

# AUSTRALIAN CAPITAL TERRITORY

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## Prevention of Cruelty to Animals (Amendment) Ordinance 1986

No. 26 of 1986

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 17 July 1986.

N. M. STEPHEN  
Governor-General

By His Excellency's Command,

G. SCHOLES  
Minister of State for Territories

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An Ordinance to amend the *Prevention of Cruelty to Animals Ordinance 1959*

### Short title

1. This Ordinance may be cited as the *Prevention of Cruelty to Animals (Amendment) Ordinance 1986*.<sup>1</sup>

### Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Prevention of Cruelty to Animals Ordinance 1959*.<sup>2</sup>

### Interpretation

3. Section 4 of the Principal Ordinance is amended—

- (a) by omitting the definition of "Department" and substituting the following definition:

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

- (b) by omitting the definition of “the Court” and substituting the following definition:

“ ‘Tribunal’ means the Administrative Appeals Tribunal.”.

### **Acts of cruelty**

4. Section 5 of the Principal Ordinance is amended by omitting the penalty set out at the foot of the section and substituting the following penalty:

“(2) Penalty: \$1,000 or imprisonment for 6 months, or both.”.

### **Acts of aggravated cruelty**

5. Section 6 of the Principal Ordinance is amended—

- (a) by omitting the penalty set out at the foot of sub-section (2) and substituting the following penalty:

“Penalty: \$5,000 or imprisonment for 2 years, or both.”; and

- (b) by omitting sub-section (3).

### **Power of Court to prohibit ownership**

6. Section 10 of the Principal Ordinance is amended by omitting the penalty set out at the foot of the section and substituting the following penalty:

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

### **Trapping of animals by mechanical means**

7. Section 12 of the Principal Ordinance is amended—

- (a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:

“(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.

“(2C) A person shall not set on a parcel of land outside a build-up area, not being Commonwealth land, a 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 to the setting of the trap.

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

- (b) by inserting before the definition of “Commonwealth land” in subsection (3) the following definition:

“ ‘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 Ordinance 1936*;”;

- (c) by inserting after the definition of “Commonwealth land” in subsection (3) the following definition:

“ ‘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;”.

**8.** After section 12 of the Principal Ordinance the following sections are inserted:

### 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 sub-section (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 Ordinance 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 sub-section (1) shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, 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 sub-section (1) relates shall not be taken to be affected by a failure to comply with sub-section (2).”.

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**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 25 July 1986.
2. No. 16, 1959 as amended by No. 19, 1966; No. 46, 1978; No. 22, 1980; No. 67, 1985.