



Australian Capital Territory

Prevention of Cruelty to Animals Act 1959 (repealed)

A1959-16

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About this republication

The republished law

This is a republication of the *Prevention of Cruelty to Animals Act 1959* (repealed) effective 1 March.1993.

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Australian Capital Territory

PREVENTION OF CRUELTY TO ANIMALS ACT 1959

Repealed by 45, 1992 (in force 1 March 1993)

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SCHEDULE UNPROTECTED ANIMALS



Australian Capital Territory

PREVENTION OF CRUELTY TO ANIMALS ACT 1959

An Act relating to the Prevention of Cruelty to Animals

Short title

1. This Act may be cited as the *Prevention of Cruelty to Animals Act 1959*.¹

Interpretation

4. In this Act, unless the contrary intention appears—

“animal” means every species of bird and every species of animal, other than a human being;

“Court” means the Magistrates Court or the Supreme Court, as the case requires;

“keeper”, in relation to an animal, includes a person having charge of the animal, whether with or without the consent of the owner of the animal;

“Tribunal” means the Australian Capital Territory Administrative Appeals Tribunal.

Acts of cruelty

5. (1) For the purpose of this Act, a person commits an act of cruelty upon an animal if—

- (a) he wounds, mutilates, tortures, overrides, overdrives, overworks, abuses, worries, torments or terrifies an animal;

- (b) he knowingly overloads or overcrowds an animal;
- (c) he unreasonably, wantonly, or maliciously, neglects or beats an animal or causes unnecessary pain to an animal;
- (d) he knowingly or negligently does an act or omits to do an act which results in pain, suffering or distress to an animal;
- (e) he keeps or uses a place for the purposes of fighting or baiting an animal, acts in the management of such a place or permits or suffers a place to be so used;
- (f) he encourages, aids or assists at the fighting or baiting of an animal;
- (g) he conveys, carries or packs an animal in such a manner or position as to subject the animal to unnecessary pain or suffering;
- (h) he knowingly or negligently works, rides, drives or uses an animal when it is unfit for such a purpose;
- (i) he, being the keeper of an animal, fails to provide the animal with proper and sufficient food, drink and shelter;
- (j) he, being the keeper of an animal which is habitually chained up or kept in close confinement, neglects to exercise the animal daily and reasonably;
- (k) he promotes or takes part in a shooting match or competition in which animals are released from captivity for the purposes of that match or competition;
- (l) he releases an animal from captivity for the purpose of enabling himself or another person to shoot at that animal or shoot at an animal so released;
- (m) he uses or applies or causes to be used or applied, a galvanic or electric battery or other similar appliance upon or to an animal during its training for or before or after being entered for a race upon a racecourse;
- (n) he administers a poisonous or injurious drug or a poisonous or injurious substance to an animal or causes such a drug or substance to be taken by an animal;
- (o) he, being the keeper of an animal, abandons the animal; or
- (p) he docks, or causes to be docked, the tail of a horse in such a manner so as to leave less than thirteen joints in the tail.

(2) A person shall not commit an act of cruelty upon an animal.

Penalty: \$1,000 or imprisonment for 6 months, or both.

Acts of aggravated cruelty

6. (1) For the purposes of this Act, a person commits an act of aggravated cruelty upon an animal if he commits an act of cruelty upon an animal that results in the death, deformity or serious disablement of the animal.

(2) A person shall not commit an act of aggravated cruelty upon an animal.

Penalty: \$5,000 or imprisonment for 2 years, or both.

Exceptions

7. The last two preceding sections of this Act do not apply to an act done—

- (a) in killing an animal in accordance with the provisions of the *Nature Conservation Act 1980*;
- (b) in killing an animal specified in the Schedule;
- (ba) in killing a rabbit or an animal that is a noxious animal within the meaning of the *Rabbit Destruction Act 1919*;
- (bb) in hunting, snaring, trapping, shooting or taking a rabbit or an animal that is a noxious animal within the meaning of the *Rabbit Destruction Act 1919*;
- (c) in an experiment or vivisection performed on an animal for the purposes of scientific investigation in accordance with conditions, if any, determined by the Minister by a person, or by a person acting under the direction, control and supervision of a person, who—
 - (i) is a legally qualified medical or veterinary practitioner, or being a graduate of a university, is engaged in biological research; and
 - (ii) is authorized by the Minister, to perform experiments and vivisections on animals.

Power to private persons to provide food for animals in confinement

8. (1) Where—

- (a) an animal is impounded or confined in a slaughter yard, pen, cage, hutch, pound or other place; and

- (b) more than twenty-four consecutive hours, or in the case of ruminants more than thirty-six hours, have elapsed since the animal was supplied with proper and sufficient food and water,

any person may enter upon the place in which the animal is so confined, and may supply the animal with proper and sufficient food and water during so long a time as the animal is so confined.

(2) It is a good defence to any action for trespass or other proceeding by any other person against a person referred to in the last preceding subsection if the entry was reasonable in the circumstances and was carried out so as to cause the minimum amount of damage.

(3) A person who supplies food and water to an animal in accordance with subsection (1) of this section may recover, as a debt due and owing by the owner of the animal, the cost of providing proper and sufficient food and water for the animal.

Destruction of suffering animal

9. Any animal that is found abandoned or diseased, injured or disabled to such an extent that its existence involves continued suffering may be destroyed upon authority in writing signed by a person authorized in that behalf by the Minister.

Power of Court to prohibit ownership

10. (1) Where a person, being the owner or keeper of an animal, is convicted of an offence against any of the foregoing provisions of this Act, the Court, in addition to any other punishment, may order—

- (a) that the person shall cease to be the keeper of a specified animal, and shall dispose of that animal in such manner as the Court specifies;
- (b) that the person shall not have in his possession, custody or control an animal of a specified species during such period as the Court specifies; or
- (c) that the person shall not have in his possession, custody or control an animal of any species whatsoever during such period as the Court specifies.

(2) A person in respect of whom the Court has made an order under the last preceding subsection shall not contravene or fail to comply with the order.

Penalty: \$1,000 or imprisonment for 6 months, or both.

Order for payment of veterinary expenses

11. (1) Where—

- (a) a person is convicted of an offence against this Act; and
- (b) it is established that, as a result of the act or omission that constituted the offence, it was necessary to provide veterinary or other treatment for the animal in relation to which the offence was committed,

the Court may, in addition to any other punishment, direct the person convicted of the offence to pay to the person who incurred liability for the payment for the treatment such sum as the Court considers reasonable.

(2) A direction under the last preceding subsection shall be deemed to be an order whereby a sum of money is adjudged to be paid within the meaning of the *Magistrates Court Act 1930* by the person convicted of the offence to the person who incurred the expense and may be enforced accordingly.

Trapping of animals by mechanical means

12. (1) A person shall not set a gin trap on any Commonwealth land.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(2) A person shall not, except in accordance with a permit issued to that person under section 12A, set on any Commonwealth land, a trap (other than a gin trap) which is capable of trapping an animal by mechanical means.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(2A) A person shall not set a gin trap on a parcel of land in a built-up area, not being Commonwealth land.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(2B) A person shall not set on a parcel of land in a built-up area, not being Commonwealth land, a trap (other than a gin trap) which is capable of trapping an animal by mechanical means unless—

- (a) he or she is the occupier of the parcel of land; or
- (b) he or she has, at the relevant time, the consent in writing of the occupier of the setting of the trap.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(3) In this section—

“built-up area” means an area in the Territory declared by the Minister to be a built-up area for the purposes of the *Careless Use of Fire Act 1936*;

“Commonwealth land” means land vested in the Commonwealth that has not been leased or is not the subject of a tenancy agreement;

“gin trap” means a trap capable of trapping an animal by mechanical means, being a trap fitted with metal jaws, a pressure plate and a spring operated mechanism and so designed that the metal jaws close against each other when the mechanism of the trap is activated by the application of weight upon the pressure plate;

“occupier”, in relation to a parcel of land, means—

- (a) in the case of a parcel of land held under freehold title—the owner of the land or the person occupying the land with the consent of the owner of the parcel of land;
- (b) in the case of a parcel of land held from the Commonwealth under a lease for a term of years—the lessee of the parcel of land or the person occupying the land with the consent of the lessee; and
- (c) in the case of a parcel of land held from the Commonwealth under a weekly, fortnightly, monthly or quarterly tenancy of the land—the tenant of the parcel of land.

Permits

12A. (1) Subject to this section, the Minister may, upon application made in accordance with a form approved by the Minister, issue to a person a permit in writing for the person, on such conditions as are specified in the permit, to set on specified Commonwealth land a trap (other than a gin trap) which is capable of trapping an animal by mechanical means.

(2) The Minister shall not issue a permit under subsection (1) to a person unless the Minister is satisfied that—

- (a) the animals for which the person proposes to set traps are causing a nuisance in a built-up area;
- (b) the animals for which the person proposes to set traps are required for the purposes of scientific investigation; or

- (c) the person has been granted a permit or licence under the *Nature Conservation Act 1980* authorizing the killing or taking of the species of animals for which the person proposes to set traps.

Review of decision

12B. Application may be made to the Tribunal for a review of a decision of the Minister—

- (a) refusing to grant a permit under section 12A; or
- (b) including a particular condition in such a permit.

Notification of decision

12C. (1) Where the Minister makes a decision referred to in section 12B, the Minister shall cause a statement in writing to be given to the person whose interests are adversely affected by the decision, setting out the decision and the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving reasons for the decision.

(2) A statement by the Minister under subsection (1) shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, a person whose interests are adversely affected by the decision to which the statement relates is entitled to apply to the Tribunal for a review of the decision.

(3) The validity of a decision to which a statement under subsection (1) relates shall not be taken to be affected by a failure to comply with subsection (2).

Defence to prosecution

13. Where a person is charged with an offence against this Act, other than against the last preceding section, it is a sufficient defence if he satisfies the Court that the doing of the act or the omission to do the act which constituted the offence charged was reasonable in the circumstances.

SCHEDULE

Section 7

UNPROTECTED ANIMALS

Common name	Zoological name
Black rat.....	Rattus rattus
Brown rat	Rattus norvegicus
House mouse.....	Mus musculus

NOTE

1. The *Prevention of Cruelty to Animals Act 1959* as shown in this reprint comprises Act No. 16, 1959 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

Table of Ordinances

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Prevention of Cruelty to Animals Ordinance 1959</i>	16, 1959	26 Nov 1959	26 Nov 1959	
<i>Ordinances Revision (Decimal Currency) Ordinance 1966</i>	19, 1966	23 Dec 1966	23 Dec 1966	—
<i>Ordinances Revision Ordinance 1978</i>	46, 1978	28 Dec 1978	28 Dec 1978	—
<i>Prevention of Cruelty to Animals (Amendment) Ordinance 1980</i>	22, 1980	15 July 1980	5 June 1982 (see <i>Gazette</i> 1982, No. S110)	—
<i>Magistrates Court Ordinance 1985</i>	67, 1985	19 Dec 1985	1 Feb 1986 (see <i>Gazette</i> 1986, No. G3, p. 265)	—
<i>Prevention of Cruelty to Animals (Amendment) Ordinance 1986</i>	26, 1986	25 July 1986	25 July 1986	—
<i>Prevention of Cruelty to Animals (Amendment) Ordinance 1988</i>	42, 1988	20 July 1988	20 July 1988	—
<i>Self-Government (Consequential Amendments) Ordinance 1989</i>	38, 1989	10 May 1989	Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164)	—
as repealed by <i>Animal Welfare Act 1992</i>	45, 1992	1 September 1992	1 March 1993 (s 2 (3) and <i>Gaz</i> 1997 No S148)	

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision	How affected
Ss. 2, 3.....	rep. No. 22, 1980
S. 4	am. No. 22, 1980; No. 67, 1985; No. 26, 1986; No. 38, 1989
Ss. 5, 6.....	am. No. 19, 1966; No. 26, 1986
S. 7	am. No. 22, 1980; No. 42, 1988
S. 8	am. No. 46, 1978
S. 10	am. No. 19, 1966; No. 26, 1986
S. 11	am. No. 67, 1985
S. 12	am. No. 19, 1966; No. 22, 1980; No. 26, 1986
Ss. 12A, 12B.....	ad. No. 26, 1986
S. 12C.....	ad. No. 26, 1986
	am. No. 38, 1989
Schedule.....	ad. No. 22, 1980

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