

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Ms Caroline Le Couteur)

Animal Welfare Legislation (Factory Farming) Amendment Bill 2012

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Animal Welfare Legislation (Factory Farming) Amendment Bill 2012

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Animal Welfare Legislation (Factory Farming)*
4 *Amendment Act 2012*.

5 **2 Commencement**

6 (1) The following provisions commence on the day after this Act's
7 notification day:

- 8 • sections 3 and 5
- 9 • sections 10 and 11
- 10 • part 4.

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

13 (2) The remaining provisions commence on 1 January 2014.

14 **3 Legislation amended**

15 This Act amends the following legislation:

- 16 • *Animal Welfare Act 1992*
- 17 • *Domestic Animals Act 2000*
- 18 • *Eggs (Labelling and Sale) Act 2001*.

19 **4 Repeal of Animal Welfare (Amendment) Act 1997**

20 The *Animal Welfare (Amendment) Act 1997* (A1997-45) is repealed.

1 **5 Magistrates Court (Eggs Labelling and Sale Infringement**
2 **Notices) Regulation 2012—sch 1**

- 3 (1) The provisions set out in schedule 1 are taken, on the
4 commencement of this section, to be a regulation made under the
5 *Magistrates Court Act 1930*, section 321 (Regulation-making
6 power).
- 7 (2) To remove any doubt and without limiting subsection (1), the
8 provisions set out in schedule 1 may be amended or repealed as if
9 they had been made as a regulation by the Executive under the
10 *Magistrates Court Act 1930*, section 321.
- 11 (3) To remove any doubt, the regulation mentioned in subsection (1) is
12 taken—
- 13 (a) to have been notified under the Legislation Act on the day this
14 Act is notified; and
- 15 (b) to have commenced on the commencement of this section; and
- 16 (c) not to be required to be presented to the Legislative Assembly
17 under the Legislation Act, section 64 (1).
- 18 (4) This section expires on the day it commences.

1 **Part 2 Animal Welfare Act 1992**

2 **6 New section 9A**

3 *insert*

4 **9A Cage system hens**

5 (1) A person commits an offence if the person keeps hens in a cage
6 system.

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

9 (2) In this section:

10 *cage system* means a system in which hens are housed in cages.

11 **7 New section 9B**

12 *insert*

13 **9B Keeping pigs—appropriate accommodation**

14 (1) A person commits an offence if—

15 (a) the person keeps a pig; and

16 (b) the pig is not kept in appropriate accommodation.

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

19 (2) In this section:

20 *appropriate accommodation*, for a pig kept by a person, means
21 accommodation—

22 (a) that allows the pig to—

23 (i) turn around, stand up and lie down without difficulty; and

- 1 (ii) have a clean, comfortable and adequately drained place in
2 which it can lie down; and
- 3 (iii) maintain a comfortable temperature; and
- 4 (iv) have outdoor access; and
- 5 (b) if the accommodation is for more than 1 pig—that allows each
6 pig in the accommodation to lie down at the same time; and
- 7 (c) if the person keeps more than 1 pig—that allows the pig to see
8 another pig except if—
- 9 (i) the pig is isolated on the advice of a veterinary surgeon;
10 or
- 11 (ii) the pig is a sow or gilt and it is a week before, or during,
12 farrowing for the sow or gilt.

13 *gilt* means a female pig after puberty but before farrowing.

14 *sow* means a female pig that has had 1 or more litters.

15 **8 Exception—conduct in accordance with approved code**
16 **of practice or mandatory code of practice**
17 **New section 20 (aa)**

18 *before section 20 (a), insert*

19 (aa) section 9A (Cage system hens);

1 **9 New section 20 (ab)**

2 *before section 20 (a), insert*

3 (ab) section 9B (Keeping pigs—appropriate accommodation);

4 **10 New section 109A**

5 *in part 10, insert*

6 **109A Banning cage systems etc—national approach**

7 (1) The Minister must take all reasonable steps to promote a permanent
8 ban by the Territory and States on the keeping of poultry in cage
9 systems.

10 (2) The Minister must take all reasonable steps to improve the living
11 conditions for poultry under the model code.

12 (3) Reasonable steps for subsection (2) include, but are not limited to,
13 the Minister promoting—

14 (a) a comprehensive review of the model code to begin as soon as
15 possible; and

16 (b) the enactment by the Territory and States of legislation to make
17 the guidelines for keeping poultry in the model code
18 enforceable; and

19 (c) revised definitions of key terms in the model code such as
20 ‘cage systems’, ‘barn systems’ and ‘free-range systems’ to
21 improve the welfare of poultry.

22 (4) Within 5 sitting days after 1 July each year, the Minister must
23 present a report to the Legislative Assembly on the steps taken
24 under subsections (1) and (2) in the previous financial year.

1 (5) In this section:

2 *model code* means the *Model Code of Practice for the Welfare of*
3 *Animals: Domestic Poultry*, 4th edition, endorsed by the Primary
4 Industries Ministerial Council.

5 *Note* The model code is accessible at www.publish.csiro.au..

6 **11 Dictionary, note 2**

7 *insert*

- 8
 - State

1 **Part 3 Domestic Animals Act 2000**

2 **12 Dictionary, definition of *animal welfare offence*, new**
3 **paragraph (da)**

4 *insert*

5 (da) section 9A (Cage system hens);

6 **13 Dictionary, definition of *animal welfare offence*, new**
7 **paragraph (db)**

8 *insert*

9 (db) section 9B (Keeping pigs—appropriate accommodation);

1 **Part 4** **Eggs (Labelling and Sale) Act**
2 **2001**

3 **14** **Cage eggs—retail display**
4 **Section 7 (3)**

5 *substitute*

- 6 (3) If the person displays cage system eggs and other hen eggs for retail
7 display, the display of cage system eggs must be separate from the
8 display of the other eggs so that a person at or near the display can
9 easily identify the eggs to which the sign mentioned in
10 subsection (2) relates.

11 **15** **Section 7 (5) and example**

12 *substitute*

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

14 **16** **Barn eggs—retail display**
15 **New section 7A (5)**

16 *insert*

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

18 **17** **Free-range eggs—retail display**
19 **New section 7B (5)**

20 *insert*

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

1 **Schedule 1** **New Magistrates Court (Eggs**
2 **Labelling and Sale**
3 **Infringement Notices)**
4 **Regulation 2012**

5 (see s 5)



Australian Capital Territory

6 **Magistrates Court (Eggs Labelling and**
7 **Sale Infringement Notices) Regulation**
8 **2012**

9 **Subordinate Law SL2012-**
10 made under the
11 **Eggs (Labelling and Sale) Act 2001**

1 **1 Name of regulation**

2 This regulation is the *Magistrates Court (Eggs Labelling and Sale*
3 *Infringement Notices) Regulation 2012*.

4 **2 Dictionary**

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

6 *Note 1* The dictionary at the end of this regulation defines certain terms used in
7 this regulation, and includes references (*signpost definitions*) to other
8 terms defined elsewhere.

9 For example, the signpost definition '*investigator*—see the *Fair*
10 *Trading (Australian Consumer Law) Act 1992*, dictionary.' means that
11 the term 'investigator' is defined in that dictionary and the definition
12 applies to this regulation.

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

17 **3 Notes**

18 A note included in this regulation is explanatory and is not part of
19 this regulation.

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

22 **4 Purpose of regulation**

23 The purpose of this regulation is to create a system of infringement
24 notices under the *Magistrates Court Act 1930*, part 3.8 for certain
25 offences against the *Eggs (Labelling and Sale) Act 2001*.

26 *Note* The *Magistrates Court Act 1930*, pt 3.8 provides a system of
27 infringement notices for offences against various Acts. The
28 infringement notice system is intended to provide an alternative to
29 prosecution.

1 **5 Administering authority**

2 The administering authority for an infringement notice offence
3 against the *Eggs (Labelling and Sale) Act 2001* is the commissioner
4 for fair trading.

5 **6 Infringement notice offences**

6 The *Magistrates Court Act 1930*, part 3.8 applies to an offence
7 against a provision of the *Eggs (Labelling and Sale) Act 2001*
8 mentioned in schedule 1, column 2.

9 **7 Infringement notice penalties**

- 10 (1) The penalty payable by an individual for an offence against the *Eggs*
11 *(Labelling and Sale) Act 2001*, under an infringement notice for the
12 offence, is the amount mentioned in schedule 1, column 4 for the
13 offence.
- 14 (2) The penalty payable by a corporation for an offence against the
15 *Eggs (Labelling and Sale) Act 2001*, under an infringement notice
16 for the offence, is 5 times the amount mentioned in schedule 1,
17 column 4 for the offence.
- 18 (3) The cost of serving a reminder notice for an infringement offence
19 against the *Eggs (Labelling and Sale) Act 2001* is \$34.

20 **8 Contents of infringement notices—identifying authorised**
21 **person**

22 An infringement notice served on a person by an authorised person
23 for an infringement notice offence against the *Eggs (Labelling and*
24 *Sale) Act 2001* must identify the authorised person by—

- 25 (a) the person's full name, or surname and initials; and
- 26 (b) any unique number given, for this regulation, to the person by
27 the administering authority.

1 **9 Contents of infringement notices—other information**

2 (1) An infringement notice served on a company by an authorised
3 person for an infringement notice offence against the *Eggs*
4 (*Labelling and Sale*) Act 2001 must include the company’s ACN.

5 *Note* The requirement under this section is additional to the requirement
6 under the *Magistrates Court Act 1930*, s 121 (1) (c).

7 (2) In this section:

8 *company* means a company registered under the Corporations Act.

9 **10 Contents of reminder notices—identifying authorised**
10 **person**

11 A reminder notice served on a person by an authorised person for an
12 infringement notice offence against the *Eggs (Labelling and Sale)*
13 *Act 2001* must identify the authorised person by—

14 (a) the person’s full name, or surname and initials; and

15 (b) any unique number given, for this regulation, to the person by
16 the administering authority.

17 **11 Authorised people for infringement notice offences**

18 An investigator may serve—

19 (a) an infringement notice for an infringement notice offence
20 against the *Eggs (Labelling and Sale) Act 2001*; and

21 (b) a reminder notice for an infringement notice offence against
22 the *Eggs (Labelling and Sale) Act 2001*.

1 **Schedule 1 Eggs (Labelling and Sale) Act**
2 **2001 infringement notice**
3 **offences and penalties**

4 (see s 6 and s 7)

column 1 item	column 2 offence provision	column 3 offence penalty (penalty units)	column 4 infringement penalty (\$)
1	7 (1)	50	550
2	7A (1)	50	550
3	7B (1)	50	550

5 **Dictionary**

6 (see s 2)

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

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

- 10 • commissioner for fair trading
- 11 • corporation
- 12 • Corporations Act
- 13 • individual.

14 *Note 3* Terms used in this regulation have the same meaning that they have in
15 the *Magistrates Court Act 1930* (see Legislation Act, s 148). For
16 example, the following terms are defined in the *Magistrates Court*
17 *Act 1930*, dict:

- 18 • administering authority
- 19 • authorised person
- 20 • infringement notice
- 21 • infringement notice offence
- 22 • reminder notice.

23 *investigator*—see the *Fair Trading (Australian Consumer Law)*
24 *Act 1992*, dictionary.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 28 March 2012.

2 Notification

Notified under the Legislation Act on 2012.

3 Republications of amended laws

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

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