

2019

The Parliament of the  
Commonwealth of AustraliaSim

House of Representatives

*Presented and read a first time*

**Comprehensive Animal Welfare  
(Protection for Sentient Animals) Bill  
No. , 2019**

*Written by Horror-HQ*

**A Bill for an Act to standardise animal welfare  
across the commonwealth, and related issues**

# **The Parliament of Australia enacts the following**

## **1. Short Title**

This act may be referred to as the Comprehensive Animal Welfare (Protection for Sentient Animals) Act 2019.

## **2. Commencement**

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	

**Note:** This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3. Objects of the Act

The object of this act are:

- (a) Ensure that there is consistent application in legislation across the Commonwealth in regard to Animal Welfare
- (b) Ensure that any animals that can reasonably be considered sentient and capable of feeling pain are protected from cruelty
- (c) To Promote the ethical treatment of Animals
- (d) To reduce the legality of animal abuse in the Commonwealth

### 4. Definitions

***animal*** means:

- (a) a member of a vertebrate species including any:
  - (i) amphibian, or
  - (ii) bird, or
  - (iii) fish, or
  - (iv) mammal (other than a human being), or
  - (v) reptile, or
- (b) a crustacean

***animal trade*** means a trade, business or profession in the course of which any animal is kept or used for a purpose prescribed for the purposes of this definition.

***approved charitable organisation*** means a charitable organisation for the time being approved by the Minister in accordance with section 34B.

**authorise** includes direct and permit.

**bull** includes ox, bullock, steer, cow, heifer and calf.

**bull-fight** includes any exhibition, spectacle or display (whether or not conducted for the purpose of gain) in which a person:

- (a) commits an act of cruelty upon a bull,
- (b) teases a bull, or does any other thing in relation to a bull, in a manner that is likely to cause the bull to fight or to suffer pain or injury, or
- (c) attempts to do any of the things mentioned in paragraph (a) or (b),

whether or not for the purpose of causing the bull to fight.

**cage** includes a pit, pen, kennel, hutch and any other similar receptacle.

**cat** means an animal which is a member of the family Felidae.

**charitable organisation** means a charity (within the meaning of the *Charities Act 2013*).

**confine**, in relation to an animal, includes:

- (a) keep the animal in captivity by means of a cage or by any other means,
- (b) pinion, mutilate or maim the animal for the purpose of hindering, impeding or preventing the freedom of movement of the animal,
- (c) subject the animal to a device or contrivance for the purpose of hindering, impeding or preventing the freedom of movement of the animal, and
- (d) tether the animal by means of a rope, chain or cord or by any other means.

**court** means a court (within the meaning of the *Judiciary Act 1903*).

**Department** means the Department of Industry.

**dog** includes a bitch and a puppy.

**domestic animal** means an animal which is tame or which has been, or is being, sufficiently tamed to serve some purpose for the use of human beings, or which, although it neither has been nor is being nor is intended to be so tamed, is or has become in fact wholly or partly tame.

**function** includes a power, authority or duty, and **exercise** a function includes perform a duty.

**horse** includes a stallion, gelding, mare, colt, filly, foal, pony, mule, donkey, ass and jenny.

**officer means:**

- (a) a member of the police force;

(b) an officer of an approved charitable organisation who is appointed by the Minister as an officer for the purposes of this Act; or

(c) a person who is:

(i) an employee of an Agency (within the meaning of the *Public Service Act 1999*);

(ii) an officer or employee of a State or Territory;

(iii) an officer or employee of an agency or authority of the Commonwealth, a State or a Territory; or

(iv) engaged as a consultant, contractor or employed by a consultant or contractor to perform services for the Department;

and is appointed to enforce this Act.

**owner** includes a joint owner.

**pain** includes suffering and distress.

**person in charge**, in relation to an animal, includes:

(a) the owner of the animal,

(b) a person who has the animal in the person's possession or custody, or under the person's care, control or supervision,

(c) where a person referred to in paragraph (b) is bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal, that servant or agent, as the case may be, and

(d) where the animal, being a stock animal, is confined in a sale-yard:

(i) the owner of the sale-yard, or

(ii) where the sale-yard is the subject of a lease, the lessee of the sale-yard.

**pinion**, in relation to an animal, means cut off the pinion of a wing of a bird or otherwise disable the wing or wings of a bird.

**premises** means any place which is not a public place.

**public place** means any place, including any road, to which the public has its own right to resort.

**regulation** means a regulation made under this Act.

**sale-yard** means any premises or public place used or established for use wholly or partly for the sale of stock animals.

**Secretary** means the Secretary of the Department.

**stock animal** means an animal which belongs to the class of animals comprising cattle, horses, sheep, goats, deer, pigs, poultry and any other species of animal prescribed for the purposes of this definition.

**veterinary practitioner** means a person who, by State or Territory law, is registered or licenced to act as a veterinarian.

**veterinary treatment**, in relation to an animal, means:

- (a) medical treatment of a prophylactic or therapeutic nature carried out upon the animal by, or in accordance with directions given in respect of the animal by, a veterinary practitioner, or
- (b) surgical treatment of a prophylactic or therapeutic nature, or sterilisation, carried out upon the animal by a veterinary practitioner, or
- (c) a veterinary diagnostic procedure carried out on the animal by a veterinary practitioner, or
- (d) a veterinary consultation undertaken in respect of the animal by a veterinary practitioner.

2) For the purposes of this Act, a reference to an act of cruelty committed upon an animal includes a reference to any act or omission as a consequence of which the animal is unreasonably, unnecessarily or unjustifiably:

- (a) beaten, kicked, killed, wounded, pinioned, mutilated, maimed, abused, tormented, tortured, terrified or infuriated,
- (b) over-loaded, over-worked, over-driven, over-ridden or over-used,
- (c) exposed to excessive heat or excessive cold, or
- (d) inflicted with pain.

(2A) For the purposes of subsection (2) (a), the pinioning of a bird is not an act of cruelty if it is carried out in the manner prescribed by the regulations.

(3) For the purposes of this Act, a person commits an act of aggravated cruelty upon an animal if the person commits an act of cruelty upon the animal or (being the person in charge of the animal) contravenes section 5 (3) in a way which results in:

- (a) the death, deformity or serious disablement of the animal, or
- (b) the animal being so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive.

(4) Notes included in this Act do not form part of this Act.

## **Part 2 Offences**

### **5 Cruelty to animals**

- (1) A person shall not commit an act of cruelty upon an animal.
- (2) A person in charge of an animal shall not authorise the commission of an act of cruelty upon the animal.
- (3) A person in charge of an animal shall not fail at any time:
  - (a) to exercise reasonable care, control or supervision of an animal to prevent the commission of an act of cruelty upon the animal,
  - (b) where pain is being inflicted upon the animal, to take such reasonable steps as are necessary to alleviate the pain, or
  - (c) where it is necessary for the animal to be provided with veterinary treatment, whether or not over a period of time, to provide it with that treatment.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

### **6 Aggravated cruelty to animals**

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

Penalty: 1,000 penalty units in the case of a corporation and 200 penalty units or imprisonment for 2 years, or both, in the case of an individual.

- (2) In any proceedings for an offence against subsection (1), the court may:
  - (a) where it is not satisfied that the person accused of the offence is guilty of the offence, and
  - (b) where it is satisfied that that person is guilty of an offence against section 5 (1),

convict that person of an offence against section 5 (1).

### **7 Carriage and conveyance of animals**

- (1) A person shall not:
  - (a) carry or convey an animal, or

(b) where the person is a person in charge of an animal—authorise the carriage or conveyance of the animal,

in a manner which unreasonably, unnecessarily or unjustifiably inflicts pain upon the animal.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2) Without limiting the generality of subsection (1), a person shall not:

(a) carry or convey a horse on a multi-deck vehicle, or

(b) where the person is a person in charge of the horse—authorise the carriage or conveyance of a horse on a multi-deck vehicle.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2A) Without limiting subsection (1), a person must not carry or convey a dog (other than a dog being used to work livestock), on the open back of a moving vehicle on a public street unless the dog is restrained or enclosed in such a way as to prevent the dog falling from the vehicle.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

(3) In this section:

*multi-deck vehicle* means a motor vehicle or a trailer drawn by a motor vehicle that:

(a) is used to carry or convey animals, and

(b) on which animals are carried or conveyed in two or more layered sections.

## **8 Animals to be provided with food, drink or shelter**

(1) A person in charge of an animal shall not fail to provide the animal with food, drink or shelter, or any of them, which, in each case, is proper and sufficient and which it is reasonably practicable in the circumstances for the person to provide.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

## **9 Confined animals to be exercised**

(1) A person in charge of an animal which is confined shall not fail to provide the animal with adequate exercise.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(1A) Subsection (1) does not apply to a person in charge of an animal if the animal is:

- (a) a stock animal other than a horse, or
- (b) an animal of a species which is usually kept in captivity by means of a cage.

(3) A person in charge of an animal (other than a stock animal) shall not confine the animal in a cage of which the height, length or breadth is insufficient to allow the animal a reasonable opportunity for adequate exercise.

Penalty: 250 penalty units in the case of a corporation or 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(4) In any proceedings for an offence against subsection (3) in respect of an animal, the person accused of the offence is not guilty of the offence if the person satisfies the court that the person confined the animal:

- (a) for the purpose of:
  - (i) carrying or conveying the animal, or
  - (ii) displaying the animal in a public exhibition or public competition,  
in a manner that inflicted no unnecessary pain upon the animal, and

## **10 Tethering of animals**

(1) A person shall not:

- (a) tether an animal, or
- (b) where the person is a person in charge of an animal—authorise the tethering of the animal,

for an unreasonable length of time or by means of an unreasonably heavy, or unreasonably short, tether.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2) A person must not tether a sow in a piggery.

Penalty: 250 penalty units in the case of a corporation or 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(3) A person must not confine a bird by means of a tether.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(4) It is a defence to a prosecution for an offence against subsection (3) if the defendant satisfies the court that the bird to which the offence relates was a raptor and that the tether involved was a jess that was used solely to tether the bird to its handler.

## **11 Animals not to be abandoned**

A person shall not abandon an animal.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

## **12 Certain procedures not to be performed on animals**

(1) A person shall not:

- (a) dock the tail of a horse, bull, ox, bullock, steer, cow, heifer, calf or dog,
- (b) crop the ears of a dog,
- (c) operate upon a dog for the purpose of preventing the dog from being able to bark,
- (d) remove one or more of the claws of a cat,
- (e) grind, trim or clip one or more teeth of a sheep,
- (f) perform a clitoridectomy on a greyhound, or
- (g) fire or hot iron brand the face of an animal.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2) A person is not guilty of an offence against this section if the court is satisfied that the procedure comprising the alleged offence:

- (a) was:
  - (i) docking the tail of a cow, heifer or female calf,

- (ii) operating upon a dog for the purpose of preventing the dog from being able to bark,
- (iv) grinding, trimming or clipping one or more teeth of a sheep,
- (vi) firing or hot iron branding the face of an animal,

by a veterinary practitioner, and the procedure was performed in the prescribed circumstances and in accordance with any conditions specified in the regulations.

(2A) A person is not guilty of an offence against this section if the court is satisfied that the procedure comprising the alleged offence was the docking of the tail of a dog, was performed by a veterinary practitioner and was in the interests of the dog's welfare.

(3) In this section:

*clip* the tooth of a sheep means breaking off the crown of a tooth with pliers or another tool or implement.

*dock* the tail of an animal means to remove all or part of the tail of the animal (other than a part of the tail consisting only of fur, hair, feathers or the like) whether by surgical or other means.

*grind* the tooth of a sheep means grinding down a tooth with an electric angle grinder or another tool or implement.

*trim* the tooth of a sheep means cutting off a tooth with an abrasive disc or another tool or implement.

## **12A Registers relating to certain procedures**

(1) A veterinary practitioner who carries out a procedure referred to in section 12 (1) shall, not later than 7 days after carrying out the procedure, enter the prescribed particulars of the procedure in a register kept in the prescribed form by the veterinary practitioner or the employer of the veterinary practitioner.

Penalty: 50 penalty units.

(2) A register containing the prescribed particulars of a procedure shall be kept by:

(a) the veterinary practitioner or former veterinary practitioner who carried out the procedure, or

(b) if the veterinary practitioner who carried out the procedure did so in the course of employment by another person, by that employer or former employer,

for a period of not less than 2 years after the procedure is carried out.

Penalty: 50 penalty units.

### **13 Certain animals not to be ridden etc**

A person shall not:

- (a) ride, drive, use, carry or convey an animal, or
- (b) where the person is a person in charge of an animal—authorise the riding, driving, using, carrying or conveying of the animal,

if the animal is unfit for the purpose of its being so ridden, driven, used, carried or conveyed.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(3) A person shall, at the request of an officer, make available for inspection by the officer any register required to be kept by the person under this section.

Penalty: 50 penalty units.

(4) Nothing in subsection (3) limits the powers of an officer under section 24G.

### **14 Injuries to animals to be reported**

The driver of a vehicle which strikes and injures an animal shall not fail:

- (a) where, in consequence of the injury, pain has been inflicted upon the animal—to take reasonable steps to alleviate the pain, and
- (b) where that driver believes, or ought reasonably to believe, that the animal is a domestic animal—to inform, as soon as practicable, an officer or a person in charge of the animal that the animal has been injured.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

### **15 Poisons not to be administered to animals**

(1) In this section, *poison* includes:

(a) a substance included in the list, as in force for the time being, proclaimed under Schedule 8 of the Poisons Standard (or a substance that includes such a substance), or

(b) a substance containing glass or any other thing likely to kill or injure an animal.

(2) A person shall not:

(a) administer a poison, or a substance containing a poison, to a domestic animal,

(b) with the intention of destroying or injuring a domestic animal, throw, cast, drop, leave or lay a poison, or a substance containing a poison, in any place, or

(c) have in his or her possession a poison with the intention of using it to kill or injure a domestic animal.

Penalty: 1,000 penalty units in the case of a corporation and 200 penalty units or imprisonment for 2 years, or both, in the case of an individual.

## **16 Certain electrical devices not to be used upon animals**

(1) In this section:

*electrical device* means a device of a type prescribed by the regulations.

*sell* includes:

(a) auction or exchange,

(b) offer, expose, supply or receive for sale, and

(c) send, forward or deliver for sale or on sale.

(2) A person shall not:

(a) use an electrical device upon an animal,

(b) sell any electrical device, or

(c) have in his or her possession or custody any electrical device.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(3) Nothing in subsection (2) prevents a person from:

- (a) using an electrical device upon an animal belonging to a prescribed species, or
- (b) selling or having in his or her possession or custody an electrical device for use upon an animal belonging to a prescribed species.

## **17 Certain spurs etc or implements designed for fighting not to be kept**

A person shall not have in his or her possession or custody:

- (a) any spur, or any other similar appliance, which has sharpened rowels, or
- (b) any article, implement or other thing made or adapted, or intended by the person to be used, for attachment to an animal for the purpose of:
  - (i) training the animal to fight another animal, or
  - (ii) increasing the ability of the animal to inflict injury on another animal during fighting.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

## **18 Animal baiting and fighting prohibited**

(1) A person shall not:

- (a) use any place, or manage or control any place which is used,
- (b) authorise any place to be used, or
- (c) receive money for the admission of another person to any place which is used,

for the purpose of conducting a bull-fight, baiting an animal or causing an animal to fight.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2) A person must not:

- (a) cause, procure, permit, encourage or incite a fight in which one or more animals are pitted against another animal or animals, whether of the same species or not, or

- (b) advertise the intention to conduct such a fight, or
- (c) promote, organise or attend such a fight.

Penalty: 250 penalty units in the case of a corporation or 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(3) In any proceedings under subsection (2), evidence that the defendant was present at a place at which a fight of the kind referred to in that subsection was being conducted is prima facie evidence that the defendant attended the fight.

### **19A Game parks prohibited**

(1) In this section:

*animal* does not include a reptile, amphibian or fish.

*game park* means premises within the boundaries of which:

- (a) animals are confined, and
- (b) the taking or killing of those animals as a sport or recreation is permitted by virtue of the payment of an admission fee or the giving of other consideration.

*take*, in relation to any animal, includes hunt, shoot, poison, net, snare, spear, pursue, capture and injure the animal.

(2) A person shall not:

- (a) use any premises, or manage or control any premises which are used,
- (b) authorise any premises to be used, or
- (c) receive money or any other consideration for the admission of another person to any premises which are used,

for the purposes of a game park.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(3) A person admitted to a game park by virtue of the payment of an admission fee or the giving of other consideration shall not take or kill any animal in the game park.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(4) Nothing in this section applies to:

- (a) such animals, or
- (b) the taking or killing of animals in such circumstances by such persons or in or on such premises,

as may be prescribed for the purposes of this section.

## **22 Certain animal-catching activities prohibited**

A person shall not advertise, promote or take part in a match, competition or other activity in which an animal is released from confinement for the purpose of that person, or any other person, chasing, catching or confining it.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

## **21 Live baiting, coursing and other similar activities prohibited**

(1) A person who:

- (a) causes, procures, permits or encourages an activity in which an animal is released from confinement for the purpose of its being chased, caught or confined by a dog, or
- (b) advertises the intention to conduct such an activity, or
- (c) promotes, organises or attends such an activity, or
- (d) uses an animal as a lure or kill for the purpose of blooding greyhounds or in connection with the trialing, training or racing of any coursing dog, or
- (e) keeps or is in charge of an animal for use as a lure or kill for the purpose of blooding greyhounds or in connection with the trialing, training or racing of any coursing dog,

is guilty of an offence.

Penalty: 1,000 penalty units in the case of a corporation or 200 penalty units or imprisonment for 2 years, or both, in the case of an individual.

(2) In any proceedings under subsection (1), evidence in writing by a veterinary practitioner that an animal was alive at the time of its attack by a dog is prima facie evidence that the animal was alive at the time of that attack.

(2A) In any proceedings under subsection (1) (c), evidence that the defendant was present at a place at which an activity of the kind referred to in that subsection was being conducted is prima facie evidence that the defendant attended the activity.

(2B) In any proceedings under subsection (1) (d), evidence that the defendant was in charge or in possession of an animal that appeared to have been used as a lure or kill in the manner referred to in that subsection is prima facie evidence that the defendant used the animal as a lure or kill in that manner.

(2C) In any proceedings under subsection (1) (e), evidence that the defendant was in charge of an animal of a species prescribed by the regulations at a place used for the trialing, training or racing of any coursing dog is prima facie evidence that the defendant kept or was in charge of an animal for use as a lure or kill for the purpose referred to in that subsection.

(2D) For the purposes of subsections (1) (d) and (2B), *animal* includes the carcass, or the skin or any other part, of an animal.

(3) It is a defence to any proceedings for an offence against subsection (1) if the defendant shows that the act constituting the alleged offence was done by the defendant in the course of, and for the purpose of:

(a) mustering stock, the working of stock in yards or any other animal husbandry activity, or

(b) sheep dog trials.

(4) For the removal of doubt, section 24 (1) (b) (i), in its application to this section, includes hunting, shooting, snaring, trapping, catching or capturing an animal by using a dog, but only in a manner that inflicted no unnecessary pain on the animal.

## **21A Firing prohibited**

A person who applies a thermal stimulus (such as hot wires) to the leg of an animal with the intention of causing tissue damage and the development of scar tissue around tendons and ligaments of the leg is guilty of an offence.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

## **21B Tail nicking prohibited**

A person who cuts the tail of a horse with the intention of causing the horse to carry the tail high is guilty of an offence.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

### **21C Steeplechasing and hurdle racing prohibited**

A person who organises or participates in a steeplechase or hurdle race is guilty of an offence.

Penalty: 250 penalty units in the case of a corporation or 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

### **22 Severely injured animals not to be sold**

(1) Subject to subsection (2), a person shall not purchase, acquire, keep or sell, or offer or expose for sale, an animal which is so severely injured, so diseased or in such a condition that it is cruel to keep it alive.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2) In any proceedings for an offence against subsection (1), the person accused of the offence is not guilty of the offence if the person satisfies the court that the person purchased, acquired, kept or sold, or offered or exposed for sale, the animal referred to in that subsection for the purpose of causing it to be promptly destroyed.

(3) Where a person purchases or acquires an animal for the purpose of causing the animal to be promptly destroyed, the person shall cause it to be promptly destroyed in a manner that causes it to die quickly and without unnecessary pain.

Maximum penalty (subsection (3)): 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

### **23 Certain traps not to be set**

(1) A person shall not, in a prescribed part of the Commonwealth, set a trap of a prescribed type.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2) A person must not:

- (a) in any part of the Commonwealth, set a steel-jawed trap, or

(b) possess a steel-jawed trap with the intention of using it to trap an animal.

Penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(3) In this section:

*steel-jawed trap* means a trap that has jaws that are made of steel, iron or other metal and that are designed to spring together and trap an animal when a leg or other part of the animal's body comes into contact with, or is placed between, the jaws, but does not include a soft-jawed trap (that is, a trap with steel jaws that are offset and padded).

## 24 Certain defences

(1) In any proceedings for an offence against this Part or the regulations in respect of an animal, the person accused of the offence is not guilty of the offence if the person satisfies the court that the act or omission in respect of which the proceedings are being taken was done, authorised to be done or omitted to be done by that person:

(a) where, at the time when the offence is alleged to have been committed, the animal was:

(i) a stock animal—in the course of, and for the purpose of, ear-marking or ear-tagging the animal or branding, other than firing or hot iron branding of the face of, the animal,

(ii) a pig of less than 2 months of age or a stock animal of less than 6 months of age which belongs to a class of animals comprising cattle, sheep or goats—in the course of, and for the purpose of, castrating the animal,

(iii) a goat of less than 1 month of age or a stock animal of less than 12 months of age which belongs to the class of animal comprising cattle—in the course of, and for the purpose of, dehorning the animal,

(iv) a sheep of less than 6 months of age—in the course of, and for the purpose of, tailing the animal, or

(v) a sheep of less than 12 months of age—in the course of, and for the purpose of, performing the Mules operation upon the animal,

in a manner that inflicted no unnecessary pain upon the animal,

(b) in the course of, and for the purpose of:

(i) hunting, shooting, snaring, trapping, catching or capturing the animal, or

(ii) destroying the animal, or preparing the animal for destruction, for the purpose of producing food for human consumption,

in a manner that inflicted no unnecessary pain upon the animal,

(c) in the course of, and for the purpose of, destroying the animal, or preparing the animal for destruction:

(i) in accordance with the precepts of the Jewish religion or of any other religion prescribed for the purposes of this subparagraph, or

(ii) in compliance with any duty imposed upon that person by or under this or any other Act,

(e) in the course of, and for the purpose of:

(i) carrying out animal research, or

(ii) supplying animals for use in connection with animal research,

(f) for the purpose of feeding a predatory animal lawfully kept by the person if:

(i) the act concerned was the release of live prey for the predatory animal, and

(ii) the diet of the predatory animal included animals of the kind released, and

(iii) the person believed on reasonable grounds that the feeding of live prey to the predatory animal was necessary for the predatory animal's survival because the predatory animal would not eat a dead animal or meat from a dead animal.

(2) Subsection (1) (b) does not apply to a person accused of an offence against section 19A.

## **Division 1 Powers of officers generally**

### **24A Officers may demand name and address**

(1) An officer who finds a person:

(a) who is committing an offence against this Act or the regulations,  
or

(b) whom the officer suspects, on reasonable grounds, of having  
committed or attempted to commit such an offence, or

(c) who is in charge of a vehicle or vessel that the officer suspects, on  
reasonable grounds, to have been instrumental in the commission of  
an offence against this Act or the regulations,

may require that person to inform the officer immediately of that person's full name  
and home address.

(2) A person must not fail to comply with a requirement made by an officer under  
subsection (1).

Penalty: 25 penalty units.

(3) A person is not guilty of an offence under this section unless the officer:

(a) warned the person that failure to comply with the requirement is  
an offence, and

(b) identified himself or herself to the person as an officer.

(4) An officer may request a person who is required to give information under  
subsection (1) to provide proof of that information.

### **24B Officer may require responsible person for vehicle to disclose identity of driver who commits offence**

(1) If the driver of a motor vehicle is alleged to have committed an offence against  
this Act or the regulations in the course of driving the vehicle:

(a) the responsible person for the vehicle, or the person having the  
custody of the vehicle, must, when required to do so by an officer,  
immediately give information (which must, if so required, be given in  
the form of a written statement signed by that person) as to the name  
and home address of the driver, and

(b) any other person must, if required to do so by an officer, give any information that it is in the person's power to give and that may lead to the identification of the driver.

Penalty: 20 penalty units.

(2) It is a defence to a prosecution for an offence under subsection (1) (a) if the defendant proves to the satisfaction of the court that he or she did not know and could not with reasonable diligence have ascertained the driver's name and home address.

(3) A written statement:

(a) purporting to be given under subsection (1) (a) and to contain particulars of the name and home address of the driver of a motor vehicle at the time of commission of an alleged offence against this Act or the regulations, and

(b) produced in any court in proceedings against the person named in the statement as the driver for such an offence,

is evidence without proof of signature that the person was the driver of the vehicle at the time of the alleged offence if the person does not appear before the court.

#### **24C Supplying officer's details and giving warnings**

(1) An officer is required, in relation to the exercise of a power conferred on the officer by this Part, to provide the person who is subject to the exercise of the power with the following:

(a) evidence that the officer is an officer,

(b) the name of the officer,

(c) the reason for the exercise of the power,

(d) a warning that failure or refusal to comply with a request of the officer, in the exercise of the power, may be an offence.

(2) An officer is to take the action required by subsection (1) before or at the time of exercising the power concerned or, if to take the action at that time is not reasonably practicable, as soon as is reasonably practicable after exercising the power.

(3) If 2 or more officers are exercising a power to enter land, only one officer present is required to comply with this section.

(4) However, if a person asks another officer present for information as to the name of the officer, the officer must give to the person the information requested.



## Division 2 Powers of inspectors

### 24D Definitions and application of Division

(1) In this Division:

*inspector* means:

- (a) an officer who is the holder of an authority issued under subsection (2) that is in force, or
- (b) a police officer, or

*land* includes premises or a vehicle, vessel or aircraft.

(2) The Minister, or the Secretary or a Deputy Secretary of the Department, may issue an officer with an authority for the purposes of this Division and may revoke any such authority.

### 24E Power to enter land

(1) An inspector may enter land for the purpose of exercising any function under this Division.

(2) Despite subsection (1), an inspector may exercise a power under this Division to enter a dwelling only with the consent of the occupier of the dwelling, the authority of a search warrant or if the inspector believes on reasonable grounds that:

- (a) an animal has suffered significant physical injury, is in imminent danger of suffering significant physical injury or has a life threatening condition that requires immediate veterinary treatment, and
- (b) it is necessary to exercise the power to prevent further physical injury or to prevent significant physical injury to the animal or to ensure that it is provided with veterinary treatment.

### 24F Search warrant

(1) In this section:

*authorised officer* means an officer who, by State, Territory or Federal law, has the power to authorise a search warrant.

(2) An inspector may apply to an authorised officer for a search warrant if the inspector has reasonable grounds for believing that there is, in or on any land:

(a) an animal in respect of which an offence against this Act or the regulations is being or has been committed or is about to be committed, or

(b) evidence of an offence against this Act or the regulations that has been committed.

(3) An authorised officer to whom an application is made under subsection (2) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant, together with any person so named:

(a) to enter and search the land, and

(b) to exercise any functions of an inspector under this Division in or on the land.

#### **24G Powers of inspectors in relation to land used for certain commercial purposes**

(1) This section applies to the following land:

(a) land used for the purpose of a sale-yard or an animal trade,

(b) land in or on which an animal is being used, or kept for use, in connection with any other trade, or any business or profession (including a place used by a veterinary practitioner for the purpose of carrying on his or her profession),

(c) land in or on which a greyhound is being kept, trialled, trained or raced.

(2) For the purposes of ensuring that the provisions of this Act or the regulations are not being contravened, an inspector may, in relation to land to which this section applies, do any or all of the following:

(a) inspect and examine the land, any animal that is in or on the land and any accommodation or shelter that is provided in or on the land for any animal,

(a1) take such photographs, films, audio, video and other recordings as the inspector considers necessary,

(b) inspect and examine any register that is kept under this Act or the regulations and that is in or on the land,

(c) require any person found in or on the land to produce any such register,

(d) take copies of, or extracts or notes from, any such register.

(3) A person must not fail to comply with a requirement made by an inspector under subsection (2) (c).

Maximum penalty (subsection (3)): 25 penalty units.

#### **24H Powers of police officers to detain vehicle or vessel**

(1) If a police officer suspects on reasonable grounds that a vehicle or vessel contains an animal in respect of which an offence against section 5, 6, 7 or 8 has been or is being committed and that the animal is in distress the police officer may:

(a) stop the vehicle or vessel, and

(b) enter the vehicle or vessel, and

(c) enter any land for the purpose of entering the vehicle or vessel, and

(d) examine the animal.

(2) For the purpose of entering the vehicle or vessel or examining the animal concerned, the police officer may direct the person operating the vehicle or vessel to do any or all of the following:

(a) to manoeuvre the vehicle or vessel in a specified manner or to a specified place (including a place that is appropriate for examining the animal concerned),

(b) to park or secure the vehicle or vessel in a specified manner,

(c) to remain in control of the vehicle or vessel while the police officer is exercising his or her functions.

(3) A person must not fail to comply with a direction given to the person under this section.

Penalty: 25 penalty units.

(4) A direction under this section to stop a vehicle or vessel must be made in a manner prescribed by the regulations by a police officer who is identified in a manner so prescribed.

(5) For the purposes of subsection (1), an animal is in distress if it is suffering from exposure to the elements, debility, exhaustion or significant physical injury.

## **24I Powers of inspectors generally to examine animals**

An inspector may examine an animal if the inspector suspects, on reasonable grounds, that:

- (a) an offence against this Act or the regulations is being, has been or is about to be committed in respect of the animal, or
- (b) the animal has not been provided with proper and sufficient food or drink during the previous 24 hours (or, in the case of the provision of food to an animal of a class prescribed by the regulations, during the period prescribed for that class of animal) and is still not being provided with that food or drink, or
- (c) the animal is so severely injured, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment and the animal is not being provided with that treatment, or
- (d) the animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive, and 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.

## **24J Powers of inspectors in relation to care of animals**

(1) If, after examining an animal in accordance with this Division, an inspector suspects, on reasonable grounds, that the animal is in distress (as referred to in section 24H (5)) or any of the circumstances referred to in section 24I exist in relation to the animal, the inspector may do any or all of the following:

- (a) take possession of the animal (or, if the animal is dead, the animal's carcass),
- (b) if appropriate, remove the animal (or carcass) to such place as the inspector thinks fit,
- (c) retain possession of the animal (or carcass),
- (d) provide the animal with necessary food, drink or veterinary treatment,
- (e) destroy the animal in a manner that causes it to die quickly and without unnecessary pain.

(2) An animal (or carcass) to which section 24I (a) applies may be retained by an inspector for a period not exceeding 60 days or where, within that 60-day period

proceedings are commenced in respect of the offence concerned, until the proceedings are finally determined (unless the court otherwise directs).

(3) Despite subsection (2), an animal retained under this section that is in distress or to which section 24I (b), (c) or (d) applies may be retained for such period of time as is sufficient for the animal to be provided with necessary food, drink or veterinary treatment, or to be destroyed in a manner that causes it to die quickly and without unnecessary pain, as the case requires.

(4) The reasonable expenses incurred by an officer in the exercise of the powers conferred by this section in respect of an animal, or in complying with the related duties imposed by this Act or the regulations, may be recovered from the owner of the animal as a debt in a court of competent jurisdiction by the officer

#### **24K Power of seizure of evidence of offences**

(1) An inspector who is lawfully on any land investigating a suspected commission of an offence against this Act or the regulations may seize any thing that will afford evidence of the commission of the offence.

(2) An inspector who seizes a thing under this section must provide the occupier of the land with a receipt acknowledging the seizure of the thing if the occupier is present and it is reasonably practical to do so.

(3) If an inspector seizes a thing under this section, it may be retained by the inspector until the completion of any proceedings (including proceedings on appeal) in which it may be tendered in evidence.

(4) However, an inspector may retain seized documents under subsection (3) only if the person from whom the documents were seized is provided, within a reasonable time after the seizure, with a copy of the documents certified by an inspector to be a true copy.

(5) Subsection (3) ceases to have effect in relation to any thing seized if, on the application of the person aggrieved by the seizure, the court in which the proceedings referred to in that subsection are instituted orders the inspector to return the thing seized.

#### **24L Period for search limited**

(1) An inspector who enters land under this Division must not remain on the land any longer than is reasonably necessary to achieve the purpose for which the land was entered.

(2) A police officer who detains a vehicle or vessel under this Division must not detain the vehicle or vessel any longer than is reasonably necessary to achieve the purpose for which it is detained.

#### **24M Inspectors may be assisted in exercising powers**

An inspector may exercise a power conferred by this Division:

- (a) in a place other than residential premises—in the company and with the aid of such assistants as the inspector considers necessary, or
- (b) in residential premises—in the company and with the aid of such assistants, being persons of a class prescribed by the regulations, as the inspector considers necessary.

#### **24N Notices in relation to animals**

(1) If an inspector is satisfied on reasonable grounds that a person is contravening a provision of this Act or the regulations in relation to an animal, the inspector may give the person a notice in writing requiring the person to take such specified action in relation to the animal as the inspector considers necessary to avoid any further contravention.

(2) A person who, without reasonable excuse, fails to comply with a notice is guilty of an offence.

Penalty: 25 penalty units.

(3) A person cannot be convicted for both an offence against this section and another offence under this Act or the regulations in respect of the same act or omission.

#### **24NA Power to question persons**

(1) An inspector may require a person whom the inspector suspects on reasonable grounds to have knowledge of matters in respect of which information is reasonably required for the purposes of:

- (a) exercising the powers of an inspector under this Division, or
- (b) determining whether there has been a contravention of this Act or the regulations,

to answer questions in relation to those matters.

(2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement made of the person under this section.

Penalty: 25 penalty units.

(3) A person must not furnish any information or do any other thing in purported compliance with a requirement made under this section knowing that it is false or misleading in a material respect.

Penalty: 25 penalty units.

## **Part 2B Power of Secretary to authorise seizure and disposal of stock animals**

### **24O Application and interpretation**

- (1) This Part applies only in relation to a stock animal
- (2) In this Part, a reference to an animal is taken to be a reference only to a stock animal referred to in subsection (1).
- (3) For the purposes of this Part, an animal is in distress if it is suffering from exposure to the elements, debility, exhaustion or significant physical injury.
- (4) In this Part:

*inspector* means an inspector within the meaning of Division 2 of Part 2A.

*official warning*—see section 24P.

*Stock Welfare Panel* or *Panel* means a Stock Welfare Panel constituted in accordance with section 24T.

### **24P Official warning of intention to authorise seizure and disposal of stock animals**

- (1) The Secretary may issue an official warning in respect of an animal if the Secretary suspects, on reasonable grounds, that the animal is in distress, or is likely to become distressed, because it has not been provided with necessary veterinary treatment, or proper and sufficient food, drink or shelter.
- (2) An *official warning* is a written notice, to the owner or person in charge of the animal, that the Secretary intends to authorise the seizure and disposal of the animal if the action required to be taken by the notice in relation to the animal's welfare is not taken within the period required by the notice.
- (3) Before issuing an official warning, the Secretary must:
  - (a) constitute a Stock Welfare Panel to assess, and report to the Secretary on, the state of and appropriate care for the animal and any other matter concerning its welfare that the Secretary considers appropriate, and
  - (b) consider the Panel's report.
- (4) If the Secretary issues an official warning, the Panel is to:

- (a) monitor compliance with the official warning, and
  - (b) on the expiry of the period for compliance required by the official warning, assess, and report to the Secretary on, compliance with the official warning, and appropriate action to be taken in relation to the animal.
- (5) An inspector may, for the purpose of assisting the Panel in the exercise of its functions under this section:
  - (a) enter any land on which the animal is kept, and
  - (b) examine the animal.
- (6) The Secretary may, by further written notice to the owner or person in charge of an animal:
  - (a) revoke an official warning, or
  - (b) extend the period for compliance with an official warning.
- (7) A single official warning may be issued in respect of more than one animal.

#### **24Q Seizure and disposal of stock animals**

- (1) The Secretary may, by order in writing, authorise an inspector to seize and dispose of an animal (by way of sale or otherwise) if, after considering the Panel's report on compliance with an official warning, the Secretary is satisfied:
  - (a) that the action required to be taken by the official warning in relation to the animal's welfare has not been taken, and
  - (b) that the animal remains in distress or likely to become distressed.
- (2) An inspector authorised to seize and dispose of an animal under this section may:
  - (a) enter any land on which the animal is kept, and
  - (b) seize and dispose of the animal in accordance with the authorisation.
- (3) The inspector must:
  - (a) produce to the owner or person in charge of the animal a copy of the order authorising the seizure and disposal, if requested to do so, and
  - (b) provide the owner or person in charge of the animal with a receipt acknowledging seizure of the animal, if the owner or person is present and it is reasonably practical to do so.

(4) Compensation is not recoverable against any person in respect of the seizure or disposal of an animal in accordance with this section.

(5) An animal may not be sold or otherwise disposed of under this section if:

(a) any proceedings in respect of the animal for an offence against this Act or the regulations have been commenced but have not been finally determined, or

(b) an order has been made by a court under section 30 or 31 in respect of the destruction or other disposal of the animal.

(6) A single order may be made under this section in respect of more than one animal.

(7) Section 31A does not apply to a sale of an animal under this section.

#### **24R Recovery of costs of seizure and disposal**

(1) An inspector may certify the costs and expenses incurred by an enforcement authority in connection with the seizure, keeping and sale or other disposal of an animal under section 24Q (the *certified disposal costs*).

(2) A single certificate may be issued in respect of more than one animal.

(3) The proceeds of any sale of an animal under section 24Q are to be applied towards the certified disposal costs.

(4) The balance (if any) of the proceeds of sale is to be paid to the former owner of the animal.

(5) The certified disposal costs or the balance of the certified disposal costs after applying the proceeds of sale are recoverable in a court of competent jurisdiction by a person acting on behalf of the enforcement authority as a debt payable to the enforcement authority.

(6) The Secretary may authorise a person or class of persons to act on behalf of the Crown under this section.

(7) In this section, *enforcement authority* means:

(a) in the case of an animal seized by an officer of an approved charitable organisation, the charitable organisation, or

(b) in any other case, the Crown.

#### **24S Purchaser acquires good title**

If an animal is sold under section 24Q:

- (a) the purchaser acquires a good title to the animal, and
- (b) the interest of the former owner or any other person who had an interest in the animal is extinguished.

#### **24T Stock Welfare Panels**

(1) A Stock Welfare Panel is to consist of the following members:

- (a) an inspector,
- (b) at least one person employed in the Department with expertise in animal welfare or livestock management,
- (c) at least one person with expertise in animal welfare or livestock management,
- (d) such other person or persons as the regulations may prescribe.

(2) The procedure of a Panel is to be as determined by the Secretary.

#### **24U Exclusion of personal liability**

Anything done or omitted to be done by the Secretary, a member of a Stock Welfare Panel or an inspector in exercising the functions conferred or imposed under this Part does not, if the thing was done or omitted to be done in good faith, subject the Secretary, member or inspector personally to any action, liability, claim or demand.

#### **24V Powers conferred on inspectors**

(1) Sections 24C, 24E (2), 24L and 24M apply in relation to the powers conferred on inspectors by this Part in the same way as they apply in relation to powers conferred by Part 2A.

(2) An inspector who has entered land under a power conferred by this Part may exercise a power conferred by Part 2A.

## **Part 3 Miscellaneous**

### **25 Powers of veterinary practitioners to destroy animals**

(1) Where, in the opinion of a veterinary practitioner:

(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 upon the animal,

the veterinary practitioner may:

(c) take possession of the animal,

(d) remove the animal to such place as the veterinary practitioner 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 costs incurred by a veterinary practitioner in the exercise of the powers conferred upon the veterinary practitioner 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 by the veterinary practitioner.

### **25B Power of sale-yard or abattoir managers to destroy animals**

(1) This section applies in respect of an animal in a sale-yard or abattoir that, in the opinion of the manager of the sale-yard or abattoir:

(a) is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive, and

(b) is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain on the animal.

(2) The manager of the sale-yard or abattoir may destroy, or cause to be destroyed, an animal to which this section applies in a manner that causes it to die quickly and without unnecessary pain.

(3) The manager of the sale-yard or abattoir, when destroying an animal in accordance with this section, is taken to have the same powers as an officer has to destroy an animal under this Act.

## **28 Obstruction of persons exercising powers etc**

A person shall not obstruct, hinder or interfere with any other person while that other person is exercising or performing any power, authority, duty or function conferred upon that other person by or under this Act.

Penalty: 50 penalty units.

## **28A Offence of impersonating an authorised officer**

A person must not impersonate, or falsely represent that the person is, an officer.

Penalty: 100 penalty units or imprisonment for 6 months, or both.

## **29 Court may order production of animal**

(1) Upon complaint made on oath by an officer that the officer suspects, on reasonable grounds, that an offence against this Act or the regulations is being, or has been, committed in respect of an animal, a Magistrate may issue a summons against a person in charge of the animal requiring the person to produce the animal, or cause the animal to be produced, before a court specified in the summons, and at a time and date so specified, for the inspection of the court.

(2) A person upon whom a summons issued under subsection (1) is served shall not, without reasonable cause, fail to comply with the summons.

Penalty: 25 penalty units.

## **29A False or misleading entries in registers**

A person shall not knowingly make, or authorise the making of, a false or misleading entry in a register that the person is required to keep or cause to be kept under this Act or the regulations.

Penalty: 50 penalty units.

## **29B False information**

(1) This section applies to the provision of information to an officer in the exercise of a power conferred on the officer by this Part to require the provision of the information.

(2) A person who provides information to which this section applies that the person knows is false or misleading in a material particular is guilty of an offence.

Penalty: 50 penalty units.

(3) A person is not guilty of an offence against this section unless the officer:

(a) warned the person of the requirement to provide information that is not false or misleading, and

(b) identified himself or herself to the person as an officer.

### **29C Court may make order regarding care of animals**

(1) This section applies if:

(a) an officer has located an animal or animals that require urgent maintenance and care, and

(b) the owner of the animal or animals has died or cannot, after reasonable inquiries by the officer, be located, and

(c) so far as the officer can ascertain, after the making of reasonable inquiries, no other person is responsible for the maintenance and care of the animal or animals.

(2) An officer may apply to the court and the court may order, in circumstances to which this section applies, that the officer be permitted to enter and use the facilities of the place on which the animal or animals are located for their immediate maintenance and care, subject to such conditions (if any) that the court may specify.

(4) An order under this section has effect for such period (not exceeding 30 days) that the court orders.

(5) An officer may, before the expiration of an order made under this section, apply to the court for a further order. However, the maximum duration of all orders made by the court in respect of the same animal or animals must not exceed 90 days.

(6) In this section, facilities includes stock-yards and other fixed improvements used for the keeping of livestock or other animals, water and watering equipment and any stock or other feed growing or stored on the place on which the animal or animals are located that is necessary and appropriate for their maintenance and care.

### **30 Court may order destruction of animal**

(1) Where:

(a) the court has convicted a person of an offence against this Act or the regulations in respect of an animal, and

(b) the court is satisfied that the animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive,

the court may:

(c) make an order that the animal be destroyed by such person as is specified in the order, and

(d) where it has made an order under paragraph (c)—make a further order that the person referred to in paragraph (a) pay to the person specified in the order made under paragraph (c) such costs in respect of the destruction of the animal as are specified in that further order.

(2) A person specified in an order made under subsection (1) (c) shall, as soon after that person has been served with the order as is practicable, destroy the animal to which the order relates, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.

(3) Where the court has made an order under subsection (1) (d), the person to whom the costs specified in the order are required by the order to be paid may recover those costs from the person who is required by the order to pay those costs as a debt in a court of competent jurisdiction.

### **30A Court may order payment of care and maintenance costs by accused person**

(1) A court may order a person charged with an offence against this Act or the regulations in respect of an animal to pay to a specified person or organisation the amount specified in the order for any or all reasonable care and maintenance costs incurred by that person or organisation in relation to the animal as a consequence of the offence or alleged offence or in connection with the proceedings. Any such order is a costs order.

(2) For the purposes of this section, reasonable care and maintenance costs are any costs reasonably incurred in doing any of the following:

(a) taking possession of the animal,

(b) transporting the animal,

(c) providing the animal with food and drink,

(d) providing the animal with shelter,

(e) providing the animal with veterinary treatment.

- (3) A costs order can be made:
- (a) at the time that the court convicts the person of the relevant offence, or
  - (b) at any other time before proceedings for the relevant offence have been concluded.
- (4) An amount required to be paid under a costs order is recoverable by the person or organisation in whose favour the order is made, or a person acting on behalf of that person or organisation, as a debt in a court of competent jurisdiction from the person who is required under the costs order to pay that amount.
- (5) If proceedings against a person for an offence against this Act or the regulations have not concluded, a court may, instead of or in addition to making a costs order, order the person to provide a bond or security for the payment of any specified reasonable care and maintenance costs, or any further reasonable care and maintenance costs, that the person may later be required to pay under a costs order.
- (6) If the amount realised under any such bond or security exceeds the amount payable under a costs order, the excess amount is to be paid or returned to the person who provided the bond or security.
- (7) A court that acquits or discharges a person of an offence against this Act or the regulations may, if it considers it just and reasonable to do so in the circumstances, make any or all of the following orders:
- (a) an order revoking or varying any previous costs order made by the court in connection with the proceedings,
  - (b) an order requiring any amount or any part of an amount already paid by the accused person under the order to be refunded to the accused person,
  - (c) an order requiring any bond or security provided by the person to be cancelled or returned.
- (8) Reasonable care and maintenance costs incurred after proceedings against a person for an offence have concluded are not recoverable under this section.
- (9) Without limiting subsection (1), the organisations that may be specified in a costs order as organisations to be paid include any of the following:
- (a) a charitable organisation,
  - (b) the Commonwealths Police Force,
  - (c) a government department.

(10) Nothing in this section limits the operation of section 24J (4), 26AA (2) or 30 (1) (d) and (3).

### **31 Court may make further orders relating to convicted persons**

(1) If a court has convicted a person of an offence against Part 2, or an offence against the regulations involving the way in which an animal was treated, and the court is satisfied that, were the person to be in charge of an animal, the person would be likely to commit another such offence, the court may make any one or more of the following orders:

- (a) such order as the court thinks fit for the disposal of any animal in respect of which the person is a person in charge,
- (b) an order that the person is not to purchase or acquire, or take possession or custody of, any animal within such period as is specified in the order,
- (c) an order prohibiting the convicted individual from doing any or all of the following:
  - (i) keeping, or participating in keeping, any animal,
  - (ii) being party to an arrangement where the person is entitled to control or influence the keeping of any animal (including any animal owned by another person or in another person's possession),
  - (iii) have any other involvement with the keeping or care of any animal (including any animal owned by another person or in another person's possession).

(2) An order under subsection (1) may be made by the court in addition to any penalty that it may otherwise impose in relation to the person concerned.

(3) A person upon whom an order made under subsection (1) is served shall not fail to comply with the order.

Penalty: 25 penalty units.

(4) If an officer has taken possession of an animal under section 24J (1) in relation to the alleged commission of an offence against this Act or the regulations, the officer may apply to the court before which the proceedings for the offence are commenced for an order for the disposal of the animal before the proceedings are finally determined.

(5) The court to which an application under subsection (4) is made may:

- (a) order that the animal in respect of which the application is made be sold or otherwise disposed of in such manner as the court considers appropriate in the circumstances, and
- (b) direct that the proceeds of the sale or other disposal be held in trust pending the determination of the proceedings for the offence and the further order of the court, and
- (c) make such other orders as the court considers appropriate.

### **31AA Recognition of interstate orders**

- (1) The Minister may, by order in writing, recognise any interstate prohibition order made against a person, for the purposes of its enforcement in the Commonwealth.
- (2) An interstate prohibition order is an order made by a court under the law of another State or a Territory, or a part of such an order, that has the effect of prohibiting a person from purchasing or acquiring, or taking possession or custody of, any animal.
- (3) If an interstate prohibition order is recognised by the Minister under this section, the Commonwealth offence provision applies in respect of the interstate prohibition order as if a reference in that provision to an order included a reference to an interstate prohibition order recognised under this section (as in force from time to time).
- (4) The Commonwealth offence provision applies only to those provisions of the recognised interstate prohibition order that can be included in an order of a kind made under section 31 (1).
- (5) A person who is served with notice that the Minister has recognised an interstate prohibition order made against the person is taken, for the purposes of the Commonwealth offence provision, to have been served with the order as made under section 31 (1).
- (6) In this section, the Commonwealth offence provision means section 31 (3).

### **31A Sale of certain animals by charitable organisations**

- (1) This section applies in respect of the following:
  - (a) an animal retained by an officer of a charitable organisation in accordance with this Act,
  - (b) a stray or abandoned animal delivered to or otherwise coming into the possession of a charitable organisation,

(c) an animal surrendered to a charitable organisation.

(1A) A charitable organisation may sell or rehouse, either permanently or temporarily, an animal to which this section applies (other than an animal that was surrendered by its owner to the charitable organisation), or cause any such animal to be humanely killed and its body disposed of, if:

- (a) the animal has been kept by the charitable organisation for a period of not less than 21 days, and
- (b) the charitable organisation has made reasonable inquiries to find the owner or person in charge of the animal, and
- (c) within that 21-day period, the owner or person in charge of the animal has not been found or come forward to claim the animal or has refused to take care of the animal.

(1B) A charitable organisation may at any time sell or rehouse, either permanently or temporarily, an animal to which this section applies that was surrendered by its owner to the charitable organisation, or cause any such animal to be humanely killed and its body disposed of.

(2) When an animal is sold in accordance with this section:

- (a) the purchaser acquires a good title to the animal, and
- (b) the interest of the former owner or any other person who had an interest in the animal is extinguished.

(3) Compensation is not recoverable against any person or organisation in respect of the sale or other disposal of an animal in accordance with this section.

(4) An animal may not be sold or otherwise disposed of under this section if:

- (a) any proceedings in respect of the animal for an offence against this Act or the regulations have been commenced but have not been finally determined, or
- (b) an order has been made by a court under section 30 or 31 in respect of the destruction or other disposal of the animal.

(5) Nothing in this section authorises a charitable organisation to sell or rehouse a dog that is a restricted dog within the meaning of the a companion animal within the meaning of State or Territory law.

## **32 Sale-yard owner may recoup expenses**

The reasonable costs incurred by the owner or lessee of a sale-yard in complying with the duties imposed upon that owner or lessee by this Act or the regulations in respect of a stock animal which is confined in the sale-yard may be recovered by that owner or lessee from the owner of the animal as a debt in a court of competent jurisdiction.

### **32A Compensation not recoverable**

(1) Compensation is not recoverable against any person in respect of the destruction of an animal in accordance with section 26AA (1), 24J or 30 (2).

(2) Compensation is not recoverable against any person in respect of:

(a) the disposal of an animal in accordance with a court order made under section 31 (5), or

(b) the use of the facilities of a place in accordance with a court order made under section 29C.

### **33 Alternative summons**

(1) Where, at any time during proceedings for an offence against this Act or the regulations in respect of an animal, the person accused of the offence satisfies the court before which those proceedings are being taken that the act or omission in respect of which those proceedings are being taken was done, authorised to be done or omitted to be done by that person in compliance with an express direction given by:

(a) the owner of the animal, or

(b) where that person was bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal—the servant or agent,

that court:

(c) may:

(i) make an order that that person be discharged, or

(ii) adjourn those proceedings until the proceedings referred to in subsection (2) have been determined, and

(d) may issue a summons against that owner, servant or agent, as the case may be, in respect of the offence:

- (i) within a period of 6 months after that time, or
- (ii) within a period of 2 years after the date on which it is alleged that the offence occurred,

whichever period expires earlier.

(2) In any proceedings against a person for an offence in respect of which a summons has been issued against that person under subsection (1), the court before which the proceedings are being taken may, where it convicts that person of the offence, make an order that that person pay such costs in respect of the proceedings firstmentioned in that subsection as it thinks fit.

### **33A Offences by corporations**

(1) If a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or convicted under the provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

### **33B Permitting or failing to prevent commission or continuance of offence**

(1) A person who owns or has the charge of an animal and who:

(a) knowingly permits an offence against this Act or the regulations to be committed in respect of the animal, or

(b) fails, without reasonable excuse, to prevent the commission or continuance of such an offence,

is guilty of an offence against this Act.

(2) A person who owns or occupies land on which an animal is located and who:

(a) knowingly permits an offence against this Act or the regulations to be committed on the land in respect of the animal, or

(b) fails, without reasonable excuse, to prevent the commission or continuance of such an offence,

is guilty of an offence against this Act.

(3) The maximum penalty for an offence against this section is the maximum penalty under this Act for the offence permitted under subsection (1) (a) or (2) (a) or not prevented under subsection (1) (b) or (2) (b).

### **33C Complicity and common purpose**

(1) A person who aids, abets, counsels or procures the commission of an offence against this Act or the regulations by another person is taken to have committed that offence and is punishable accordingly.

(2) For the person to be found guilty:

(a) the person's conduct must have in fact aided, abetted, counselled or procured the commission of the offence by the other person, and

(b) the offence must have been committed by the other person.

(3) A person cannot be found guilty of aiding, abetting, counselling or procuring the commission of an offence if, before the offence was committed, the person:

(a) terminated his or her involvement, and

(b) took all reasonable steps to prevent the commission of the offence.

(4) A person may be found guilty of aiding, abetting, counselling or procuring the commission of an offence even if the principal offender has not been proceeded against or convicted for the offence.

### **33D Attempts**

A person who attempts to commit an offence for which a penalty is provided under this Act or the regulations is guilty of an offence and liable to that penalty.

### **33E Penalty notices**

(1) An inspector (within the meaning of Division 2 of Part 2A) may issue a penalty notice to a person if it appears to the inspector that the person has committed a penalty notice offence.

(2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.

(4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).

(5) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

### **33F Offences in respect of more than one animal**

(1) In proceedings for an offence against section 5, 6, 7 or 8, an allegation may be made that the act or omission that constituted the alleged offence related to more than one animal.

(2) In sentencing a person for an offence against section 5, 6, 7 or 8, a court may take into account whether the act or omission that constituted the offence related to more than one animal. However, if the person has already been prosecuted in respect of that act or omission, the court is to take into account any penalty that was imposed on the person as a result of that prosecution.

### **34 Proceedings for offences**

(1) Proceedings for an offence against this Act or the regulations may be dealt with:

(a) summarily before the Local Court, or

(b) by the Supreme Court in its summary jurisdiction.

(2) If proceedings are brought before the Local Court, the maximum pecuniary penalty that a magistrate may impose for the offence is, despite any other provision of this Act, 200 penalty units.

(3) A court shall not convict a person of an offence against this Act or the regulations in respect of an act or omission where that, or any other, court has convicted the person of that, or any other, offence against this Act or the regulations in respect of that act or omission.

(4) Despite any other Act, proceedings for an offence against this Act or the regulations may be commenced not later than 12 months after the date alleged to be the date on which the offence was committed.

(5) In any criminal proceeding for an offence against this Act or the regulations, an officer may give evidence in chief for the prosecution by reading or being led through a written statement previously made by the officer.

(6) Evidence referred to in subsection (5) may not be so given unless:

- (a) the statement was made by the officer at the time of or soon after the occurrence of the events to which it refers, and
- (b) the officer signed the statement when it was made, and
- (c) a copy of the statement had been given to the person charged or to his or her Australian legal practitioner or legal counsel a reasonable time before the hearing of the evidence for the prosecution.

(7) A reference in subsections (5) and (6) to an officer includes a reference to a person who, at the time the statement concerned was made, was an officer.

### **34AA Authority to prosecute**

(1) Proceedings for an offence against this Act or the regulations may be instituted only by:

- (a) an approved charitable organisation, or
- (b) an inspector within the meaning of Division 2 of Part 2A, other than a police officer, or
- (c) a police officer, or
- (d) the Minister or the Secretary, or
- (e) a person with the written consent of the Minister or that Secretary, or
- (f) any other person or body prescribed by the regulations for the purpose of this section.

(2) In proceedings for an offence against this Act or the regulations, a consent to institute the proceedings, purporting to have been signed by the Minister or the Secretary, is evidence of that consent without proof of the signature of the Minister or Secretary.

### **34A Guidelines relating to welfare of farm or companion animals**

(1) The regulations may prescribe guidelines, or may adopt a document in the nature of guidelines or a code of practice as guidelines, relating to the welfare of species of farm or companion animals.

(2) Before any regulations are made as referred to in subsection (1), the Animal Welfare Advisory Council, and representatives of any relevant livestock industry, are

to be given an opportunity to review and comment on the provisions of the proposed regulation relating to the welfare of species of farm or companion animals.

(3) Compliance, or failure to comply, with any guidelines prescribed or adopted by the regulations for the purposes of subsection (1) is admissible in evidence in proceedings under this Act of compliance, or failure to comply, with this Act or the regulations.

(4) A document adopted as referred to in subsection (1) may be adopted wholly or in part, with or without modification and as in force at a particular time or as in force from time to time.

### **34B Approved charitable organisations**

(1) The Minister may, by order published in the Gazette, approve of a charitable organisation for the purposes of the exercise by its officers of law enforcement powers under this Act.

(2) The Minister may, by order published in the Gazette, withdraw an approval given under this section if the Minister considers that it is in the public interest to do so.

(3) A charitable organisation that has been approved in accordance with this section must, within 3 months after 30 June in each year, provide the Minister with a report addressing such matters in relation to the exercise by itself or its officers of functions under this Act as may be prescribed by the regulations.

(4) In addition, a charitable organisation that has been approved in accordance with this section must, if requested by the Minister to do so, provide the Minister with a report on any matter specified by the Minister that relates to the enforcement of this Act by the organisation.

### **34C Delegation by Secretary**

The Secretary may delegate the exercise of any function of the Secretary under this Act (other than this power of delegation) to any person employed in the Department.

## **35 Regulations**

(1) The Governor-General may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:

(a) the conditions under which any animal or species of animal may be:

(i) confined,

(ii) carried or conveyed,

(iii) kept or used in connection with a circus, or

(iv) kept or used in connection with the production of films, television programmes or film, television or photographic advertisements or theatrical performances,

(b) the accommodation or shelter to be provided for any animal or species of animal,

(c) the manner in which, and the conditions under which, any animal or species of animal may be destroyed,

(d) the licensing, prohibition, regulation and control of animal trades,

(e) the fees to be paid in connection with the issue of a licence under this Act,

(f) the keeping of records or log books by persons who carry or convey animals, and

(g) the keeping of registers by veterinary practitioners and persons carrying on animal trades.

(2) A provision of a regulation may:

(a) apply generally or be limited in its application by reference to specified exceptions or factors,

(b) apply differently according to different factors of a specified kind,

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body, or

(d) exempt any person, or any specified class of persons, either absolutely or subject to conditions, from the operation of any specified provision of this Act,

or may do any combination of those things.

(3) A regulation may create an offence punishable by a penalty not exceeding the relevant maximum amount, being:

(a) in the case of an offence relating to animal trades or the confinement or use of laying fowl (domesticated chickens) for commercial egg production—200 penalty units for an offence committed by a corporation and 50 penalty units for an offence committed by an individual, or

(b) in any other case—25 penalty units.

(4) A regulation made under subsection (1) (d) may:

(a) with respect to the licensing of an animal trade, provide for the issue of a licence subject to such conditions as the regulation may impose, or

(b) with respect to the regulation or control of an animal trade, provide that a person shall not conduct an animal trade unless the person is the holder of a licence issued in respect of the animal trade.

(5) Without limiting the generality of subsection (1), a regulation made for the purposes of section 23 may:

(a) prescribe, as a part of the Commonwealth, the whole of the Commonwealth except such part thereof as may be specified in the regulation, and

(b) prescribe a type of trap:

(i) by words,

(ii) by reference to a photographic representation which is depicted in, and forms part of, the regulation, or

(iii) by reference to a diagram which is depicted in, and forms part of, the regulation,

or by any combination of those methods.

### **35A Act binds Crown**

(1) This Act binds the Crown in right of the Commonwealth and, so far as the legislative power of Parliament permits, the Crown in all its other capacities, except as provided in subsection (2).

(2) This Act does not apply:

(a) to the use and handling of police dogs and police horses by police officers, or drug detection dogs by persons employed in the Corrective Services, Department of Justice, in the course of their duties, or

(b) to other cases prescribed by the regulations.

### **36 Repeals and savings and transitional provisions**

(1) Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

(2) Schedule 2 has effect