



Australian Capital Territory

Animal Welfare Act 1992

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Republication No 11

Effective: 27 March 2007 – 25 September 2007

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Last amendment made by A2007-7

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Animal Welfare Act 1992* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 27 March 2007. It also includes any amendment, repeal or expiry affecting the republished law to 27 March 2007.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



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Australian Capital Territory

Animal Welfare Act 1992

An Act for the promotion of animal welfare, and for related purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Animal Welfare Act 1992*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '*native animal*—see the *Nature Conservation Act 1980*, dictionary.' means that the expression 'native animal' is defined in that dictionary and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

4 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

5 Animal Welfare Authority

- (1) The chief executive must appoint a public servant as the Animal Welfare Authority.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (2) Until the chief executive makes an appointment under subsection (1), the authority is the public servant for the time being exercising the duties of the public service office the duties of which include exercising the functions of the authority.
- (3) Subsection (2) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (4) Subsections (2) and (3) and this subsection expire 1 year after the day this section commences.

6 Delegation by authority

The authority may delegate to a public servant the authority's functions under this Act.

Note For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

6A Identity cards

- (1) The chief executive must give an authorised person an identity card stating the person's name and position.
- (2) The identity card must show—
 - (a) a recent photograph of the person; and
 - (b) the card's date of issue and expiry; and
 - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
 - (a) the person stops being an authorised person; and
 - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) In this section:

authorised person means a person holding any of the following positions:

- (a) the authority;
- (b) a delegate of the authority with any delegated powers of an inspector.

Part 2 Animal welfare offences

7 Cruelty

A person commits an offence if the person commits an act of cruelty on an animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

7A Aggravated cruelty

- (1) A person commits an offence if—
- (a) the person commits an act of cruelty on an animal; and
 - (b) the act causes the death of the animal; and
 - (c) the person intends to cause, or is reckless about causing, the death of, or serious injury to, the animal.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (2) A person commits an offence if—
- (a) the person commits an act of cruelty on an animal; and
 - (b) the act causes serious injury to the animal; and
 - (c) the person intends to cause, or is reckless about causing, the death of, or serious injury to, the animal.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (3) In this section:
- causes* death or serious injury—a person's act *causes* death or serious injury if it substantially contributes to the death or injury.

serious injury, to an animal, means any injury (including the cumulative effect of more than 1 injury) that—

- (a) endangers, or is likely to endanger, the animal's life; or
- (b) is, or is likely to be, significant and longstanding.

7B Alternative verdicts—cruelty

- (1) This section applies if, in a prosecution for an offence against section 7A (Aggravated cruelty), the trier of fact is not satisfied that the defendant committed the offence, but is satisfied beyond reasonable doubt that the defendant committed an offence against section 7 (Cruelty).
- (2) The trier of fact may find the defendant guilty of the offence against section 7, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

8 Pain

- (1) A person commits an offence if the person causes an animal unnecessary pain.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person in charge of an animal commits an offence if the person—
 - (a) fails to provide it with appropriate, and adequate, food, water, shelter or exercise; or
 - (b) fails to take reasonable steps (including, if appropriate, seeking veterinary treatment) to alleviate any pain suffered by the animal; or
 - (c) abandons the animal; or
 - (d) neglects the animal in a way that causes it pain; or

(e) kills the animal in a way that causes it unnecessary pain.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

9 Confined animals

(1) A person in charge of a confined animal commits an offence if the person does not provide the animal with adequate exercise.

Maximum penalty: 10 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

(3) A person commits an offence if the person confines an animal in a way that causes injury, pain, or excessive distress to the animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

U 9A Battery hens

10 Alleviation of pain

(1) A person (other than a person in charge of an animal) commits an offence if—

- (a) the person injures an animal; and
- (b) the person does not take reasonable steps (including, if appropriate, seeking veterinary treatment) to alleviate any pain suffered by the animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

(2) A person (other than a person in charge of an animal) commits an offence if—

- (a) the person injures the animal; and

- (b) the person does not take reasonable steps to tell the person in charge of the animal within 24 hours after the injury; and
- (c) if there is no person in charge of the animal or if, after taking the reasonable steps, the person cannot tell the person in charge of the animal—tell the authority, or an inspector, within 72 hours after the injury.

Maximum penalty: 10 penalty units.

Examples of animals that may have no person in charge

kangaroos, foxes, galahs

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An offence against subsection (2) is a strict liability offence.

11 Release

- (1) A person commits an offence if the person releases an animal from custody or control.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person in charge of an animal commits an offence if the person does not take adequate precautions to prevent the release of the animal from custody or control.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) This section does not apply—
 - (a) if the person has a reasonable excuse; or
 - (b) to the release of domestic cats in the course of their reasonable management and control.

12 Administering poison

- (1) A person commits an offence if the person administers poison to a domestic or native animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) This section does not apply if—
- (a) the person has a reasonable excuse; or
 - (b) the administration of the poison to the animal is permitted under a territory law.

12A Laying poison

- (1) A person commits an offence if the person lays a poison with the intention of killing or injuring a domestic or native animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if—
- (a) the person lays a poison; and
 - (b) the person is reckless about causing the death of, or injury to, a domestic or native animal; and
 - (c) the poison causes the death of, or injury to, a domestic or native animal.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) A person commits an offence if—
- (a) the person lays a poison; and

- (b) there is a reasonable likelihood that the poison will kill or injure a domestic or native animal.

Maximum penalty: 10 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.
- (5) It is a defence to a prosecution for an offence against subsection (3) if the defendant proves that the defendant took all reasonable steps to avoid death or injury to domestic and native animals.

13 Electrical devices

A person commits an offence if—

- (a) the person administers an electric shock to an animal; and
- (b) the person administers the shock using an electrical device that is not prescribed by regulation for use on that kind of animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

14 Spurs

- (1) A person must not use spurs with sharpened or fixed rowels on an animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person must not possess—
 - (a) a spur or similar device with sharpened or fixed rowels; or
 - (b) a cockfighting spur cap.

Maximum penalty: 5 penalty units.

- (3) An offence against subsection (2) is a strict liability offence.

- (4) Subsection (2) does not apply to the possession of a spur, device or cockfighting spur cap kept only—
- (a) for the purpose of display; or
 - (b) as a curio or part of a collection.

15 Transport and containment

A person must not transport or contain an animal in circumstances under which the animal is subjected to unnecessary injury, pain or suffering.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

Example of containment

locking a dog in a car

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

15A Transport of dogs

- (1) A person commits an offence if—
- (a) the person carries a dog in or on a moving vehicle on a road or road related area; and
 - (b) the dog is not being used to work livestock; and
 - (c) the dog is not restrained or enclosed in a way that would prevent the dog from falling or jumping from the vehicle.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

road—see the *Road Transport (Safety and Traffic Management) Act 1999*, dictionary.

road-related area—see the *Road Transport (Safety and Traffic Management) Act 1999*, dictionary.

16 Working etc unfit animals

- (1) A person commits an offence if—
- (a) the person works, rides, drives or otherwise uses an animal; and
 - (b) the person does so—
 - (i) knowing that the animal is unfit for the use; or
 - (ii) negligent about whether the animal is fit for the use.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person in charge of an animal commits an offence if—
- (a) the person authorises the working, riding, driving or other use of the animal; and
 - (b) the person does so—
 - (i) knowing that the animal is unfit for the use; or
 - (ii) negligent about whether the animal is fit for the use.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

17 Matches, competitions etc

- (1) A person commits an offence if the person promotes, conducts, takes part in or attends as a spectator at a match, competition or any other activity in which an animal is released from captivity for the purpose of being—
- (a) hunted, caught, confined, injured or killed by a person (by the use of a firearm or otherwise) or another animal; or

(b) used to train or exercise another animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

Example of promoting a competition

advertising the competition

Example of conducting a match

receiving money for admission to the match

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) A person commits an offence if the person—
- (a) owns, keeps, uses or manages premises used for—
 - (i) fights between animals; or
 - (ii) the baiting or maltreating of animals; or
 - (iii) a match, competition or any other activity in which an animal is released from captivity for the purpose of being hunted, caught, confined, injured or killed by a person (by the use of a firearm or otherwise) or another animal; or
 - (b) uses or allows an animal in captivity to kill another animal; or
 - (c) keeps an animal, or has the custody, care or control of an animal, with the intention of—
 - (i) using the animal as a lure for blooding greyhounds; or
 - (ii) killing the animal for the purpose of blooding greyhounds; or

- (iii) using the animal in any other way in relation to the training and racing of coursing dogs.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) This section does not apply in relation to—
 - (a) the rehabilitation of native animals for release into the wild in a way authorised under a territory law; or
 - (b) the keeping and display of animals whose normal diet includes live food; or
 - (c) the mustering and working of stock; or
 - (d) the hunting or control of animals in a way authorised under a Commonwealth or territory law; or
 - (e) the catching of fish in a way authorised under a Commonwealth or territory law; or
 - (f) the use of a trained animal to train or exercise another animal of the same species in accordance with accepted animal husbandry practice in relation to the animal.
- (4) In this section:
stock—see the *Stock Act 2005*, dictionary.

18 Rodeos and game parks

- (1) A person commits an offence if the person conducts or takes part in a rodeo.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if the person promotes or conducts a game park.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) In this section:

game park means premises where—

- (a) animals other than fish are confined; and
- (b) the taking and killing of those animals as a sport or recreation is permitted on payment of a fee or other consideration.

take, in relation to an animal, includes hunt, shoot, poison, net, snare, spear, pursue, capture and injure the animal.

19 Medical and surgical procedures—people other than veterinary surgeons

- (1) A person who is not a veterinary surgeon commits an offence if the person carries out a medical or surgical procedure on an animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) This section does not apply to—

- (a) a medical procedure of a prophylactic nature carried out on the animal in accordance with directions given by a veterinary surgeon; or
- (b) a medical or surgical procedure carried out in accordance with accepted animal husbandry practice in relation to—
 - (i) farming and grazing activities; or
 - (ii) the management of a zoo; or
 - (iii) the management of native animals; or

(c) a medical or surgical procedure carried out in accordance with a licence or authorisation, subject to any written direction of an animal ethics committee; or

(d) the removal of a dog's dewclaws not later than 4 days after the day the dog was born.

(3) In this section:

accepted animal husbandry practice does not include a practice prescribed by regulation for this section.

19A Medical and surgical procedures—veterinary surgeons

(1) A veterinary surgeon must not do any of the following for a purpose other than a therapeutic purpose:

(a) dock a dog's tail;

(b) crop a dog's ear;

(c) remove a dog's ear;

(d) perform a clitoridectomy on a dog;

(e) carry out any other procedure prescribed by regulation.

Maximum penalty: 50 penalty units.

(2) A veterinary surgeon must not remove a dog's dewclaws more than 4 days after the day the dog was born for a purpose other than a prophylactic purpose or a therapeutic purpose.

Maximum penalty: 50 penalty units.

(3) A veterinary surgeon must not carry out a medical or surgical procedure on an animal for a cosmetic purpose only.

Maximum penalty: 50 penalty units.

(4) An offence against this section is a strict liability offence.

U 20 Exception—approved code of conduct

This part (other than the following provisions) does not apply if the conduct making up the offence was in accordance with an approved code of practice:

- (a) section 14 (Spurs);
- (b) section 17 (1) or (2) (Matches, competitions etc);
- (c) section 18 (1) or (2) (Rodeos and game parks);
- (d) section 19A (Medical and surgical procedures—veterinary surgeons).

Part 3 Codes of practice

21 Contents

A code of practice may deal with the following matters:

- (a) the care and use of animals for scientific purposes;
- (b) the use of animals from pounds;
- (c) the management and control of companion animals;
- (d) the management of companion animals in pounds and shelters;
- (e) the development of new breeds of companion animals;
- (f) the use of electric goads;
- (g) horse agistment establishments;
- (h) animal welfare in rural industry;
- (i) animal welfare in intensive farming;
- (j) transport of livestock;
- (k) animal welfare in the management of saleyards;
- (l) livestock and poultry slaughtering establishments;
- (m) fishing;
- (n) culling of native animals;
- (o) control of feral animals;
- (p) aerial shooting of animals;
- (q) trapping and snaring of animals;
- (r) commercial pest control;
- (s) commercial keeping and display of animals;

- (t) keeping of zoo animals;
- (u) animal welfare in the racing industry;
- (v) any other matter related to animal welfare.

22 Codes of practice

- (1) The Minister may, in writing, approve a code of practice relating to animal welfare.

Note Power given under an Act to make a statutory instrument (including a code of practice) includes power to amend or repeal the instrument (see *Legislation Act 2001*, s 46 (1)).

- (2) A code of practice is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Note 2 An amendment or repeal of a code of practice is also a disallowable instrument (see *Legislation Act 2001*, s 46 (2)).

24 Publication

- (1) The authority shall cause to be published in a newspaper published and circulating in the Territory, on or before the date of effect of an approval under section 22, notice of that approval—
- (a) specifying the date on which the approval takes effect; and
 - (b) specifying a place or places at which copies of the code of practice to which the approval relates may be purchased; and
 - (c) containing a statement to the effect that a copy of that code of practice may be inspected by members of the public at the office of the authority during office hours; and
 - (d) containing a statement to the effect that the approval is subject to disallowance by the Legislative Assembly under the *Legislation Act 2001*.

- (2) The authority shall ensure that—
- (a) a copy of the code of practice to which an approval under section 22 relates is made available for public inspection at the office of the authority during office hours; and
 - (b) copies of that code of practice are made available for purchase at each place specified for that purpose in the relevant notice under subsection (1).

- (3) In this section:

code of practice includes any document (or part of a document) the provisions of which are applied by the code.

Part 4 Research, teaching and breeding

Division 4.1 Licences

25 Research, teaching and breeding

- (1) A person commits an offence if the person—
- (a) uses or breeds an animal for research or teaching; and
 - (b) the person does not have a licence to do so.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) This section does not apply to—
- (a) an authorised person, or a person assisting an authorised person; or
 - (b) a person who uses or breeds an animal in the course of employment or engagement by a licensee; or
 - (c) a person who uses an animal prescribed by regulation for teaching purposes in a preschool or primary school; or
 - (d) an interstate researcher to whom section 49B (1) applies; or
 - (e) a person who uses or breeds an animal in the course of employment or engagement by an interstate researcher to whom section 49B (1) applies.

26 **Application for licence**

- (1) A person may apply to the authority for a licence to use or breed animals for research or teaching, or for both research and teaching, at stated premises.

Note 1 A fee may be determined under s 110 for this provision.

Note 2 If a form is approved under s 110A for an application, the form must be used.

- (2) The authority may, in writing, require the applicant to give the authority additional information in writing or documents that the authority reasonably needs to decide the application.
- (3) If the applicant does not comply with a requirement under subsection (2), the authority may refuse to consider the application further.

27 **Decision about licence application**

- (1) On an application by a person for a licence, the authority must—
- (a) grant the licence for the premises stated in the application (the *licensed premises*); or
 - (b) refuse to grant the licence.
- (2) In deciding whether to grant the licence, the authority must consider—
- (a) the applicant's experience and competency in caring for and handling animals; and
 - (b) the adequacy of the premises stated in the application, equipment and other facilities for caring for and handling animals; and
 - (c) the adequacy of arrangements for the provision of veterinary treatment to animals at the premises stated in the application; and

- (d) the applicant's response (or lack of response) to any request for further information under section 26 (2); and
 - (e) whether the applicant has obtained and kept in force any necessary licences under the *Nature Conservation Act 1980*; and
 - (f) whether the applicant has, within the 3 years immediately before the date of the application, been convicted or found guilty of a defined offence; and
 - (g) any criteria prescribed by regulation.
- (3) Subsection (2) does not limit the matters that the authority may consider.
- (4) In this section:

applicant includes, if the applicant is a corporation, each executive officer of the corporation.

grant includes grant by way of renewal.

renewal, of a licence, means the grant of the licence that is to begin on the day after the day the licence being renewed ends.

28 Licence conditions

A licence is subject to any condition—

- (a) prescribed by regulation; or

- (b) put on the licence by the authority that the authority believes on reasonable grounds is reasonable or necessary in the interests of animal welfare.

Examples of conditions that may be put on a licence

- 1 a condition about the welfare of the animals to be used by the licensee
- 2 a condition about the provision of facilities and equipment for the welfare of the animals to be used by the licensee
- 3 that an approved code of practice must be complied with

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 The authority may amend a licence (including by putting a condition on the licence, or amending or removing a condition of the licence) at any time (see s 34).

29 Form of licence

A licence must—

- (a) be in writing; and
- (b) state the full name and address of the person to whom the licence is granted; and
- (c) state the licensed premises; and
- (d) state the period for which the licence is granted; and
- (e) state any condition put on the licence by the authority.

30 Term of licence

A licence is granted for the period of not longer than 3 years stated in the licence, and remains in force subject to this Act.

31 Licensees—request for information and documents

The authority may, in writing, require a licensee to give the authority information in writing or documents that the authority

reasonably needs to exercise its functions under this Act in relation to the licence.

Example of information or documents

a copy of a licensee's evacuation plan for animals in case of a fire

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

32 Licence renewal

- (1) This section applies if—
 - (a) an application is made under section 26 (Application for licence) by a licensee; and
 - (b) the application is for renewal of the licensee's licence; and
 - (c) the application is made not later than 14 days before the day the licence term ends.
- (2) The licence remains in force, subject to this Act, until the application is decided under section 27 (Decision about licence application).
- (3) If the authority grants the licence applied for, the renewal of the licence begins on the day after the day the licence being renewed ends.
- (4) A suspended licence may be renewed, but the renewed licence is suspended until the suspension ends.
- (5) In this section:

renewal, of a licence, means the grant of the licence that is to begin on the day after the day the licence being renewed ends.

33 Licensee to notify change of name or address

- (1) If a licensee changes the licensee's name or address, the licensee must, as soon as practicable but not later than 14 days after the day the change happens, tell the authority, in writing, about the change.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

34 Amendment of licence

- (1) The authority may amend a licence at any time in accordance with this section if it believes on reasonable grounds that the amendment is reasonable or necessary in the interests of animal welfare.

- (2) The authority may amend a licence on its own initiative or on application by the licensee.

Note 1 A fee may be determined under s 110 for this provision.

Note 2 If a form is approved under s 110A for an application, the form must be used.

- (3) The authority may amend a licence on its own initiative only if the authority has—

- (a) given the licensee written notice of the proposed amendment; and
(b) considered any comments made by the licensee in accordance with the notice.

- (4) The notice mentioned in subsection (3) (a) must—

- (a) include the authority's grounds for making the proposed amendment; and
(b) invite the licensee to give the authority any comments about the amendment before the end of a stated period of at least 14 days after the day the notice is given to the licensee.

- (5) Subsection (3) does not apply to action under section 73D (Taking regulatory action).

Note Section 108 (Notice of reviewable decisions) provides that the authority must give written notice of the decision to each person affected by the decision.

- (6) The amendment of a licence takes effect on—
- (a) the day the notice of the decision to amend is given to the licensee; or
 - (b) if the notice states a later date of effect—that date.
- (7) A licence amended under this section must be returned to the authority as soon as practicable, but not later than 7 days after the day the notice of the decision to amend is given to the licensee.
- (8) In this section:

amend, a licence, includes putting a condition on the licence, or amending or removing a condition of the licence.

condition does not include a condition prescribed by regulation.

35 Surrender of licences

- (1) A licensee may surrender the licence by giving the authority written notice of the surrender and the licence.
- (2) The surrender takes effect on—
- (a) the day the notice is given to the authority under subsection (1); or
 - (b) if the notice states a later date of effect—that date.

Division 4.2 Authorisations

36 Research and teaching using and breeding animals

- (1) A person employed or engaged by a licensee commits an offence if the person—
- (a) conducts a program of research using or breeding animals and the person does not hold a research authorisation for the research; or
 - (b) conducts a program of teaching using or breeding animals and the person does not hold a teaching authorisation for the teaching.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply to—
- (a) a person providing research or teaching assistance for the program; or
 - (b) an interstate researcher to whom section 49B (1) applies; or
 - (c) a person who uses or breeds an animal in the course of employment or engagement by an interstate researcher to whom section 49B (1) applies.

37 Application for authorisation

- (1) An individual may apply to the animal ethics committee for an authorisation to conduct a program of research or teaching, in relation to the use or breeding of animals at stated licensed premises.

Note 1 A fee may be determined under s 110 for this provision.

Note 2 If a form is approved under s 110A for an application, the form must be used.

- (2) The animal ethics committee may, in writing, require the applicant to give the committee additional information in writing or documents that the committee reasonably needs to decide the application.
- (3) If the applicant does not comply with a requirement under subsection (2), the animal ethics committee may refuse to consider the application further.

38 Decision about authorisation application

- (1) On an application by a person for an authorisation, the animal ethics committee must—
 - (a) grant the authorisation to the person to conduct the program of research or teaching stated in the application, for the licensed premises stated in the application; or
 - (b) refuse to grant the authorisation.
- (2) In deciding whether to grant the authorisation, the animal ethics committee must consider—
 - (a) the applicant's experience and competency in caring for and handling animals; and
 - (b) the applicant's response (or lack of response) to any request for further information under section 37 (2); and
 - (c) whether the applicant has obtained and kept in force any necessary licences under the *Nature Conservation Act 1980*; and
 - (d) whether the applicant has, within the 3 years immediately before the date of the application, been convicted or found guilty of a defined offence; and
 - (e) any criteria prescribed by regulation.
- (3) Subsection (2) does not limit the matters that the animal ethics committee may consider.

(4) In this section:

grant includes grant by way of renewal.

renewal, of an authorisation, means the grant of the authorisation that is to begin on the day after the day the authorisation being renewed ends.

39 **Authorisation conditions**

An authorisation is subject to any condition—

- (a) prescribed by regulation; or
- (b) put on the authorisation by the animal ethics committee that the committee believes on reasonable grounds is reasonable or necessary in the interests of animal welfare.

Examples of conditions that may be put on an authorisation

- 1 a condition about the use of the animals in the particular program of research or teaching that is to be undertaken
- 2 a condition about the welfare of the animals in the particular program of research or teaching that is to be undertaken
- 3 a condition about particular facilities and equipment relevant to the use of the animals in the course of conducting the particular program of research or teaching that is to be undertaken
- 4 that an approved code of practice must be complied with

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 The animal ethics committee may amend an authorisation (including by putting a condition on the authorisation, or amending or removing a condition of the authorisation) at any time (see s 46).

40 **Form of authorisation**

An authorisation must—

- (a) be in writing; and

- (b) state the full name and address of the person to whom the authorisation is granted; and
- (c) state the licensed premises in relation to which the authorisation is granted; and
- (d) state the period for which the authorisation is granted; and
- (e) state any condition put on the authorisation by the animal ethics committee.

41 Term of authorisation

An authorisation is granted for the period of not longer than 3 years stated in the authorisation, and remains in force subject to this Act.

42 Identity certificate for authorised people

- (1) The animal ethics committee must give an authorised person an identity certificate stating the person's name and that the person is an authorised person.

Note If a form is approved under s 110A for an identity certificate, the form must be used.

- (2) The identity certificate must show—
 - (a) a recent photograph of the person; and
 - (b) anything else prescribed by regulation.
- (3) An authorised person commits an offence if—
 - (a) an authorised officer asks the person to produce the person's identity certificate; and
 - (b) the person does not produce the certificate.

Maximum penalty: 5 penalty units.

- (4) A person commits an offence if—
 - (a) the person stops being an authorised person; and

- (b) the person does not return the person's identity certificate to the animal ethics committee as soon as practicable, but not later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

- (5) An offence against this section is a strict liability offence.
- (6) For this section, if an authorised person holds more than 1 authorisation, the person *stops being an authorised person* only if all of the authorisations that the person holds are suspended or cancelled, or have been surrendered, under this Act.

43 **Authorised people—request for information and documents**

The animal ethics committee may, in writing, require an authorised person to give the committee information in writing or documents that the committee reasonably needs to exercise its functions under this Act in relation to the authorisation.

Example of information or documents

information about the mortality rates of animals in the program of research in relation to which the authorisation is granted

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

44 **Authorisation renewal**

- (1) This section applies if—
- (a) an application is made under section 37 (Application for authorisation) by an authorised person; and
- (b) the application is for renewal of the person's authorisation; and

- (c) the application is made not later than 14 days before the day the authorisation term ends.
- (2) The authorisation remains in force, subject to this Act, until the application is decided under section 38 (Decision about authorisation application).
- (3) If the animal ethics committee grants the authorisation applied for, the renewal of the authorisation begins on the day after the day the authorisation being renewed ends.
- (4) A suspended authorisation may be renewed, but the renewed authorisation is suspended until the suspension ends.
- (5) In this section:

renewal, of an authorisation, means the grant of the authorisation that is to begin on the day after the day the authorisation being renewed ends.

45 Authorised person to notify change of name or address

- (1) If an authorised person changes the person's name or address, the person must, as soon as practicable but not later than 14 days after the day the change happens, tell the animal ethics committee, in writing, about the change.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

46 Amendment of authorisation

- (1) The animal ethics committee may amend an authorisation at any time in accordance with this section if it believes on reasonable grounds that the amendment is reasonable or necessary in the interests of animal welfare.

- (2) The animal ethics committee may amend an authorisation on its own initiative or on application by the authorised person.

Note 1 A fee may be determined under s 110 for this provision.

Note 2 If a form is approved under s 110A for an application, the form must be used.

- (3) The animal ethics committee may amend an authorisation on its own initiative only if the committee has—

- (a) given the authorised person written notice of the proposed amendment; and
- (b) considered any comments made by the authorised person in accordance with the notice.

- (4) The notice mentioned in subsection (3) (a) must—

- (a) include the animal ethics committee's grounds for making the proposed amendment; and
- (b) invite the authorised person to give the committee any comments about the amendment before the end of a stated period of at least 14 days after the day the notice is given to the authorised person.

- (5) Subsection (3) does not apply to action under section 73D (Taking regulatory action).

Note Section 108 (Notice of reviewable decisions) provides that the animal ethics committee must give written notice of the decision to each person affected by the decision.

- (6) The amendment of an authorisation takes effect on—

- (a) the day the notice of the decision to amend is given to the authorised person; or
- (b) if the notice states a later date of effect—that date.

- (7) An authorisation amended under this section must be returned to the animal ethics committee as soon as practicable, but not later than

7 days after the day the notice of the decision to amend is given to the authorised person.

(8) In this section:

amend, an authorisation, includes putting a condition on the authorisation, or amending or removing a condition of the authorisation.

condition does not include a condition prescribed by regulation.

47 Cessation of effect of authorisation

(1) An authorisation ceases to have effect if, and while, the relevant licence is suspended, cancelled or surrendered under this Act or otherwise ceases to have effect.

(2) In this section:

relevant licence, in relation to an authorisation, means the licence in relation to the licensed premises mentioned in the authorisation.

48 Surrender of authorisations

(1) An authorised person may surrender the authorisation by giving the animal ethics committee written notice of the surrender and the authorisation.

(2) The surrender takes effect on—

(a) the day the notice is given to the animal ethics committee under subsection (1); or

(b) if the notice states a later date of effect—that date.

Division 4.3 Interstate researchers

49A Notification

An interstate researcher must, at least 7 days before using or breeding an animal for research or teaching in the ACT—

- (a) notify the authority of the researcher's intention to use or breed an animal for research or teaching; and

Note If a form is approved under s 110A (Approved forms) for a notification, the form must be used.

- (b) give to the authority a copy of—
 - (i) the researcher's interstate research authorisation; and
 - (ii) any protocol and conditions with which the researcher is required to comply under the authorisation and any submission on which the grant of the authorisation is based.

49B Interstate researchers' authorisation in the ACT

- (1) An interstate researcher who has complied with section 49A may use or breed animals in the Territory in the same way, to the same extent and for the same purposes as the researcher is permitted to use or breed animals in the State where the researcher's interstate research authorisation was granted.
- (2) Subsection (1)—
 - (a) does not apply to a researcher whose interstate research authorisation is suspended; and
 - (b) ceases to apply to a researcher whose interstate research authorisation expires or is cancelled or revoked.
- (3) The authority may decide to end the application of subsection (1) to a researcher if satisfied on reasonable grounds that the researcher—
 - (a) has contravened this Act; or
 - (b) has contravened, in the Territory, an approved code of practice or a protocol or condition to which the researcher's interstate research authorisation is subject; or

- (c) has failed to comply, in the Territory, with the proposals for carrying out the researcher's activities set out in a submission on which the grant of the authorisation is based.
- (4) When considering whether to make a decision under subsection (3) about an interstate researcher, the authority is not required to give the researcher an opportunity to make representations if satisfied that the public interest or the welfare of any animal requires that the decision be made immediately.
- (5) The authority may decide that subsection (1) should again apply to a researcher to whom the subsection has ceased to apply because of a decision under subsection (3).
- (6) Subsection (1)—
 - (a) ceases to apply to a researcher about whom the authority has made a decision under subsection (3); and
 - (b) again applies to a researcher about whom the authority has made a decision under subsection (5).

Division 4.4 Animal ethics committees

50 Animal ethics committees

- (1) A regulation may make provision in relation to animal ethics committees, including provision relating to their establishment, constitution and functions.
- (2) A regulation made for subsection (1) may apply a law or instrument, or a provision of a law or instrument, as in force from time to time.
- (3) In this section:
apply includes adopt and incorporate.

Part 5 Circuses and travelling zoos

Division 5.1 Preliminary

51 Meaning of *prohibited animal*—pt 5

In this part:

prohibited animal means—

- (a) a bear, elephant, giraffe, primate (other than a human) or feline (other than a domestic cat); or
- (b) an animal prescribed by regulation.

Division 5.2 Offences

52 Circuses

- (1) A person commits an offence if—
 - (a) the person conducts a circus; and
 - (b) the circus has performing animals (but is not a travelling zoo); and
 - (c) the person does not have a permit to conduct the circus.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if the person conducts a circus using a prohibited animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) A person commits an offence if the person brings a prohibited animal into the ACT as part of a circus troupe.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (4) For subsection (3), it does not matter whether the animal is brought into the ACT for use in the circus.

53 Travelling zoos

- (1) A person commits an offence if—

- (a) the person conducts a travelling zoo; and
(b) the person does not have a permit to conduct the travelling zoo.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if the person conducts a travelling zoo using a prohibited animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) A person commits an offence if the person brings a prohibited animal into the ACT as part of a travelling zoo.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (4) For subsection (3), it does not matter whether the animal is brought into the ACT for use in the travelling zoo.

Division 5.3 Circus and travelling zoo permits

54 Application for circus or travelling zoo permit

- (1) A person may apply to the authority for a permit to conduct—

- (a) a circus with an animal in the circus troupe; or

(b) a travelling zoo.

Note 1 A fee may be determined under s 110 for this provision.

Note 2 If a form is approved under s 110A for an application, the form must be used.

- (2) For an application for a circus permit, the application must—
- (a) be accompanied by a list of animals that are to form part of the circus troupe, whether or not the animals are to be used in the circus; and
 - (b) be lodged not later than 4 weeks before the day the first performance of the circus is proposed to be held.
- (3) For an application for a travelling zoo permit, the application must—
- (a) be accompanied by a list of animals that are to travel with the zoo, whether or not the animals are to be used in the zoo; and
 - (b) be lodged not later than 4 weeks before the day the zoo is proposed to enter the ACT.
- (4) The authority may, in writing, require the applicant to give the authority additional information in writing or documents that the authority reasonably needs to decide the application.
- (5) If the applicant does not comply with a requirement under subsection (4), the authority may refuse to consider the application further.

55 Decision about circus or travelling zoo permit application

- (1) On an application by a person for a circus or travelling zoo permit, the authority must—
- (a) grant the permit; or
 - (b) refuse to grant the permit.

- (2) For an application for a circus permit, the authority must not grant a circus permit in relation to a circus if a prohibited animal is to form part of the circus troupe, whether or not the animal is to be used in the circus.
- (3) For an application for a travelling zoo permit, the authority must not grant a travelling zoo permit in relation to a zoo if a prohibited animal is to travel with the zoo, whether or not the animal is to be used in the zoo.
- (4) In deciding whether to grant the circus or travelling zoo permit, the authority must consider—
 - (a) the experience and competency of the applicant, and the applicant's employees and agents, in caring for and handling animals; and
 - (b) the adequacy of the conditions under which the animals are to be housed, trained, transported or used; and
 - (c) the adequacy of the facilities to be provided for the animals; and
 - (d) the applicant's response (or lack of response) to any request for further information under section 54 (4); and
 - (e) whether the applicant has obtained and kept in force any necessary licences under the *Nature Conservation Act 1980*; and
 - (f) whether the applicant has, within the 3 years immediately before the date of the application, been convicted or found guilty of a defined offence; and
 - (g) any criteria prescribed by regulation.
- (5) Subsection (4) does not limit the matters that the authority may consider.

(6) In this section:

applicant includes, if the applicant is a corporation, each executive officer of the corporation.

grant includes grant by way of renewal.

renewal, of a circus or travelling zoo permit, means the grant of the permit that is to begin on the day after the day the permit being renewed ends.

56 **Circus or travelling zoo permit conditions**

A circus or travelling zoo permit is subject to any condition—

- (a) prescribed by regulation; or
- (b) put on the permit by the authority that the authority believes on reasonable grounds is reasonable or necessary in the interests of animal welfare.

Examples of conditions that may be put on a circus or travelling zoo permit

- 1 a condition about the welfare of the animals to be used by the circus or travelling zoo
- 2 a condition about the provision of facilities and equipment for the welfare of the animals to be used by the circus or travelling zoo
- 3 that an approved code of practice must be complied with

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 The authority may amend a circus or travelling zoo permit (including by putting a condition on the permit, or amending or removing a condition of the permit) at any time (see s 59A).

57 **Form of circus or travelling zoo permit**

A circus or travelling zoo permit must—

- (a) be in writing; and

- (b) state the full name and address of the person to whom the permit is granted; and
- (c) state the period for which the permit is granted; and
- (d) state any condition put on the permit by the authority.

58 Term of circus or travelling zoo permit

A circus or travelling zoo permit is granted for the period stated in the permit, and remains in force subject to this Act.

59 Circus or travelling zoo permit-holder to notify change of name or address

- (1) If a circus or travelling zoo permit-holder changes the permit-holder's name or address, the permit-holder must, as soon as practicable but not later than 14 days after the day the change happens, tell the authority, in writing, about the change.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

59A Amendment of circus or travelling zoo permit

- (1) The authority may amend a circus or travelling zoo permit at any time in accordance with this section if it believes on reasonable grounds that the amendment is reasonable or necessary in the interests of animal welfare.
- (2) The authority may amend a circus or travelling zoo permit on its own initiative or on application by the circus or travelling zoo permit-holder.

Note 1 A fee may be determined under s 110 for this provision.

Note 2 If a form is approved under s 110A for an application, the form must be used.

- (3) The authority may amend a circus or travelling zoo permit on its own initiative only if the authority has—

- (a) given the circus or travelling zoo permit-holder written notice of the proposed amendment; and
 - (b) considered any comments made by the permit-holder in accordance with the notice.
- (4) The notice mentioned in subsection (3) (a) must—
- (a) include the authority’s grounds for making the proposed amendment; and
 - (b) invite the circus or travelling zoo permit-holder to give the authority any comments about the amendment before the end of a stated period of at least 14 days after the day the notice is given to the permit-holder.
- (5) Subsection (3) does not apply to action under section 73D (Taking regulatory action).
- Note* Section 108 (Notice of reviewable decisions) provides that the authority must give written notice of the decision to each person affected by the decision.
- (6) The amendment of a circus or travelling zoo permit takes effect on—
- (a) the day the notice of the decision to amend is given to the circus or travelling zoo permit-holder; or
 - (b) if the notice states a later date of effect—that date.
- (7) A circus or travelling zoo permit amended under this section must be returned to the authority as soon as practicable, but not later than 7 days after the day the notice of the decision to amend is given to the circus or travelling zoo permit-holder.
- (8) In this section:
- amend***, a circus or travelling zoo permit, includes putting a condition on the permit, or amending or removing a condition of the permit.

condition does not include a condition prescribed by regulation.

Part 6 Animal trapping

Division 6.1 Trapping offences

60 Steel-jawed traps and prohibited traps

- (1) A person commits an offence if the person sets a steel-jawed trap or prohibited trap with the intention of catching an animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if the person possesses a steel-jawed trap or prohibited trap.

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) Subsection (2) does not apply in relation to the possession of a trap kept only—

- (a) for the purpose of display; or
- (b) as a curio or part of a collection.

- (5) In this section:

prohibited trap means a trap prescribed by regulation for this section.

61 Restricted traps

- (1) A person commits an offence if the person—

- (a) sets a restricted trap with the intention of catching an animal;
- and

(b) does not hold a trapping permit.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) In this section:

restricted trap means a trap prescribed by regulation for this section.

62 Trapping—general

(1) A person commits an offence if the person sets a trap with the intention of catching an animal.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) This section does not apply to a trapping permit-holder.

(3) This section does not apply in relation to a trap set on premises, other than in relation to a commercial trapping operation—

(a) by the occupier of the premises; or

(b) by an employee, agent or relative of the occupier of the premises; or

(c) if a person has the written permission of the occupier of the premises to set the trap on the premises—by the person; or

(d) if a person has the written permission of an employee or agent of the occupier of the premises to set the trap on the premises—by the person; or

(e) by a person, if—

(i) the person has the written permission of a relative of the occupier of the premises to set the trap on the premises; and

- (ii) the relative has the written permission of the occupier of the premises to give the permission mentioned in subparagraph (i).

U Division 6.2 Trapping permits

U 64 Application for trapping permit

Application may be made to the authority for—

- (a) a commercial trapping permit, for the purposes of a commercial trapping operation; or
- (b) a private trapping permit, for domestic or private purposes.

Note 1 A fee may be determined under s 110 (Determination of fees) for this section.

Note 2 If a form is approved under s 110A (Approved forms) for an application, the form must be used.

U 65 Grant of trapping permit

- (1) On application in accordance with section 64, the authority shall—
 - (a) grant a trapping permit of the type applied for; or
 - (b) refuse to grant a trapping permit.

Note If a form is approved under s 110A (Approved forms) for a permit, the form must be used.

- (2) In determining whether or not to grant a trapping permit, the authority shall consider whether the applicant is a fit and proper person to hold a permit of the type applied for, having regard to matters including the following:
 - (a) the species of animals to be trapped;
 - (b) the experience and competency of the applicant, and the applicant's employees and agents, in trapping such animals;

- (c) the adequacy of the applicant's traps and other trapping equipment;
 - (d) whether the applicant has, within the period of 3 years preceding the date of the application, been convicted or found guilty of a defined offence.
- (3) In subsection (2), a reference to an *applicant* includes a reference—
- (a) if the applicant is a body corporate—to a director, secretary or manager of the body; or
 - (b) if the application is made for the purposes of a partnership—to each of the partners, whether or not the partner's name appears on the application.

U 66 Rights and duties of partners—trapping permits

Where a trapping permit is issued for the purposes of a partnership, each partner has, in relation to the permit, all the rights and duties of the permit-holder, whether or not the partner's name is specified in the permit.

U 67 Conditions of trapping permits

The authority may grant a trapping permit subject to such specified conditions as he or she considers, on reasonable grounds, to be desirable in the interests of animal welfare, including conditions in relation to the following matters:

- (a) the species of animals to be trapped;
- (b) the areas in which traps are to be set;
- (c) the traps and other trapping equipment to be used;
- (d) the welfare of any animals which may be affected by the proposed trapping activities;
- (e) compliance with an approved code of practice.

U 68 Duration of trapping permits

- (1) A commercial trapping permit remains in force for the period of 3 years commencing on the date of grant of the permit (subject to its suspension, cancellation or surrender), but may be renewed in accordance with section 69.
- (2) A private trapping permit remains in force for the period specified in the permit (subject to its suspension, cancellation or surrender), but may be renewed in accordance with section 69.

U 69 Renewal of trapping permits

On application to the authority by the holder of a trapping permit, the authority must renew the permit—

- (a) for a commercial trapping permit—for 3 years; or
- (b) for a private trapping permit—for the period the authority considers, on reasonable grounds, to be desirable in the interests of animal welfare.

Note 1 A fee may be determined under s 110 (Determination of fees) for this section.

Note 2 If a form is approved under s 110A (Approved forms) for an application, the form must be used.

U 70 Variation of trapping permits

- (1) On application by the holder of a trapping permit accompanied by the permit, the authority shall, if it is satisfied on reasonable grounds that it is desirable in the interests of animal welfare—
 - (a) vary the permit accordingly; or
 - (b) refuse to vary the permit.
- (2) Where the authority believes on reasonable grounds that it is desirable in the interests of animal welfare to vary a trapping permit, the authority shall give the permit-holder a written notice—

- (a) specifying those interests and stating the facts and circumstances that constitute the basis for the authority's belief; and
 - (b) inviting the permit-holder to show cause within the specified period why the permit should not be varied in the manner specified in the notice.
- (3) After the expiration of the period specified in a notice under subsection (2), taking into consideration any representation made by the permit-holder, the authority shall vary the permit if satisfied on reasonable grounds that it is desirable in the interests of animal welfare.
- (4) For the purposes of subsection (3), the authority shall, by written notice accompanying the relevant notice under section 107 (1), require the permit-holder to forward the permit to the authority within a specified period after the date of the notice, being a period of between 14 and 28 days.

U 71 Suspension and cancellation of trapping permits

- (1) For the purposes of this section, the grounds for the suspension or cancellation of a trapping permit are as follows:
- (a) the contravention by the permit-holder of a condition specified in the permit;
 - (b) the contravention by the permit-holder of a requirement under section 70 (4);
 - (c) the obtaining of the permit by fraud or misrepresentation;
 - (d) the conviction of the permit-holder of a defined offence within the preceding 3 years;
 - (e) the unfitness or impropriety of the permit-holder to hold a trapping permit (of the type held), in consideration of matters including those referred to in section 65 (2) (a), (b) and (c).

- (2) In subsection (1), a reference to a *permit-holder* includes a reference—
- (a) if the permit-holder is a body corporate—to a director, secretary or manager of the body; or
 - (b) if the permit is held for the purposes of a partnership—to each of the partners, whether or not the partner's name is specified in the permit.
- (3) Where the authority believes on reasonable grounds that—
- (a) there exists a ground for the suspension or the cancellation of a trapping permit; and
 - (b) it is desirable in the interests of animal welfare to suspend or cancel the permit;
- he or she shall give written notice to the permit-holder—
- (c) specifying the ground referred to in paragraph (a) together with the particular interests referred to in paragraph (b); and
 - (d) stating the facts and circumstances that, in the authority's opinion, constitute the basis for the authority's beliefs referred to in paragraphs (a) and (b); and
 - (e) inviting the permit-holder, within 28 days after the date of the notice, to show cause why the permit should not be suspended or cancelled (as the case may be).
- (4) After the expiration of the period specified in a notice under subsection (3), taking into consideration any representation made by the permit-holder, the authority shall, if satisfied on reasonable grounds of the matters referred to in subsection (3) (a) and (b)—
- (a) in the case of a notice of intention to suspend the permit for a specified period—suspend the permit for that period, or for such shorter period as the authority thinks fit; or

- (b) in the case of a notice of intention to cancel the permit—cancel the permit or suspend it for such period as the authority thinks fit.
- (5) The suspension or cancellation of a permit takes effect on—
 - (a) the date on which notice under section 107 (1) of the suspension or cancellation is given to the permit-holder; or
 - (b) if a later date is specified in that notice—on that later date.

U 72 Surrender of trapping permits

- (1) The holder of a trapping permit may surrender the permit to the authority by notice in writing accompanied by the permit.
- (2) The surrender of a trapping permit takes effect on the date the notice of surrender is given in accordance with subsection (1), or such later date as is specified in the notice.

U 73 Return of cancelled and suspended trapping permits

- (1) A person commits an offence if—
 - (a) the person's trapping permit is cancelled or suspended; and
 - (b) the person does not return the person's permit to the authority within 7 days after the day the cancellation or suspension takes effect.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

Part 6A Regulatory action

73A Definitions—pt 6A

In this part:

approval means—

- (a) an authorisation; or
- (b) a circus permit; or
- (c) a licence; or
- (d) a trapping permit; or
- (e) a travelling zoo permit.

approved person means the holder of an approval.

regulatory body means—

- (a) for an authorised person—the animal ethics committee; or
- (b) for a circus permit-holder, licensee, trapping permit-holder or travelling zoo permit-holder—the authority.

73B Grounds for regulatory action

- (1) Each of the following is a *ground for regulatory action* against an approved person:
 - (a) the person gave information to the regulatory body in relation to the application for the grant or renewal of the person's approval that was false or misleading in a material particular;
 - (b) the person contravened a condition of the person's approval;
 - (c) the person failed to return an approval as required under the relevant provision;

- (d) the person has been convicted or found guilty of a defined offence—
 - (i) within the 3 years immediately before the date of the application for the person's approval; or
 - (ii) while an approved person; or
 - (iii) during any suspension of the person's approval;
 - (e) if the regulatory body believes on reasonable grounds that it would refuse an application by the person for an approval of the kind held by the person on the grounds mentioned in the relevant section.
- (2) In this section:

approved person includes, if the person is a corporation, each executive officer of the corporation.

relevant provision means—

- (a) for a licensee—section 34 (7) (Amendment of licence); or
- (b) for an authorised person—section 46 (7) (Amendment of authorisation); or
- (c) for a circus or travelling zoo permit-holder—section 59A (7) (Amendment of circus or travelling zoo permit); or
- (d) for a trapping permit-holder—section 71 (7) (Amendment of trapping permit).

relevant section means—

- (a) for a licensee—section 27 (2) (a), (b), (c), (e) or (g) or (3) (Decision about licence application); or
- (b) for an authorised person—section 38 (2) (a), (c) or (e) or (3) (Decision about authorisation application); or

- (c) for a circus or travelling zoo permit-holder—section 55 (4) (a), (b), (c), (e) or (g) or (5) (Decision about circus or travelling zoo permit application); or
- (d) for a trapping permit-holder—section 64 (2) (a), (b), (c) or (f) or (3) (Decision about trapping permit application).

73C Regulatory action

Each of the following is *regulatory action* when taken against an approved person:

- (a) putting a condition on, or amending a condition put on, the person's approval;
- (b) suspending the person's approval for a stated period or until a stated thing happens;
- (c) cancelling the person's approval;
- (d) cancelling the person's approval and disqualifying the person from applying for an approval of that kind for a stated period or until a stated thing happens.

73D Taking regulatory action

- (1) If the regulatory body proposes to take regulatory action in relation to an approved person, the regulatory body must give the person a written notice (a *regulatory notice*) that—
 - (a) states the details of the proposed regulatory action; and
 - (b) states the grounds for the proposed regulatory action; and
 - (c) tells the person that the person may, not later than 14 days after the day the person is given the notice, give a written response to the regulatory body about the proposed regulatory action.
- (2) In deciding whether to take the proposed regulatory action, the regulatory body must consider any response given to the body in accordance with the regulatory notice.

- (3) If the regulatory body believes on reasonable grounds that a ground for taking the proposed regulatory action has been established in relation to the approved person, the body may—
- (a) take the regulatory action stated in the regulatory notice; or
 - (b) if the proposed regulatory action is the cancellation and disqualification mentioned in section 73C (d)—
 - (i) cancel the person's approval; or
 - (ii) suspend the person's approval as mentioned in section 73C (b); or
 - (iii) put a condition on, or amend a condition put on, the person's approval; or
 - (c) if the proposed regulatory action is the cancellation of the person's approval—
 - (i) suspend the person's approval as mentioned in section 73C (b); or
 - (ii) put a condition on, or amend a condition put on, the person's approval; or
 - (d) if the proposed regulatory action is the suspension of the person's approval as mentioned in section 73C (b)—
 - (i) suspend the approval for a shorter period; or
 - (ii) put a condition on, or amend a condition put on, the person's approval.

Note Section 108 (Notice of reviewable decisions) provides that the regulatory body must give written notice of the decision to each person affected by the decision.

- (4) Regulatory action under this section takes effect on—
- (a) the day the notice of the decision is given to the approved person; or

(b) if the notice states a later date of effect—that date.

(5) In this section:

ground for regulatory action against an approved person—see section 73B (Grounds for regulatory action).

regulatory action—see section 73C (Regulatory action).

73E Immediate suspension

(1) This section applies if—

(a) the regulatory body gives, or has given, a regulatory notice under section 73D to an approved person; and

(b) having regard to the grounds stated in the notice, the regulatory body believes on reasonable grounds that the person's approval should be suspended immediately in the interests of animal welfare.

(2) The regulatory body must give the approved person a written notice (the *immediate suspension notice*) suspending the person's approval.

(3) The suspension of an approved person's approval under this section takes effect when the immediate suspension notice is given to the person.

(4) The suspension of an approved person's approval under this section ends—

(a) if regulatory action is taken against the person under section 73D because of the regulatory notice—when the regulatory action takes effect, or 30 days after the day the immediate suspension notice is given to the person, whichever is the earlier; or

(b) if regulatory action is not taken against the person under section 73D because of the regulatory notice—when the person is given written notice of the regulatory body's decision not to

take regulatory action, or 30 days after the day the immediate suspension notice is given to the person, whichever is the earlier.

73F Effect of suspension

- (1) A suspended approval does not authorise the carrying on of any activity under the approval during the suspension.
- (2) If the regulatory body suspends an authorised person's approval, the person is, during the suspension—
 - (a) taken not to hold the approval; and
 - (b) disqualified from applying for an approval.

73G Return of amended, suspended or cancelled approvals

- (1) An approved person commits an offence if—
 - (a) the person's approval is amended, suspended or cancelled under this part; and
 - (b) the approved person fails to return the approval to the regulatory body as soon as practicable, but not later than 7 days after the day the approved person is given notice under section 108 (Notice of reviewable decisions) of the body's decision.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

73H Action by regulatory body in relation to amended or suspended approval

- (1) This section applies if—
 - (a) an approval is—
 - (i) amended under a relevant section; or
 - (ii) amended or suspended under this part; and

- (b) the approval is returned to the regulatory body.
- (2) For an amended approval, the regulatory body must—
 - (a) return the amended approval to the approved person; or
 - (b) give the person a replacement approval that includes the amendment.
- (3) If an approval is suspended under this part and the suspension ends before the end of the term of the approval, the regulatory body must return the approval to the approved person.
- (4) In this section:
relevant section means—
 - (a) for a licence—section 34 (Amendment of licence); or
 - (b) for an authorisation—section 46 (Amendment of authorisation); or
 - (c) for a circus or travelling zoo permit—section 59A (Amendment of circus or travelling zoo permit); or
 - (d) for a trapping permit—section 71 (Amendment of trapping permit).

Part 7 **Enforcement**

Division 7.1 **Preliminary**

74 **Definitions for pt 7**

In this part:

connected—an animal or thing is *connected* with a particular offence if—

- (a) it is an animal or thing in relation to which the offence has been committed; or
- (b) it will provide evidence of the offence; or
- (c) it was used, or is or was intended to be used, to commit the offence.

occupier, of premises that an inspector or authorised officer is authorised to enter under this part, includes a person the inspector or officer believes on reasonable grounds to be the occupier, or to be in charge, of the premises.

offence means—

- (a) any conduct engaged in, whether by an act or omission, that there are reasonable grounds for believing is an offence; or
- (b) an offence (within the meaning of paragraph (a)) that there are reasonable grounds for believing has been, or will be, committed.

75 **Indemnity**

- (1) The Territory shall indemnify a person against liability for damage or personal injury caused (either directly or indirectly) by that person's performance or purported performance, in good faith, of a function under this part.

- (2) In subsection (1), a reference to the performance (or purported performance) of a function by a person includes a reference to the assistance of another person in such a performance (or purported performance).

75A Public access

The authority shall ensure that a copy of any report received by him or her under section 89 (1) is available for public inspection free of charge at the office of the authority.

Division 7.2 Inspectors and authorised officers

76 Inspectors

- (1) The chief executive may appoint a person as an inspector.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (2) The following are also inspectors:

- (a) the authority;
- (b) a police officer.

- (3) Until the chief executive makes an appointment under subsection (1), an inspector is—

- (a) a public servant for the time being exercising the duties of a public service office the duties of which include exercising the functions of an inspector; or
- (b) the authority; or
- (c) a public servant to whom the authority has delegated any of the functions of an inspector; or
- (d) a police officer; or

- (e) anyone else appointed by the chief executive as an inspector.
- (4) Subsection (3) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) Subsections (3) and (4) and this subsection expire 1 year after the day this section commences.

77 Authorised officers

- (1) The chief executive may appoint a public servant as an authorised officer.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (2) Only a public servant who is a veterinary surgeon may be an authorised officer.
- (3) Until the chief executive makes an appointment under subsection (1), an authorised officer is a public servant for the time being exercising the duties of a public service office the duties of which include exercising the functions of an authorised officer.
- (4) Subsection (3) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) Subsections (3) and (4) and this subsection expire 1 year after the day this section commences.

78 Identity cards

- (1) The chief executive must give an authorised person an identity card stating the person's name and position.
- (2) The identity card must show—
 - (a) a recent photograph of the person; and
 - (b) the card's date of issue and expiry; and

(c) anything else prescribed by regulation.

(3) A person commits an offence if—

(a) the person stops being an authorised person; and

(b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

(4) An offence against this section is a strict liability offence.

(5) In this section:

authorised person means a person holding any of the following positions:

(a) inspector (other than a police officer);

(b) authorised officer.

Division 7.3 Powers of inspectors

80 Definitions for div 7.3

In this division:

business premises means premises used for business or professional purposes, other than a part used for residential purposes.

premises, in relation to the exercise of an inspector's powers, means any premises except those which the inspector believes on reasonable grounds are being used for—

(a) the purposes of research, or teaching, using animals; or

(b) the acquisition, breeding or keeping of animals for such purposes.

81 Powers of entry and search

- (1) Subject to this section, where an inspector believes on reasonable grounds that it is necessary to do so for the purposes of this Act, the inspector may—
 - (a) enter any premises; and
 - (b) exercise any power—
 - (i) under section 82; or
 - (ii) for the purposes of section 85.
- (2) For subsection (1), an inspector may—
 - (a) enter any premises at any time with the consent of the occupier of the premises; or

Note The procedures for obtaining consent are set out in s 88.
 - (b) enter business premises during business hours at the premises;
or
 - (c) enter premises in accordance with a warrant under section 90;
or
 - (d) enter premises at any time if the inspector believes on reasonable grounds that serious and urgent circumstances require the immediate exercise of any of the inspector's powers without a warrant.
- (3) An inspector who enters premises under subsection (2) (d) may have reasonable assistance and use reasonable force to enter the premises.
- (4) An inspector who enters premises under this section may take into the premises any people, equipment or material the inspector reasonably needs for exercising a power under this Act.
- (5) This section does not authorise an inspector to enter an abattoir unless—
 - (a) the inspector is a veterinary surgeon; or

- (b) if the inspector is not a veterinary surgeon—the inspector enters those premises with a veterinary surgeon.
- (6) Where a power is exercised in accordance with subsection (1) in relation to a vehicle, the relevant inspector may stop and detain the vehicle for the purpose of the exercise of that power.

82 Powers of inspectors

- (1) Subject to subsection (2), an inspector who enters premises in accordance with section 81 may, if he or she believes it on reasonable grounds to be necessary for the purposes of this Act—
 - (a) examine any animal in or on the premises; or
 - (b) give assistance to any animal on the premises; or
 - (c) inspect the premises and anything in or on the premises (including a document); or
 - (d) take copies of, or extracts from, any document in or on the premises; or
 - (e) take photographs or make films or videotapes of the premises or any animal or thing in or on the premises; or
 - (f) seize any animal, or anything (including a document), that the inspector believes on reasonable grounds to be connected with an offence; or
 - (g) require any person in or on the premises to give the inspector such assistance as is reasonable to enable the inspector to exercise his or her powers under this section; or
 - (h) ask questions of any person in or on the premises where the inspector considers it reasonable to enable him or her to exercise powers under this section.
- (2) An inspector must not—

- (a) give a document seized under subsection (1) to someone else (other than the authority); or
- (b) give a copy of a document inspected or seized under subsection (1) to someone else (other than the authority); or
- (c) communicate to someone else (other than the authority) the contents of a document inspected or seized under subsection (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsection (2) does not apply if the document or copy is given, or the communication is made for the purposes of the investigation or prosecution of an offence.

Division 7.4 Powers of authorised officers

83 Research and educational institutions—powers of entry and search

- (1) Subject to this section, where an authorised officer believes on reasonable grounds that it is necessary to do so for the purposes of this Act, the officer may—
 - (a) enter any premises he or she believes on reasonable grounds is being used for—
 - (i) the purposes of research, or teaching, using animals; or
 - (ii) the acquisition, breeding or keeping of animals for such purposes; and
 - (b) exercise any power—
 - (i) under section 84; or
 - (ii) for the purposes of section 85.

- (2) For subsection (1), an authorised officer may enter premises mentioned in subsection (1) (a)—
- (a) at any time with the consent of the occupier of the premises; or
- Note* The procedures for obtaining consent are set out in s 88.
- (b) in accordance with a warrant under section 90; or
 - (c) at any time if the officer believes on reasonable grounds that serious and urgent circumstances require the immediate exercise of any of the officer's powers without a warrant.
- (3) An authorised officer who enters premises under subsection (2) (c) may have reasonable assistance and use reasonable force to enter the premises.
- (4) An authorised officer who enters premises under this section may take into the premises any people, equipment or material the officer reasonably needs for exercising a power under this Act.
- (5) Where a power is exercised in accordance with subsection (1) in relation to a vehicle, the relevant officer may stop and detain the vehicle for the purpose of the exercise of that power.

84 Powers of authorised officers

- (1) Subject to subsection (2), an authorised officer who enters premises in accordance with section 83 may, if he or she believes it on reasonable grounds to be necessary for the purposes of this Act—
- (a) examine any animal in or on the premises; or
 - (b) give assistance to any animal on the premises; or
 - (c) take a sample of tissue, blood, urine or other bodily material from an animal or carcass on the premises; or
 - (d) inspect the premises and anything in or on the premises (including a document); or

- (e) take copies of, or extracts from, any document in or on the premises; or
 - (f) take photographs or make films or videotapes of the premises or any animal or thing in or on the premises; or
 - (g) seize any animal, or anything (including a document), that the officer believes on reasonable grounds to be connected with an offence; or
 - (h) require any person in or on the premises to give the officer such assistance as is reasonable to enable the officer to exercise his or her powers under this section; or
 - (i) ask questions of any person in or on the premises where the officer considers it reasonable to enable him or her to exercise powers under this section.
- (2) An authorised officer must not—
- (a) give a document seized under subsection (1) to someone else (other than the authority); or
 - (b) give a copy of a document inspected or seized under subsection (1) to someone else (other than the authority); or
 - (c) communicate to someone else (other than the authority) the contents of a document inspected or seized under subsection (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsection (2) does not apply if the document or copy is given, or the communication is made for the purposes of the investigation or prosecution of an offence.

Division 7.5 Powers of veterinary surgeons

84A Powers of veterinary surgeons regarding seized animals and carcasses

- (1) A veterinary surgeon may take a sample of tissue, blood, urine or other bodily material from—
 - (a) an animal that has been seized under section 82 (1) (f) or 84 (1) (g) (a *seized animal*); or
 - (b) a carcass seized under section 82 (1) (f) or 84 (1) (g) (a *seized carcass*).
- (2) A veterinary surgeon may perform a post-mortem on—
 - (a) a dead seized animal; or
 - (b) a seized carcass.

Division 7.6 Alleviation of suffering—powers of inspectors, authorised officers and veterinary surgeons

85 Inspectors and authorised officers

- (1) This section applies where an inspector or an authorised officer believes on reasonable grounds—
 - (a) that an animal has not been provided with proper or sufficient food or drink during the previous 24 hours; or
 - (b) that an animal is so severely injured, so overworked, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment; or
 - (c) that—

- (i) an animal is so severely injured or diseased, or in such a poor physical condition, that it is cruel to keep it alive; and
 - (ii) the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain on the animal.
- (2) Where this section applies, the relevant inspector or authorised officer may—
 - (a) seize the animal; and
 - (b) give assistance to the animal; and
 - (c) remove the animal to such place as he or she thinks fit; and
 - (d) in the case of an animal referred to in subsection (1) (c)—destroy the animal, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.
- (3) An inspector shall only exercise a power referred to in subsection (2) (d) with the written consent of a person in charge of the relevant animal, unless—
 - (a) the inspector, after making reasonable enquiries, is unable to locate such a person; or
 - (b) the inspector is a veterinary surgeon.
- (4) The reasonable expenses incurred by an inspector or authorised officer in the exercise of a power under subsection (2) in respect of an animal may be recovered by the Territory from the owner of the animal as a debt in a court of competent jurisdiction.
- (5) Where subsection (1) (a) or (b) applies, the relevant inspector or authorised officer may, instead of exercising the powers referred to in subsection (2) (a), (b) or (c), give a person in charge of the relevant animal directions in writing requiring that person—

- (a) to provide the animal with such specified rest, food, water, shelter or treatment as is necessary in the interests of the animal's welfare; and
 - (b) where necessary, to consult a veterinary surgeon about the condition of the animal within such a specified period as is reasonable in the circumstances.
- (6) A person must not contravene a direction given to the person under subsection (5).

Maximum penalty: 50 penalty units.

- (7) An offence against this section is a strict liability offence.

86 Veterinary surgeons

- (1) Where, in the opinion of a veterinary surgeon—
- (a) an animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive; and
 - (b) the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain on the animal;
- the veterinary surgeon may—
- (c) seize the animal; and
 - (d) give assistance to the animal; and
 - (e) remove the animal to such place as the veterinary surgeon thinks fit; and
 - (f) destroy the animal, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.
- (2) The reasonable expenses incurred by a veterinary surgeon in the exercise of a power conferred by subsection (1) in respect of an animal may be recovered from the owner of the animal as a debt in a court of competent jurisdiction.

Division 7.7 **Consent to entry, reports and search warrants**

87 **Definition of *officer* for div 7.7**

In this division:

officer means an inspector or an authorised officer.

88 **Consent to entry**

- (1) This section applies where the consent of the occupier of premises is sought by an inspector or an authorised officer for entry to the premises for the purposes of section 81 or 83, as the case requires.
- (2) Where this section applies, before seeking the consent of the occupier of premises for the purposes of entering premises, an officer shall inform the occupier that he or she may refuse to give that consent.
- (3) Where this section applies and an officer obtains consent from an occupier to enter premises, the officer shall ask the occupier to sign an acknowledgment—
 - (a) that the occupier has been informed that he or she may refuse to give that consent; and
 - (b) that the occupier has given the officer consent, for the purposes of that provision, to enter the premises and to exercise the powers of an officer under section 82, 84 or 85; and
 - (c) of the day on which, and the time at which, that consent was given.
- (4) Where this section applies, an officer is not authorised to remain on the premises if, on request by or on behalf of the occupier of the premises, the officer does not show his or her identity card to the occupier.

- (5) Where a police officer exercises the power of an inspector to enter premises, subsection (4) only applies where the police officer is not in uniform.
- (6) Where it is material, in any proceedings, for a court to be satisfied, for the purposes of this section, of the consent of an occupier, and an acknowledgment in accordance with subsection (3) is not produced in evidence, it shall be presumed that the occupier did not consent unless the contrary is established.

89 Reports

- (1) Where, for the purposes of an inspection under this part—
 - (a) an inspector enters commercial premises; or
 - (b) an authorised officer enters licensed premises;with the occupier's consent, the inspector or authorised officer must, within 30 days after that entry, provide the occupier with a written report of the inspection.
- (2) A report under subsection (1) shall contain—
 - (a) a description of the inspection, and of any action taken by the officer or the authority as a result of the inspection; and
 - (b) comments about such other matters connected with the welfare of animals kept on the premises as are reasonably requested by the occupier; and
 - (c) such other comments connected with the welfare of the animals kept on the premises as the officer thinks fit.
- (3) In subsection (1):

commercial premises means premises used for the sale or transport of animals, or for other commercial purposes in relation to animals.

90 Search warrants

- (1) This section applies where an information on oath is laid before a magistrate alleging that there are reasonable grounds for suspecting that there is, on any premises—
 - (a) an animal or thing of a particular kind that is connected with a particular offence against this Act; or
 - (b) an animal or thing of a particular kind that is connected with the contravention of a requirement imposed by or under this Act; or
 - (c) an animal referred to in section 85;and the information sets out those grounds.
- (2) Where this section applies, a magistrate may issue a search warrant authorising an officer named in the warrant, with such assistance and by such force as is necessary and reasonable—
 - (a) to enter the premises; and
 - (b) to search the premises for the relevant animal or thing; and
 - (c) to exercise the powers of an officer under section 82, 84 or 85 in relation to the premises, animal or thing.
- (3) A magistrate shall not issue a warrant unless—
 - (a) the informant or another person has given the magistrate, either orally or by affidavit, any information that the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
 - (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (4) A magistrate shall not—
 - (a) issue a warrant in relation to the search by an authorised officer of premises within the meaning of division 7.3; or

- (b) issue a warrant in relation to the search by an inspector of premises, being premises referred to in section 83 (1) (a) (i) or (ii).
- (5) A warrant shall—
- (a) state the purpose for which it is issued; and
 - (b) specify the nature of the offence or contravention, or the circumstances referred to in section 85 (1), as the case requires, in relation to which the entry is authorised; and
 - (c) specify particular hours during which entry to the premises is authorised, or state that such entry is authorised at any time of the day or night; and
 - (d) include a description of the kinds of things or animals in relation to which the powers of the officer may be exercised; and
 - (e) specify the date, being a date not later than 1 month after the date of issue of the warrant, on which the warrant ceases to have effect.

Division 7.8 Offences in relation to veterinary surgeons

91 Obstructing etc veterinary surgeon

A person must not hinder, obstruct, intimidate or resist a veterinary surgeon in the exercise of the veterinary surgeon's functions under this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Note The Criminal Code, pt 3.6 and pt 3.8 include offences for giving false and misleading statements to, or obstructing, Territory public officials.

Division 7.9 Compensation for animal injury and death

93 Definitions for div 7.9

In this division:

officer means—

- (a) an inspector; or
- (b) an authorised officer; or
- (c) any other person who enters premises under section 81 (4) or 83 (4) while the person is on the premises; or
- (d) in relation to a function under section 86—a veterinary officer.

owner, of an injured or dead animal, means the owner of the animal immediately before its injury or death.

94 Right to compensation

- (1) Where an animal is injured, or dies, in the course of the exercise of an officer's functions under this part, the owner of the animal is entitled to compensation under this division, subject to subsection (2).
- (2) Subsection (1) only applies where an officer's malice or negligence—
 - (a) significantly contributed to the injury or death of the animal; or
 - (b) in the case of an animal which is destroyed—significantly contributed to, or significantly exacerbated, the condition of the animal which necessitated the animal's destruction.

95 Compensation claims

- (1) A claim for compensation under this division shall be—
 - (a) made by or on behalf of the owner of the animal; and

(b) made within 1 year of the injury or death of the animal.

Note 1 A fee may be determined under s 110 (Determination of fees) for this section.

Note 2 If a form is approved under s 110A (Approved forms) for this section, the form must be used.

- (2) On a claim for compensation made in accordance with subsection (1), the authority shall—
- (a) approve the claim; or
 - (b) refuse to approve the claim.
- (3) The authority shall only approve a claim if satisfied, on reasonable grounds, that the owner of the relevant animal is entitled to compensation under section 94.
- (4) The authority shall only approve the payment of such an amount of compensation under this section as is reasonable in the circumstances, in consideration of matters including the following:
- (a) the value of the animal, in the authority's opinion based on reasonable grounds, immediately before the malice or negligence referred to in section 94 (2);
 - (b) any malice or negligence of the owner of the animal, or of other persons (not being officers), which, in the authority's opinion based on reasonable grounds—
 - (i) significantly contributed to the injury or death of the animal; or
 - (ii) in the case of an animal which is destroyed—significantly contributed to, or significantly exacerbated, the condition of the animal which necessitated the animal's destruction;
 - (c) the amount of such costs incurred by the owner as a result of the injury or death of the animal as the authority considers reasonable.

- (5) Where the authority approves a claim for compensation, the Territory shall pay the owner of the relevant animal accordingly.

96 Exclusion of civil actions

Where a person is entitled to compensation under this division for the injury or death of an animal, no amount—

- (a) by way of compensation for the value of the animal; or
- (b) for any costs incurred by the owner of the animal as a result of that injury or death;

is payable to any person except under this division.

Division 7.10 Evidence

97 Meaning of *offence* for div 7.10

In this division:

offence means an offence against this Act.

98 Certificate evidence

- (1) In proceedings for an offence, a certificate purporting to be signed by the authority stating—
- (a) whether or not a person was, during a stated period, a licensee, circus permit-holder, travelling zoo permit-holder or trapping permit-holder; or
 - (b) whether or not a licence, circus permit, travelling zoo permit or trapping permit was in force on a specified day or days; or
 - (c) the conditions subject to which a licence, circus permit, travelling zoo permit or trapping permit was granted, as in force on a specified day or days; or
 - (d) whether or not a licence, circus permit, travelling zoo permit or trapping permit was varied, suspended or cancelled on a

specified day, and (in the case of a suspension) for a specified period;

is evidence of the matters stated in the certificate and the facts on which they are based.

- (2) In proceedings for an offence, a certificate purporting to be signed by the chairperson of an animal ethics committee in relation to an authorisation stating—
- (a) whether or not a person was, during a specified period, the holder of an authorisation granted by that committee; or
 - (b) whether or not an authorisation granted by that committee was in force on a specified day or days; or
 - (c) the conditions subject to which an authorisation was granted by that committee, as in force on a specified day or days; or
 - (d) whether or not an authorisation was varied, suspended or cancelled by that committee on a specified day, and (in the case of a suspension) for a specified period;

is evidence of the matters stated in the certificate and the facts on which they are based.

99 **Acts and omissions of representatives**

- (1) In this section:

person means an individual.

Note See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.

representative, of a person, means an employee or agent of the person.

state of mind, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and

- (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against this Act.
- (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
 - (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.
- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

Division 7.11 Court orders and corporate penalties

100 Meaning of *offence* in div 7.11

In this division:

offence means an offence against this Act.

101 Animal offences—court orders (general)

- (1) This section applies where—

- (a) a court has convicted or found guilty a person in charge of an animal of an offence in respect of the animal; and
 - (b) the court is satisfied that, unless an appropriate order under this section is made, the person would be likely to commit a further offence in respect of the animal, or any other animal.
- (2) Where this section applies, the court may, in addition to any penalty which it may otherwise impose, make such order as it thinks fit in respect of the disposal of—
- (a) the animal in respect of which the offence was committed; and
 - (b) any other animal of which the person is in charge.
- (3) Where a court makes an order under subsection (2), it may make a further order that the person shall not—
- (a) purchase or acquire; or
 - (b) take possession or custody of;
- any animal within such period as is specified in the order.
- (4) A person must not engage in conduct that contravenes an order under subsection (2) or (3).

Maximum penalty (subsection (4)): 50 penalty units, imprisonment for 6 months or both.

102 Animal offences—court orders (costs and proceeds of disposal)

- (1) Where a court makes an order under section 101 (2), it may make a further order that the person convicted or found guilty of the offence pay to a specified person such costs in respect of the disposal of the animal as are specified in the further order.
- (2) Where a court makes an order under section 101 (2), it may make a further order specifying the distribution of the proceeds from the disposal of the relevant animal pursuant to the firstmentioned order.

- (3) The costs or proceeds specified in an order under subsection (1) or (2) (as the case requires) may be recovered pursuant to the relevant order as a debt due in a court of competent jurisdiction.

103 Spur and trap offences—court orders (general)

- (1) This section applies where—
- (a) a court has convicted or found guilty a person of an offence—
 - (i) under section 14 in relation to a spur or a cockfighting spur cap; or
 - (ii) under division 6.1 in relation to an animal trap; and
 - (b) the court is satisfied that, unless an appropriate order under this section is made, the person would be likely to commit a further offence in respect of a spur, cockfighting spur cap or animal trap (as the case may be).
- (2) Where this section applies, the court may, in addition to any penalty which it may otherwise impose, make such order as it thinks fit in respect of the disposal of—
- (a) the relevant spur, cockfighting spur cap or animal trap, as the case requires; and
 - (b) any other spur, cockfighting spur cap or animal trap (whether of the same or of a different type of trap), as the case requires.
- (3) If a court makes an order under subsection (2), it may make a further order that the person must not (for any purpose), within a stated period, purchase or acquire or take possession or custody of—
- (a) an animal trap (in general or of a stated kind); or
 - (b) a spur or cockfighting spur cap.

- (4) A person must not engage in conduct that contravenes an order under subsection (2) or (3).

Maximum penalty (subsection (4)): 50 penalty units, imprisonment for 6 months or both.

104 Spur and trap offences—court orders (costs and proceeds of disposal)

- (1) Where a court makes an order under section 103 (2), it may make a further order that the person convicted or found guilty pay to a specified person specified costs in respect of the disposal of the relevant spur, cockfighting spur cap or animal trap.
- (2) Where a court makes an order under section 103 (2), it may make a further order specifying the distribution of the proceeds from the disposal of the relevant spur, cockfighting spur cap or animal trap pursuant to the firstmentioned order.
- (3) The costs or proceeds specified in an order under subsection (1) or (2) (as the case requires) may be recovered pursuant to the relevant order as a debt due in a court of competent jurisdiction.

104A Court orders—offences involving violence

- (1) This section applies if a person is found guilty or convicted of an offence against this Act, or another Act, involving violence towards an animal.
- (2) Before sentencing the person, the court may—
- (a) make an order requiring the person to submit to psychological assessment; and
 - (b) consider the assessment and any recommendation for counselling or treatment arising from the assessment.

- (3) The court may, in addition to any other sentence it may impose, make an order requiring the person to undertake a program of counselling or treatment mentioned in subsection (2) (b).

Example of program

an anger management treatment program

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) A person commits an offence if the person intentionally contravenes a requirement of an order under this section.

Maximum penalty: 1 000 penalty units.

105 Court orders—procedure and appeals

- (1) For the purposes of proceedings for an order under this division—
- (a) the court may require notice of the proceedings to be given to such persons as the court thinks fit; and
 - (b) the court may hear a person to whom such notice has been given.
- (2) Without affecting any other right of appeal, an order under this division is appellable in the same manner as if it were, or were part of, a sentence imposed in respect of the relevant offence.

Part 8 Review of decisions

107 Meaning of *reviewable decision*—pt 8

In this part:

reviewable decision means—

- (a) a decision of the authority mentioned in schedule 1, part 1.1, column 3 under a provision of this Act mentioned in schedule 1, part 1.1, column 2; or
- (b) a decision of an animal ethics committee mentioned in schedule 1, part 1.2, column 3 under a provision of this Act mentioned in schedule 1, part 1.2, column 2.

107A Review of decisions

Application may be made to the AAT for review of a reviewable decision.

108 Notice of reviewable decisions

- (1) If the authority or an animal ethics committee makes a reviewable decision, it must give a written notice of the decision to each person affected by the decision.
- (2) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Part 9 Animal welfare advisory committee

109 Establishment and functions

- (1) The Minister shall establish an Animal Welfare Advisory Committee.
- (2) The committee is to be constituted in accordance with its instrument of establishment.
- (3) The functions of the committee are as follows:
 - (a) to advise the Minister about animal welfare legislation;
 - (b) to participate in the development of approved codes of practice;
 - (c) to provide advice to other Territory authorities, and to community bodies, about programs for the improvement of community awareness about animal welfare;
 - (d) to advise the Minister about any other matter relating to animal welfare;
 - (e) to report annually to the Minister on the activities of the committee.
- (4) The instrument of establishment is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

Part 10 Miscellaneous

110 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

110A Approved forms

- (1) The authority may, in writing, approve forms for this Act.
- (2) If the authority approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the *Legislation Act*, s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

111 Exemptions by regulations

The regulations may—

- (a) exempt a person from the requirements of all or any of the provisions of this Act; or
- (b) provide for all or any of the provisions of this Act to apply, or not to apply, in relation to an animal.

112 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may make provision in relation to—
- (a) the confining, housing or transport of animals; and
 - (b) the slaughtering, trapping, snaring, catching or poisoning of animals; and
 - (c) the hiring out, boarding, sale or trade of animals; and
 - (d) the breeding, husbandry or training of animals; and
 - (e) the use of animals for entertainment; and
 - (f) the conditions under which animals may be kept or used for the purpose of the production of films, television programs or photographs, or of film, television, or photographic advertisements; and
 - (g) the use of animals for teaching or research, or medical or surgical procedures; and
 - (h) medical or surgical procedures on animals, including animal husbandry practices in relation to farming and grazing activities.
- (3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.
- (4) The regulations may incorporate (with or without modification) an approved code of practice as in force from time to time.

Part 11 Transitional

113 Definitions—pt 11

In this part:

amended Act means the *Animal Welfare Act 1992* as amended by the *Animal Welfare Legislation Amendment Act 2007*.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

commencement day means the day the *Animal Welfare Legislation Amendment Act 2007* commences.

unamended Act means the *Animal Welfare Act 1992* as in force immediately before the commencement day.

114 Existing licences

- (1) A licence in force under the unamended Act immediately before the commencement day is taken to be a licence under the amended Act.
- (2) Without limiting subsection (1), and to remove any doubt, the licence is subject to—
 - (a) any conditions included in the licence under the unamended Act; and
 - (b) any conditions included in the licence under the amended Act.
- (3) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

115 Existing authorisations

- (1) An authorisation in force under the unamended Act immediately before the commencement day is taken to be an authorisation under the amended Act.

- (2) Without limiting subsection (1), and to remove any doubt, the authorisation is subject to—
 - (a) any conditions included in the authorisation under the unamended Act; and
 - (b) any conditions included in the authorisation under the amended Act.
- (3) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

116 Existing permit

- (1) A permit in force under the unamended Act immediately before the commencement day is taken to be a permit under the amended Act.
- (2) Without limiting subsection (1), and to remove any doubt, the permit is subject to—
 - (a) any conditions included in the permit under the unamended Act; and
 - (b) any conditions included in the permit under the amended Act.
- (3) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (4) In this section:
permit means a circus permit or trapping permit.

117 Action under unamended Act

- (1) This section applies—
 - (a) if—
 - (i) the authority had started to take action—
 - (A) in relation to varying a licence under the unamended Act, section 33 (Variation of licences); or

- (B) in relation to a licence under the unamended Act, section 34 (Suspension and cancellation of licences); or
- (ii) the animal ethics committee had started to take action—
 - (A) in relation to varying an authorisation under the unamended Act, section 45 (Variation of authorisations); or
 - (B) in relation to an authorisation under the unamended Act, section 46 (Suspension and cancellation of authorisations); or
- (iii) the authority had started to take action in relation to a circus permit under the unamended Act, section 58 (Suspension and cancellation of circus permits); or
- (iv) the authority had started to take action—
 - (A) in relation to varying a trapping permit under the unamended Act, section 70 (Variation of trapping permits); or
 - (B) in relation to a trapping permit under the unamended Act, section 71 (Suspension and cancellation of trapping permits); and
- (b) if immediately before the commencement day, the action had not finished.
- (2) The action may be continued under the amended Act as if it had been started under the amended Act.
- (3) If something required to be done under the amended Act for regulatory action has not been done because it was not required to be done under the unamended Act—
 - (a) the failure to do the thing does not affect the action being taken; and

- (b) the authority or animal ethics committee may take any action it considers necessary or desirable to facilitate dealing with the regulatory action under the amended Act.

118 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Animal Welfare Legislation Amendment Act 2007*.
- (2) A regulation may modify this part to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act.

119 Expiry—pt 11

This part expires 2 years after the commencement day.

Schedule 1 Reviewable decisions

(see s 107)

Part 1.1 Authority's decisions

column 1 item	column 2 Act provision	column 3 reviewable decision
1	27 (1) (a) and 30	granting or renewing a licence for a period of less than 3 years
2	27 (1) (b)	refusing to grant or renew a licence
3	28 (b)	putting a condition on a licence
4	34 (1)	amending a licence
5	34 (1)	amending a licence in a way other than the way applied for
6	34 (1)	refusing to amend a licence
7	49B (3)	ending the application of s 49B (1) to a researcher
8	55 (1) (b)	refusing to grant or renew a circus or travelling zoo permit
9	56 (b)	putting a condition on a circus or travelling zoo permit
10	59A (1)	amending a circus or travelling zoo permit
11	59A (1)	amending a circus or travelling zoo permit in a way other than the way applied for
12	59A (1)	refusing to amend a circus or travelling zoo permit
13	64 (1) (a) and 67	granting or renewing a trapping permit for a period of less than 3 years
14	64 (1) (b)	refusing to grant or renew a trapping permit

column 1 item	column 2 Act provision	column 3 reviewable decision
15	65 (b)	putting a condition on a trapping permit
16	71 (1)	amending a trapping permit
17	71 (1)	amending a trapping permit in a way other than the way applied for
18	71 (1)	refusing to amend a trapping permit
19	73D	taking regulatory action
20	73E	suspending an approval immediately
21	95 (2) (a)	approving a claim for compensation for a particular amount
22	95 (2) (b)	refusing to approve a claim for compensation

Part 1.2

Animal ethics committee's decisions

column 1 item	column 2 Act provision	column 3 reviewable decision
1	38 (1) (a) and 41	granting or renewing an authorisation for a period of less than 3 years
2	38 (1) (b)	refusing to grant or renew an authorisation
3	39 (b)	putting a condition on an authorisation
4	46 (1)	amending an authorisation
5	46 (1)	amending an authorisation in a way other than the way applied for
6	46 (1)	refusing to amend an authorisation
7	73D	taking regulatory action
8	73E	suspending an authorisation immediately

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- AAT
- chief police officer
- found guilty
- maximum penalty
- Minister (see s 162)
- person
- veterinary surgeon.

animal means—

- (a) a live member of a vertebrate species, including—
- (i) an amphibian; and
 - (ii) a bird; and
 - (iii) a fish; and
 - (iv) a mammal (other than a human being); and
 - (v) a reptile; or
- (b) a live cephalopod; or
- (c) a live crustacean intended for human consumption.

animal ethics committee means—

- (a) for this Act generally—an animal ethics committee established in accordance with a regulation; and
- (b) in relation to a licence—the animal ethics committee whose functions relate to the licence; and

- (c) in relation to an application for an authorisation—the animal ethics committee to which the application is made; and
- (d) in relation to an authorisation or an authorised person—the animal ethics committee that gave the authorisation.

animal welfare means the health, safety and welfare of—

- (a) animals in general; or
- (b) 1 or more animals in particular.

approval, for part 6A (Regulatory action)—see section 73A.

approved code of practice means a code of practice approved under section 22, as in force under this Act.

approved person, for part 6A (Regulatory action)—see section 73A.

authorisation means a research authorisation or teaching authorisation.

authorised officer means an authorised officer under section 77.

authorised person means the holder of an authorisation.

authority means the Animal Welfare Authority under section 5.

business premises, for division 7.3 (Powers of inspectors)—see section 80.

circus permit means a circus permit granted under section 55.

circus permit-holder means the holder of a circus permit.

commercial trapping permit means a permit granted under section 64 (Decision about trapping permit application) for the purposes of a commercial trapping operation.

confine, in relation to an animal, includes—

- (a) pinion, mutilate or maim the animal for the purpose of hindering, impeding or preventing the freedom of movement of the animal; and

- (b) subject the animal to a device or contrivance for the purpose of hindering, impeding or preventing freedom of movement of the animal; and
- (c) tether the animal.

connected, for part 7 (Enforcement)—see section 74.

defined offence means—

- (a) an offence against this Act; or
- (b) an offence in relation to animal welfare under another territory law or a Commonwealth or State law.

director, of a corporation incorporated for a public purpose under a territory law or Commonwealth or State law, includes a member of the corporation.

domestic, in relation to an animal, includes captive.

engage in conduct means—

- (a) do an act; or
- (b) omit to do an act.

executive officer, of a corporation, means a person (however described) who is concerned with, or takes part in, the corporation's management, whether or not the person is a director of the corporation.

feral animal means an animal (other than a native animal) that does not live in a domestic state.

identity card means—

- (a) in relation to the authority or a delegate of the authority—the identity card issued to him or her under section 6A; or
- (b) in relation to an inspector or an authorised officer—the identity card issued to him or her under section 78; or

- (c) in relation to a police officer—proof of identification of a type approved for general purposes by the chief police officer.

injury, in relation to an animal, includes—

- (a) the aggravation, acceleration or recurrence of any physical injury; and
- (b) the contraction, aggravation, acceleration or recurrence of a disease.

inspector means an inspector under section 76.

interstate research authorisation means an authorisation (however described) to conduct research, or teach, using animals that—

- (a) has been granted under a State law; and
- (b) has not been suspended.

interstate researcher means a person who holds an interstate research authorisation.

licence means a licence granted under section 27.

licensed premises—see section 27 (Decision about licence application).

licensee means the holder of a licence.

native animal—see the *Nature Conservation Act 1980*, dictionary.

occupier, of premises that an inspector or authorised officer is authorised to enter under part 7, for part 7 (Enforcement)—see section 74.

offence—

- (a) for part 7 (Enforcement)—see section 74; and
- (b) for division 7.10 (Evidence)—see section 97; and
- (c) for division 7.11 (Court orders and corporate penalties)—see section 100.

officer—

- (a) for division 7.7 (Consent to entry, reports and search warrants)—see section 87; and
- (b) for division 7.9 (Compensation for animal injury and death)—see section 93.

owner, of an injured or dead animal, for division 7.9 (Compensation for animal injury and death)—see section 93.

pain includes suffering and distress.

person in charge, in relation to an animal, means—

- (a) the owner of the animal; or
- (b) a person having the custody or control of the animal; or
- (c) if a person mentioned in paragraph (b) is acting as the employee or agent of someone else—the other person; or
- (d) if the animal is confined in a saleyard—the occupier of the saleyard.

pest does not include a domestic animal or native animal.

poison includes glass or anything else that, if ingested, is likely to kill or injure an animal.

premises—

- (a) for this Act generally, includes—
 - (i) a building or part of a building; and
 - (ii) a tent, stall or other structure, whether permanent or temporary; and
 - (iii) land (including water on land) whether or not appurtenant to a building; and
 - (iv) a vehicle; and

(b) in relation to the exercise of an inspector's powers, for division 7.3 (Powers of inspectors)—see section 80.

private trapping permit means a permit granted under section 64 (Decision about trapping permit application) for domestic or private purposes.

prohibited animal, for part 5 (Circuses and travelling zoos)—see section 51.

regulatory body, for part 6A (Regulatory action)—see section 73A.

research authorisation means an authorisation granted under section 38 (Decision about authorisation application) to conduct a program of research in relation to licensed premises.

reviewable decision, for part 8 (Review of decisions)—see section 107.

steel-jawed trap means an animal trap fitted with metal jaws, a pressure plate and a spring-operated mechanism, designed so that the metal jaws close against each other when the trap is activated by the application of weight to the pressure plate.

teaching authorisation means an authorisation granted under section 38 (Decision about authorisation application) to conduct a program of teaching in relation to licensed premises.

trapping permit means a commercial trapping permit or private trapping permit.

trapping permit-holder means the holder of a trapping permit.

travelling zoo does not include—

- (a) for a zoo located in the ACT—the display of the zoo's animals at a place other than the place where the zoo is permanently located; or

- (b) a zoo (however described) the main purpose of which is to make animals available for contact with members of the public.

Example—par (b)

a zoo known as a petting zoo that contains animals such as livestock, poultry and rabbits

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

travelling zoo permit means a travelling zoo permit granted under section 55.

travelling zoo permit-holder means the holder of a travelling zoo permit.

vehicle includes a caravan, trailer or vessel.

veterinary treatment, in relation to an animal, means—

- (a) a medical procedure of a prophylactic or therapeutic nature carried out on the animal by a veterinary surgeon; or
- (b) a medical procedure of a prophylactic nature carried out on the animal in accordance with directions given by a veterinary surgeon; or
- (c) a surgical procedure of a prophylactic or therapeutic nature, or sterilisation, carried out on the animal by a veterinary surgeon; or
- (d) any other medical or surgical procedure carried out on the animal by a veterinary surgeon.

welfare, in relation to animals, means the health, safety and welfare of—

- (a) animals in general; or
- (b) 1 or more animals in particular.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Animal Welfare Act 1992 No 45

notified 1 September 1992 (Gaz 1992 No S148)
s 1, s 2 commenced 1 September 1992 (s 2 (1))
ss 6, 76, 78, 79 and 109 commenced 2 November 1992 (Gaz 1992 No 44)
remainder commenced 1 March 1993 (s 2 (3))

as amended by

Acts Revision (Position of Crown) Act 1993 No 44 sch 2

notified 27 August 1993 (Gaz 1993 No S165)
commenced 27 August 1993 (s 2)

Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1

notified 11 October 1994 (Gaz 1994 No S197)
s 1, s 2 commenced 11 October 1994 (s 2 (1))
sch 1 commenced 14 November 1994 (s 2 (2) and Gaz 1994 No S250)

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch

notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
sch commenced 15 December 1994 (Gaz 1994 No S293)

Nature Conservation (Amendment) Act (No. 2) 1994 No 110 sch 2

notified 22 December 1994 (Gaz 1994 No S289)
s 1, s 2 commenced 22 December 1994 (s 2 (1))
sch 2 commenced 8 February 1995 (Gaz 1995 No S41)

Animal Welfare (Amendment) Act 1997 No 45 (as am 2001 No 44 pt 19; 2001 No 83 s 9; A2005-54 sch 1 pt 1.4)

notified 19 September 1997 (Gaz 1997 No S264)
ss 1-3 commenced 19 September 1997 (s 2 (1))
s 6 commenced 19 December 1997 (s 2 (4))
s 4, s 5 commence 6 years after the day when Eggs (Labelling and Sale) Act 2001, s 7 (1) is, or provisions of that Act that include that subsection are, described in the Mutual Recognition Act 1992 (Cwlth), sch 2

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (Gaz 1998 No 49)

Animal Welfare Amendment Act 2000 No 72

notified 21 December 2000 (Gaz 2000 No S69)
commenced 21 December 2000 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 17

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 17 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2001 (No 2) No 56 pt 3.4

notified 5 September 2001 (Gaz 2001 No S65)
commenced 12 September 2001 (s 2 (1))

**Criminal Code (Theft, Fraud, Bribery and Related Offences)
Amendment Act 2004 A2004-15 sch 1 pt 1.1, sch 2 pt 2.4**

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 1 pt 1.1, sch 2 pt 2.4 commenced 9 April 2004 (s 2 (1))

Animal Legislation (Penalties) Amendment Act 2004 A2004-50

notified LR 16 August 2004
s 1, s 2 commenced 16 August 2004 (LA s 75 (1))
remainder commenced 17 August 2004 (s 2)

Stock Act 2005 A2005-19 sch 1 pt 1.1

notified LR 13 April 2005
s 1, s 2 commenced 13 April 2005 (LA s 75 (1))
sch 1 pt 1.1 commenced 26 August 2005 (s 2 and CN2005-13)

**Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.3,
sch 1 pt 1.4**

notified LR 27 October 2005
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))
sch 1 pt 1.3 commenced 24 November 2005 (s 2)
sch 1 pt 1.4 awaiting commencement (LA s 79A and see Animal
Welfare (Amendment) Act 1997 A1997-45)

Endnotes

4 Amendment history

Animal Welfare Amendment Act 2006 A2006-17

notified LR 10 May 2006
s 1, s 2 commenced 10 May 2006 (LA s 75 (1))
remainder commenced 11 May 2006 (s 2)

Animal Welfare Legislation Amendment Act 2007 A2007-7 pt 2

notified LR 26 March 2007
s 1, s 2 commenced 26 March 2007 (LA s 75 (1))
s 15 awaiting commencement (s 2 (2))
pt 2 remainder commenced 27 March 2007 (s 2 (1))
Note default commencement under LA s 79: 26 September 2007

4 Amendment history

Name of Act

s 1 sub 2000 No 72 amdt 1.1

Dictionary

s 2 sub 2000 No 72 amdt 1.1

Notes

s 3 sub 2000 No 72 amdt 1.1

Offences against Act—application of Criminal Code etc

s 3A renum as s 4

Offences against Act—application of Criminal Code etc

s 4
orig s 4
am 1994 No 60 sch 1; 1994 No 97 sch; 1994 No 110 sch 2
pt 2; 2000 No 72 s 4
defs reloc to dict 2000 No 72 amdt 1.2
om 2000 No 72 amdt 1.2
prev s 4
sub as s 5
pres s 4
(prev s 3A) ins A2005-54 amdt 1.9
renum as s 4 A2007-7 s 5

Animal Welfare Authority

s 5 **orig s 5**
om 1993 No 44 sch 2
prev s 5
ins 1994 No 97 sch
om 2000 No 72 amdt 1.3
pres s 5
(prev s 4) ins 2000 No 72 amdt 1.3
sub as s 5 A2007-7 s 5
(2)-(4) exp 27 March 2008 (s 5 (4) (LA s 88 declaration applies))

Delegation by authority

s 6 sub 1994 No 97 sch; A2007-7 s 6

Identity cards

s 6A ins 1994 No 97 sch
am 1998 No 54 sch; 2000 No 72 amdt 1.4
sub A2005-54 amdt 1.10
(6)-(8) exp 24 November 2005 (s 6A (8))

Animal welfare offences

pt 2 hdg sub A2005-54 amdt 1.11

Cruelty

s 7 am 1998 No 54 sch; 2000 No 72 amdt 1.45
sub A2005-54 amdt 1.11

Aggravated cruelty

s 7A ins A2006-17 s 4

Alternative verdicts—cruelty

s 7B ins A2006-17 s 4

Pain

s 8 am 1998 No 54 sch; 2000 No 72 amdt 1.5, amdt 1.6
sub A2005-54 amdt 1.11

Confined animals

s 9 am 1998 No 54 sch; 2000 No 72 amdt 1.45, amdt 1.47
sub A2005-54 amdt 1.11

Battery hens

s 9A ins 1997 No 45 s 4 (as am A2005-54 amdt 1.30)

Alleviation of pain

s 10 am 1998 No 54 sch; 2000 No 72 amdt 1.45, amdt 1.47
sub A2005-54 amdt 1.11

Release

s 11 am 1998 No 54 sch; 2000 No 72 amdt 1.45
sub A2005-54 amdt 1.11

Endnotes

4 Amendment history

Administering poison

s 12 am 1994 No 110 sch 2 pt 2; 1998 No 54 sch
sub 2000 No 72 s 5; A2005-54 amdt 1.11

Laying poison

s 12A ins 2000 No 72 s 5
sub A2005-54 amdt 1.11

Electrical devices

s 13 am 1998 No 54 sch; 2000 No 72 amdt 1.45
sub A2005-54 amdt 1.11

Spurs

s 14 am 1998 No 54 sch; 2000 No 72 amdt 1.45, amdt 1.48
sub A2005-54 amdt 1.11

Transport and containment

s 15 am 1998 No 54 sch; 2000 No 72 amdt 1.7, amdt 1.45
sub A2005-54 amdt 1.11
am A2007-7 s 7

Transport of dogs

s 15A ins 2000 No 72 s 6
sub A2005-54 amdt 1.11

Working etc unfit animals

s 16 am 1998 No 54 sch; 2000 No 72 amdt 1.45
sub A2005-54 amdt 1.11

Matches, competitions etc

s 17 am 1994 No 110 sch 2 pt 2; 1998 No 54 sch; 2000 No 72
amdt 1.45; A2005-19 amdt 1.1
sub A2005-54 amdt 1.11; A2007-7 s 8

Rodeos and game parks

s 18 am 1998 No 54 sch; 2000 No 72 amdt 1.45
sub A2005-54 amdt 1.11

Medical and surgical procedures—people other than veterinary surgeons

s 19 hdg sub 2000 No 72 s 7
s 19 am 1994 No 110 sch 2 pt 2; 1998 No 54 sch; 2000 No 72 s 7
sub A2005-54 amdt 1.11; A2007-7 s 9

Medical and surgical procedures—veterinary surgeons

s 19A ins 2000 No 72 s 8
sub A2005-54 amdt 1.11; A2007-7 s 9

Exception—approved code of conduct

s 20 am 1997 No 45 s 5, s 5A (as am A2005-54 amdt 1.31); 2000
No 72 s 9
sub A2005-54 amdt 1.11
am A2007-7 s 20

Contents

s 21 am 1994 No 110 sch 2 pt 2

Codes of practice

s 22 sub 2001 No 44 amdt 1.175

Disallowances 23 am 2000 No 72 amdt 1.8
om 2001 No 44 amdt 1.175**Publication**

s 24 am 2001 No 44 amdt 1.176

Licencesdiv 4.1 hdg (prev pt 4 div 1 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)
sub A2007-7 s 11**Research, teaching and breeding**s 25 am 1998 No 54 sch
sub 2000 No 72 s 10; A2005-54 amdt 1.12; A2007-7 s 11**Application for licence**s 26 am 2000 No 72 amdt 1.9; 2001 No 44 amdts 1.177-1.179
sub A2007-7 s 11**Decision about licence application**

s 27 sub A2007-7 s 11

Licence conditionss 28 am 2000 No 72 amdt 1.10, 1.11; 2001 No 44 amdt 1.180
sub A2007-7 s 11**Form of licence**

s 29 sub A2007-7 s 11

Term of licence

s 30 sub A2007-7 s 11

Licensees—request for information and documents

s 31 sub A2007-7 s 11

Licence renewals 32 sub 2000 No 72 amdt 1.12
am 2001 No 44 amdt 1.181, amdt 1.182
sub A2007-7 s 11**Licensee to notify change of name or address**

s 33 sub A2007-7 s 11

Amendment of licence

s 34 sub A2007-7 s 11

Surrender of licences

s 35 sub A2007-7 s 11

Endnotes

4 Amendment history

Authorisations

div 4.2 hdg (prev pt 4 div 2 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)
sub A2007-7 s 11

Research and teaching using and breeding animals

s 36 am 1998 No 54 sch; 2000 No 72 amdt 1.47
sub A2005-54 amdt 1.13; A2007-7 s 11

Application for authorisation

s 37 am 1998 No 54 sch; 2000 No 72 s 11
sub A2005-54 amdt 1.14; A2007-7 s 11

Decision about authorisation application

s 38 am 2000 No 72 amdt 1.13, 1.14; 2001 No 44 amdt 1.183
sub A2007-7 s 11

Authorisation conditions

s 39 sub A2007-7 s 11

Form of authorisation

s 40 am 2000 No 72 amdt 1.15
sub A2007-7 s 11

Term of authorisation

s 41 sub A2007-7 s 11

Identity certificate for authorised people

s 42 am 1998 No 54 sch; 2000 No 72 amdt 1.16, amdt 1.17; 2001
No 44 amdt 1.184
sub A2005-54 amdt 1.15; A2007-7 s 11

Authorised people—request for information and documents

s 43 sub A2007-7 s 11

Authorisation renewal

s 44 sub 2000 No 72 amdt 1.18
am 2001 No 44 amdt 1.185, amdt 1.186
sub A2007-7 s 11

Authorised person to notify change of name or address

s 45 sub A2007-7 s 11

Amendment of authorisation

s 46 sub A2007-7 s 11

Cessation of effect of authorisation

s 47 sub A2007-7 s 11

Surrender of authorisations

s 48 sub A2007-7 s 11

Return of cancelled and suspended authorisations

s 49 am 1998 No 54 sch; 2000 No 72 amdt 1.48
sub A2005-54 amdt 1.16
om A2007-7 s 11

Interstate researchers

div 4.3 hdg (prev pt 4 div 2A hdg) ins 2000 No 72 s 12
renum R4 LA (see 2000 No 72 amdt 1.49)

Notification

s 49A ins 2000 No 72 s 12
am 2001 No 44 amdt 1.187

Interstate researchers' authorisation in the ACT

s 49B ins 2000 No 72 s 12

Animal ethics committees

div 4.4 hdg (prev pt 4 div 3 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)
sub A2007-7 s 12

Animal ethics committees

s 50 sub A2007-7 s 12

Circuses and travelling zoos

pt 5 hdg sub A2007-7 s 13

Preliminary

div 5.1 hdg ins A2007-7 s 13

Meaning of *prohibited animal*—pt 5

s 51 am 1998 No 54 sch; 2000 No 72 amdt 1.45
sub A2005-54 amdt 1.17; A2007-7 s 13

Offences

div 5.2 hdg ins A2007-7 s 13

Circuses

s 52 am 2000 No 72 amdt 1.19
sub A2007-7 s 13

Travelling zoos

s 53 am 2000 No 72 amdt 1.20; 2001 No 44 amdts 1.188-1.190
sub A2007-7 s 13

Circus and travelling zoo permits

div 5.3 hdg ins A2007-7 s 13

Application for circus or travelling zoo permit

s 54 am 2000 No 72 amdt 1.21, 1.22; 2001 No 44 amdt 1.191
sub A2007-7 s 13

Decision about circus or travelling zoo permit application

s 55 sub A2007-7 s 13

Endnotes

4 Amendment history

Circus or travelling zoo permit conditions

s 56 sub A2007-7 s 13

Form of circus or travelling zoo permit

s 57 sub A2007-7 s 13

Term of circus or travelling zoo permit

s 58 sub A2007-7 s 13

Circus or travelling zoo permit-holder to notify change of name or address

s 59 am 1998 No 54 sch; 2000 No 72 amdt 1.48
sub A2005-54 amdt 1.18; A2007-7 s 13

Amendment of circus or travelling zoo permit

s 59A ins A2007-7 s 13

Trapping offences

div 6.1 hdg (prev pt 6 div 1 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)
sub A2005-54 amdt 1.19

Steel-jawed traps and prohibited traps

s 60 am 1998 No 54 sch; 2000 No 72 amdt 1.45, amdt 1.48
sub A2005-54 amdt 1.19

Restricted traps

s 61 am 1998 No 54 sch; 2000 No 72 amdt 1.46
sub A2005-54 amdt 1.19

Trapping—general

s 62 am 1998 No 54 sch; 2000 No 72 amdt 1.23, amdt 1.24
sub A2005-54 amdt 1.19
am A2007-7 s 14

Trapping permits

div 6.2 hdg (prev pt 6 div 2 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)
sub A2007-7 s 15

Application for trapping permit

s 63 om A2005-54 amdt 1.19
ins A2007-7 s 15

Decision about trapping permit application

s 64 am 2000 No 72 amdt 1.25; 2001 No 44 amdts 1.192-1.194
sub A2007-7 s 15

Trapping permit conditions

s 65 am 2000 No 72 amdt 1.26, 1.27; 2001 No 44 amdt 1.195
sub A2007-7 s 15

Form of trapping permit

s 66 sub A2007-7 s 15

Term of trapping permits 67 [sub A2007-7 s 15](#)**Trapping permit-holders—request for information and documents**s 68 [sub A2007-7 s 15](#)**Trapping permit renewal**s 69 [sub 2000 No 72 amdt 1.28](#)
[am 2001 No 44 amdt 1.196, amdt 1.197](#)
[sub A2007-7 s 15](#)**Trapping permit-holder to notify change of name or address**s 70 [sub A2007-7 s 15](#)**Amendment of trapping permit**s 71 [sub A2007-7 s 15](#)**Surrender of trapping permits**s 72 [sub A2007-7 s 15](#)**Return of cancelled and suspended trapping permits**s 73 [am 1998 No 54 sch; 2000 No 72 amdt 1.48](#)
[sub A2005-54 amdt 1.20](#)
[om A2007-7 s 15](#)**Regulatory action**s 6A hdg [ins A2007-7 s 16](#)**Definitions—pt 6A**s 73A [ins A2007-7 s 16](#)
def **approval** [ins A2007-7 s 16](#)
def **approved person** [ins A2007-7 s 16](#)
def **regulatory body** [ins A2007-7 s 16](#)**Grounds for regulatory action**s 73B [ins A2007-7 s 16](#)**Regulatory action**s 73C [ins A2007-7 s 16](#)**Taking regulatory action**s 73D [ins A2007-7 s 16](#)**Immediate suspension**s 73E [ins A2007-7 s 16](#)**Effect of suspension**s 73F [ins A2007-7 s 16](#)**Return of amended, suspended or cancelled approvals**s 73G [ins A2007-7 s 16](#)**Action by regulatory body in relation to amended or suspended approval**s 73H [ins A2007-7 s 16](#)

Endnotes

4 Amendment history

Preliminary

div 7.1 hdg (prev pt 7 div 1 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)

Definitions for pt 7

s 74 am 1994 No 97 sch
sub 2000 No 72 amdt 1.29

Public access

s 75A ins 1997 No 45 s 6

Inspectors and authorised officers

div 7.2 hdg (prev pt 7 div 2 hdg) sub 1994 No 97 s 3 sch
renum R4 LA (see 2000 No 72 amdt 1.49)

Inspectors

s 76 sub 1994 No 97 sch; 2000 No 72 amdt 1.30; A2007-7 s 17
(3)-(5) exp 27 March 2008 (s 76 (5) (LA s 88 declaration
applies))

Authorised officers

s 77 sub 1994 No 97 sch; 2000 No 72 amdt 1.30; A2007-7 s 17
(3)-(5) exp 27 March 2008 (s 77 (5) (LA s 88 declaration
applies))

Identity cards

s 78 sub 1984 No 97 sch
am 1998 No 54 sch; 2000 No 72 amdt 1.31
sub A2005-54 amdt 1.21
(6)-(8) exp 24 November 2005 (s 78 (8))

Identity cards

s 79 om 1994 No 97 sch

Powers of inspectors

div 7.3 hdg (prev pt 7 div 3 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)

Definitions for div 3

s 80 hdg sub 2000 No 72 s 13
s 80 def **business premises** ins 2000 No 72 s 13

Powers of entry and search

s 81 am 2000 No 72 s 14

Powers of inspectors

s 82 hdg sub 2000 No 72 s 15
s 82 am 1998 No 54 sch; 2000 No 72 s 15; A2005-54 amdt 1.22

Powers of authorised officers

div 7.4 hdg (prev pt 7 div 4 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)

Research and educational institutions—powers of entry and search

s 83 am 2000 No 72 s 16

Powers of authorised officers

s 84 am 1998 No 54 sch; 2000 No 72 s 17; A2005-54 amdt 1.23

Powers of veterinary surgeons

div 7.5 hdg (prev pt 7 div 4A hdg) ins 2000 No 72 s 18
renum R4 LA (see 2000 No 72 amdt 1.49)

Powers of veterinary surgeons regarding seized animals and carcasses

s 84A ins 2000 No 72 s 18

Alleviation of suffering—powers of inspectors, authorised officers and veterinary surgeons

div 7.6 hdg (prev pt 7 div 5 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)

Inspectors and authorised officers

s 85 am 1998 No 54 sch; 2000 No 72 s 19; A2005-54 amdt 1.24

Veterinary surgeons

s 86 am 2000 No 72 s 20

Consent to entry, reports and search warrants

div 7.7 hdg (prev pt 7 div 6 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)

Reports

s 89 am 2000 No 72 s 21

Offences in relation to veterinary surgeons

div 7.8 hdg (prev pt 7 div 7 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)
sub A2005-54 amdt 1.25

Obstructing etc veterinary surgeon

s 91 am 1998 No 54 sch; 2000 No 72 amdt 1.32; A2004-15
amdt 2.12
sub A2005-54 amdt 1.25

False information

s 92 am 1998 No 54 sch; 2000 No 72 amdt 1.46
om A2005-54 amdt 1.25

Compensation for animal injury and death

div 7.9 hdg (prev pt 7 div 8 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)

Definitions for div 8

s 93 sub 2000 No 72 s 22

Right to compensation

s 94 am A2007-7 s 18

Compensation claims

s 95 am 2000 No 72 amdt 1.33; 2001 No 44 amdt 1.198,
amdt 1.199

Evidence

div 7.10 hdg (prev p 7 div 9 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)

Endnotes

4 Amendment history

Certificate evidence

s 98 am A2007-7 ss 19-21

Acts and omissions of representatives

s 99 sub A2004-15 amdt 1.1

Court orders and corporate penalties

div 7.11 hdg (prev pt 7 div 10 hdg) renum R4 LA (see 2000 No 72 amdt 1.49)

Animal offences—court orders (general)

s 101 am 1998 No 54 sch; 2000 No 72 amdt 1.34, amdt 1.46; A2005-54 amdt 1.26

Animal offences—court orders (costs and proceeds of disposal)

s 102 am 2000 No 72 amdt 1.35

Spur and trap offences—court orders (general)

s 103 am 1998 No 54 sch; 2000 No 72 amdt 1.36, amdt 1.46; A2005-54 amdt 1.27; A2007-7 s 22

Spur and trap offences—court orders (costs and proceeds of disposal)

s 104 am 2000 No 72 amdt 1.37

Court orders—offences involving violence

s 104A ins A2004-50 s 4

Corporations—penalties

s 106 om 1998 No 54 sch

Review of decisions

pt 8 hdg sub A2007-7 s 23

Meaning of *reviewable decision*—pt 8

s 107 am 1994 No 60 sch 1; 2000 No 72 s 23
sub A2007-7 s 23

Review of decisions

s 107A ins A2007-7 s 23

Notice of reviewable decisions

s 108 am 1994 No 60 sch 1
sub A2007-7 s 23

Establishment and functions

s 109 am A2007-7 s 24, s 25

Determination of fees

s 110 sub 2000 No 72 amdt 1.38; 2001 No 44 amdt 1.200

Approved forms

s 110A ins 2000 No 72 amdt 1.38
sub 2001 No 44 amdt 1.200
am A2007-7 s 26

Exemptions by regulations

s 111 am 2001 No 44 amdt 1.201, amdt 1.202

Regulation-making power

hdg to s 112 sub 2000 No 72 amdt 1.39
 s 112 am 1998 No 54 sch; 2000 No 72 amdts 1.39-1.41; 2001 No 44
 amdts 1.203-1.205; A2007-7 s 27

Transitional

pt 11 hdg om 2000 No 72 amdt 1.42
 ins A2007-7 s 28
exp 27 March 2009 (s 119)

Definitions—pt 11

s 113 om 2000 No 72 amdt 1.42
 ins A2007-7 s 28
exp 27 March 2009 (s 119)
 def **amended Act** ins A2007-7 s 28
 def **commencement day** ins A2007-7 s 28
 def **unamended Act** ins A2007-7 s 28

Existing licences

s 114 om 2000 No 72 amdt 1.42
 ins A2007-7 s 28
exp 27 March 2009 (s 119 (LA s 88 declaration applies))

Existing authorisations

s 115 ins A2007-7 s 28
exp 27 March 2009 (s 119 (LA s 88 declaration applies))

Existing permit

s 116 ins A2007-7 s 28
exp 27 March 2009 (s 119 (LA s 88 declaration applies))

Action under unamended Act

s 117 ins A2007-7 s 28
exp 27 March 2009 (s 119)

Transitional regulations

s 118 ins A2007-7 s 28
exp 27 March 2009 (s 119)

Expiry—pt 11

s 119 ins A2007-7 s 28
exp 27 March 2009 (s 119)

Schedule

sch om 2000 No 72 amdt 1.43

Reviewable decisions

sch 1 ins A2007-7 s 29

Endnotes

4 Amendment history

Dictionary

dict

ins 2000 No 72 amdt 1.44
defs reloc from s 4 2000 No 72 amdt 1.2
am 2001 No 44 amdt 1.207, amdt 1.208
sub A2007-7 s 30
def **animal** sub 2000 No 72 s 4; A2007-7 s 30
def **animal ethics committee** ins A2007-7 s 30
def **animal welfare** sub A2007-7 s 30
def **approval** ins A2007-7 s 30
def **approved code of practice** sub A2007-7 s 30
def **approved person** ins A2007-7 s 30
def **authorisation** sub A2007-7 s 30
def **authorised officer** am 1994 No 97 sch
sub A2007-7 s 30
def **authorised person** sub A2007-7 s 30
def **authority** am 1994 No 97 sch; 2000 No 72 s 4
sub A2007-7 s 30
def **business premises** ins A2007-7 s 30
def **circus permit** sub A2007-7 s 30
def **circus permit-holder** ins A2007-7 s 30
def **commercial trapping permit** sub A2007-7 s 30
def **confine** sub A2007-7 s 30
def **connected** ins A2007-7 s 30
def **defined offence** sub 2000 No 72 s 4; A2007-7 s 30
def **director** sub 2000 No 72 s 4; A2007-7 s 30
def **domestic** sub A2007-7 s 30
def **engage in conduct** ins A2005-54 amdt 1.28
sub A2007-7 s 30
def **ethics committee** am 2001 No 56 amdt 3.4
om A2007-7 s 30
def **executive officer** ins A2007-7 s 30
def **feral animal** am 1994 No 110 sch 2
sub A2007-7 s 30
def **identity card** sub A2007-7 s 30
def **injury** sub A2007-7 s 30
def **inspector** am 1994 No 97 sch
sub A2007-7 s 30
def **interstate research authorisation** ins 2000 No 72 s 4
sub A2007-7 s 30
def **interstate researcher** ins 2000 No 72 s 4
sub A2007-7 s 30
def **licence** sub A2007-7 s 30
def **licensed premises** sub A2007-7 s 30
def **licensee** ins 2000 No 72 s 4
sub A2007-7 s 30
def **native animal** ins 1994 No 110 sch 2
sub 2000 No 72 s 4; A2007-7 s 30

def **occupier** ins A2007-7 s 30
def **offence** om 2000 No 72 s 4
ins A2007-7 s 30
def **officer** ins A2007-7 s 30
def **owner** ins A2007-7 s 30
def **pain** sub A2007-7 s 30
def **person in charge** sub A2007-7 s 30
def **pest** am 1994 No 110 sch 2
sub A2007-7 s 30
def **poison** ins 2000 No 72 s 4
sub A2007-7 s 30
def **premises** sub A2007-7 s 30
def **private trapping permit** sub A2007-7 s 30
def **prohibited animal** ins A2007-7 s 30
def **prohibited circus animal** om A2007-7 s 30
def **prohibited trap** om A2005-54 amdt 1.29
def **regulatory body** ins A2007-7 s 30
def **repealed Act** om 2000 No 72 s 4
def **research authorisation** sub A2007-7 s 30
def **restricted trap** om A2005-54 amdt 1.29
def **reviewable decision** ins A2007-7 s 30
def **steel-jawed trap** sub A2007-7 s 30
def **teaching authorisation** sub A2007-7 s 30
def **this Act** om 2001 No 44 amdt 1.206
def **trapping permit** sub A2007-7 s 30
def **trapping permit-holder** ins A2007-7 s 30
def **travelling zoo** ins A2007-7 s 30
def **travelling zoo permit** ins A2007-7 s 30
def **travelling zoo permit-holder** ins A2007-7 s 30
def **Tribunal** om 1994 No 6 sch 1
def **vary** om A2007-7 s 30
def **vehicle** sub A2007-7 s 30
def **Veterinary Surgeon** om 2000 No 72 s 4
def **veterinary treatment** sub A2007-7 s 30
def **welfare** sub A2007-7 s 30
def **wildlife** om 1994 No 110 sch 2

Endnotes

5 Earlier republications

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1993 No 44	31 January 1994
2	Act 1994 No 110	31 January 1996
3	Act 1998 No 54	31 January 1999
4	A2001-56	12 September 2001
5	A2004-15	9 April 2004
6	A2004-50	17 August 2004
7	A2005-19	26 August 2005
8	A2005-54	24 November 2005
9	A2005-54	25 November 2005
10	A2006-17	11 May 2006

6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

Animal Welfare (Amendment) Act 1997 A1997-45 s 4, s 5, s 5A (as am by A2005-54 sch 1 pt 1.4)

4 New section 9A

insert

9A Battery hens

A person commits an offence if—

- (a) the person keeps hens for egg production; and
- (b) the hens are kept in a battery cage system.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

5 New section 20 (a)

before section 20 (a), insert

- (a) section 9A (Battery hens)

5A Section 20 (a) to (d) (as amended)

renumber as section 20 (a) to (e)

Animal Welfare Legislation Amendment Act 2007 A2007-7 s 15

15 Division 6.2

substitute

Division 6.2 Trapping permits**63 Application for trapping permit**

- (1) A person may apply to the authority for—
 - (a) a commercial trapping permit, for the purposes of a commercial trapping operation; or

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(b) a private trapping permit, for domestic or private purposes.

Note 1 A fee may be determined under s 110 for this provision.

Note 2 If a form is approved under s 110A for an application, the form must be used.

- (2) The authority may, in writing, require the applicant to give the authority additional information in writing or documents that the authority reasonably needs to decide the application.
- (3) If the applicant does not comply with a requirement under subsection (2), the authority may refuse to consider the application further.

64 Decision about trapping permit application

- (1) On an application by a person for a trapping permit, the authority must—
 - (a) grant the permit of the type applied for; or
 - (b) refuse to grant the permit.
- (2) In deciding whether to grant the trapping permit, the authority must consider—
 - (a) the species of animals to be trapped; and
 - (b) the experience and competency of the applicant, and the applicant's employees and agents, in trapping the animals; and
 - (c) the adequacy of the applicant's traps and other trapping equipment; and
 - (d) the applicant's response (or lack of response) to any request for further information under section 63 (2); and
 - (e) whether the applicant has, within the 3 years immediately before the date of the application, been convicted or found guilty of a defined offence; and
 - (f) any criteria prescribed by regulation.

(3) Subsection (2) does not limit the matters that the authority may consider.

(4) In this section:

applicant includes, if the applicant is a corporation, each executive officer of the corporation.

grant includes grant by way of renewal.

renewal, of a trapping permit, means the grant of the permit that is to begin on the day after the day the permit being renewed ends.

65 Trapping permit conditions

A trapping permit is subject to any condition—

- (a) prescribed by regulation; or
- (b) put on the permit by the authority that the authority believes on reasonable grounds is reasonable or necessary in the interests of animal welfare.

Examples of conditions that may be put on a trapping permit

- 1 a condition about the species of animals to be trapped
- 2 a condition about the areas in which traps are to be set
- 3 a condition about the traps and other trapping equipment to be used
- 4 a condition about the welfare of any animals that may be affected by the proposed trapping activities
- 5 that an approved code of practice must be complied with

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 The authority may amend a trapping permit (including by putting a condition on the permit, or amending or removing a condition of the permit) at any time (see s 71).

66 Form of trapping permit

A trapping permit must—

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6 Uncommenced amendments

- (a) be in writing; and
- (b) state the full name and address of the person to whom the permit is granted; and
- (c) state the period for which the permit is granted; and
- (d) state any condition put on the permit by the authority.

67 Term of trapping permit

A trapping permit is granted for the period of not longer than 3 years stated in the permit, and remains in force subject to this Act.

68 Trapping permit-holders—request for information and documents

The authority may, in writing, require a trapping permit-holder to give the authority information in writing or documents that the authority reasonably needs to exercise its functions under this Act in relation to the trapping permit.

Example of information or documents

information about gas cylinders used in trapping by a trapping permit-holder

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

69 Trapping permit renewal

- (1) This section applies if—
 - (a) an application is made under section 63 (Application for trapping permit) by a trapping permit-holder; and
 - (b) the application is for renewal of the trapping permit-holder's trapping permit; and

- (c) the application is made not later than 14 days before the day the trapping permit term ends.
- (2) The trapping permit remains in force, subject to this Act, until the application is decided under section 64 (Decision about trapping permit application).
- (3) If the authority grants the trapping permit applied for, the renewal of the permit begins on the day after the day the permit being renewed ends.
- (4) A suspended trapping permit may be renewed, but the renewed permit is suspended until the suspension ends.
- (5) In this section:

renewal, of a trapping permit, means the grant of the permit that is to begin on the day after the day the permit being renewed ends.

70 Trapping permit-holder to notify change of name or address

- (1) If a trapping permit-holder changes the permit-holder's name or address, the permit-holder must, as soon as practicable but not later than 14 days after the day the change happens, tell the authority, in writing, about the change.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

71 Amendment of trapping permit

- (1) The authority may amend a trapping permit at any time in accordance with this section if it believes on reasonable grounds that the amendment is reasonable or necessary in the interests of animal welfare.

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- (2) The authority may amend a trapping permit on its own initiative or on application by the trapping permit-holder.

Note 1 A fee may be determined under s 110 for this provision.

Note 2 If a form is approved under s 110A for an application, the form must be used.

- (3) The authority may amend a trapping permit on its own initiative only if the authority has—

- (a) given the trapping permit-holder written notice of the proposed amendment; and
- (b) considered any comments made by the permit-holder in accordance with the notice.

- (4) The notice mentioned in subsection (3) (a) must—

- (a) include the authority's grounds for making the proposed amendment; and
- (b) invite the trapping permit-holder to give the authority any comments about the amendment before the end of a stated period of at least 14 days after the day the notice is given to the permit-holder.

- (5) Subsection (3) does not apply to action under section 73D (Taking regulatory action).

Note Section 108 (Notice of reviewable decisions) provides that the authority must give written notice of the decision to each person affected by the decision.

- (6) The amendment of a trapping permit takes effect on—

- (a) the day the notice of the decision to amend is given to the trapping permit-holder; or
- (b) if the notice states a later date of effect—that date.

- (7) A trapping permit amended under this section must be returned to the authority as soon as practicable, but not later than 7 days after

the day the notice of the decision to amend is given to the trapping permit-holder.

(8) In this section:

amend, a trapping permit, includes putting a condition on the permit, or amending or removing a condition of the permit.

condition does not include a condition prescribed by regulation.

72 Surrender of trapping permits

(1) A trapping permit-holder may surrender the trapping permit by giving the authority written notice of the surrender and the permit.

(2) The surrender takes effect on—

(a) the day the notice is given to the authority under subsection (1); or

(b) if the notice states a later date of effect—that date.

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