) to minimise the risk of attacks by dogs on people and animals; and

(iv) to address any over-population and high euthanasia rates for dogs and cats; and

(v) to encourage the registration and identification of dogs and cats; and

(vi) to minimise the potential for dogs and cats to create a nuisance; and

(vii) to effectively identify all dangerous dogs, menacing dogs and restricted breed dogs in that district and to ensure that those dogs are kept in compliance with this Act and the regulations; and

(d) provide for the review of existing orders made under this Act and local laws that relate to the Council's municipal district with a view to determining whether further orders or local laws dealing with the management of dogs and cats in the municipal district are desirable; and

(e) provide for the review of any other matters related to the management of dogs and cats in the Council's municipal district that it thinks necessary; and

(f) provide for the periodic evaluation of any program, service, strategy or review outlined under the plan.

(3) Every Council must—

(a) review its domestic animal management plan annually and, if appropriate, amend the plan; and

(b) provide the Secretary with a copy of the plan and any amendments to the plan; and

(c) publish an evaluation of its implementation of the plan in its annual report.

DOMESTIC ANIMALS ACT 1994 - SECT 96

Offence to sell certain animals outside certain places

A person must not sell any animal referred to in the definition of pet shop or prescribed by the regulations for the purposes of that definition—

(a) unless the animal is sold in the course of conducting a domestic animal business in a premises that is registered under Part 4 for that purpose; or

(aa) unless the animal is sold in a place that is a private residence; or

(b) unless the sale is approved under the Wildlife Act 1975 .

Penalty: In the case of a body corporate, 150 penalty units;

In any other case, 30 penalty units.

Appendix 6. — Prevention of Cruelty to Animals Act 1986.

Relevant sections of the Prevention of Cruelty to Animals Act 1986 are reproduced below.

PREVENTION OF CRUELTY TO ANIMALS ACT 1986 - SECT 1

Purpose

The purpose of this Act is to—

- (a) prevent cruelty to animals; and
- (b) to encourage the considerate treatment of animals; and
- (c) to improve the level of community awareness about the prevention of cruelty to animals.

PREVENTION OF CRUELTY TO ANIMALS ACT 1986 - SECT 9 (1)

Cruelty

- (1) A person who—
 - (a) wounds, mutilates, tortures, overrides, overdrives, overworks, abuses, beats, worries, torments or terrifies an animal; or
 - (b) loads, crowds or confines an animal where the loading, crowding or confinement of the animal causes , or is likely to cause , unreasonable pain or suffering to the animal; or
 - (c) does or omits to do an act with the result that unreasonable pain or suffering is caused, or is likely to be caused, to an animal; or
 - (d) drives, conveys, carries or packs an animal in a manner or position or in circumstances which subjects or subject, or is likely to subject, it to unnecessary pain or suffering; or
 - (e) works, rides, drives or uses an animal when it is unfit for the purpose with the result that unreasonable pain or suffering is caused to an animal; or
 - (f) is the owner or the person in charge of an animal which is confined or otherwise unable to provide for itself and fails to provide the animal with proper and sufficient food, drink or shelter; or
 - (g) sells, offers for sale, purchases, drives or conveys an animal that appears to be unfit (because of weakness, emaciation, injury or disease) to be sold, purchased, driven or conveyed; or
 - (h) abandons an animal of a species usually kept in a state of confinement or for a domestic purpose; or
 - (i) is the owner or the person in charge of a sick or injured animal and unreasonably fails to provide veterinary or other appropriate attention or treatment for the animal; or
 - (j) other than in accordance with the Catchment and Land Protection Act 1994 , the Wildlife Act 1975 or the Drugs, Poisons and Controlled Substances Act 1981 , intentionally administers to an animal or lays a bait for the animal containing—
 - (i) a poison; or
 - (ii) any other substance which, when administered to that type of animal, has a harmful effect on the animal; or
 - (k) uses spurs with sharpened rowels on an animal; or
 - (l) carries out a prohibited procedure on an animal—

commits an act of cruelty upon that animal and is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 250 penalty units or imprisonment for 12 months or, in the case of a body corporate, 600 penalty units.



Department of Environment, Land, Water & Planning

AMNESTY FROM PROSECUTION FOR THE REMOVAL OF LICENSED WILDLIFE AND RECORD BOOKS FROM SPECIFIED PREMISES FOR THE PURPOSE OF PARTICIPATING IN AUTHORISED EVENTS

1. What is the purpose of the Amnesty?

The purpose of this Amnesty is to exempt certain holders of a wildlife licence issued under the *Wildlife Act 1975* for breaching licence conditions related to specified premises only while attending authorised events.

All individual participants of those events listed in section 3 of this Amnesty will require a relevant wildlife licence issued under the *Wildlife Act 1975*.

All other requirements prescribed in the Wildlife Regulations 2013 and on the licence still apply.

2. To whom does this Amnesty apply?

The Amnesty applies to holders of a wildlife licence issued pursuant to section 22 of the *Wildlife Act 1975*.

3. What are the terms of the Amnesty?

A person to whom this Amnesty applies will not be subject to enforcement action in respect of the legislative provisions described below provided the person:

- A. Removes wildlife from the premises specified in their licence for the purpose of attending:
 - i. Bird sales as a registered participant with the Avicultural Society of Australia (ASA) as follows:
 - Western District branch at the Exhibition Hall, Hamilton Showgrounds on 20 March 2016;
 - Geelong branch at the Geelong Showgrounds on 3 April 2016;
 - Gippsland branch at Exhibition Hall, Warragul on 17 April 2016
 - Swan Hill branch at the Italian Club, Swan Hill on 24 April 2016
 - Union Hall, Latrobe University, Bundoora on 1 May 2016;
 - Bendigo branch at the Bendigo Showgrounds on 7 May 2016;
 - Goulburn Valley branch at the Shepparton Showgrounds on 15 May 2016;
 - Mornington Peninsula at the State Dog Centre, Western Port Highway, Skye on 29 May 2016;
 - Mildura and District Bird Club at the Redcliff Civic Centre on 12 June 2016;
 - Ararat branch at the Alexandra Hall, Ararat on 19 June 2016;
 - Centre West branch at the Civic Hall, Cobden on 9 July 2016;

- Latrobe Valley Aviculture Club at the Newborough Town Hall on 3 July 2016;
 - Gippsland Caged Birds at the Exhibition Hall, Warragul on 17 July 2016; and
 - Ballarat branch at the Ballarat Showgrounds on 6 August 2016.
 - ii. Australian Association of Wildlife Artists' Taxidermy Exhibition and Wild Deer Expo at the Bendigo Showgrounds between 3 March 2016 and 6 March 2016 as a registered participant.
 - iii. Victorian Herpetological Society's 2016 Reptile and Amphibian Expo at the Royal Melbourne Showgrounds, Flemington on 5 March 2016 as a registered participant with the Victorian Herpetological Society.
- B. Removes their record book from premises specified in their wildlife licence for the purpose/s only of attending those events listed in Section 3(A) of this Amnesty.

4. What is wildlife?

For the purpose of this Amnesty, 'wildlife' is the same as that defined under section 3 of the *Wildlife Act 1975* and which is held under a wildlife licence issued under section 22 of this Act.

5. What legislative provisions will not apply?

A person to whom the Amnesty applies, who complies with the terms of the Amnesty, will not face enforcement action in respect of a breach of the following regulations under the *Wildlife Regulations 2013*:

- i. Regulation 31 – Storage of record books and return forms
- ii. Regulation 39 – Wildlife to be bought, sold or disposed of only at specified premises
- iii. Regulation 62 – Specified premises

6. For how long does the Amnesty run?

This Amnesty applies only to the events and dates provided at Section 3(A) of this Amnesty, unless cancelled by the Secretary.



ADAM FENNESSY
Secretary

30 /12/ 2015



Appendix 8. — FSA correspondence with Minister



THE FINCH SOCIETY OF AUSTRALIA INC

(Incorporated under the *Associations Incorporation Act 2009*)

PO Box 26 Douglas Park NSW 2569

www.finchsociety.org secretary@finchsociety.org

4/06/2015

Hon. Jaala Pulford MLC

Minister for Agriculture (Victorian Government)

Minister responsible for the Domestic Animals Act 1994

jaala.pulford@parliament.vic.gov.au

Dear Minister,

RE: RESTRICTION ON SALE OF EXOTIC AVIAN SPECIES AT VICTORIAN BIRD SALES

I write as the President of the Finch Society of Australia Inc. and on behalf of our membership throughout Victoria and adjoining areas. Our society includes many hundreds of members nationally, including a number of branches and affiliated clubs. Our focus is finch aviculture however we are also involved in wider issues including endangered species conservation and the psychological and medical benefits of bird keeping.

We encourage legislators at all levels of government to promote responsible animal ownership rather than impose restrictions. It is an accepted fact that animal care provides enormous benefits for individuals' quality of life and therefore the well-being of larger communities.

We understand there is confusion surrounding the sale of non-indigenous (exotic to Australia) bird species at bird sales throughout Victoria. We submit the following facts followed by two (2) recommendations.

Facts

1. Bird sales in Victoria are approved by Government in advance under [Wildlife Regulations 2013 – Reg 39\(b\)](#). The Victorian Avicultural Council (VAC) manages approvals on behalf of individual clubs throughout Victoria. In relation to birds, the [Wildlife Act 1975](#) regulates activities primarily related to indigenous avian species.
2. The [Domestic Animals Act 1994](#) is primarily concerned with the welfare of dogs and cats. The words “Caged birds” appear once only, within the definition of a Pet Shop. The [Domestic Animals Act 1994 – Section 96](#) currently relates to “any animal referred to in the definition of pet shop”.
3. The [Domestic Animals Act 1994 – Section 96\(b\)](#) allows for sale of Caged birds when the “sale is approved under the Wildlife Act 1975.”
4. Under the [Domestic Animals Act 1994 – Section 5](#), the Governor in Council may exempt (with conditions) any class of animal from any provision of the Act.
5. Bird sales have been operating without incident in Victoria, and throughout Australia in excess of 30 years. Given the number and frequency of bird sale events this is an enviable historical record.

6. The health and welfare of birds at all avicultural events is paramount. Larger events, such as bird sales engage avian qualified veterinarians to confirm the health and well-being of all animals. At smaller events stewards are appointed welfare duties.
7. Compliance with government endorsed codes of practice governing cage specifications, feed, water, temperature and other areas are checked by stewards as birds enter and are under surveillance throughout the event.
8. Animal welfare is legislated under [The Prevention of Cruelty to Animals Act 1986](#). RSPCA inspectors are charged with compliance duties and are routinely invited and/or attend bird sales. We are unaware of any compliance issues, charges or concerns in relation to bird sales.

Advice to VAC from the Department of Environment, Land, Water & Planning (DELWP) officers was, to the effect, that sale of exotic avian species at bird sales was in contravention of Section 96 of the Domestic Animals Act 1994. With due respect, we make the following observation. We presume DELWP concludes that bird sale approval (1) does not extend to all "Caged birds" (2). Given (3) we contend this conclusion is in error as the legislation currently stands. In any case, the ruling is unreasonable given facts (5) through (8).

To resolve the situation in a timely manner we make the following recommendations.

Recommendations

1. Minister immediately recommends Governor in Council exempt all "Caged birds" from all provisions in the [Domestic Animals Act 1994 – Section 96](#). (4)
2. Minister immediately recommends Governor in Council retrospectively extends the above exemption to the day the [Domestic Animals Act 1994](#) was enacted.

We look forward to your timely response and would be pleased to discuss further.

Sincerely,



Samuel Davis
President – The Finch Society of Australia Inc.
P: (02) 4632 7987
M: 0411 253 512
F: (02) 4632 8002
E: president@finchsociety.org

CC: Peter Walsh MP (Vic. Shadow Minister for Agriculture), VAC, CCBFA, NFSA, ABA, FSA Committee, FSA Branch and Affiliate Clubs, FSA Members



Hon Jaala Pulford MP

Minister for Agriculture
Minister for Regional Development

8 Nicholson Street
East Melbourne, Victoria 3002
Telephone: 03 9637 9940
DX210074

Mr Sam Davis
President
The Finch Society of Australia Inc
president@finchsociety.org

Ref: MIN004092



Dear Mr Davis

EXOTIC BIRDS AND PUBLIC SALES IN VICTORIA

Thank you for your email of 5 June 2015 regarding the sale of exotic species from bird sales. I apologise for the delay in responding.

In Victoria, most birds can only be sold from a private residence or a registered pet shop, with the exception of some native species. The legislation as it currently stands was introduced in 1994 in response to the broad and unregulated sales of many types of animals, including caged birds, from flea markets, car boot sales and other unsatisfactory situations. Animal welfare for these animals was in many cases unacceptable, with animals confined to small cages without appropriate food or water, while waiting to be sold.

Under the *Domestic Animals Act 1994* (the Act), caged birds can only be sold from a private residence or a registered pet shop. This has been the case for more than 20 years. According to the legislation, a 'pet shop' must be located in a permanent location, and open not less than five days a week (excluding public holidays).

Section 96 of the Act makes it an offence to sell a caged bird (or any other species listed in the Act or the *Domestic Animal Regulations 2005*) from a place other than a private residence or a pet shop, unless the bird is exempt under the *Wildlife Act 1975* amnesty. I am aware that this amnesty for specified species of native Australian birds has been established in conjunction with the Department of Environment, Land, Water and Planning (DELWP). However, exotics have never been included in the amnesty and therefore the sale of exotic species from bird sales has been a long-standing contravention of the Act.

The day-to-day responsibility for the enforcement of the Act, including associated regulations and mandatory codes of practice, rests with local government.

It was recently brought to the attention of biosecurity officers at the Department of Economic Development, Jobs, Transport and Resources that large bird sales were being held at various locations around Victoria.

Staff from the department have been in contact with organisers of bird sales to discuss their legislative requirements. Organisers of the sales have taken action to stop the illegal sale of exotic species at the sales by introducing an expressions of interest system instead.



While I have not been directly involved in this matter, I appreciate the cooperation that has been shown by organisers in making some changes to the way they run their sales in order to comply with the law.

I understand that for some aviculturists and exotic bird hobbyists the changes to the functioning of birds sales may have been unexpected. I must emphasise, however, that there has been no change to the law, or the way it is regulated. The sale of exotic species of birds outside of pet shops and private residences has been continuously banned in Victoria for more than 20 years.

Further information on the *Domestic Animals Act 1994* and its associated regulations and codes, is available at www.vic.gov.au/pets.

Thank you for taking the time to contact me about this matter.

Yours sincerely



Hon Jaala Pulford MP
Minister for Agriculture

22 SEP 2015



THE FINCH SOCIETY OF AUSTRALIA INC

(Incorporated under the *Associations Incorporation Act 2009*)

PO Box 26 Douglas Park NSW 2569

www.finchsociety.org secretary@finchsociety.org

26/11/2015

Hon. Jaala Pulford MLC

Minister for Agriculture (Victorian Government)

Minister responsible for the Domestic Animals Act 1994

jaala.pulford@parliament.vic.gov.au

Dear Minister,

RE: YOUR RESPONSE MIN004092

Thank you for your belated response to our letter. Our initial correspondence regarding this matter is dated 4/6/15 – your response dated 22/9/15. After waiting in excess of 3 months one would assume the facts and recommendation within our submission would have been given due consideration with at least some attempt to address the substance of our submission. Unfortunately the response received is largely irrelevant to the facts and recommendations made in our initial submission. Furthermore, the received response includes a number of factually incorrect statements including misquoting the legislation as it stands.

Before expanding further I make the following self-evident common sense observation that appears to have been missed in all correspondence from government officers in relation to this issue. Do you think it sensible to allow licensed natives to be sold at a sale but not unlicensed birds? For instance, endangered Black-throated Finches (licensed) can be traded at approved bird sales, whilst domestic Canaries and Budgerigars cannot be sold. Clearly this is nonsensical and was never the intention of legislators. The aim of our correspondence is to resolve this nonsense in a timely manner.

Unfortunately your correspondence MIN004092 misquotes section 96 of the Domestic Animals Act 1994. Our initial submission included hyperlinks to the legislation. To assist, a direct quote of section 96 follows:

"DOMESTIC ANIMALS ACT 1994 - SECT 96

Offence to sell certain animals outside certain places

A person must not sell any animal referred to in the definition of pet shop or prescribed by the regulations for the purposes of that definition—

(a) unless the animal is sold in the course of conducting a domestic animal business in a premises that is registered under Part 4 for that purpose; or

(aa) unless the animal is sold in a place that is a private residence; or

(b) unless the sale is approved under the Wildlife Act 1975."

Can I suggest your departmental officers respond to the facts outlined in our initial submission (attached once more FYI). In addition, the following points are in specific response to paragraphs within your correspondence MIN004092:

1. Para 2. Please provide evidence of animal welfare issues regarding bird sales in Victoria (or elsewhere). We are in possession of evidence from RSPCA indicating they are unaware of any such welfare issues.
2. Para 2 "*most birds can only be sold from a private residence or a registered pet shop, with the exception of some native species*" can only be described as misleading. Section 96(b) states "*unless the sale is approved under the Wildlife Act 1975*". The sales in question are approved under the *Wildlife Act 1975*. This fact is undisputed.
3. Para 3. A dishonest recount of Section 96 which neglects 96(b) entirely. This paragraph has been reproduced in many responses in my possession and requires correction to all.
4. Para 4. In this case Section 96(b) is misquoted – in my view quite deceptively. The actual words in s96(b), namely "*unless the sale is approved under the Wildlife Act 1975*" has been altered to read "*unless the bird is exempt under the Wildlife Act 1975 amnesty*". One could have given some credence to an honest mistake with previous errors - perhaps s96(b) was missed entirely? Unfortunately this misquote is clearly a deliberate attempt to mislead. It is the sale and not the birds that require approval under the *Wildlife Act 1975*.
5. Para 5 correctly asserts that local government has responsibility for compliance. Please provide evidence of local council officer competence and qualifications in identifying various avian species. We have documentation from various local councils indicating their officers do not possess the required expertise in this area.
6. Para 6. Large bird sales have been in operation for in excess of 30 years. These are significant events for local avicultural clubs and local communities. We recommend that in future, further investigation is undertaken before decisions which affect significant events are implemented.
7. Para 7. Based on FOI requests in our possession, no written correspondence advising sale organisers of the issue exists. Based on evidence from clubs and local councils, we presume phone calls to be the sole means of communication – please confirm?

I requested a meeting with relevant officers some time ago (14/9/2015 via Katrina Kopczynski) and still await a response to this request.

Sincerely,



Samuel Davis
President – The Finch Society of Australia Inc.
P: (02) 4632 7987
M: 0411 253 512
F: (02) 4632 8002
E: president@finchsociety.org

CC: Peter Walsh MP (Vic. Shadow Minister for Agriculture), VAC, CCBFA, NFSA, ABA, FSA Committee, FSA Branch and Affiliate Clubs, FSA Members

Appendix 9. — Documents obtained under FOI from Frankston City Council

From: [redacted]
Sent: Tuesday, 26 May 2015 4:52 PM
To: [redacted]@ecodev.vic.gov.au
Subject: RE: Bird Show Event Organiser

FYI

Thanx

I have just got back from Dogs Vic, and they know all about this, so does [redacted] (got his number from them too)
Apparently the complainant has made a few allegations about this event and is organising the press and the organisers are organising the police, everyone is organising, ha ha

Expecting a group of activists who are going to be protesting.

The avicultural society group is also going to have bird stewards plus [redacted] plus (someone) [redacted] from the DLEWP and [redacted] (the organiser) assisted in the development of the most recent Code of Practice for Bird sales 2014, so I cannot see him not running a tight ship.

I will call [redacted] tomoz if need be, but I want to coordinate with [redacted] and the DLEWP rep going on Sunday. The sale opens to the public only between 11 am to 2pm on the Sunday.

😊



>> Senior Animal Management Officer
Civic Centre >> 30 Davey Street Frankston >> PO Box 490 Frankston VIC 3199
Telephone: [redacted]



From: [redacted]@ecodev.vic.gov.au [mailto:[redacted]@ecodev.vic.gov.au]
Sent: Tuesday, 26 May 2015 2:27 PM
To: [redacted]
Subject: Bird Show Event Organiser

Hi [redacted]

[redacted] has just advised the even organiser is [redacted]. His contact number [redacted],

Also I have informed [redacted] that you may be in contact with him about this matter also.

Thanks [redacted]

From: [REDACTED]
Sent: Tuesday, 26 May 2015 5:26 PM
To: [REDACTED]@ecodev.vic.gov.au
Subject: RE: Bird Show Event Organiser

Heads up

Just had a call from [REDACTED]

[REDACTED] I just explained where we are coming from and section 96 and that exotic birds that require a licence can only be sold from a private residence or DAB (Pet Shop). I also explained that I wouldn't know which birds require a licence or not and will be relying on DLEWP expertise on the day, I am not guessing. I also explained that Frankston City is not intending to run rough shot over the event, obviously received an allegation so we need to respond. I did say that our position at this minute was not about issuing penalties or anything, just need to ensure that 96 is complied with. [REDACTED]



[REDACTED] >> Senior Animal Management Officer
Civic Centre >> 30 Davey Street Frankston >> PO Box 490 Frankston VIC 3199
Telephone: [REDACTED]



From: [REDACTED]@ecodev.vic.gov.au [mailto:[REDACTED]@ecodev.vic.gov.au]
Sent: Tuesday, 26 May 2015 4:55 PM
To: [REDACTED]
Subject: RE: Bird Show Event Organiser

Hi [REDACTED]

I suggest that you do call [REDACTED] if you can. He has some information around bird breeds that he can provide you and may be able to share some of his knowledge on the Wildlife aspect.

Thanks again [REDACTED]

I am leaving the department. My last working day will be 29 May 2015. After this date any emails should be directed to the pet welfare address at pet.welfare@ecodev.vic.gov.au.

[REDACTED] | Project Officer - Local Government Council Liaison | Biosecurity Assurance
Regulation and Compliance | Biosecurity Division
Department of Economic Development, Jobs, Transport and Resources
475 Mickleham Road, Altrincham, Victoria 3049
T: [REDACTED] | E: [REDACTED]@ecodev.vic.gov.au
www.economicdevelopment.vic.gov.au

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From: [redacted]@rspcavic.org.au>
Sent: Wednesday, 27 May 2015 10:59 AM
To: [redacted]
Subject: RE: Skye Bird Sale and Expo

Hi,

[redacted] from DEWLP will be in attendance with myself and another Inspector . We are meeting in the car park at 8.45 am . Apparently the show starts at 9.30 to 2pm. I don't believe we will need to be there that period of time- depending . So will do inspections early to ensure compliance. They also have Avian Stewarts present to ensure they are in compliance with the Code of practice for bird sales.

Cheers [redacted]

RSPCA Inspector
Mornington Peninsula



1030 Robinsons Road Pearcedale 3912
P: [redacted] F:5978 7255 [redacted]@rspcavic.org.au

From: [redacted] [mailto:[redacted]@frankston.vic.gov.au]
Sent: Wednesday, 27 May 2015 10:22 AM
To: [redacted]
Subject: Skye Bird Sale and Expo

Hi ya

Just need to coordinate my visit to the above sale on Sunday with you guys. Are you and the officer from DLEWP attending together and if so what time?. The information I have received is that the sale is open to the public from 11 am to 2pm on the Sunday.

[redacted] spoke to you on the telephone yesterday and because the department apparently has received an allegation that there may be birds being sold illegally at the sale, the Domestic Animals Branch on behalf of The Minister for Agriculture has requested Frankston City to attend with the following instructions.

- * Exotic birds that require a licence cannot be sold without a licence other than from a private residence or Domestic Animal Business (Pet Shop). Instructions from the Branch is that this Contravenes section 96 of the DAA 1994 - Offence to sell certain animals outside certain places
- * Because I am not qualified to determine which birds require a licence I will need to be guided by the officer from the DLEWP.

Copy obtained under FOI Act

From: [REDACTED]
Sent: Thursday, 28 May 2015 3:44 PM
To: [REDACTED]
Subject: FW: Bird expo

Hey

C U in the carpark at 845 am.....it sounds like it will be ok, sorted.....as it should have been.

Catch ya



>> Senior Animal Management Officer
Civic Centre >> 30 Davey Street Frankston >> PO Box 490 Frankston VIC 3199
Telephone: [REDACTED]



From: [REDACTED]@delwp.vic.gov.au [mailto:[REDACTED]@delwp.vic.gov.au]
Sent: Thursday, 28 May 2015 3:24 PM
To: [REDACTED]
Cc: [REDACTED]@delwp.vic.gov.au; [REDACTED]
Subject: Re: Bird expo

Afternoon all

I've spoken with a couple of you but thought I'd send a quick email to let you know what I know about Sunday's bird show.

I spoke to [REDACTED] (VAC), he is having a meeting tonight with their board and they will be advising participants of the show that there are to be no transactions involving exotic birds (the amnesty from DELWP allows them to trade in wildlife only).

He is also going to be arranging for all the wildlife to be in one section and all the exotics to be in another, so there should be no confusion about what can and can't be traded and what is or isn't wildlife.

[REDACTED], if there are any transactions you observe that you're unsure about, [REDACTED] will be able to identify whether it involves wildlife species.

Good luck and thanks for enduring the last few days of phone calls, lawyers and emails!

Catch you all soon.

[REDACTED] | Acting Regional Manager, Environment and Natural Resources | Port
Phillip
Regional Services | Department of Environment, Land, Water & Planning
Level 8, 8 Nicholson Street, East Melbourne, Victoria 3002
M: [REDACTED] | F: 039637 8889 | E: [REDACTED]@delwp.vic.gov.au

From: [REDACTED]
Sent: Monday, 1 June 2015 11:02 AM
To: [REDACTED]@ecodev.vic.gov.au'
Cc: [REDACTED]
Subject: Skye Bird Sale & Expo
Attachments: appendix 1.pdf; Appendix 2.pdf; Appendix 3.pdf

Hi [REDACTED]

As discussed earlier please find my summary of the above event as follows.

On Sunday 31st May at 845 am I attended the Dogs Victoria, State Dog Centre on Westernport Highway Skye where I met 2 RSPCA Inspectors and a wildlife representative from DELWP.

My understanding was that this was in response to allegations lodged with State Government departments about possible legislative breaches at the event.

* Subsequently the 3 Officers and myself had a briefing with one of the organisers [REDACTED] and other representatives from the Mornington Peninsula Avicultural Society.

It was explained that a process had been implemented to address the matter of Section 96 of the Domestic Animals Act 1994, whereas all non-indigenous (exotic) birds in their cages were set up in a long line against a wall and fenced off using webbing erected approximately 1 metre from birds. Each cage on display had a number affixed. Along the front of the fencing there were 3 or 4 tables that had "Expressions Of Interest" forms available (Appendix 1), these were for the prospective buyers/purchasers to complete noting the cage number and the buyers details. Also available was an agreement form "Non Native Birds Display" (Appendix 2) for the sellers to complete in conjunction with one of the 4 bird stewards that were on duty to lodge details of the birds that they had on display. In addition, there was a poster "Public Notice" (Appendix 3) affixed at every entrance, on the sides of tents, on every table, both in the non-indigenous (exotic) bird area, the native bird area and the general trading section (you could not miss them). This poster informs all in attendance that non-indigenous (exotic) birds will not be traded at the sale.

I remained at the event until approximately 1130 am, I did not observe any breaches and make comment that the organisers did a great job in the implementation of their adopted strategy at such late notice, given the circumstances.

On behalf on the Frankston City Council I would like to express appreciation to [REDACTED] and his team, for their cooperation in regard to this matter demonstrated yesterday.

Appendix 10. — Secretary Fennessy Applauding Welfare Commitment



Department of Environment
Land, Water & Planning

8 Nicholson Street
East Melbourne, Victoria 3002
PO Box 500
East Melbourne, Victoria 8002
www.delwp.vic.gov.au

Mr David Renshaw
President
Victorian Avicultural Council Inc
renwood2@bigpond.net.au

Ref: SEC011679

Dear Mr Renshaw

AMNESTY FROM PROSECUTION UNDER THE WILDLIFE ACT 1975 TO ATTEND AUTHORISED EVENTS

Thank you for your letter dated 12 October 2015 requesting an amnesty for your 2016 bird sales.

We are privileged in Victoria to have access to a diverse range of wildlife for many different purposes. Your organisation has a long-standing history in promoting and advancing the keeping of birds and conducting bird sales. As you have outlined, these activities provide many social, economic and environmental benefits to both individuals and the broader community.

The steps you have put in place to ensure the welfare of birds at these shows demonstrates your commitment to ensuring that these events occur in a manner that maintains their health and wellbeing and is responsive to any issues that may arise. I also value your proactive engagement with Wildlife Officers leading up to and during these events to ensure there is effective monitoring and compliance.

I would be pleased to issue an amnesty from prosecution for your 2016 sales once you have confirmed the dates and venues for these events. To facilitate this process, please contact Don Hough, Director Regulation and Approvals on telephone (03) 9637 8443 when you have confirmed your arrangements.

Thank you for raising this matter with me and I wish you every success with your 2016 events.

Yours sincerely

Adam Fennessy
Secretary

18 NOV 2015

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