



Australian Capital Territory

# Animal Welfare Amendment Act 2010

A2010-14

## Contents

---

|   | Page |
|---|------|
| 1 Name of Act   | 2    |
| 2 Commencement  | 2    |
| 3 Legislation amended   | 2    |
| 4 Section 20  | 2    |
| 5 Section 22 heading  | 3    |
| 6 New section 23  | 3    |
| 7 Publication<br>Section 24   | 3    |
| 8 New sections 24A to 24C   | 4    |
| 9 Interstate researchers' authorisation in the ACT<br>Section 49B (3) (b) | 5    |
| 10 Establishment and functions<br>Section 109 (3) (b)                     | 6    |
| 11 Regulation-making power<br>Section 112 (4)                             | 6    |
| 12 Dictionary, new definition of <i>mandatory code of practice</i>        | 6    |

---

J2009-461

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)





Australian Capital Territory

# **Animal Welfare Amendment Act 2010**

**A2010-14**

---

An Act to amend the *Animal Welfare Act 1992*

---

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

**1 Name of Act**

This Act is the *Animal Welfare Amendment Act 2010*.

**2 Commencement**

This Act commences on a day fixed by the Minister by written notice.

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

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

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

**3 Legislation amended**

This Act amends the *Animal Welfare Act 1992*.

**4 Section 20**

*substitute*

**20 Exception—conduct in accordance with approved code of practice or mandatory code of practice**

This part (other than the following provisions) does not apply if the conduct making up the offence was in accordance with an approved code of practice or a mandatory code of practice:

- (a) section 14 (Spurs);
- (b) section 17 (1) or (2) (Matches, competitions etc);
- (c) section 18 (1) or (2) (Rodeos and game parks);

- (d) section 19A (Medical and surgical procedures—veterinary surgeons).

**5 Section 22 heading**

*substitute*

**22 Approved code of practice**

**6 New section 23**

*insert*

**23 Mandatory code of practice**

- (1) The Minister may approve a code of practice, or part of a code of practice, relating to animal welfare as mandatory.
- (2) An approval must state to whom the mandatory code applies.
- (3) Before approving a code under subsection (1) the Minister must be satisfied that adequate consultation has occurred.
- (4) A mandatory code of practice is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**7 Publication  
Section 24**

*after*

section 22

*insert*

or section 23

**8 New sections 24A to 24C**

*in part 3, insert*

**24A Reckless failure to comply with mandatory code of practice**

A person commits an offence if—

- (a) a mandatory code of practice applies to the person; and
- (b) the person fails to comply with a requirement of the mandatory code; and
- (c) the person is reckless about whether the mandatory code is complied with.

Maximum penalty: 100 penalty units.

**24B Failure to comply with mandatory code of practice**

(1) A person commits an offence if—

- (a) a mandatory code of practice applies to the person; and
- (b) the person fails to comply with a requirement of the mandatory code.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

(3) Subsection (1) does not apply to a person if—

- (a) a written direction has been given to the person under section 24C in relation to the requirement; and
- (b) the person has complied with the direction.

**24C Direction to comply with mandatory code**

- (1) An inspector or authorised officer must give a person a written direction to rectify a breach of a mandatory code if the inspector or authorised officer believes on reasonable grounds that—
  - (a) the person is in breach of a requirement of the code; and
  - (b) the code applies to the person only in relation to a non-business activity engaged in by the person; and
  - (c) the person has not previously been convicted, or found guilty, of an offence under section 24A or section 24B for failing to comply with a requirement of the code.
- (2) A direction must—
  - (a) state the requirement of the code that has been breached and the conduct constituting the breach; and
  - (b) state a reasonable time within which the direction must be complied with; and
  - (c) include a statement that the person may be prosecuted under section 24B if the person fails to comply with the direction.
- (3) The inspector or authorised officer may withdraw a written direction if, after giving the direction to a person, the inspector or authorised officer discovers that the person has previously been convicted, or found guilty, of an offence under section 24A or section 24B.

**9 Interstate researchers' authorisation in the ACT  
Section 49B (3) (b)**

*substitute*

- (b) has contravened, in the ACT, an approved code of practice, a mandatory code of practice or a protocol or condition to which the researcher's interstate research authorisation is subject; or

**10 Establishment and functions  
Section 109 (3) (b)**

*substitute*

- (b) to participate in the development of approved codes of practice and mandatory codes of practice;

**11 Regulation-making power  
Section 112 (4)**

*omit*

**12 Dictionary, new definition of *mandatory code of practice***

*insert*

***mandatory code of practice*** means a code of practice, or part of a code of practice, approved under section 23 as mandatory.



---

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 25 February 2010.

**2 Notification**

Notified under the Legislation Act on 1 April 2010.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

---

I certify that the above is a true copy of the Animal Welfare Amendment Bill 2010, which was passed by the Legislative Assembly on 23 March 2010.

Acting Clerk of the Legislative Assembly

© Australian Capital Territory 2010