

2010

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Territory and Municipal Services)

Animal Welfare Amendment Bill 2010

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(As presented)

(Minister for Territory and Municipal Services)

Animal Welfare Amendment Bill 2010

A Bill for

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);

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

3 **5 Section 22 heading**

4 *substitute*

5 **22 Approved code of practice**

6 **6 New section 23**

7 *insert*

8 **23 Mandatory code of practice**

9 (1) The Minister may approve a code of practice, or part of a code of
10 practice, relating to animal welfare as mandatory.

11 (2) An approval must state to whom the mandatory code applies.

12 (3) Before approving a code under subsection (1) the Minister must be
13 satisfied that adequate consultation has occurred.

14 (4) A mandatory code of practice is a disallowable instrument.

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

17 **7 Publication**
18 **Section 24**

19 *after*

20 section 22

21 *insert*

22 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

- 1 **10 Establishment and functions**
2 **Section 109 (3) (b)**
- 3 *substitute*
- 4 (b) to participate in the development of approved codes of practice
5 and mandatory codes of practice;
- 6 **11 Regulation-making power**
7 **Section 112 (4)**
- 8 *omit*
- 9 **12 Dictionary, new definition of *mandatory code of practice***
- 10 *insert*
- 11 *mandatory code of practice* means a code of practice, or part of a
12 code of practice, approved under section 23 as mandatory.

Endnotes

- 1 **Presentation speech**
Presentation speech made in the Legislative Assembly on 2010.
- 2 **Notification**
Notified under the Legislation Act on 2010.
- 3 **Republications of amended laws**
For the latest republication of amended laws, see www.legislation.act.gov.au.
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