



AUSTRALIAN CAPITAL TERRITORY

Animal Welfare Act 1992

No. 45 of 1992

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ACTS REPEALED



AUSTRALIAN CAPITAL TERRITORY

Animal Welfare Act 1992

No. 45 of 1992

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

[Notified in ACT Gazette S 148: 1 September 1992]

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

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Animal Welfare Act 1992*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Repeal

3. The Acts specified in the Schedule are repealed.

Interpretation

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

“animal” means any live member of a vertebrate species, including—

- (a) an amphibian;
- (b) a bird;
- (c) a fish;
- (d) a mammal; and
- (e) a reptile;

but does not include a human being;

“animal welfare” means the health, safety and welfare of—

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

“approved code of practice” means a code of practice approved under section 22, as in force under this Act;

“authorisation” means a research authorisation or a teaching authorisation;

“authorised officer” means a person appointed as such under section 78;

“authorised person” means the holder of an authorisation;

“Authority” means the person appointed under section 6 to be the Animal Welfare Authority;

“circus permit” means a permit granted under section 54, as in force under this Act;

“commercial trapping permit” means a permit granted under section 65 for the purposes of a commercial trapping operation, as in force under this Act;

“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;

(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;

“defined offence” means—

(a) an offence against this Act;

(b) an offence against the repealed Act; or

(c) an offence in relation to animal welfare under another law of the Territory, or under a law of the Commonwealth, a State or another Territory;

“director”, in relation to a body corporate incorporated for a public purpose by a law of the Territory, the Commonwealth, a State or another Territory, includes a member of such a body;

“domestic”, in relation to an animal, includes captive;

“Ethics Committee” means the Animal Experimentation Ethics Committee established in accordance with the regulations—

(a) in relation to a licence—which exercises the functions of such a committee for the purposes of the licence;

(b) in relation to an application for an authorisation—to which the application is made; or

(c) in relation to an authorisation or an authorised person—which granted the authorisation;

“feral animal” means an animal (other than wildlife) that does not live in a domestic state;

“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 a person appointed as such under section 76;

“licence” means a licence granted under section 28, as in force under this Act;

“licensed premises” means premises in relation to which a licence is in force;

“offence” means an offence against this Act or the regulations;

“pain” includes suffering and distress;

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

- (a) the owner of the animal;
- (b) a person having the custody or control of the animal;
- (c) if a person referred to in paragraph (b) is acting as the servant or agent of another person—that 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 wildlife;

“premises” includes—

- (a) a building or part of a building;
- (b) a tent, stall or other structure, whether permanent or temporary;
- (c) land (including water on land) whether or not appurtenant to a building; and
- (d) a vehicle;

“private trapping permit” means a permit granted under section 65 for domestic or private purposes, as in force under this Act;

“prohibited circus animal” means —

- (a) a bear, cheetah, elephant, giraffe, leopard, lion, puma or tiger; or
- (b) an animal prescribed under section 52;

“prohibited trap” means an animal trap prescribed under paragraph 63 (a);

“repealed Act” means the *Prevention of Cruelty to Animals Act 1959*;

“research authorisation” means an authorisation granted under section 40 to conduct a program of research, as in force under this Act;

“restricted trap” means an animal trap prescribed under paragraph 63 (b);

“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 40 to conduct a program of teaching, as in force under this Act;

“this Act” includes the regulations;

“trapping permit” means a commercial trapping permit or a private trapping permit;

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

“vary”, in relation to a licence, authorisation or trapping permit, means—

- (a) vary or revoke a condition specified in that licence, authorisation or permit; or
- (b) impose a condition on that licence, authorisation or permit;

“vehicle” includes a caravan, trailer or vessel;

“veterinary surgeon” means a veterinary surgeon registered under the *Veterinary Surgeons Registration Act 1965*;

“veterinary treatment”, in relation to an animal, means—

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

“wildlife” means an animal that is wildlife within the meaning of the *Nature Conservation Act 1980*.

Binding the Crown

5. (1) This Act binds the Crown.

(2) Nothing in this Act renders the Crown liable to be prosecuted for an offence.

Animal Welfare Authority

6. (1) The Minister may, by instrument, appoint a public servant to be the Animal Welfare Authority.

(2) The Authority may, by instrument, delegate to a public servant any or all of the Authority's powers under this Act.

(3) The Minister shall issue to the Authority an identity card specifying his or her name and appointment, and on which appears a recent photograph of the Authority.

(4) The Authority shall issue to his or her delegate an identity card specifying the delegate's name and delegation, and on which appears a recent photograph of the delegate.

PART II—ANIMAL WELFARE OFFENCES**Cruelty**

7. A person shall not, without reasonable excuse, commit an act of cruelty on an animal.

Penalty: \$10,000 or imprisonment for 1 year, or both.

Pain

8. (1) A person shall not, without reasonable excuse, deliberately cause an animal unnecessary pain.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(2) A person in charge of an animal shall not, without reasonable excuse—

- (a) fail to provide it with appropriate, and adequate, food, water, shelter or exercise;
- (b) fail to take reasonable steps (including, where appropriate, seeking veterinary treatment) to alleviate any pain suffered by the animal;
- (c) abandon the animal, unless authorised to do so under a law of the Territory;
- (d) neglect the animal so as to cause it pain; or

(e) kill the animal in a manner that causes it unnecessary pain.

Penalty: \$10,000 or imprisonment for 1 year, or both.

Confined animals

9. (1) A person in charge of a confined animal shall not, without reasonable excuse, fail to provide the animal with adequate exercise.

(2) A person shall not, without reasonable excuse, confine an animal in a manner that causes injury, pain, or undue distress to the animal.

Penalty: \$10,000 or imprisonment for 1 year, or both.

Alleviation of pain

10. (1) A person who injures an animal (not being an animal of which that person is in charge) shall not, without reasonable excuse, fail to take reasonable steps (including, where appropriate, seeking veterinary treatment) to alleviate any pain suffered by the animal.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(2) A person who injures an animal (not being an animal of which that person is in charge) shall not, without reasonable excuse, fail to—

(a) take reasonable steps to inform the person in charge of the animal accordingly within 24 hours after the injury; and

(b) if, after taking such steps, that person is unable so to inform the person in charge of the animal—accordingly inform the Authority, or an inspector, within 72 hours after the injury.

Penalty: \$1,000.

Release

11. (1) A person shall not, without reasonable excuse, release, or cause the release of, an animal from custody or control.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(2) A person in charge of an animal shall not, without reasonable excuse, fail to take adequate precautions to prevent the release of the animal from custody or control.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(3) Subsections (1) and (2) do not apply in relation to—

(a) the release of domestic cats in the course of their reasonable management and control; or

- (b) the release of animals in a manner authorised under a law of the Territory.

Poisons

12. A person shall not, without reasonable excuse—

- (a) administer poison or a substance containing a poison to a domestic animal, or to wildlife; or
- (b) with the intention of destroying or injuring such an animal, lay a poison or a substance containing a poison in any place;

except in a manner authorised under a law of the Territory.

Penalty: \$10,000 or imprisonment for 1 year, or both.

Electrical devices

13. (1) A person shall not, without reasonable excuse, administer an electric shock to an animal, except in a manner authorised under a law of the Territory.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(2) Subsection (1) does not apply to the use by a person of an electrical device prescribed by the regulations on an animal prescribed by the regulations.

Spurs

14. (1) A person shall not, knowingly, use spurs with sharpened or fixed rowels on an animal.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(2) A person shall not, without reasonable excuse, possess—

- (a) a spur or similar device with sharpened or fixed rowels; or
- (b) a cock-fighting spur cap.

Penalty: \$500.

(3) Subsection (2) does not apply in relation to the possession of a spur, a cock-fighting spur cap or a similar device, kept solely—

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

Conveyance and containment

15. A person shall not, without reasonable excuse, convey or contain, or cause to be conveyed or contained, an animal in circumstances under which the animal is subjected to unnecessary injury, pain or suffering.

Penalty: \$10,000 or imprisonment for 1 year, or both.

Working, riding and driving unfit animals

16. A person shall not, without reasonable excuse, knowingly or negligently—

- (a) work, ride, drive, or use an animal; or
- (b) if the person is in charge of the animal—authorise the working, riding, driving or use of the animal;

if the animal is unfit for such a purpose.

Penalty: \$10,000 or imprisonment for 1 year, or both.

Matches, competitions and baiting

17. (1) A person shall not, without reasonable excuse, promote, take part in, or be present at a match, competition or any other activity in which an animal is released from captivity for the purpose of being—

- (a) killed by the use of a firearm or other weapon;
- (b) hunted, caught, confined, injured or killed by another animal; or
- (c) used to train or exercise another animal.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(2) A person shall not, without reasonable excuse—

- (a) keep, use or assist in the management of premises for the purpose of causing an animal to fight, or for the baiting or mistreating of an animal;
- (b) cause, procure or permit an animal in captivity to be injured or killed by any other animal; or
- (c) keep an animal, or have the custody, care or control of an animal—
 - (i) for use as a lure or kill for the purpose of bleeding greyhounds; or
 - (ii) for any other use in connection with the training and racing of coursing dogs.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(3) Subsections (1) and (2) do not apply in relation to the following activities:

- (a) the rehabilitation of wildlife for release into the wild in a manner authorised under a law of the Territory;
- (b) the keeping and display of animals whose normal diet includes live food;
- (c) the mustering and working of stock (being stock within the meaning of the *Stock Act 1991*).

Rodeos and game parks

18. (1) A person shall not conduct or take part in a rodeo.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(2) A person shall not promote or conduct a game park.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(3) In this section—

“game park” means premises where—

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

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

Medical and surgical procedures

19. (1) A person (other than a veterinary surgeon) shall not, without reasonable excuse, carry out a medical or surgical procedure on an animal.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(2) Subsection (1) does not apply in relation to—

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

- (c) a medical or surgical procedure carried out in accordance with a licence or authorisation, subject to any written direction of the Ethics Committee;
- (d) the docking of a dog's tail within 10 days after its birth; or
- (e) the removal of a dog's dew claws.

Defence—approved codes of practice

20. (1) It is a defence to a prosecution for an offence under this Part that the conduct or lack of conduct constituting the alleged offence was conducted in accordance with an approved code of practice.

(2) Subsection (1) does not apply in relation to a prosecution for an offence under subsection 14 (1) or (2), subsection 17 (1) or (2) or subsection 18 (1) or (2).

PART III—CODES OF PRACTICE

Contents

21. A code of practice may deal with the following matters:

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

- (r) commercial pest control;
- (s) commercial keeping and display of animals;
- (t) keeping of zoo animals;
- (u) animal welfare in the racing industry;
- (v) any other matter related to animal welfare.

Approval

22. The Minister may, by instrument, approve—

- (a) a code of practice; or
- (b) a variation of an approved code of practice;

relating to animal welfare.

Disallowance

23. A code or variation approved under section 22 is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Publication

24. (1) The Authority shall cause to be published in a newspaper published and circulating in the Territory, on or before the date of effect of an approval under section 22, notice of that approval—

- (a) specifying the date on which the approval takes effect;
- (b) specifying a place or places at which copies of the code of practice to which the approval relates may be purchased;
- (c) containing a statement to the effect that a copy of that code of practice may be inspected by members of the public at the office of the Authority during office hours; and
- (d) containing a statement to the effect that the approval is subject to disallowance by the Legislative Assembly under the *Subordinate Laws Act 1989*.

(2) The Authority shall ensure that—

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

(3) In this section—

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

PART IV—RESEARCH, TEACHING AND BREEDING

Division 1—Licences

Research, teaching and breeding

25. (1) A person shall not, without a licence, use or breed an animal in or on any premises for the purposes of—

- (a) research; or
- (b) teaching.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(2) Subsection (1) does not apply—

- (a) to an authorised person, or to any conduct of a person assisting an authorised person undertaken in the course of that assistance; or
- (b) in relation to any conduct of a person employed or engaged by a licensee undertaken in the course of that employment or engagement.

Application for licence

26. (1) Application may be made to the Authority for a licence to use or breed animals for research or teaching, or for both research and teaching.

(2) An application shall—

- (a) be in accordance with a form approved by the Authority;
- (b) be executed by the applicant; and
- (c) be accompanied by the determined fee.

Further information—licence applications

27. The Authority may, by written notice, require an applicant for a licence to furnish to the Authority, either orally or in writing, such further information relating to the application as is specified in the notice.

Grant of licence

28. (1) On application in accordance with section 26, the Authority shall—

- (a) grant a licence; or
- (b) refuse to grant a licence.

(2) In determining whether or not to grant a licence, the Authority shall consider whether the applicant is a fit and proper person to hold a licence, having regard to matters including the following:

- (a) the experience and competency of the applicant in the care and handling of animals;
- (b) the adequacy of the applicant's premises, equipment and other facilities for the care and handling of animals;
- (c) the adequacy of arrangements for the provision of veterinary treatment to animals in or on the premises in relation to which the licence is applied for;
- (d) the applicant's response (or lack of response) to any request for further information issued under section 27;
- (e) whether the applicant has obtained and maintained in force any necessary permits under the *Nature Conservation Act 1980*;
- (f) whether the applicant has, within the period of 3 years preceding the date of the application, been convicted of a defined offence.

(3) In subsection (2), a reference to the applicant includes a reference—

- (a) if the applicant is a body corporate—to a director, secretary or manager of the body; or
- (b) if the application is made for the purposes of a partnership—to each of the partners, whether or not the partner's name appears on the application.

(4) A licence is to be in a form approved by the Authority.

Rights and duties of partners—licences

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

Conditions of licences

30. (1) The Authority shall grant a licence subject to the conditions (specified in the licence) that the licensee shall —

- (a) in accordance with the regulations, establish and maintain —
 - (i) an Ethics Committee; or

- (ii) appropriate arrangements with an existing Ethics Committee for that Committee to exercise the functions of an Ethics Committee in relation to the licensee's activities; and
- (b) comply with any direction of that Ethics Committee issued under the regulations.

(2) The Authority may grant a licence subject to such other specified conditions as he or she considers, on reasonable grounds, to be desirable in the interests of animal welfare, including conditions in relation to the following matters:

- (a) the welfare of animals to be used by the licensee;
- (b) the provision of facilities and equipment for the welfare of such animals;
- (c) compliance with an approved code of practice.

Duration of licences

31. A licence remains in force for a period of 3 years commencing on the date of grant of the licence (subject to its suspension, cancellation or surrender), but may be renewed in accordance with section 32.

Renewal of licences

32. On application to the Authority by a licensee—

- (a) in a form approved by the Authority; and
- (b) accompanied by the determined fee;

the Authority shall renew the licence for the period of 3 years commencing on the day immediately following the day on which, but for its renewal, the licence would have expired.

Variation of licences

33. (1) On application by a licensee accompanied by the licence, the Authority shall, if satisfied on reasonable grounds that it is desirable in the interests of animal welfare—

- (a) vary the licence accordingly; or
- (b) refuse to vary the licence.

(2) Where the Authority believes on reasonable grounds that it is desirable in the interests of animal welfare to vary a licence, the Authority shall give the licensee a written notice—

- (a) specifying those interests and stating the facts and circumstances that constitute the basis for the Authority's belief; and
- (b) inviting the licensee to show cause within a specified period why the licence should not be varied in the manner specified in the notice.

(3) After the expiration of the period specified in a notice under subsection (2), taking into consideration any representation made by the licensee, the Authority shall vary the licence if satisfied on reasonable grounds that it is desirable in the interests of animal welfare.

(4) For the purposes of subsection (3), the Authority shall, by written notice accompanying the relevant notice under subsection 107 (1), require the licensee to forward the licence to the Authority within a specified period after the date of the notice, being a period of between 14 and 28 days.

(5) The Authority shall not vary or revoke a condition of a licence referred to in subsection 30 (1).

Suspension and cancellation of licences

34. (1) For the purposes of this section, the grounds for the suspension or cancellation of a licence are as follows:

- (a) the contravention by the licensee of a condition specified in the licence;
- (b) the contravention by the licensee of a requirement under subsection 33 (4);
- (c) the obtaining of the licence by fraud or misrepresentation;
- (d) the conviction of the licensee of a defined offence within the preceding 3 years;
- (e) the unfitness or impropriety of a person to hold a licence, in consideration of matters including those referred to in paragraphs 28 (2) (a), (b), (c) and (e).

(2) In subsection (1), a reference to a licensee includes a reference—

- (a) if the licensee is a body corporate—to a director, secretary or manager of the body; or

- (b) if the licence is held for the purposes of a partnership—to each of the partners, whether or not the partner's name is specified in the licence.

(3) Where the Authority believes on reasonable grounds that—

- (a) there exists a ground for the suspension or the cancellation of a licence; and
- (b) it is desirable in the interests of animal welfare to suspend or cancel the licence;

he or she shall give written notice to the licensee—

- (c) specifying the ground referred to in paragraph (a), together with the particular interests referred to in paragraph (b);
- (d) stating the facts and circumstances that, in the Authority's opinion, constitute the basis for the Authority's beliefs referred to in paragraphs (a) and (b); and
- (e) inviting the licensee, within 28 days after the date of the notice, to show cause why the licence should not be suspended or cancelled (as the case may be).

(4) After the expiration of the period specified in a notice under subsection (3), taking into consideration any representation made by the licensee, the Authority shall, if satisfied on reasonable grounds of the matters referred to in paragraphs (3) (a) and (b)—

- (a) in the case of a notice of intention to suspend the licence for a specified period—suspend the licence for that period, or for such shorter period as the Authority thinks fit; or
- (b) in the case of a notice of intention to cancel the licence—cancel the licence or suspend it for such period as the Authority thinks fit.

(5) The suspension or cancellation of a licence takes effect on—

- (a) the date on which notice under subsection 107 (1) of the suspension or cancellation is given to the licensee; or
- (b) if a later date is specified in that notice—on that later date.

Surrender of licences

35. (1) A licensee may surrender the licence to the Authority by notice in writing accompanied by the licence.

(2) The surrender of a licence takes effect on the date the notice of surrender is given in accordance with subsection (1), or on such later date as is specified in the notice.

Return of cancelled and suspended licences

36. Within 7 days after the date of effect of the cancellation or suspension of a licence, the person who was licensed shall not, without reasonable excuse, fail to return the licence to the Authority.

Penalty: \$1,000.

Division 2—Authorisations

Research and teaching using animals

37. (1) A person employed or engaged by a licensee shall not, without reasonable excuse, conduct—

- (a) a program of research using animals, except with a research authorisation; or
- (b) a program of teaching using animals, except with a teaching authorisation.

Penalty: \$5,000 or imprisonment for 6 months, or both.

(2) Subsection (1) does not apply to a person providing research or teaching assistance for the purpose of a program referred to in paragraph (1) (a) or (b), as the case may be.

Application for authorisation

38. (1) Application may be made to the Ethics Committee for a research authorisation or a teaching authorisation in relation to the use of animals on licensed premises.

(2) An application shall—

- (a) be in accordance with a form approved by the Authority; and
- (b) be executed by the applicant.

Further information—applications for authorisations

39. The Ethics Committee may, by written notice, require the applicant to furnish to the Committee, either orally or in writing, such further information relating to the application as is specified in the notice.

Grant of authorisation

40. (1) On application to it in accordance with section 38, an Ethics Committee shall—

- (a) grant a research authorisation or a teaching authorisation; or
- (b) refuse to grant such an authorisation.

(2) In determining whether or not to grant an authorisation, the Ethics Committee shall consider whether the applicant is a fit and proper person to hold an authorisation, having regard to matters including the following:

- (a) the applicant's experience and competency in the care and handling of animals;
- (b) the applicant's response (or lack of response) to any request for further information issued under section 39;
- (c) whether the applicant has obtained and maintained in force any necessary permits under the *Nature Conservation Act 1980*;
- (d) whether the applicant has, within the period of the preceding 3 years, been convicted of a defined offence.

Conditions of authorisations

41. (1) The Ethics Committee shall grant an authorisation subject to the condition (specified in the authorisation) that the authorised person shall comply with any direction of the Ethics Committee issued under the regulations.

(2) The Ethics Committee may grant an authorisation subject to such other specified conditions as the Committee considers, on reasonable grounds, to be desirable in the interests of animal welfare, including conditions in relation to the following matters:

- (a) the use of animals in the particular program of research or teaching which is to be undertaken;
- (b) the welfare of such animals;
- (c) particular facilities and equipment relevant to the use of animals in the course of conducting that program;
- (d) compliance with an approved code of practice.

Identification certificates for authorised persons

42. (1) The Ethics Committee shall issue an authorised person with an identity certificate in a form approved by the Authority, displaying a recent photograph of the authorised person.

(2) An authorised person shall not, without reasonable excuse, fail to produce his or her certificate upon request by an authorised officer.

Penalty for contravention of subsection (2): \$500.

Duration of authorisations

43. An authorisation remains in force for a specified period of up to 2 years commencing on the date of its issue (subject to this Division), but may be renewed in accordance with section 44.

Renewal of authorisations

44. On application to the Ethics Committee by an authorised person—

- (a) in a form approved by the Authority; and
- (b) accompanied by the determined fee;

the Ethics Committee shall renew the authorisation for a period of up to 2 years commencing on the day immediately following the day on which, but for its renewal, the authorisation would have expired.

Variation of authorisations

45. (1) On application by an authorised person accompanied by the authorisation, the Ethics Committee shall, if satisfied that it is desirable in the interests of animal welfare—

- (a) vary the authorisation accordingly; or
- (b) refuse to vary the authorisation.

(2) Where the Ethics Committee believes on reasonable grounds that it is desirable in the interests of animal welfare to vary an authorisation, the Committee shall give the authorised person a written notice—

- (a) specifying those interests, and stating the facts and circumstances that constitute the basis for the Committee's belief; and
- (b) inviting him or her to show cause within the specified period why the authorisation should not be varied in the manner specified in the notice.

(3) After the expiration of the period specified in a notice under subsection (2), taking into consideration any representation made by the holder of the authorisation, the Ethics Committee shall vary the authorisation if satisfied on reasonable grounds that it is desirable in the interests of animal welfare.

(4) For the purposes of subsection (3), the Ethics Committee shall, by written notice accompanying the relevant notice under subsection 107 (2), require the authorised person to forward the authorisation to the Committee within a specified period after the date of the notice, being a period of between 14 and 28 days.

(5) The Ethics Committee shall not vary or revoke the condition of an authorisation referred to in subsection 41(1).

Suspension and cancellation of authorisations

46. (1) For the purposes of this section, the grounds for the suspension or cancellation of an authorisation are as follows:

- (a) the contravention by the authorised person of a condition specified in the authorisation;
- (b) the contravention by the authorised person of a requirement under subsection 45 (4);
- (c) the conviction of the authorised person of a defined offence within the preceding 3 years;
- (d) the unfitness or impropriety of an authorised person to hold an authorisation (of the type held), in consideration of matters including those referred to in paragraphs 40 (2) (a) and (c).

(2) Where the Ethics Committee believes on reasonable grounds that—

- (a) there exists a ground for the suspension or the cancellation of an authorisation; and
- (b) it is desirable in the interests of animal welfare to suspend or cancel the authorisation;

the Committee shall give written notice to the authorised person—

- (c) specifying the ground referred to in paragraph (a), together with the particular interests referred to in paragraph (b);
- (d) stating the facts and circumstances that, in the Committee's opinion, constitute the basis for the Committee's beliefs referred to in paragraphs (a) and (b); and
- (e) inviting the person, within 28 days after the date of the notice, to show cause why the authorisation should not be suspended or cancelled (as the case may be).

(3) After the expiration of the period specified in a notice under subsection (2), taking into consideration any representation made by the holder, the Ethics Committee shall, if satisfied on reasonable grounds of the matters referred to in paragraphs (2) (a) and (b)—

- (a) in the case of a notice of intention to suspend the authorisation for a specified period—suspend the authorisation for that period, or for such shorter period as the Committee thinks fit; or
- (b) in the case of a notice of intention to cancel the authorisation—cancel the authorisation or suspend it for such period as the Committee thinks fit.

(4) The suspension or cancellation of an authorisation takes effect on—

- (a) the date on which notice under subsection 107 (2) of the suspension or cancellation is given to the authorised person; or
- (b) if a later date is specified in that notice—on that later date.

Surrender of authorisations

47. (1) An authorised person may surrender his or her authorisation to the Ethics Committee by notice in writing accompanied by the authorisation and the certificate issued under subsection 42 (1).

(2) The surrender of an authorisation takes effect on the date the notice of surrender is given in accordance with subsection (1), or on such later date as is specified in the notice.

Cessation of effect of authorisation where licence ceases to have effect

48. (1) An authorisation ceases to have effect if, and while, the relevant licence ceases to have effect.

(2) In subsection (1)—

“relevant licence”, in relation to an authorisation, means the licence in relation to the premises on which the authorised person is authorised to conduct a program of research or teaching using animals.

Return of cancelled and suspended authorisations

49. Within 7 days after an authorisation ceases to have effect, the person who was authorised shall not, without reasonable excuse, fail to return the authorisation, together with the certificate issued under subsection 42 (1), to—

- (a) the licensee; or

- (b) in the case of an authorisation which ceases to have effect under section 48—the Authority.

Penalty: \$1,000.

Division 3—Animal Experimentation Ethics Committees

Ethics Committees

50. The regulations may make provision in relation to Animal Experimentation Ethics Committees, including provision relating to their establishment, constitution and functions.

PART V—CIRCUSES

Circuses

51. (1) A person shall not conduct a circus without a circus permit.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(2) Subsection (1) does not apply in relation to a circus in which there are no performing animals, or in relation to a travelling zoo.

(3) A person shall not conduct a circus using a prohibited circus animal.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(4) A person shall not import a prohibited circus animal into the Territory as part of a circus troupe, whether or not for the purpose of using the animal in the circus.

Penalty for contravention of subsection (4): \$10,000 or imprisonment for 1 year, or both.

Regulations—prohibited circus animals

52. The regulations may prescribe an animal for the purpose of paragraph (b) of the definition of "prohibited circus animal" in section 4.

Application for circus permit

53. (1) Application may be made to the Authority for a permit to conduct a circus.

(2) An application shall—

- (a) be in accordance with a form approved by the Authority;
- (b) be accompanied by a list of animals which are to form part of the circus troupe, whether or not the animals are to be used in the circus;

- (c) be executed by the applicant;
- (d) be lodged no later than 4 weeks before the proposed date of opening of the circus; and
- (e) be accompanied by the determined fee.

Grant of circus permit

54. (1) On application in accordance with section 53, the Authority shall—

- (a) grant a circus permit; or
- (b) refuse to grant a circus permit.

(2) The Authority shall not grant a circus permit where a prohibited circus animal is to form part of the circus troupe, whether or not the animal is to be used in the circus.

(3) In determining whether or not to grant a circus permit, the Authority shall consider whether the applicant is a fit and proper person to hold a permit, having regard to matters including the following:

- (a) the experience and competency of the applicant, and the applicant's employees and agents, in the care and handling of animals;
- (b) the adequacy of the conditions under which the circus animals are to be housed, trained, transported or used;
- (c) the adequacy of the facilities to be provided for the circus animals;
- (d) whether the applicant has obtained and maintained in force any necessary permits under the *Nature Conservation Act 1980*;
- (e) whether the applicant has, within the period of 3 years preceding the date of the application, been convicted of a defined offence.

(4) In subsection (2), a reference to an applicant includes a reference—

- (a) if the applicant is a body corporate—to a director, secretary or manager of the body; or
- (b) if the application is made for the purposes of a partnership—to each of the partners, whether or not the partner's name appears on the application.

(5) A permit is to be in a form approved by the Authority.

Rights and duties of partners—circus permits

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

Conditions of circus permits

56. (1) It is a condition of a circus permit (to be specified in the permit) that the permit holder shall not include in the circus troupe a prohibited circus animal, whether or not for the purpose of using the animal in the circus.

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

- (a) the welfare of animals used by the circus;
- (b) the provision of facilities and equipment for those animals;
- (c) compliance with an approved code of practice.

Duration of circus permits

57. A circus permit remains in force for the period specified in the permit, unless sooner suspended or cancelled.

Suspension and cancellation of circus permits

58. (1) For the purposes of this section, the grounds for the suspension or cancellation of a circus permit are as follows:

- (a) the obtaining of the permit through fraud or misrepresentation;
- (b) the contravention by the permit holder, or an employee or agent of the permit holder, of a condition specified in the permit;
- (c) the conviction of the permit holder of a defined offence within the preceding 3 years;
- (d) the unfitness or impropriety of the permit holder to hold a circus permit, in consideration of matters including those referred to in paragraphs 54 (3) (a), (b), (c) and (d).

(2) In subsection (1), a reference to a permit holder includes a reference—

- (a) if the permit holder is a body corporate—to a director, secretary or manager of the body; or

(b) if the permit holder holds the permit for the purposes of a partnership—to each of the partners, whether or not the partner's name appears on the permit.

(3) Where the Authority believes on reasonable grounds that—

(a) there exists a ground for the suspension or the cancellation of a circus permit; and

(b) it is desirable in the interests of animal welfare to suspend or cancel the permit;

he or she shall give written notice to the permit holder—

(c) specifying the ground referred to in paragraph (a) together with the particular interests referred to in paragraph (b);

(d) stating the facts and circumstances that, in the Authority's opinion, constitute the basis for the Authority's beliefs referred to in paragraphs (a) and (b); and

(e) inviting the permit holder, within 12 hours after the time the notice is given, to show cause why the permit should not be suspended or cancelled (as the case may be).

(4) After the expiration of 12 hours after a notice under subsection (3) is given, taking into consideration any representation made by the permit holder, the Authority shall, if satisfied on reasonable grounds of the matters referred to in paragraphs (3) (a) and (b)—

(a) in the case of a notice of intention to suspend the permit for a specified period—suspend the permit for that period, or for such shorter period as the Authority thinks fit; or

(b) in the case of a notice of intention to cancel the permit—cancel the permit or suspend it for such period as the Authority thinks fit.

(5) The suspension or cancellation of a permit takes effect on—

(a) the date on which notice under subsection 107 (1) of the suspension or cancellation is given to the permit holder; or

(b) if a later date is specified in that notice—on that later date.

Return of cancelled and suspended circus permits

59. Within 7 days after the date of effect of the cancellation or suspension of a circus permit, the former permit holder shall not, without reasonable excuse, fail to return the permit to the Authority.

Penalty: \$1,000.

PART VI—ANIMAL TRAPPING

Division 1—Offences

Steel-jawed traps and prohibited traps

60. (1) A person shall not, without reasonable excuse, set a steel-jawed trap or a prohibited trap to catch an animal.

Penalty: \$10,000 or imprisonment for 1 year, or both.

(2) A person shall not, without reasonable excuse, possess a steel-jawed trap or a prohibited trap.

Penalty: \$500.

(3) Subsection (2) does not apply in relation to the possession of a trap kept solely—

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

Restricted traps

61. A person shall not, without reasonable excuse, set a restricted trap to catch an animal, unless the person holds a trapping permit.

Penalty: \$5,000 or imprisonment for 6 months, or both.

Trapping—general

62. (1) A person shall not, without reasonable excuse, set a trap to catch an animal.

(2) Subsection (1) does not apply in relation to a trap set on premises—

- (a) by the occupier of the premises;
- (b) with the express permission of that occupier; or
- (c) in a manner otherwise authorised under a law of the Territory.

Penalty: \$5,000 or imprisonment for 6 months, or both.

(3) In subsection (2)—

“occupier” includes—

- (a) a servant or agent of the occupier; and
- (b) a person related by blood or adoption to the occupier.

Regulations—prohibited and restricted traps

- 63.** The regulations may prescribe a trap—
- (a) as a prohibited trap for the purposes of section 60; or
 - (b) as a restricted trap for the purposes of section 61.

Division 2—Trapping permits**Application for trapping permit**

- 64.** (1) Application may be made to the Authority for—
- (a) a commercial trapping permit, for the purposes of a commercial trapping operation; or
 - (b) a private trapping permit, for domestic or private purposes.
- (2) An application shall—
- (a) be in accordance with a form approved by the Authority;
 - (b) be signed by the applicant; and
 - (c) be accompanied by the determined fee in relation to the type of permit applied for.

Grant of trapping permit

- 65.** (1) On application in accordance with section 64, the Authority shall—
- (a) grant a trapping permit of the type applied for; or
 - (b) refuse to grant a trapping permit.
- (2) In determining whether or not to grant a trapping permit, the Authority shall consider whether the applicant is a fit and proper person to hold a permit of the type applied for, having regard to matters including the following:
- (a) the species of animals to be trapped;
 - (b) the experience and competency of the applicant, and the applicant's employees and agents, in trapping such animals;
 - (c) the adequacy of the applicant's traps and other trapping equipment;
 - (d) whether the applicant has, within the period of 3 years preceding the date of the application, been convicted of a defined offence.

- (3) In subsection (2), a reference to an applicant includes a reference—
- (a) if the applicant is a body corporate—to a director, secretary or manager of the body; or
 - (b) if the application is made for the purposes of a partnership—to each of the partners, whether or not the partner's name appears on the application.
- (4) A permit is to be in a form approved by the Authority.

Rights and duties of partners—trapping permits

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

Conditions of trapping permits

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

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

Duration of trapping permits

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

(2) A private trapping permit remains in force for the period specified in the permit (subject to its suspension, cancellation or surrender), but may be renewed in accordance with section 69.

Renewal of trapping permits

69. On application to the Authority by the holder of a trapping permit—

- (a) in a form approved by the Authority; and

- (b) accompanied by the determined fee in relation to the type of permit held;

the Authority shall renew the permit—

- (c) in the case of a commercial trapping permit—for a period of 3 years; or
- (d) in the case of a private trapping permit—for such a specified period as the Authority considers, on reasonable grounds, to be desirable in the interests of animal welfare;

commencing on the day immediately following the day on which, but for its renewal, the permit would have expired.

Variation of trapping permits

70. (1) On application by the holder of a trapping permit accompanied by the permit, the Authority shall, if it is satisfied on reasonable grounds that it is desirable in the interests of animal welfare—

- (a) vary the permit accordingly; or
- (b) refuse to vary the permit.

(2) Where the Authority believes on reasonable grounds that it is desirable in the interests of animal welfare to vary a trapping permit, the Authority shall give the permit holder a written notice—

- (a) specifying those interests and stating the facts and circumstances that constitute the basis for the Authority's belief; and
- (b) inviting the permit holder to show cause within the specified period why the permit should not be varied in the manner specified in the notice.

(3) After the expiration of the period specified in a notice under subsection (2), taking into consideration any representation made by the permit holder, the Authority shall vary the permit if satisfied on reasonable grounds that it is desirable in the interests of animal welfare.

(4) For the purposes of subsection (3), the Authority shall, by written notice accompanying the relevant notice under subsection 107 (1), require the permit holder to forward the permit to the Authority within a specified period after the date of the notice, being a period of between 14 and 28 days.

Suspension and cancellation of trapping permits

71. (1) For the purposes of this section, the grounds for the suspension or cancellation of a trapping permit are as follows:

- (a) the contravention by the permit holder of a condition specified in the permit;
- (b) the contravention by the permit holder of a requirement under subsection 70 (4);
- (c) the obtaining of the permit by fraud or misrepresentation;
- (d) the conviction of the permit holder of a defined offence within the preceding 3 years;
- (e) the unfitness or impropriety of the permit holder to hold a trapping permit (of the type held), in consideration of matters including those referred to in paragraphs 65 (2) (a), (b) and (c).

(2) In subsection (1), a reference to a permit holder includes a reference—

- (a) if the permit holder is a body corporate—to a director, secretary or manager of the body; or
- (b) if the permit is held for the purposes of a partnership—to each of the partners, whether or not the partner's name is specified in the permit.

(3) Where the Authority believes on reasonable grounds that—

- (a) there exists a ground for the suspension or the cancellation of a trapping permit; and
- (b) it is desirable in the interests of animal welfare to suspend or cancel the permit;

he or she shall give written notice to the permit holder—

- (c) specifying the ground referred to in paragraph (a) together with the particular interests referred to in paragraph (b);
- (d) stating the facts and circumstances that, in the Authority's opinion, constitute the basis for the Authority's beliefs referred to in paragraphs (a) and (b); and
- (e) inviting the permit holder, within 28 days after the date of the notice, to show cause why the permit should not be suspended or cancelled (as the case may be).

(4) After the expiration of the period specified in a notice under subsection (3), taking into consideration any representation made by the permit holder, the Authority shall, if satisfied on reasonable grounds of the matters referred to in paragraphs (3) (a) and (b)—

- (a) in the case of a notice of intention to suspend the permit for a specified period—suspend the permit for that period, or for such shorter period as the Authority thinks fit; or
- (b) in the case of a notice of intention to cancel the permit—cancel the permit or suspend it for such period as the Authority thinks fit.

(5) The suspension or cancellation of a permit takes effect on—

- (a) the date on which notice under subsection 107 (1) of the suspension or cancellation is given to the permit holder; or
- (b) if a later date is specified in that notice—on that later date.

Surrender of trapping permits

72. (1) The holder of a trapping permit may surrender the permit to the Authority by notice in writing accompanied by the permit.

(2) The surrender of a trapping permit takes effect on the date the notice of surrender is given in accordance with subsection (1), or such later date as is specified in the notice.

Return of cancelled and suspended trapping permits

73. Within 7 days after the date of effect of the cancellation or suspension of a trapping permit, the former permit holder shall not, without reasonable excuse, fail to return the permit to the Authority.

Penalty: \$1,000.

PART VII—ENFORCEMENT

Division 1—Preliminary

Interpretation

74. (1) In this Part, unless the contrary intention appears—

“document” includes a book or record;

“identity card” means—

- (a) in relation to an inspector or an authorised officer—the identity card issued to the inspector or officer under subsection 79 (1);

- (b) in relation to the Authority, where the Authority exercises a power of an inspector—the identity card issued to the Authority under subsection 6 (3);
- (c) in relation to a delegate of the Authority, where the delegate exercises a power of an inspector—the identity card issued to the delegate under subsection 6 (4); or
- (d) in relation to a police officer—proof of identification of a type approved for general purposes by the Commissioner of the Australian Federal Police;

“offence” means—

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

(2) For the purposes of this Part, an animal or thing is connected with a particular offence if—

- (a) it is an animal or thing with respect to which the offence has been committed;
- (b) it will afford evidence of the commission of the offence; or
- (c) it was used, or is (or was) intended to be used, for the purpose of committing the offence.

(3) Where an inspector or authorised officer is authorised under this Part to enter premises, and enters those premises, a reference to the occupier of such premises includes a reference to a person the inspector or officer believes on reasonable grounds—

- (a) to be the occupier; or
- (b) to be in charge;

of those premises.

Indemnity

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

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

Division 2—Inspectors and authorised officers

Appointment—inspectors

76. (1) The Authority may, by instrument, appoint persons to be inspectors for the purposes of this Act.

(2) An inspector shall, subject to this Act, perform such duties as the Authority directs.

Authority and police officers—performance of inspectors' functions

77. The Authority, or a police officer—

- (a) may exercise the powers; and
- (b) in so doing, shall perform the duties;

of an inspector under this Act.

Appointment—authorised officers

78. (1) The Authority may, by instrument, appoint veterinary surgeons to be authorised officers for the purposes of this Act.

(2) An authorised officer shall, subject to this Act, perform such duties as the Authority directs.

Identity cards

79. (1) The Authority shall issue to each inspector and authorised officer an identity card that specifies the name and appointment of the person and on which appears a recent photograph of the person.

(2) A former inspector or authorised officer shall not, without reasonable excuse, fail to return his or her identity card to the Authority upon ceasing to be an inspector or an authorised officer, as the case requires.

Penalty for contravention of subsection (2): \$100.

Division 3—Powers of inspectors

Interpretation

80. In this Division—

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

- (a) the purposes of research, or teaching, using animals; or
- (b) the acquisition, breeding or keeping of animals for such purposes.

Powers of entry and search

81. (1) Subject to this section, where an inspector believes on reasonable grounds that it is necessary to do so for the purposes of this Act, the inspector may—

- (a) enter any premises; and
- (b) exercise any power—
 - (i) under section 82; or
 - (ii) for the purposes of section 85.

(2) An inspector shall give the occupier of premises 7 days' prior notice of an inspection, unless the inspector believes on reasonable grounds that there is, on the premises, an animal or thing connected with an offence.

(3) Subsection (1) only authorises an inspector to enter premises—

- (a) with the consent of the occupier of the premises (subject to section 88);
- (b) pursuant to a warrant issued under section 90; or
- (c) with such assistance and by such force as is reasonable, where the inspector believes on reasonable grounds that the circumstances are of such seriousness and urgency as to require the immediate exercise of those powers without the authority of such a warrant.

(4) This section does not authorise an inspector to enter an abattoir unless—

- (a) the inspector is a veterinary surgeon; or
- (b) if the inspector is not a veterinary surgeon—the inspector enters those premises with a veterinary surgeon.

(5) Where a power is exercised in accordance with subsection (1) in relation to a vehicle, the relevant inspector may stop and detain the vehicle for the purpose of the exercise of that power.

Powers of inspection

82. (1) Subject to subsection (2), an inspector who enters premises in accordance with section 81 may, if he or she believes it on reasonable grounds to be necessary for the purposes of this Act—

- (a) examine any animal in or on the premises;
- (b) inspect the premises and any thing in or on the premises (including a document);
- (c) take copies of, or extracts from, any document in or on the premises;
- (d) take photographs or make films or videotapes of the premises or any animal or thing in or on the premises;
- (e) seize any animal, or any thing (including a document), that the inspector believes on reasonable grounds to be connected with an offence;
- (f) require any person in or on the premises to give the inspector such assistance as is reasonable to enable the inspector to exercise his or her powers under this section; or
- (g) ask questions of any person in or on the premises where the inspector considers it reasonable to enable him or her to exercise powers under this section.

(2) An inspector shall not, without reasonable excuse—

- (a) give a document seized under subsection (1) to another person;
- (b) give a copy of a document inspected or seized under subsection (1) to another person; or
- (c) communicate to another person the contents of a document inspected or seized under subsection (1);

except where the document or copy is given, or the communication is made—

- (d) to the Authority; or
- (e) for the purposes of the investigation or prosecution of an offence.

Penalty for contravention of subsection (2): \$5,000 or imprisonment for 6 months, or both.

Division 4—Powers of authorised officers

Research and educational institutions—powers of entry and search

83. (1) Subject to this section, where an authorised officer believes on reasonable grounds that it is necessary to do so for the purposes of this Act, the officer may—

- (a) enter any premises he or she believes on reasonable grounds is being used for—
 - (i) the purposes of research, or teaching, using animals; or
 - (ii) the acquisition, breeding or keeping of animals for such purposes; and
- (b) exercise any power—
 - (i) under section 84; or
 - (ii) for the purposes of section 85.

(2) An authorised officer shall give the occupier of premises 7 days' prior notice of an inspection unless the officer believes on reasonable grounds that there is, on the premises, an animal or thing connected with an offence.

(3) Subsection (1) only authorises an officer to enter premises—

- (a) with the consent of the occupier of the premises (subject to section 88);
- (b) pursuant to a warrant issued under section 90; or
- (c) with such assistance and by such force as is reasonable, where the inspector believes on reasonable grounds that the circumstances are of such seriousness and urgency as to require the immediate exercise of those powers without the authority of such a warrant.

(4) Where a power is exercised in accordance with subsection (1) in relation to a vehicle, the relevant officer may stop and detain the vehicle for the purpose of the exercise of that power.

Powers of authorised officers

84. (1) Subject to subsection (2), an authorised officer who enters premises in accordance with section 83 may, if he or she believes it on reasonable grounds to be necessary for the purposes of this Act—

- (a) examine any animal in or on the premises;
- (b) inspect the premises and any thing in or on the premises (including a document);

- (c) take copies of, or extracts from, any document in or on the premises;
 - (d) take photographs or make films or videotapes of the premises or any animal or thing in or on the premises;
 - (e) seize any animal, or any thing (including a document), that the officer believes on reasonable grounds to be connected with an offence;
 - (f) require any person in or on the premises to give the officer such assistance as is reasonable to enable the officer to exercise his or her powers under this section; or
 - (g) ask questions of any person in or on the premises where the officer considers it reasonable to enable him or her to exercise powers under this section.
- (2) An authorised officer shall not, without reasonable excuse—
- (a) give a document seized under subsection (1) to another person;
 - (b) give a copy of a document inspected or seized under subsection (1) to another person; or
 - (c) communicate to another person the contents of a document inspected or seized under subsection (1);

except where the document or copy is given, or the communication is made—

- (d) to the Authority; or
- (e) for the purposes of the investigation or prosecution of an offence.

Penalty for contravention of subsection (2): \$5,000 or imprisonment for 6 months, or both.

Division 5—Alleviation of suffering—powers of inspectors, authorised officers and veterinary surgeons

Inspectors and authorised officers

85. (1) This section applies where an inspector or an authorised officer believes on reasonable grounds—

- (a) that an animal has not been provided with proper or sufficient food or drink during the previous 24 hours;
- (b) that an animal is so severely injured, so overworked, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment; or

(c) that—

- (i) an animal is so severely injured or diseased, or in such a poor physical condition, that it is cruel to keep it alive; and
- (ii) the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain on the animal.

(2) Where this section applies, the relevant inspector or authorised officer may—

- (a) seize the animal;
- (b) remove the animal to such place as he or she thinks fit; and
- (c) in the case of an animal referred to in paragraph (1) (c)—destroy the animal, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.

(3) An inspector shall only exercise a power referred to in paragraph (2) (c) with the written consent of a person in charge of the relevant animal, unless—

- (a) the inspector, after making reasonable enquiries, is unable to locate such a person; or
- (b) the inspector is a veterinary surgeon.

(4) The reasonable expenses incurred by an inspector or authorised officer in the exercise of a power under subsection (2) in respect of an animal may be recovered by the Territory from the owner of the animal as a debt in a court of competent jurisdiction.

(5) Where paragraph (1) (a) or (b) applies, the relevant inspector or authorised officer may, instead of exercising the powers referred to in paragraphs (2) (a) and (b), give a person in charge of the relevant animal directions in writing requiring that person—

- (a) to provide the animal with such specified rest, food, water, shelter or treatment as is necessary in the interests of the animal's welfare; and
- (b) where necessary, to consult a veterinary surgeon about the condition of the animal within such a specified period as is reasonable in the circumstances.

(6) A person to whom a direction is given under subsection (5) shall not, without reasonable excuse, contravene the direction.

Penalty for contravention of subsection (6): \$5,000 or imprisonment for 6 months, or both.

Veterinary surgeons

86. (1) Where, in the opinion of a veterinary surgeon—

- (a) an animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive; and
- (b) the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain on the animal;

the veterinary surgeon may—

- (c) seize the animal;
- (d) remove the animal to such place as the veterinary surgeon thinks fit; and
- (e) destroy the animal, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.

(2) The reasonable expenses incurred by a veterinary surgeon in the exercise of a power conferred by subsection (1) in respect of an animal may be recovered from the owner of the animal as a debt in a court of competent jurisdiction.

Division 6—Consent to entry, reports and search warrants

Interpretation

87. In this Division—

“officer” means an inspector or an authorised officer.

Consent to entry

88. (1) This section applies where the consent of the occupier of premises is sought by an inspector or an authorised officer for entry to the premises for the purposes of section 81 or 83, as the case requires.

(2) Where this section applies, before seeking the consent of the occupier of premises for the purposes of entering premises, an officer shall inform the occupier that he or she may refuse to give that consent.

(3) Where this section applies and an officer obtains consent from an occupier to enter premises, the officer shall ask the occupier to sign an acknowledgment—

- (a) that the occupier has been informed that he or she may refuse to give that consent;
- (b) that the occupier has given the officer consent, for the purposes of that provision, to enter the premises and to exercise the powers of an officer under section 82, 84 or 85 (as the case requires); and
- (c) of the day on which, and the time at which, that consent was given.

(4) Where this section applies, an officer is not authorised to remain on the premises if, on request by or on behalf of the occupier of the premises, the officer does not show his or her identity card to the occupier.

(5) Where a police officer exercises the power of an inspector to enter premises, subsection (4) only applies where the police officer is not in uniform.

(6) Where it is material, in any proceedings, for a court to be satisfied, for the purposes of this section, of the consent of an occupier, and an acknowledgment in accordance with subsection (3) is not produced in evidence, it shall be presumed that the occupier did not consent unless the contrary is established.

Reports

89. (1) Where, for the purposes of an inspection under this Part—

- (a) an inspector enters commercial premises; or
- (b) an authorised officer enters licensed premises;

after 7 days' prior notice, with the occupier's consent, the inspector or authorised officer shall, within 30 days after that entry, provide the occupier with a written report of the inspection.

(2) A report under subsection (1) shall contain—

- (a) a description of the inspection, and of any action taken by the officer or the Authority as a result of the inspection;
- (b) comments about such other matters connected with the welfare of animals kept on the premises as are reasonably requested by the occupier; and
- (c) such other comments connected with the welfare of the animals kept on the premises as the officer thinks fit.

(3) In subsection (1)—

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

Search warrants

90. (1) This section applies where an information on oath is laid before a magistrate alleging that there are reasonable grounds for suspecting that there is, on any premises—

- (a) an animal or thing of a particular kind that is connected with a particular offence against this Act;
- (b) an animal or thing of a particular kind that is connected with the contravention of a requirement imposed by or under this Act; or
- (c) an animal referred to in section 85;

and the information sets out those grounds.

(2) Where this section applies, a magistrate may issue a search warrant authorising an officer named in the warrant, with such assistance and by such force as is necessary and reasonable—

- (a) to enter the premises;
- (b) to search the premises for the relevant animal or thing; and
- (c) to exercise the powers of an officer under section 82, 84 or 85, as the case may be, in relation to the premises, animal or thing.

(3) A magistrate shall not issue a warrant unless—

- (a) the informant or another person has given the magistrate, either orally or by affidavit, any information that the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
- (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(4) A magistrate shall not—

- (a) issue a warrant in relation to the search by an authorised officer of premises within the meaning of Division 3; or
- (b) issue a warrant in relation to the search by an inspector of premises, being premises referred to in subparagraph 83 (1) (a) (i) or (ii).

(5) A warrant shall—

- (a) state the purpose for which it is issued;

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

Division 7—Offences in relation to investigations

Obstruction

91. A person shall not, without reasonable excuse, hinder or obstruct—

- (a) an inspector;
- (b) an authorised officer;
- (c) a veterinary surgeon;
- (d) the Authority; or
- (e) a police officer;

in the exercise of his or her powers, or the performance of his or her duties, under this Act.

Penalty: \$5,000 or imprisonment for 6 months, or both.

False information

92. A person shall not knowingly provide false information in relation to an offence to—

- (a) an inspector;
- (b) an authorised officer;
- (c) a veterinary surgeon;
- (d) the Authority; or
- (e) a police officer.

Penalty: \$5,000 or imprisonment for 6 months, or both.

Division 8—Compensation for animal injury and death**Interpretation**

93. In this Division—

“officer” means—

- (a) an inspector or an authorised officer; or
- (b) in relation to the performance of a function under section 86—a veterinary surgeon;

“owner”, in relation to an injured or dead animal, means the owner of the animal immediately before its injury or death.

Right to compensation

94. (1) Where an animal is injured, or dies, in the course of the performance of an officer’s functions under this Part, the owner of the animal is entitled to compensation under this Division, subject to subsection (2).

(2) Subsection (1) only applies where an officer’s malice or negligence—

- (a) significantly contributed to the injury or death of the animal; or
- (b) in the case of an animal which is destroyed—significantly contributed to, or significantly exacerbated, the condition of the animal which necessitated the animal’s destruction.

Compensation claims

95. (1) A claim for compensation under this Division shall be—

- (a) made by or on behalf of the owner of the animal;
- (b) made within 1 year of the injury or death of the animal;
- (c) made in accordance with a form approved by the Authority, specifying—
 - (i) the circumstances of the injury or death; and
 - (ii) the amount claimed;
- (d) executed by the applicant; and
- (e) accompanied by the determined fee.

(2) On a claim for compensation made in accordance with subsection (1), the Authority shall—

- (a) approve the claim; or

(b) refuse to approve the claim.

(3) The Authority shall only approve a claim if satisfied, on reasonable grounds, that the owner of the relevant animal is entitled to compensation under section 94.

(4) The Authority shall only approve the payment of such an amount of compensation under this section as is reasonable in the circumstances, in consideration of matters including the following:

- (a) the value of the animal, in the Authority's opinion based on reasonable grounds, immediately before the malice or negligence referred to in subsection 94 (2);
- (b) any malice or negligence of the owner of the animal, or of other persons (not being officers), which, in the Authority's opinion based on reasonable grounds—
 - (i) significantly contributed to the injury or death of the animal; or
 - (ii) in the case of an animal which is destroyed—significantly contributed to, or significantly exacerbated, the condition of the animal which necessitated the animal's destruction;
- (c) the amount of such costs incurred by the owner as a result of the injury or death of the animal as the Authority considers reasonable.

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

Exclusion of civil actions

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

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

is payable to any person except under this Division.

Division 9—Evidence

Interpretation

97. In this Division—

“offence” means an offence against this Act.

Certificate evidence

98. (1) In proceedings for an offence, a certificate purporting to be signed by the Authority stating—

- (a) whether or not a person was, during a specified period, a licensee, or the holder of a circus permit or a trapping permit;
- (b) whether or not a licence, circus permit or trapping permit was in force on a specified day or days;
- (c) the conditions subject to which a licence, circus permit or trapping permit was granted, as in force on a specified day or days; or
- (d) whether or not a licence, circus permit or trapping permit was varied, suspended or cancelled on a specified day, and (in the case of a suspension) for a specified period;

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

(2) In proceedings for an offence, a certificate purporting to be signed by the chairperson of an Ethics Committee in relation to an authorisation stating—

- (a) whether or not a person was, during a specified period, the holder of an authorisation granted by that Committee;
- (b) whether or not an authorisation granted by that Committee was in force on a specified day or days;
- (c) the conditions subject to which an authorisation was granted by that Committee, as in force on a specified day or days; or
- (d) whether or not an authorisation was varied, suspended or cancelled by that Committee on a specified day, and (in the case of a suspension) for a specified period;

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

Conduct of directors, servants and agents

99. (1) Where, for the purposes of this Act, it is necessary to establish the state of mind of a body corporate or a natural person in relation to particular conduct, it is sufficient to show—

- (a) that a director, servant or agent of the body, or a servant or agent of the person, had that state of mind; and
- (b) that the conduct was engaged in by that director, servant or agent within the scope of his or her actual or apparent authority.

(2) A reference in subsection (1) to the state of mind of a body corporate or person includes a reference to—

- (a) the knowledge, intention, opinion, belief or purpose of the body or person; and
- (b) the body's or person's reasons for the intention, opinion, belief or purpose.

(3) Any conduct engaged in on behalf of a body corporate or a natural person by a director, servant or agent of the body, or a servant or agent of the person, within the scope of his or her actual or apparent authority, is to be taken, for the purposes of this Act, to have been engaged in also by the body or person unless the body or person establishes that reasonable precautions were taken and due diligence was exercised to avoid the conduct.

(4) Where—

- (a) a natural person is convicted of an offence; and
- (b) the person would not have been convicted of the offence if subsections (1) and (3) had not been enacted;

the person is not liable to be punished by imprisonment for that offence.

(5) A reference in this section to engaging in conduct is to be read as including a reference to failing or refusing to engage in conduct.

Division 10—Court orders and corporate penalties

Interpretation

100. In this Division—

“offence” means an offence against this Act.

Animal offences—court orders (general)

101. (1) This section applies where—

- (a) a court has convicted a person in charge of an animal of an offence in respect of the animal; and
- (b) the court is satisfied that, unless an appropriate order under this section is made, the person would be likely to commit a further offence in respect of the animal, or any other animal.

(2) Where this section applies, the court may, in addition to any penalty which it may otherwise impose, make such order as it thinks fit in respect of the disposal of—

- (a) the animal in respect of which the offence was committed; and

(b) any other animal of which the person is in charge.

(3) Where a court makes an order under subsection (2), it may make a further order that the person shall not—

(a) purchase or acquire; or

(b) take possession or custody of;

any animal within such period as is specified in the order.

(4) A person shall not, without reasonable excuse, contravene an order under subsection (2) or (3).

Penalty for contravention of subsection (4): \$5,000 or imprisonment for 6 months, or both.

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

102. (1) Where a court makes an order under subsection 101 (2), it may make a further order that the convicted person pay to a specified person such costs in respect of the disposal of the animal as are specified in the further order.

(2) Where a court makes an order under subsection 101 (2), it may make a further order specifying the distribution of the proceeds from the disposal of the relevant animal pursuant to the first-mentioned order.

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

Spur and trap offences—court orders (general)

103. (1) This section applies where—

(a) a court has convicted a person of an offence—

(i) under section 14 in relation to a spur or a cock-fighting spur cap; or

(ii) under Division 1 of Part VI in relation to an animal trap;
and

(b) the court is satisfied that, unless an appropriate order under this section is made, the person would be likely to commit a further offence in respect of a spur, cock-fighting spur cap or animal trap (as the case may be).

(2) Where this section applies, the court may, in addition to any penalty which it may otherwise impose, make such order as it thinks fit in respect of the disposal of—

- (a) the relevant spur, cock-fighting spur cap or animal trap, as the case requires; and
- (b) any other spur, cock-fighting spur cap or animal trap (whether of the same or of a different type of trap), as the case requires.

(3) Where a court makes an order under subsection (2), it may make a further order that the person shall not (for any purpose) within a specified period—

- (a) purchase or acquire; or
- (b) take possession or custody of;

any—

- (c) animal trap (in general or of any specified type); or
- (d) spur or cock-fighting spur cap;

as the case requires.

(4) A person shall not, without reasonable excuse, contravene an order under subsection (2) or (3).

Penalty for contravention of subsection (4): \$5,000 or imprisonment for 6 months, or both.

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

104. (1) Where a court makes an order under subsection 103 (2), it may make a further order that the convicted person pay to a specified person specified costs in respect of the disposal of the relevant spur, cock-fighting spur cap or animal trap.

(2) Where a court makes an order under subsection 103 (2), it may make a further order specifying the distribution of the proceeds from the disposal of the relevant spur, cock-fighting spur cap or animal trap pursuant to the first-mentioned order.

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

Court orders—procedure and appeals

105. (1) For the purposes of proceedings for an order under this Division—

- (a) the court may require notice of the proceedings to be given to such persons as the court thinks fit; and
- (b) the court may hear a person to whom such notice has been given.

(2) Without affecting any other right of appeal, an order under this Division is appealable in the same manner as if it were, or were part of, a sentence imposed in respect of the relevant offence.

Corporations—penalties

106. Where a body corporate is convicted of an offence, the penalty that the court may impose is a fine not exceeding 5 times the maximum amount that, but for this section, the court could impose as a pecuniary penalty for the offence.

PART VIII—ADMINISTRATIVE REVIEW**Notice of decisions**

107. (1) Where the Authority makes a decision—

- (a) under section 28 to refuse to grant a licence;
- (b) under section 30 to grant a licence subject to a condition;
- (c) under subsection 33 (1) to refuse to vary a licence;
- (d) under subsection 33 (3) to vary a licence;
- (e) under section 34 to suspend a licence;
- (f) under section 34 to cancel a licence;
- (g) under section 54 to refuse to grant a circus permit;
- (h) under section 56 to grant a circus permit subject to a condition;
- (i) under section 57 to grant a circus permit for a particular period;
- (j) under section 58 to suspend a circus permit;
- (k) under section 58 to cancel a circus permit;
- (m) under section 65 to refuse to grant a trapping permit;
- (n) under section 67 to grant a trapping permit subject to a condition;
- (o) under section 68 to grant a private trapping permit for a particular period;

- (p) under section 69 to renew a private trapping permit for a particular period;
- (q) under subsection 70 (1) to refuse to vary a trapping permit;
- (r) under subsection 70 (3) to vary a trapping permit;
- (s) under section 71 to suspend a trapping permit;
- (t) under section 71 to cancel a trapping permit;
- (u) under section 95 to refuse to approve a claim for compensation; or
- (v) under section 95 to approve a claim for compensation for a particular amount;

the Authority shall cause notice in writing of the decision to be given to the relevant applicant, licensee or permit holder.

(2) Where an Ethics Committee makes a decision—

- (a) under section 40 to refuse to grant an authorisation;
- (b) under section 41 to grant an authorisation subject to a condition;
- (c) under section 43 to grant an authorisation for a particular period;
- (d) under section 44 to renew an authorisation for a particular period;
- (e) under subsection 45 (1) to refuse to vary an authorisation;
- (f) under subsection 45 (3) to vary an authorisation;
- (g) under section 46 to suspend an authorisation; or
- (h) under section 46 to cancel an authorisation;

the Ethics Committee shall cause notice in writing of the decision to be given to the relevant applicant or authorised person.

(3) A notice under subsection (1) or (2) shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.

(4) The validity of a decision referred to in subsection (1) or (2) shall not be taken to be affected by a failure to comply with subsection (3).

Review by Tribunal

108. A person entitled under subsection 107 (1) or (2) to be given notice of a decision may apply to the Tribunal for a review of the decision.

PART IX—ANIMAL WELFARE ADVISORY COMMITTEE**Establishment and functions**

109. (1) The Minister shall, by instrument, establish an Animal Welfare Advisory Committee.

(2) The Committee is to be constituted in accordance with its instrument of establishment.

(3) The functions of the Committee are as follows:

- (a) to advise the Minister about animal welfare legislation;
- (b) to participate in the development of approved codes of practice;
- (c) to provide advice to other Territory authorities, and to community bodies, about programs for the improvement of community awareness about animal welfare;
- (d) to advise the Minister about any other matter relating to animal welfare;
- (e) to report annually to the Minister on the activities of the Committee.

PART X—MISCELLANEOUS**Determination of fees**

110. The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Act.

Exemptions by regulations

111. (1) The regulations may—

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

(2) The regulations may specify the circumstances, whether generally or in a particular case, in which a regulation made under subsection (1) is to apply.

Regulations

112. (1) The Executive may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may provide for the following matters:

- (a) the confining, housing or transport of animals;
- (b) the slaughtering, trapping, snaring, catching or poisoning of animals;
- (c) the hiring out, boarding, sale or trade of animals;
- (d) the breeding, husbandry or training of animals;
- (e) the use of animals for entertainment;
- (f) the conditions under which animals may be kept or used for the purpose of the production of films, television programs or photographs, or of film, television, or photographic advertisements;
- (g) the use of animals for teaching or research, or medical or surgical procedures.

(3) The regulations may prescribe penalties not exceeding—

- (a) in the case of a natural person—\$1,000; or
- (b) in the case of a body corporate—\$5,000;

for offences against the regulations.

(4) The regulations may incorporate (with or without modification) an approved code of practice as in force from time to time.

PART XI—CONSEQUENTIAL PROVISIONS

Permits under repealed Act

113. A permit in force under the repealed Act immediately before the commencement of this Act continues in force for the remainder of the period for which it would, but for this Act, have remained in force, and the repealed Act continues to apply to the permit holder for the period for which it continues in force, as if the repealed Act had not been repealed.

Amendment of *Dog Control Act 1975*

114. The *Dog Control Act 1975* is amended by omitting from subsection 35 (2) “*Prevention of Cruelty to Animals Act 1959-1966*” and substituting “*Animal Welfare Act 1992*”.

SCHEDULE

Section 3

ACTS REPEALED

*Prevention of Cruelty to Animals Act 1959**Prevention of Cruelty to Animals (Amendment) Act 1980**Prevention of Cruelty to Animals (Amendment) Act 1986**Prevention of Cruelty to Animals (Amendment) Act 1988*

[Presentation speech made in Assembly on 21 May 1992]

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