



Australian Capital Territory

Animal Welfare Legislation Amendment Act 2007

A2007-7

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Australian Capital Territory

Animal Welfare Legislation Amendment Act 2007

A2007-7

An Act to amend various legislation about animal welfare, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2006-241

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Animal Welfare Legislation Amendment Act 2007*.

2 Commencement

- (1) This Act, other than section 15, commences on the day after its notification day.
- (2) Section 15 commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

Part 2 Animal Welfare Act 1992

3 Legislation amended—pt 2

This part amends the *Animal Welfare Act 1992*.

4 Offences against Act—application of Criminal Code etc Section 3A

renumber as section 4

5 Section 4

substitute

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 Section 6

substitute

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.

**7 Transport and containment
Section 15, new example**

insert

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).

8 Section 17

substitute

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.

9 Sections 19 and 19A

substitute

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.

**10 Exception—approved code of conduct
Section 20 (b)**

substitute

- (b) section 17 (1) or (2) (Matches, competitions etc);

11 Divisions 4.1 and 4.2

substitute

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.

12 Division 4.4

substitute

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.

13 Part 5

substitute

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.

14 Trapping—general Section 62 (2) and (3)

substitute

- (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).

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
 - (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—

- (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.
- (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.

16 New part 6A

insert

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).

17 Sections 76 and 77

substitute

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.

**18 Right to compensation
Section 94 (1)**

omit

performance

substitute

exercise

**19 Certificate evidence
Section 98 (1) (a)**

substitute

- (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

20 Section 98 (1) (b) to (d)

omit

circus permit

substitute

circus permit, travelling zoo permit

21 Section 98 (2)

omit

ethics committee

substitute

animal ethics committee

**22 Spur and trap offences—court orders (general)
Section 103 (3)**

substitute

- (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.

23 Part 8

substitute

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).

**24 Establishment and functions
Section 109 (1)**

omit

, by instrument,

25 New section 109 (4)

insert

- (4) The instrument of establishment is a notifiable instrument.

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

**26 Approved forms
Section 110A (2), new note**

insert

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

**27 Regulation-making power
New section 112 (2) (h)**

insert

- (h) medical or surgical procedures on animals, including animal husbandry practices in relation to farming and grazing activities.

28 New part 11

insert

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.

29 New schedule 1

insert

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

column 1 item	column 2 Act provision	column 3 reviewable decision
14	64 (1) (b)	refusing to grant or renew a trapping permit
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

30 Dictionary

substitute

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.

Part 3 Animal Welfare Regulation 2001

31 Legislation amended—pt 3

This part amends the *Animal Welfare Regulation 2001*.

32 Section 3

substitute

2 Dictionary

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

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation.

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

33 Sections 4 and 4A

renumber as sections 3 and 4

34 New sections 6A and 6B

insert

6A Licence conditions—Act, s 28

A licence is subject to the following conditions:

- (a) that the licensee must, in accordance with the Act, establish and maintain—
 - (i) an animal ethics committee; or

- (ii) appropriate arrangements with an existing animal ethics committee for that committee to exercise the functions of an animal ethics committee in relation to the licensee's activities;
- (b) that, if the authority asks the licensee for information or a document under the Act, section 31 (Licensees—request for information and documents), the licensee must give the information or document to the authority;
- (c) that the licensee must comply with any direction of the animal ethics committee issued under the Act.

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).

6B Authorisation conditions—Act, s 39

An authorisation is subject to the following conditions:

- (a) that, if the animal ethics committee asks the authorised person for information or a document under the Act, section 43 (Authorised people—request for information and documents), the person must give the information or document to the committee;
- (b) that the authorised person must comply with any direction of the animal ethics committee issued under the Act.

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).

35 Section 7

substitute

7 Animal ethics committees—Act, s 50 and dict

- (1) An animal ethics committee established in accordance with the code is an animal ethics committee for the Act.

Note *Code* is defined in the dictionary.

- (2) The constitution and functions of an animal ethics committee are the constitution and functions set out in the code.
- (3) An animal ethics committee for a licence must report annually to the authority about the following in relation to the animals that the committee has approved for use or breeding by the licensee:
- (a) how many animals were used or bred;
 - (b) the species of the animals.

Note If a form is approved under the Act, s 110A for the report, the form must be used.

- (4) A report under subsection (3) must be given to the authority within 4 months after each 30 June.

36 New sections 7A to 7D

insert

7A Circus permit condition—Act, s 56

A circus permit is subject to the condition that the circus permit-holder must not include in the circus troupe a prohibited animal, whether or not for the purpose of using the animal in the circus.

7B Travelling zoo permit condition—Act, s 56

A travelling zoo permit is subject to the condition that the travelling zoo permit-holder must not include as part of the travelling zoo a prohibited animal, whether or not for the purpose of using the animal in the travelling zoo.

7C Prohibited traps—Act, s 60

(1) The following are prohibited traps:

- (a) glue trap;
- (b) metal-toothed rodent trap.

(2) In this section:

glue trap means a trap (however described) that contains glue, or another viscid substance, that is non-drying.

metal-toothed rodent trap means a trap (however described) that has a spring-loaded metal arm and metal-toothed edge around the trap's base.

7D Trapping permit condition—Act, s 65

A trapping permit is subject to the condition that, if the authority asks the trapping permit-holder for information or a document under the Act, section 68 (Trapping permit-holders—request for information and documents), the permit-holder must give the information or document to the authority.

37 Schedule 1, item 4

omit

38 New dictionary

insert

Dictionary

(see s 2)

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

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

- maximum penalty
- person.

Note 3 Terms used in this regulation have the same meaning that they have in the *Animal Welfare Act 1992* (see Legislation Act, s 148). For example, the following terms are defined in the *Animal Welfare Act 1992*, dict:

- animal
- animal ethics committee
- authority
- confine.

code means the *Australian code of practice for the care and use of animals for scientific purposes*, 7th Edition, 2004 published by the National Health and Medical Research Council.

Part 4 Domestic Animals Act 2000

39 Dictionary, definition of *animal welfare offence*, paragraph (n)

substitute

(n) section 17 (Matches, competitions etc);

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 14 December 2006.

2 Notification

Notified under the Legislation Act on 26 March 2007.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Animal Welfare Legislation Amendment Bill 2007, which originated in the Legislative Assembly as the Animal Welfare Legislation Amendment Bill 2006 and was passed by the Assembly on 13 March 2007.

Clerk of the Legislative Assembly

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