

**NEW SOUTH WALES**  
**DRAFT GOVERNMENT BILL**

## **Animal Welfare Bill 2022**

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**NEW SOUTH WALES**  
**DRAFT GOVERNMENT BILL**

**Animal Welfare Bill 2022**

No           , 2021

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**A Bill for**

An Act to establish minimum requirements for the care and protection of animals; to prevent cruelty to animals; and for related purposes.

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The Legislature of New South Wales enacts—

## Part 1 Introduction

### Division 1 Preliminary

#### 1 Name of Act

This Act is the *Animal Welfare Act 2022*.

#### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

#### 3 Objects of Act

The primary objects of this Act are—

- (a) to promote the welfare of animals, and
- (b) to prevent cruelty to animals.

#### 4 How objects are to be achieved

The primary objects of the Act are to be achieved by—

- (a) providing for the care and protection of animals by—
  - (i) establishing a baseline of acceptable conduct, by persons who are responsible for animals, to ensure animals are provided with an acceptable standard of care (the *minimum care requirements*), and
  - (ii) developing standards for the care of animals and certain actions or activities involving animals and establishing a mechanism to give effect to the standards, and
  - (iii) requiring information about dogs and cats to be provided when the dogs and cats are advertised for sale or to be given away, and
- (b) protecting animals from cruelty and harm by—
  - (i) prohibiting certain actions and activities that will always constitute animal cruelty, and
  - (ii) restricting when and by whom certain activities that may cause harm to animals may be performed, and
- (c) providing a licensing framework to regulate and oversee the conduct of certain activities involving animals, including—
  - (i) the use of animals for research purposes consistent with the principles of replacement, reduction and refinement, and
  - (ii) the keeping and use of animals for the purposes of exhibition.

### Division 2 Application of Act

#### 5 Act to bind Crown

- (1) This Act binds—
  - (a) the Crown in right of New South Wales, and
  - (b) to the extent that the legislative power of the Parliament of New South Wales permits—the Crown in all its other capacities.
- (2) However, this Act does not apply to—

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Animal Welfare Bill 2022 [NSW]  
Part 1 Introduction

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- (a) the use and handling of police dogs or police horses by police officers in the course of the officers' duties, or
  - (b) the use of dogs by correctional officers to assist in maintaining the good order and security of correctional centres and correctional complexes under the *Crimes (Administration of Sentences) Act 1999*, section 78.
- (3) In this section—  
***correctional officer*** has the same meaning as in the *Crimes (Administration of Sentences) Act 1999*.

## Part 2 Interpretation

### Division 1 Definitions

#### 6 Definitions

The Dictionary in Schedule 3 defines terms used in this Act.

**Note**— The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.

### Division 2 Key concepts

#### 7 Meaning of “act of cruelty”

- (1) An *act of cruelty* is an act or omission that results in an animal being—
  - (a) unreasonably or unnecessarily harmed, or
  - (b) unreasonably or unnecessarily killed, or
  - (c) abused, beaten, infuriated, kicked, maimed, mutilated, terrified, tormented, tortured or wounded, or
  - (d) overloaded, overworked, overdriven, overridden or overused, or
  - (e) unreasonably or unnecessarily exposed to excessive heat or excessive cold.
- (2) The following are also acts of cruelty—
  - (a) carrying, conveying, driving, riding or using an animal that is unfit for that purpose,
  - (b) advertising, promoting or taking part in an activity in which an animal is released from confinement for the purposes of people catching, chasing, confining or shooting at the animal,
  - (c) authorising the use of, controlling, managing, receiving payment for admission to or using premises for a game park,
  - (d) advertising, promoting or taking part in an activity in which an animal participates in a steeplechase or hurdle race,
  - (e) another act prescribed by the regulations as an act of cruelty.
- (3) Subsection (2)(b) does not apply to an activity that is constituted by the release of fish into a body of water so that the fish may be caught by recreational fishers.

**Example**— the release of fish into a lake so that the fish may be caught as part of a fishing competition
- (4) In this section—

*steeplechase or hurdle race* does not include a race organised so that only one horse at a time may approach or attempt a jump.

**Example of a race that is not a steeplechase or hurdle race**— timed showjumping

#### 8 Meaning of “act of aggravated cruelty”

An *act of aggravated cruelty* means an act of cruelty on the animal that results in—

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

#### 9 Meaning of “animal research”

- (1) *Animal research* means an experiment, inquiry, investigation, procedure, study or test in connection with which an animal is used.

- (2) Without limiting subsection (1), animal research includes—
- (a) an experiment, inquiry, investigation, procedure, study or test in the course of which an animal is subjected to—
    - (i) biological, chemical, medical, physical, psychological or surgical treatment, or
    - (ii) abnormal conditions of cold, confinement, dark, heat, isolation, light, noise or overcrowding, or
    - (iii) abnormal dietary conditions, or
    - (iv) electric shock or radiation treatment, and
  - (b) an experiment, inquiry, investigation, procedure, study or test in the course of which a material or substance is derived or extracted from the body of an animal, and
  - (c) the use of an animal for a recognised research purpose.
- (3) Animal research does not include the following—
- (a) displaying an animal, or keeping an animal for display, for educational or scientific purposes that does not involve an experiment, inquiry, investigation, procedure, study or test in connection with the animal,
  - (b) providing veterinary treatment to an animal to protect the welfare of the animal,
  - (c) carrying out routine animal husbandry,
  - (d) demonstrating routine animal husbandry for educational purposes in the ordinary course of caring for the animal,
  - (e) the use of animals for a scientific or educational purpose prescribed by the regulations for this section.

## 10 Meaning of “exhibiting an animal”

- (1) *Exhibiting an animal* means displaying the animal, or keeping the animal for display, for—
- (a) cultural, educational, entertainment or scientific purposes, or
  - (b) another purpose prescribed by the regulations.
- (2) Without limiting subsection (1), exhibiting an animal includes the following—
- (a) displaying an animal, or keeping an animal for display, at an aquarium, wildlife park or zoo,
  - (b) displaying an animal, or keeping an animal for display, in a circus,
  - (c) displaying an animal, or keeping an animal for display, to allow public interaction with the animal at a petting farm,
  - (d) displaying an animal, or keeping an animal for display, as part of an educational wildlife demonstration.
- (3) Exhibiting an animal does not include the following—
- (a) displaying an animal, or keeping an animal for display, solely for the purposes of sale,
  - (b) displaying an animal, or keeping an animal for display, in connection with animal research carried out under a licence if the display of the animal is only incidental to the animal research,
  - (c) displaying an animal, or keeping an animal for display, in a way or for a purpose prescribed by the regulations.

**11 Meaning of “harm”**

*Harm* includes—

- (a) distress, and
- (b) pain, and
- (c) physical suffering, and
- (d) psychological suffering.

**12 Meaning of “responsible person”**

- (1) The *responsible person*, for an animal, includes the following—
  - (a) the animal’s owner,
  - (b) a person who has the animal—
    - (i) in the person’s possession or custody, or
    - (ii) under the person’s care, control or supervision,
  - (c) if a person referred to in paragraph (b) is required to comply with the directions of an employee or agent of the animal’s owner—the employee or agent,
  - (d) for a stock animal in a saleyard—
    - (i) the owner of the saleyard, or
    - (ii) if the saleyard is the subject of a lease—the lessee,
  - (e) for a stock animal at an abattoir—
    - (i) the owner of the abattoir, or
    - (ii) if the abattoir is the subject of a lease—the lessee,
  - (f) for an animal being used in animal research under a licence—the holder of the licence,
  - (g) for an animal being exhibited under a licence—the holder of the licence,
  - (h) for another animal being used under, or otherwise the subject of, a licence—the holder of the licence,
  - (i) another person prescribed by the regulations.
- (2) More than one person may be the responsible person for an animal at the same time.

## Part 3 Requirements for care of animals

### Division 1 Minimum care requirements

#### 13 Responsible person must ensure minimum care requirements for animals met

- (1) A responsible person for an animal must ensure the minimum care requirements for the animal have been met.  
Maximum penalty—category 3 penalty.
- (2) The minimum care requirements for an animal are—
  - (a) the animal has access to appropriate food and drink, and
  - (b) the animal has access to appropriate shelter, and
  - (c) the animal is kept in an appropriate environment, and
  - (d) the animal is provided with appropriate treatment for disease, illness or injury, including—
    - (i) veterinary treatment being provided in a timely way when necessary, and
    - (ii) preventative treatment being provided, and
  - (e) the animal is provided with appropriate opportunities to exercise, and
  - (f) the animal is provided with appropriate opportunities to display normal behaviour, and
  - (g) the animal is handled and transported in an appropriate way.
- (3) It is a defence to a prosecution for an offence under subsection (1) if the responsible person proves the person—
  - (a) took all the steps a reasonable person would have taken in the circumstances to ensure the requirements for the animal were met, or
  - (b) was prevented from taking the steps by circumstances that could not have been reasonably foreseen.  
**Example of circumstances that could not have been reasonably foreseen—** a sudden-onset natural disaster, including a bushfire or flood

#### 14 What is appropriate for minimum care requirements

In deciding what is appropriate for the purposes of a minimum care requirement for an animal, the matters to be taken into account include—

- (a) the animal's species, and
- (b) the animal's environment, and
- (c) the animal's behavioural needs, and
- (d) the animal's particular circumstances.

#### 15 Appropriate food

- (1) A failure to provide an animal with food during the following periods is taken to be a failure to meet the minimum care requirement to provide the animal with appropriate food—
  - (a) if the regulations prescribe a period for the species, or other class, of animal—the period prescribed,
  - (b) otherwise—24 hours.
- (2) Subsection (1) does not limit—

- (a) the minimum care requirements for an animal under section 13, or
- (b) the matters that must be taken into account under section 14 in deciding what is appropriate for the purposes of a minimum care requirement for an animal.

## **16 Appropriate drink**

- (1) A failure to provide an animal with clean water during the following periods is taken to be a failure to meet the minimum care requirement to provide the animal with appropriate drink—
  - (a) if the regulations prescribe a period for the species, or other class, of animal—the period prescribed,
  - (b) otherwise—24 hours.
- (2) Subsection (1) does not limit—
  - (a) the minimum care requirements for an animal under section 13, or
  - (b) the matters that must be taken into account under section 14 in deciding what is appropriate for the purposes of a minimum care requirement for an animal.

## **17 Appropriate shelter**

- (1) A failure to provide an animal with shelter during the following periods is taken to be a failure to meet the minimum care requirement to provide the animal with appropriate shelter—
  - (a) if the regulations prescribe a period for the species, or other class, of animal—the period prescribed,
  - (b) otherwise—24 hours.
- (2) Subsection (1) does not limit—
  - (a) the minimum care requirements for an animal under section 13, or
  - (b) the matters that must be taken into account under section 14 in deciding what is appropriate for the purposes of a minimum care requirement for an animal.

## **18 Appropriate exercise**

- (1) A failure to provide an animal with an opportunity to exercise during the following periods is taken to be a failure to meet the minimum care requirement that the animal is provided with appropriate opportunities to exercise—
  - (a) if the regulations prescribe a period for the species, or other class, of animal—the period prescribed,
  - (b) otherwise—24 hours.
- (2) Subsection (1) does not limit—
  - (a) the minimum care requirements for an animal under section 13, or
  - (b) the matters that must be taken into account under section 14 in deciding what is appropriate for the purposes of a minimum care requirement for an animal.
- (3) This section does not apply to—
  - (a) a stock animal, other than a horse, or
  - (b) an animal of a species that is usually kept in captivity, if the animal is kept in a cage or tank of a height, length and breadth that provides the animal with an opportunity to exercise.

## 19 Appropriate transport for horses

- (1) Carrying or conveying a horse on a multi-deck vehicle is taken to be a failure to meet the minimum care requirement that a horse be transported in an appropriate way.
- (2) Subsection (1) does not limit—
  - (a) the minimum care requirements for an animal under section 13, or
  - (b) the matters that must be taken into account under section 14 in deciding what is appropriate for the purposes of a minimum care requirement for an animal.

## Division 2 Standards

### 20 Requirement to comply with standards

- (1) A responsible person for an animal in relation to which a prescribed standard applies must comply with the standard.  
Maximum penalty—category 3 penalty.
- (2) A responsible person for an animal does not commit an offence against this Act for an act or omission in relation to the animal if the act or omission is in accordance with a prescribed standard.
- (3) In this section—  
**prescribed standard** means a standard prescribed by the regulations for the purposes of this section.

### 21 Applying, adopting or incorporating standards

The regulations may apply, adopt or incorporate a standard as in force—

- (a) at a stated time, or
- (b) from time to time.

## Division 3 Prohibited and restricted procedures

### 22 Prohibited procedures

- (1) A person must not carry out any of the following procedures—
  - (a) tail nick a horse,
  - (b) grind, trim or clip the teeth of an alpaca, llama or sheep,
  - (c) hot iron brand the face of an animal,
  - (d) fire or thermocautery on an animal,
  - (e) surgical artificial insemination on a dog.Maximum penalty—category 2 penalty.
- (2) In this section—  
**clip** means break off the crown of a tooth with pliers or another implement or tool other than as part of a dental procedure carried out by a veterinary practitioner.  
**fire or thermocautery** means apply a thermal stimulus to the leg of an animal with the intention of causing tissue damage and the development of scar tissues around the tendons and ligaments of the leg.  
**grind** means grind down a tooth with an electric angle grinder or another tool or implement other than as part of a dental procedure carried out by a veterinary practitioner.  
**tail nick** means cut the tail of a horse with the intention of causing the horse to carry the tail high.



*trim* means cut off a tooth with an abrasive disc or another implement or tool other than as part of a dental procedure carried out by a veterinary practitioner.

## 23 Restricted procedures

- (1) A person must not carry out a procedure mentioned in Schedule 1, column 1 (a *restricted procedure*) other than in the circumstances set out opposite in the Schedule, column 2.  
Maximum penalty—category 2 penalty.
- (2) To avoid doubt, a restricted procedure carried out in the circumstances set out in Schedule 1 is not an act of cruelty.

## 24 Records of restricted procedures

- (1) A veterinary practitioner who carries out restricted procedures or, if the veterinary practitioner carries out the restricted procedures in the course of employment, the practitioner's employer must keep a register of the restricted procedures in the prescribed form.
- (2) A veterinary practitioner who carries out a restricted procedure must, within 7 days after carrying out the procedure, record the prescribed particulars of the procedure in the register.  
Maximum penalty—category 3 penalty.
- (3) A person required to keep a register under this section must keep the record of the prescribed particulars of a restricted procedure for at least 3 years after the day the procedure was carried out.  
Maximum penalty—category 3 penalty.
- (4) A person required to keep a register under this section must, if asked by an authorised officer, make the register available for inspection by the authorised officer.  
Maximum penalty—category 5 penalty.

## Part 4 Offences relating to animal cruelty

### Division 1 Animal cruelty

**Note—** See also the *Veterinary Practice Act 2003*, section 9(1) which makes it an offence for a person to do a restricted act of veterinary science except in certain circumstances. A **restricted act of veterinary science** is defined in that Act, section 7.

#### 25 Cruelty to animals

- (1) A person must not commit an act of cruelty on an animal.  
Maximum penalty—category 2 penalty.  
**Note—** The offence of committing an act of cruelty on an animal may be committed by any person, not just the responsible person for the animal.
- (2) In proceedings for an offence against subsection (1), the court may find the person guilty of an offence of failing to ensure the minimum care requirements for the animal have been met under section 13 if the court—
  - (a) is not satisfied the person is guilty of the offence of committing an act of cruelty on the animal, but
  - (b) is satisfied the person is guilty of an offence of failing to ensure the minimum care requirements for the animal have been met.

#### 26 Aggravated cruelty to animals

- (1) A person must not commit an act of aggravated cruelty on an animal.  
Maximum penalty—category 1 penalty.  
**Note—** The offence of committing an act of aggravated cruelty on an animal may be committed by any person, not just the responsible person for the animal.
- (2) In proceedings for an offence against subsection (1), the court may find the person guilty of an offence of committing an act of cruelty under section 25 if the court—
  - (a) is not satisfied the person is guilty of the offence of committing an act of aggravated cruelty on the animal, but
  - (b) is satisfied the person is guilty of an offence of committing an act of cruelty.

#### 27 Abandoning animals

- (1) A person must not abandon an animal.  
Maximum penalty—category 2 penalty.
- (2) Without limiting subsection (1), abandoning an animal includes—
  - (a) certain actions taken by a person in relation to the animal, for example—
    - (i) deliberately dumping the animal at a place, or
    - (ii) intentionally allowing the animal to escape, or
    - (iii) inappropriately releasing the animal into the wild, and
  - (b) certain inaction by a person in relation to the animal, for example, a failure by a person to provide care for the animal while the person is away from home for an extended period.
- (3) Subsection (1) does not apply to—
  - (a) the surrender of an animal to an organisation that rehomes animals of that type, or
  - (b) the release of a rehabilitated native animal into an area which is a suitable habitat for the animal, or

- (c) the release of an animal in accordance with the *Biodiversity Conservation Act 2016* or a regulation or licence under that Act.

**28 Severely injured animals not to be sold**

- (1) A person must not acquire, keep, purchase or sell, or offer or expose for sale, an animal that is so severely diseased or injured, or in so poor a physical or psychological condition, that it is cruel to keep the animal alive.  
Maximum penalty—category 3 penalty.
- (2) In proceedings for an offence against subsection (1), the person charged with the offence is not guilty of the offence if the person satisfies the court the person acquired, kept, purchased or sold the animal, or offered or exposed the animal for sale, for the purpose of promptly destroying the animal.
- (3) If a person acquires or purchases an animal for the purpose of promptly destroying the animal, the person must ensure it is promptly destroyed in a way that causes it to die quickly and without unnecessary harm.  
Maximum penalty—category 3 penalty.

**29 Injuries to animals struck by vehicle**

The driver of a vehicle that strikes and injures an animal, other than a bird, must—

- (a) take reasonable steps to alleviate any harm caused to the animal because of the injury, and
- (b) if the driver believes, or ought reasonably to believe, the animal is a domestic animal—as soon as practicable, inform an authorised officer or the responsible person for the animal that the animal has been injured.

Maximum penalty—category 3 penalty.

**30 Poisoning a domestic animal**

- (1) A person must not—
- (a) administer a poison, or a preparation, product or other thing containing a poison, to a domestic animal, or
- (b) cast, drop, lay, leave or throw a poison, or a preparation, product or other thing containing a poison, in or on a place with the intention of injuring or killing a domestic animal, or
- (c) have a poison in the person's possession with the intention of using it to injure or kill a domestic animal.

Maximum penalty—category 1 penalty.

- (2) Subsection (1) does not apply to a person who lawfully administers, possesses or otherwise uses a poison under the *Poisons and Therapeutic Goods Act 1966*.

- (3) In this section—

**poison** includes—

- (a) a substance included in the Poisons List, and
- (b) glass or another thing likely to injure or kill an animal, and
- (c) a substance included in Schedule 10 of the Standard for the Uniform Scheduling of Medicines and Poisons, as in force from time to time, under the *Therapeutic Goods Act 1989*.

**Poisons List** has the same meaning as in the *Poisons and Therapeutic Goods Act 1966*.

## Division 2 Animal fighting and live baiting

### 31 Definitions

In this Division—

**animal fight** means an event at which an animal is caused, encouraged or incited to fight another animal or a human.

**animal fighting implement** includes—

- (a) a spur, or similar implement, and
- (b) an implement used for the purpose of causing or training an animal to fight another animal or a human, and
- (c) an implement used for the purpose of increasing the ability of an animal to inflict damage on another animal or a human during a fight, whether or not the implement is attached to the animal during the fight.

**rodeo** has the meaning prescribed by the regulations.

### 32 Prohibition on animal fighting

- (1) A person must not—
  - (a) cause, encourage or incite an animal fight, or
  - (b) train or otherwise prepare an animal for an animal fight, or
  - (c) possess or sell an animal for fighting another animal or a human, or
  - (d) manufacture, possess, transport or use an animal fighting implement for the purpose of causing or training animals to fight, or
  - (e) organise, advertise or otherwise prepare for, or admit a person to, an animal fight, or
  - (f) be present at an animal fight or preparations for an animal fight.
  - (g) allow premises owned or occupied by the person to be used for an animal fight.Maximum penalty—category 1 penalty.
- (2) Subsection (1) does not apply to—
  - (a) conducting a rodeo in accordance with a standard prescribed by the regulations for this section or a person who does all that the person could reasonably be expected to do to conduct the rodeo in a way that complies with the standard, or
  - (b) mustering stock, working stock in yards or another routine animal husbandry activity, or
  - (c) conducting sheep dog trials.
- (3) To avoid doubt, neither of the following is an act of cruelty—
  - (a) conducting a rodeo in accordance with subsection (2)(a),
  - (b) participating in a rodeo conducted in accordance with subsection (2)(a).

### 33 Prohibition on live baiting

- (1) A person must not—
  - (a) cause, encourage, permit or procure an activity in which an animal is—
    - (i) confined or otherwise restrained for the purpose of the animal being chased, caught or confined by a dog, or
    - (ii) released from confinement for the purpose of the animal being chased, caught or confined by a dog.

- (b) advertise the intention to conduct an activity mentioned in paragraph (a), or
- (c) promote, organise or be present at an activity mentioned in paragraph (a), or
- (d) possess, keep or use an animal—
  - (i) for live baiting, or
  - (ii) as a lure or kill for trialing, training or racing a coursing dog.

Maximum penalty—category 1 penalty.

- (2) For subsection (1)(d), an animal includes a part of an animal, including a carcass, skin or reproductive material.
- (3) In proceedings for an offence against subsection (1), written evidence by a veterinary practitioner that an animal was alive at the time of its attack by a dog is evidence the animal was alive at the time of the attack unless rebutted.
- (4) In proceedings for an offence against subsection (1)(d) evidence the person charged with the offence was—
  - (a) in possession of an animal that appeared to have been used for live baiting, or as a lure or kill for trialing, training or racing a coursing dog, is evidence the person used the animal for live baiting or as a lure or kill unless rebutted, and
  - (b) the responsible person for an animal of a species prescribed by the regulations at a place for the trialing, training or racing a coursing dog is evidence the person was in possession of, kept or used an animal for use as a lure or kill unless rebutted.
- (5) Subsection (1) does not apply to anything done in the course, and for the purpose, of—
  - (a) mustering stock, working stock in yards or another routine animal husbandry activity, or
  - (b) sheep dog trials.
- (6) In this section—
  - coursing dog*** means a dog used to chase, catch or confine an animal
    - (a) confined or otherwise restrained, or
    - (b) released from confinement.
  - live baiting*** means using an animal as a lure or kill for the purpose of blooding greyhounds.

### Division 3 Tethering

#### 34 General prohibition on inappropriate or unreasonable tethering of animals

- (1) A person must not tether an animal unless—
  - (a) while tethered, the animal is appropriately protected from harm, and
  - (b) the form, length, method or weight of the tether is not unreasonable, and
  - (c) the animal is not tethered for an unreasonable period of time.

Maximum penalty—category 3 penalty.

**Note.** See also sections 13, 14 and 18 about the minimum care requirements that apply to persons responsible for animals, including providing appropriate opportunities for animals to exercise.

- (2) Without limiting subsection (1), the tethering of an animal that results in any of the following is inappropriate or unreasonable—
  - (a) the animal is unable to access water for an unreasonable period of time,

- (b) the animal is unable to obtain shelter from climatic extremes,
  - (c) the animal is unable to freely stand up and sit down,
  - (d) the animal is exposed to attack by other animals,
  - (e) the animal is exposed to environmental hazards, for example, road traffic,
  - (f) injury, or risk of injury, to the animal by the tether,
  - (g) the animal is tethered for more than 24 hours.
- (3) An animal that is the subject of a licence that allows the animal to be exhibited must not be tethered other than in the circumstances prescribed by the regulations.  
Maximum penalty—category 3 penalty.
- (4) In this section—  
*tether*, an animal—
- (a) includes tying an animal to a post or using a running tether where the tether can slide along a wire that is fixed to something at each end, but
  - (b) does not include restraining an animal by securing the animal to a person through the use of a dog lead, bird harness or similar device.

**35 Prohibition on tethering sows in piggeries**

A person must not tether a sow in a piggery.  
Maximum penalty—category 3 penalty.

**36 Prohibition on tethering birds**

- (1) A person must not tether a bird.  
Maximum penalty—category 3 penalty.
- (2) It is a defence to a prosecution for an offence under subsection (1) if the person charged with the offence proves—
- (a) the bird was a raptor, and
  - (b) the tether was used solely to tether the bird to its handler.

**Division 4 Transport of dogs**

**37 Requirements for transporting dogs**

- (1) A person must not—
- (a) leave a dog unattended in a vehicle in hot weather for more than 5 minutes, or
  - (b) transport a restrained dog on the tray of an open-backed vehicle in hot weather unless insulating material is used to provide protection from the heat of the surface of the tray.
- Maximum penalty—category 3 penalty.
- (2) Subsection (1)(a) does not apply—
- (a) if the dog left unattended in the vehicle is not affected by the hot weather because the vehicle is adequately ventilated and shaded, or
  - (b) in the following circumstances—
    - (i) the vehicle is fitted with a cooling system that keeps the interior temperature of the vehicle cool, and
    - (ii) when the dog is left unattended in the vehicle, the cooling system is operating in a way that ensures the dog is not affected by the hot weather.

- (3) A person must not carry or convey a dog on the open back of a moving vehicle on a public street unless the dog is restrained or enclosed in a way that prevents the dog from falling from the vehicle.  
Maximum penalty—category 3 penalty.
- (4) Subsection (3) does not apply to a dog being used to control or protect stock animals.
- (5) To avoid doubt, this section does not limit the operation of section 25.
- (6) In this section—  
*hot weather* means an ambient temperature of 28°C or more.

## Division 5 Animal cruelty material

### 38 Definitions

In this Division—

*data* includes—

- (a) information in any form, and
- (b) a program or part of a program.

*disseminate*, in relation to material, includes—

- (a) exhibit, send, supply, transmit or otherwise communicate the material to another person, and
- (b) make the material available for access by another person, and
- (c) enter into an agreement or arrangement to do a thing referred to in paragraph (a) or (b).

*journalist* means a person engaged in the profession or practice of reporting, photographing, filming, editing or recording for a media report of a news, current affairs, information or documentary character.

*material* includes—

- (a) data, and
- (b) film, and
- (c) printed matter, and
- (d) another thing of any kind, including a computer image or other depiction.

*media report* means an article, program or other report for publication or broadcast in or on—

- (a) a newspaper, magazine, journal or other periodical, or
- (b) a radio or television broadcasting service, or
- (c) an electronic service, including a service provided by the internet, that is similar to a newspaper, magazine, radio broadcast or television broadcast.

*possess*, in relation to material in the form of data, includes being in possession or control of data, within the meaning of the *Crimes Act 1900*, section 308F(2).

*produce*, in relation to material, includes—

- (a) film, photograph, print or otherwise make the material, and
- (b) alter or manipulate an image, and
- (c) enter into an agreement to do a thing referred to in paragraph (a) or (b).

### 39 Offences involving animal cruelty material

- (1) A person must not produce, disseminate or possess material that depicts an act or omission that constitutes an animal cruelty offence.

Maximum penalty—

- (a) for production or dissemination of material that depicts an act or omission that constitutes an animal cruelty offence—category 1 penalty, or
  - (b) for possession of material that depicts an act or omission that constitutes an animal cruelty offence—category 2 penalty.
- (2) Subsection (1) does not apply to producing, disseminating or possessing material referred to in subsection (1) (*relevant conduct*) if—
- (a) the relevant conduct is necessary for or of assistance in—
    - (i) administering or enforcing a law of the State or of another State, a Territory or the Commonwealth, or
    - (ii) monitoring compliance with, or investigating a contravention of, a law of the State or of another State, a Territory or the Commonwealth, or
    - (iii) the administration of justice, or
  - (b) the person is, at the time of the relevant conduct, a law enforcement officer acting in the course of exercising the person's functions and the person's conduct is reasonable in the circumstances for the purpose of exercising the functions, or
  - (c) the material is classified, whether before or after the relevant conduct, under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth, other than as refused classification (RC), or
  - (d) the relevant conduct is necessary for or of assistance in—
    - (i) conducting educational, medical or scientific research that is approved, authorised or otherwise permitted under a law of the State or of another State, a Territory or the Commonwealth, or
    - (ii) producing, disseminating or possessing training materials for use by authorised officers, or
  - (e) the relevant conduct—
    - (i) is engaged in by a journalist in the course of the journalist's profession or practice, and
    - (ii) is in the public interest, or
  - (f) for relevant conduct involving possession of material that depicts an act or omission that constitutes an animal cruelty offence, but without limiting the defences above—the material came into the person's possession unsolicited and the person, as soon as the person became aware of the material's nature, took reasonable steps to get rid of it, or
  - (g) the relevant conduct is otherwise in the public interest, or
  - (h) the person did not know, and could not reasonably be expected to have known, the material the person produced, disseminated or possessed was material that depicted an act or omission that constitutes an animal cruelty offence.
- (3) Nothing in this section affects the operation of—
- (a) the *Surveillance Devices Act 2007*, or
  - (b) the *Inclosed Lands Protection Act 1901*.

## **Division 6      Offences involving prohibited items**

### **40      Prohibition on prohibited items**

- (1) A person must not possess, use, sell, lease or give away—



- (a) an electrical device other than an electrical device of a type permitted by the regulations, or
  - (b) a trap of a type prescribed by the regulations, or
  - (c) another item that—
    - (i) causes, or may cause, unreasonable or unnecessary harm to animals, and
    - (ii) is prescribed by the regulations for the purposes of this paragraph.
- Maximum penalty—category 2 penalty.
- (2) A person must not use an electrical device permitted by the regulations under subsection (1)(a) other than in a way prescribed by the regulations.  
Maximum penalty—category 2 penalty.
- (3) The regulations made under subsection (1)(b) or (c) may prescribe circumstances in which a person is not prevented from possessing, using, selling, leasing or giving away an item referred to in the paragraph.
- (4) To avoid doubt, the use of an item referred to in subsection (1)(a), (b) or (c) is not an act of cruelty if the item is—
  - (a) of a type prescribed by regulations made under subsection (1)(a) and used in a way prescribed by regulations made under subsection (2), or
  - (b) of a type mentioned in subsection (1)(b) or (c) and used in circumstances prescribed by regulations made under subsection (3).
- (5) In this section—  
**electrical device** means a device that produces an electrical discharge for use on an animal.  
**sell** includes—
  - (a) auction or exchange, and
  - (b) offer, expose, supply or receive for sale, and
  - (c) send, forward or deliver for sale or on sale.

## Division 7 Miscellaneous

### 41 Failure to prevent offence etc

- (1) The responsible person for an animal commits an offence if the person—
  - (a) knowingly permits an offence against this Act or the regulations to be committed in relation to the animal, or
  - (b) fails, without reasonable excuse, to prevent the commission or continuance of an offence against this Act or the regulations in relation to the animal.
- (2) A person who owns or occupies land on which an animal is located commits an offence if the person—
  - (a) knowingly permits an offence against this Act or the regulations to be committed on the land in relation to an animal, or
  - (b) fails, without reasonable excuse, to prevent the commission of an offence against this Act or the regulations on the land in relation to an animal.
- (3) The maximum penalty for an offence against this section is the maximum penalty under this Act for the offence—
  - (a) permitted under subsection (1)(a) or (2)(a), or
  - (b) not prevented under subsection (1)(b) or (2)(b).

## Part 5 Licensing and approvals

### 42 Requirement to be licensed

- (1) A person must not carry out any of the following activities (a *licensed activity*) unless the person holds a licence to carry out the activity—
  - (a) animal research and the supply of animals for animal research,
  - (b) exhibiting animals,
  - (c) another activity prescribed by the regulations for this section.Maximum penalty—category 3 penalty.
- (2) Subsection (1) does not apply to the extent the regulations exempt the person from the requirement to hold a licence to carry out the licensed activity.
- (3) If a person holds a licence under this Act to exhibit a protected animal, other than a marine mammal, the person is not required to also hold a licence under the *Biodiversity Conservation Act 2016* to exhibit the protected animal.
- (4) A person must not advertise or promote a licensed activity unless the person holds a licence to carry out the licensed activity.  
Maximum penalty—category 3 penalty.
- (5) In this section—  
*marine mammal* has the same meaning as in the *Biodiversity Conservation Act 2016*, section 2.7.  
*protected animal* has the same meaning as in the *Biodiversity Conservation Act 2016*.  
*supply of animals for animal research* includes breeding, keeping, nurturing and obtaining animals for the purposes of animal research.

### 43 Offence for contravening conditions of licences

A person who holds a licence must not contravene a condition of the licence.  
Maximum penalty—category 3 penalty.

### 44 Offence for fraudulently obtaining licence

A person must not—

- (a) make a statement, or provide information, the person knows to be false or misleading in a material particular to obtain a licence, or
- (b) forge or falsify a licence, or
- (c) claim to hold a licence the person does not hold, or
- (d) claim to hold a licence during a period the licence is suspended, or
- (e) display a licence the person does not hold, or
- (f) display a licence that is suspended.

Maximum penalty—category 3 penalty.

### 45 Regulations may provide for licensing scheme

- (1) The regulations may provide for a licensing scheme to carry out a licensed activity.
- (2) Without limiting subsection (1), the regulations may provide for the following—
  - (a) the process for applying for licences, including the documents or other information that must be provided,
  - (b) the process for renewing, varying or transferring licences,

- (c) the fees payable for applications for licences and the renewal, variation or transfer of licences,
  - (d) the waiver, reduction, postponement or refund of fees payable or paid in relation to licences,
  - (e) matters relating to the Animal Research Review Panel's investigation of applications for licences for animal research,
  - (f) the matters to be considered in deciding applications for licences and the renewal, variation and transfer of licences,
  - (g) the granting and form of licences, including the particulars to be included in licences,
  - (h) conditions of licences, including—
    - (i) standard conditions, and
    - (ii) requirements to provide financial assurance and the Secretary's power to use money given as financial assurance, and
    - (iii) a requirement to establish animal ethics committees, the minimum requirements for committees and the functions of committees, and
    - (iv) requirements to keep records of certain licensed activities carried out under licenses,
    - (v) the Secretary's power to impose, vary or revoke conditions,
  - (i) matters relating to standards or codes of practice which apply in relation to animals or activities carried out under licences,
  - (j) the Secretary's powers in relation to licences, including the power to vary, suspend or cancel licences and the grounds for and processes to vary, suspend and cancel licences,
  - (k) matters relating to the surrender of licences,
  - (l) matters relating to the disqualification of persons from holding licences,
  - (m) offences relating to licences.
- (3) The regulations may provide for corporations who hold licences to grant stated licences under the licensing scheme prescribed in the regulations to stated classes of individuals in particular circumstances and on particular conditions.
- (4) The regulations may exempt, with or without conditions, the following from the requirements in the regulations in relation to licensing—
- (a) stated persons or a stated class of persons,
  - (b) activities in relation to stated species or classes of animals,
  - (c) activities being carried out in certain circumstances.
- (5) The regulations may—
- (a) provide that licences to carry out certain licensed activities must not be issued unless the Minister gives concurrence, and
  - (b) provide for the circumstances in which the Minister may give concurrence.

**46 Regulations may provide for advisory committee for licensing scheme**

- (1) The regulations may provide for the establishment of an advisory committee to provide advice about matters relating to a licensing scheme to carry out a licensed activity.
- (2) Without limiting subsection (1), the regulations may provide for—
  - (a) the functions of the committee, and

- (b) matters relating to the membership of the committee, including who may be appointed as members and the process for the appointment of members.

**47 Secretary approval of prescribed premises**

- (1) A person must not do any of the following without the Secretary's approval—
  - (a) erect prescribed premises,
  - (b) convert existing premises into prescribed premises,
  - (c) alter or enlarge prescribed premises.Maximum penalty—category 3 penalty.
- (2) Without limiting subsection (1), the regulations may provide for the following—
  - (a) the process for applying for the Secretary's approval, including the documents or other information that must be provided,
  - (b) the matters to be considered by the Secretary in deciding applications for approvals,
  - (c) the Secretary's powers to—
    - (i) reject applications for approval, and
    - (ii) give approval, and
    - (iii) impose conditions on approval,
  - (d) standards with which prescribed premises must comply.
- (3) In this section—

***prescribed premises*** means premises that are—

  - (a) used, or proposed to be used, for the purpose of carrying out a licensed activity, and
  - (b) prescribed by the regulations for the purposes of this section.

**48 Administrative review of certain decisions**

- (1) An aggrieved person for a reviewable decision may apply to the Civil and Administrative Tribunal under the *Administrative Decisions Review Act 1997* for an administrative review of the reviewable decision within 28 days after receiving notice of the reviewable decision.
- (2) In this section—

***aggrieved person***, for a reviewable decision, means the person prescribed by the regulations as being the aggrieved person for the reviewable decision.

***reviewable decision*** means a decision under this Act prescribed by the regulations for this definition.

**49 Regulations may provide for complaints scheme**

- (1) The regulations may provide for a scheme about complaints made to the Secretary about an activity for which a licence is required under section 42.
- (2) Without limiting subsection (1), the regulations may provide for—
  - (a) how complaints may be made, and
  - (b) what complaints may be made about, and
  - (c) the investigation of complaints, and
  - (d) the resolution of complaints.

## Part 6 Stock welfare panels

### Division 1 Preliminary

#### 50 Definitions

In this Part—

**distress**, for a stock animal, means—

- (a) debility, or
- (b) exhaustion, or
- (c) exposure to the elements, or
- (d) significant physical injury.

**stock animal in distress** means a stock animal that is experiencing distress because the animal has not—

- (a) been provided with appropriate drink, food or shelter, or
- (b) been provided with appropriate animal husbandry, or
- (c) been provided with appropriate veterinary treatment, or
- (d) otherwise been provided with appropriate care.

**stock welfare panel** means a panel established under section 51.

### Division 2 Official warnings

#### 51 Proposed seizure and disposal of stock animals

- (1) This section applies if the Secretary reasonably suspects a stock animal is—
  - (a) a stock animal in distress, or
  - (b) is likely to become a stock animal in distress.
- (2) The Secretary may, by written notice (an **official warning**) given to the responsible person for the stock animal, advise the responsible person the Secretary intends to authorise the seizure and disposal of the stock animal unless the action stated in the notice in relation to the animal's care and welfare is taken within the period (a **compliance period**) stated in the notice.
- (3) An official warning may—
  - (a) require the responsible person to take more than one action stated in the notice, and
  - (b) if the official warning requires the responsible person to take more than one action—have different compliance periods for different actions.
- (4) An official warning—
  - (a) must include the following—
    - (i) a description of the stock animal to which the official warning applies,
    - (ii) details of the action the responsible person must take in relation to the animal's care and welfare,
    - (iii) the compliance period in which the action must be taken,
    - (iv) a statement that, if the responsible person does not take the action within the compliance period, the Secretary may authorise an authorised officer to seize and dispose of the stock animal,

- (v) a statement that if the stock animal is seized and disposed of, the stock animal's owner will be liable for the costs and expenses incurred in seizing, keeping and disposing of the stock animal, and
  - (b) may include a direction requiring the responsible person for the stock animal to keep records to show the person has complied with the official warning.  
**Examples of records—** receipts for feed purchases, records of veterinary treatment
- (5) The Secretary may give the responsible person for a stock animal an official warning only if the Secretary has established a stock welfare panel to assess and report to the Secretary about—
  - (a) the state of and appropriate care for the stock animal, and
  - (b) any other matter about the stock animal's welfare the Secretary considers appropriate.
- (6) An official warning—
  - (a) may relate to 1 or more stock animals, and
  - (b) applies to the offspring of a stock animal to which the official warning applies if the offspring is born during the period—
    - (i) starting on the day the stock welfare panel has assessed the state of the stock animal, and
    - (ii) ending on the day—
      - (A) the official warning is revoked, or
      - (B) the stock animal is sold or otherwise disposed of.

## 52 Stock welfare panels to monitor, assess and report

- (1) If the Secretary gives the responsible person for a stock animal an official warning, the stock welfare panel must—
  - (a) monitor the responsible person's compliance with the notice, and
  - (b) during and at the end of the compliance period stated in the notice, assess and report to the Secretary about—
    - (i) compliance with the official warning, and
    - (ii) action to be taken in relation to the stock animal.
- (2) To help the panel exercise its functions under this Part, an authorised officer may—
  - (a) enter premises on which the stock animal is kept, and
  - (b) examine the stock animal, and
  - (c) exercise any other power the authorised officer has under Part 7.

**Note.** Part 7 provides for the powers of authorised officers to investigate, monitor and enforce compliance with the requirements of this Act, including in relation to stock animals.

## 53 Secretary's power to revoke official warning or extend compliance period

The Secretary may, at any time, by written notice given to the responsible person for the stock animal—

- (a) revoke an official warning, or
- (b) extend a compliance period under an official warning.

### **Division 3 Seizure and disposal of stock animals**

#### **54 Seizure and disposal of stock animals**

- (1) This section applies if, after considering a stock welfare panel's report about compliance with an official warning, the Secretary is satisfied—
  - (a) the action required to be taken under the official warning has not been taken, and
  - (b) a stock animal to which the warning relates continues to be, or is likely to become, a stock animal in distress.
- (2) The Secretary may, by written order—
  - (a) authorise the seizure and disposal of the stock animal, by selling the stock animal or otherwise, and
  - (b) if the Secretary considers it appropriate that the stock animal's owner or another responsible person for the stock animal must not purchase or otherwise acquire a stock animal during the period—
    - (i) starting on the commencement of the order, and
    - (ii) ending on the day that is 30 days after the stock animal is seized.
- (3) A person must not contravene a direction under subsection (2)(b).  
Maximum penalty—category 4 penalty.
- (4) If the Secretary authorises the seizure and disposal of a stock animal under subsection (2)(a), an authorised officer may—
  - (a) enter the premises on which the stock animal is kept, and
  - (b) seize and dispose of the stock animal in accordance with the order.
- (5) The authorised officer must—
  - (a) if asked, show the responsible person for the stock animal a copy of the order, and
  - (b) give the responsible person a receipt acknowledging seizure of the stock animal if—
    - (i) the responsible person is present, and
    - (ii) it is reasonably practicable to provide a receipt.
- (6) A stock animal may not be sold or otherwise disposed of under this section if—
  - (a) proceedings for an offence against this Act or the regulations involving the stock animal have started but not been finally decided, or
  - (b) an order has been made by a court under another section of this Act in relation to the stock animal.
- (7) To avoid doubt, if a stock animal is a protected animal under the *Biodiversity Conservation Act 2016*, an order may be made and the animal seized and disposed of under this section without any additional authority under that Act.

#### **55 Additional powers for police officers during seizure and disposal**

- (1) An authorised officer who is a police officer may exercise the following functions at premises at which a stock animal is being seized under section 54—
  - (a) direct a person to leave the premises or remove a vehicle from the premises,
  - (b) remove from the premises—
    - (i) a person who fails to comply with a direction to leave the premises, or
    - (ii) a vehicle that a person fails to remove from the premises,

- (c) direct a person not to enter the premises,
  - (d) prevent a person from entering the premises,
  - (e) prevent a person from interfering with the seizure of the stock animal,
  - (f) remove or move, or cause to be removed or moved, a thing obstructing the seizure of the stock animal.
- (2) A person must comply with a direction given under subsection (1)(a) or (c).  
Maximum penalty—category 4 penalty.

**56 Purchaser acquires good title**

If a stock animal is sold under this Part—

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

**Division 4 Miscellaneous**

**57 Recovery of costs of seizure and disposal**

- (1) An authorised officer may issue a certificate for the costs (the *certified disposal costs*) incurred by an enforcement authority in seizing, keeping and selling or otherwise disposing of a stock animal under this Part.
- (2) A certificate may apply to 1 or more stock animals.
- (3) The proceeds of a sale of a stock animal under this Part must be applied to the certified disposal costs for the stock animal.
- (4) The balance, if any, of the proceeds of sale must be paid to the former owner of the stock animal.
- (5) The certified disposal costs, or the balance of the certified disposal costs after applying the proceeds of sale, are recoverable by the enforcement authority in a court of competent jurisdiction as a debt payable to the enforcement authority.
- (6) In this section—  
*enforcement authority* means—
  - (a) for a stock animal seized by an approved charitable organisation—the charitable organisation, or
  - (b) otherwise—the Crown.

**58 Constitution and procedure of stock welfare panels**

- (1) A stock welfare panel established under section 51 consists of the following persons appointed by the Secretary—
  - (a) an authorised officer,
  - (b) at least one person employed in the Department who has expertise in animal welfare or stock management,
  - (c) at least one representative of Local Land Services who has expertise in animal welfare or stock management,
  - (d) if the Secretary considers it necessary—one person who has expertise relating to the type of stock animal in relation to which the panel is established,
  - (e) any other person prescribed by the regulations for this section.
- (2) The procedure of a stock welfare panel is decided by the Secretary.



## Part 7 Enforcement and compliance

### Division 1 Preliminary

#### 59 Purposes for which functions under Part may be exercised

- (1) An authorised officer may exercise functions under this Part for the following purposes—
  - (a) for an authorised officer who is a public service employee or a police officer—
    - (i) for the purpose of investigating, monitoring and enforcing compliance with the requirements imposed by or under this Act or the *Crimes Act 1900*, section 79, 80, 530 or 531, and
    - (ii) for the purpose of administering this Act or an instrument made under this Act, including obtaining documents connected with the administration of this Act,
  - (b) for an authorised officer who is an employee, or otherwise engaged by, an approved charitable organisation—
    - (i) for the purpose of investigating, monitoring and enforcing compliance with the requirements imposed by or under this Act in relation to an animal welfare offence or the *Crimes Act 1900*, section 79, 80, 530 or 531, and
    - (ii) for the purpose of administering this Act or an instrument made under this Act in relation to an animal welfare offence, including obtaining documents connected with the administration of this Act in relation to an animal welfare offence,
  - (c) for an authorised officer who is an inspector under the *Greyhound Racing Act 2017*—
    - (i) for the purpose of investigating, monitoring and enforcing compliance with the requirements imposed by or under this Act or the *Crimes Act 1900*, section 79, 80, 530 or 531 in relation to animals held in connection with greyhound racing, and
    - (ii) for the purpose of administering this Act or an instrument made under this Act in relation to animals held in connection with greyhound racing, including obtaining documents connected with the administration of this Act in relation to animals held in connection with greyhound racing.
- (2) However, only an authorised officer who is a veterinary practitioner may exercise functions referred to in subsection (1) in relation to an offence under Part 5 involving animal research.
- (3) In this Part, a reference to an **authorised purpose** is a reference to a purpose referred to in subsection (1).

### Division 2 Information gathering powers

#### 60 Exercise in conjunction with other powers

A power under this Division may be exercised whether or not a power of entry under Division 3 is being exercised.

#### 61 Powers of authorised officers to require documents

- (1) An authorised officer may, by written notice, require the person to give the officer a document the officer requires for an authorised purpose.

**Note—** See section 86(3) which provides that a person is not guilty of an offence of failing to comply with a requirement to give a document or to answer a question unless the person is warned that a failure to comply is an offence.

- (2) The notice must state—
  - (a) how documents are required to be given, and
  - (b) a reasonable time within which the documents are required to be given.
- (3) The notice may only require a person to give existing documents that are—
  - (a) in the person's possession, or
  - (b) within the person's power to obtain lawfully.
- (4) The authorised officer to whom a document is given may make copies of it.
- (5) If a document required to be given is in electronic, mechanical or other form, the notice requires the document to be given in written form, unless the notice otherwise provides.

## 62 Powers of authorised officers to require and record answers

- (1) If an authorised officer reasonably suspects a person is aware of matters about which information is reasonably required for an authorised purpose, the officer may require the person to answer questions in relation to the matters.

**Note—** See section 86(3) which provides that a person is not guilty of an offence of failing to comply with a requirement to give a document or to answer a question unless the person is warned that a failure to comply is an offence.
- (2) An authorised officer may, by written notice, require a corporation to nominate, in writing within the time specified in the notice, a director or officer of the corporation as the corporation's representative to answer questions.
- (3) Answers given by a person nominated under subsection (2) bind the corporation.
- (4) An authorised officer may, by written notice, require a person to—
  - (a) attend at a specified place and time to answer questions if attendance at the place is reasonably required for the questions to be properly put and answered, or
  - (b) answer questions by audio link or audio visual link.
- (5) The place and time at which a person may be required to attend under subsection (4)(a) or answer questions by audio link or audio visual link must be—
  - (a) a place and time nominated by the person, or
  - (b) if the place and time nominated is not reasonable in the circumstances or a place and time is not nominated by the person—a place and time nominated by the authorised officer that is reasonable in the circumstances.
- (6) An authorised officer may record questions, and answers to questions, under this section if the officer has informed the person who will be questioned that the record will be made.
- (7) A record may be made using—
  - (a) sound recording apparatus, or
  - (b) audio visual apparatus, or
  - (c) another method decided by the authorised officer.
- (8) The authorised officer must, if asked by the person, give the person who is questioned a copy of the record as soon as practicable after it is made.
- (9) A record may be made under this section despite the provisions of another law.

## 63 Power to require animals and other items to be produced

- (1) If an authorised officer reasonably suspects a person to possess or control any of the following items (*relevant items*) reasonably required for an authorised purpose, the officer may require the person to produce the relevant items—
  - (a) an animal,
  - (b) equipment, material or a substance, including animal reproductive material.  
**Example of animal reproductive material—** animal eggs
- (2) A notice under this section must state—
  - (a) how the relevant item is required to be produced, and
  - (b) a reasonable time by which the relevant item is required to be produced.

## 64 Power of authorised officers to demand name and address

- (1) If an authorised officer reasonably suspects a person has committed or is committing an offence against this Act or the regulations, the officer may require the person to state the person's full name and residential address.  
**Note—** See section 86(3) which provides that a person is not guilty of an offence of failing to comply with a requirement to give a document or to answer a question unless the person is warned that a failure to comply is an offence.
- (2) An authorised officer may also ask the person to provide proof of the person's name and address.
- (3) It is not an offence to fail to comply with a request under subsection (2).

## 65 Authorised 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 custody of the vehicle, must, if asked by an authorised officer, immediately give information about the name and home address of the driver, and
  - (b) another person must, if asked by an authorised officer, give information that it is in the person's power to give that may lead to the identification of the driver.  
Maximum penalty—category 5 penalty.
- (2) For subsection (1)(a), if asked by the authorised officer, the responsible person or person having custody of the vehicle must give the information in a written statement signed by the person.
- (3) It is a defence to a prosecution for an offence against subsection (1)(a) if the defendant proves the defendant did not know, and could not with reasonable diligence have ascertained, the driver's name and home address.
- (4) A written statement referred to in subsection (2), produced in a court in proceedings against the person named in the statement as the driver at the time of the alleged offence, is evidence, without proof of the signature, that the person was the driver at the time of the alleged offence if the person does not appear before the court.

## Division 3 Powers to enter premises

### 66 Powers of authorised officers to enter non-residential premises

- (1) An authorised officer may enter premises, or a part of premises, not used for residential purposes—

- (a) at any time, if the officer reasonably suspects an offence against this Act is about to be, is being or has been committed, on the premises or the part of the premises, or
  - (b) under the authority of a search warrant, or
  - (c) with the consent of the occupier of the premises, or
  - (d) at any reasonable time to check compliance with a direction or order given under this Act or the regulations, for example, a disqualification order, or
  - (e) at any reasonable time, if the premises are premises at which a licensed activity is carried out,
  - (f) at any reasonable time to investigate, monitor and enforce compliance with this Act or the regulations, if the authorised officer reasonably suspects an agricultural, commercial or industrial activity relating to animals is being carried out.
- (2) For subsection (1)(f), the regulations may prescribe activities that do or do not constitute agricultural, commercial or industrial activities.

## **67 Entry into residential premises only in certain circumstances**

- (1) An authorised officer may only enter premises, or a part of premises, used for residential purposes—
- (a) with the consent of the occupier of the premises, or
  - (b) under the authority of a search warrant, or
  - (c) if the authorised officer reasonably believes—
    - (i) an animal has experienced significant physical injury, is in imminent danger of experiencing significant physical injury or has a life threatening condition that requires immediate veterinary treatment, and
    - (ii) it is necessary to exercise the power to prevent further or significant physical injury to the animal or to ensure the animal is provided with veterinary treatment.
- (2) If an authorised officer enters premises under subsection (1)(c), the officer may only exercise powers under sections 71 and 72 in relation to the animal.

## **68 Search warrants**

- (1) An authorised officer may apply to an issuing officer for the issue of a search warrant if the authorised officer reasonably suspects that—
- (a) a provision of this Act or the regulations is being or has been contravened at any premises, or
  - (b) there is, in or on any premises, a matter or a thing connected with an offence under this Act or the regulations.
- (2) An issuing officer to whom the application is made may, if satisfied there are reasonable grounds to do so, issue a search warrant authorising an authorised officer named in the warrant—
- (a) to enter the premises, and
  - (b) to exercise a function of the authorised officer under this Part.
- (3) The *Law Enforcement (Powers and Responsibilities) Act 2002*, Part 4, Division 5 applies to a search warrant issued under this section.
- (4) Without limiting subsection (2), a police officer may—

- (a) accompany an authorised officer executing a search warrant under this section, and
  - (b) take all reasonable steps to help the authorised officer in the exercise of the authorised officer's function under this Act.
- (5) In this section—  
**issuing officer** means an authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

## 69 Additional provision regarding entry of premises

- (1) A power to enter premises under this Act authorises entry by foot, vehicle, vessel or aircraft or by any other means.
- (2) Entry may be effected under this Act with the use of reasonable force.

## Division 4 Investigation and risk management powers

### 70 Powers that can be exercised on premises

- (1) An authorised officer may, at any premises lawfully entered including a public place, do anything that in the authorised officer's opinion is necessary for an authorised purpose, including—
    - (a) the things specified in subsection (2), and
    - (b) the exercise of additional specific powers under this Division in relation to animals.
  - (2) An authorised officer may do 1 or more of the following—
    - (a) examine, inspect and observe things,
    - (b) take and remove samples of things,
    - (c) make examinations, inquiries or tests the authorised officer considers necessary,
    - (d) take photographs, films, videos, audio or other recordings that the authorised officer considers necessary,
    - (e) require documents to be produced for inspection,
    - (f) examine and inspect documents,
    - (g) copy documents,
    - (h) seize things that the authorised officer reasonably believes are connected with an offence against this Act or the regulations,
    - (i) move seized things from the place where they are seized or leave them at the place where they are seized and take reasonable action to restrict access to them,
    - (j) direct the occupier of the premises where things are seized to keep the things at the premises or at another place under the control of the occupier,
    - (k) do anything else authorised by or under this Act.
- Note—** See section 86(3) which provides that a person is not guilty of an offence of failing to comply with a requirement to give a document or to answer a question unless the person is warned that a failure to comply is an offence.
- (3) The power to examine and inspect a thing includes power to use reasonable force to break open or otherwise access a container or other thing being used, or suspected of being used, to hold or contain an animal.
  - (4) The power to seize a thing connected with an offence includes a power to seize—

- (a) a thing in relation to which the offence has been committed, and
  - (b) a thing that will afford evidence of the commission of the offence, and
  - (c) a thing that was used for the purpose of committing the offence.
- (5) A power to do something under this section includes a power to arrange for the thing to be done.
- (6) A power to do something under this section in relation to a thing may be exercised without the consent of the owner of the thing.
- (7) In this section, a reference to—
- (a) an offence includes a reference to an offence that it reasonably suspected has been committed, and
  - (b) a thing includes part of an animal and animal reproductive material but does not include an animal.

## **71 Powers of authorised officers generally to examine, inspect or observe animals**

An authorised officer may examine, inspect or observe an animal if—

- (a) the officer has, for an authorised purpose, entered the premises where the animal is kept, or
- (b) the officer reasonably suspects—
  - (i) an offence against this Act or the regulations is being, has been or is about to be committed in relation to the animal, or
  - (ii) the animal has not been provided with appropriate food or drink during the following periods and is still not being provided with the food or drink—
    - (A) if the regulations prescribe a period for the species, or other class, of animal—the period prescribed,
    - (B) otherwise—the previous 24 hours, or
  - (iii) the animal is so severely injured, so diseased or in so poor a physical or psychological condition that it is necessary for the animal to be provided with veterinary treatment and the animal is not being provided with that treatment, or
  - (iv) the animal is so severely injured, so diseased or in so poor a physical or psychological 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 way that will inflict unnecessary harm on the animal.

## **72 Powers of authorised officers in relation to care of animals**

- (1) If, after examining, inspecting or observing an animal under section 71, an authorised officer reasonably suspects the animal is being or has been harmed or any of the circumstances referred to in section 71(b) exist in relation to the animal, the authorised officer may do 1 or more of the following—
- (a) seize the animal or, if the animal is dead, the animal's carcass,
  - (b) if the animal is seized,
    - (i) move the animal or carcass to another place the authorised officer considers appropriate,
    - (ii) leave the animal or carcass at the place and restrict access to the animal or carcass in the way the authorised officer considers appropriate,
  - (c) provide the animal with necessary drink, food, veterinary treatment and routine animal husbandry,

- (d) administer a sedative or pain relief to the animal,
  - (e) take and remove samples from the animal,
  - (f) destroy the animal in a way that causes it to die quickly and without unnecessary harm.
- (2) An animal or carcass to which subsection 1(a) applies may be kept by an authorised officer for a period—
- (a) of no more than 60 days, or
  - (b) if, within the 60-day period, proceedings are started in relation to an offence against this Act or the regulations—until the proceedings are finally decided, unless the court otherwise directs.
- (3) Despite subsection (2), an animal that is being or has been harmed that is kept under this section or to which section 71(b) applies may—
- (a) be kept for the period necessary for the animal to be provided with appropriate drink, food or veterinary treatment, or
  - (b) be destroyed in a way that causes it to die quickly and without unnecessary harm.
- (4) For subsection (1)(d), an authorised officer must—
- (a) if reasonably practicable, obtain advice from a veterinary practitioner before administering the sedative or pain relief, and
  - (b) as soon as practicable after administering the sedative or pain relief, arrange for the animal to be examined by a veterinary practitioner, and
  - (c) if the animal is a stock animal—as soon as practicable after administering the sedative or pain relief, give the responsible person for the animal a record that the sedative or pain relief has been administered.

### **73 Notices in relation to contravention of Act**

- (1) If an authorised officer is satisfied on reasonable grounds a person is contravening a provision of this Act or the regulations, the authorised officer may give the person a written notice requiring the person to take specified action the authorised officer considers necessary to avoid a further contravention.
- (2) A person must not, without reasonable excuse, fail to comply with the notice.  
Maximum penalty—category 4 penalty.

### **74 Seizure of animals held in contravention of certain orders or by disqualified persons**

- (1) This section applies if an animal is—
- (a) being held in contravention of an order made under any of the following provisions—
    - (i) section 54(2),
    - (ii) section 129,
    - (iii) section 130,
    - (iv) section 131, or
  - (b) being held by a person to whom section 152 applies.
- (2) An authorised officer may seize the animal.

### **75 Powers to detain vehicle or vessel**

- (1) This section applies if an authorised officer who is a police officer reasonably suspects a moving vehicle or vessel contains—

- (a) an animal in relation to which an offence against this Act or the regulations has been or is being committed, or
  - (b) an animal that is being harmed.
- (2) The authorised officer may do any of the following the officer considers necessary—
- (a) stop the vehicle or vessel,
  - (b) enter the vehicle or vessel,
  - (c) enter land for the purpose of entering the vehicle or vessel,
  - (d) examine the animal.
- (3) For the purpose of entering the vehicle or vessel or examining the animal, the police officer may direct the person operating the vehicle or vessel to do 1 or more of the following—
- (a) to manoeuvre the vehicle or vessel in a specified way or to a specified place, including a place that is appropriate for examining the animal,
  - (b) to park or secure the vehicle or vessel in a specified way,
  - (c) to remain in control of the vehicle or vessel while the police officer is exercising the officer's functions.
- (4) A person must comply with a direction given to the person under this section.  
Maximum penalty—category 5 penalty.

## 76 Extension of certain powers of officers

The powers of an authorised officer under this Division may be exercised in relation to an offence, or suspected offence, against the *Veterinary Practice Act 2003*, section 9(1).

## Division 5 Functions in relation to seized things

### 77 Definitions

- (1) In this Division—  
**owner** of a thing includes a person entitled to possession of the thing.  
**responsible person** for a seized thing means—
- (a) the apparent owner of the thing, or
  - (b) the apparent occupier of premises where the thing is seized.
- seized thing** means a thing seized by an authorised officer under this Part.
- (2) For the purposes of this Division, the continued retention of a seized thing in custody is **not justified** only if it is not necessary to retain the thing as evidence of an offence.

### 78 Receipt for seized things

- (1) As soon as practicable after an authorised officer seizes a thing, the authorised officer must give a receipt for it to the responsible person for the thing.
- (2) If it is not practicable to comply with subsection (1), the authorised officer may leave the receipt at the premises where the thing was seized in a conspicuous position and in a reasonably secure way.
- (3) A receipt is not required if—
- (a) the thing is seized in a public place, and
  - (b) the apparent owner of the thing cannot be located after reasonable inquiry.
- (4) A receipt must describe generally the seized thing and its condition.



- (5) This section does not apply if it is impracticable or would be unreasonable to give a receipt given the nature, condition or value of a seized thing.

## **79 Return of seized things**

- (1) An authorised officer must return a seized thing to its owner if the authorised officer is satisfied that—
- (a) it is lawful for the owner to have possession of the thing, and
  - (b) the continued retention of the thing in custody is not justified.
- (2) A requirement to return a seized thing to its owner includes a requirement to remove or lift restrictions on an owner's access to a seized thing.
- (3) This section does not apply if an authorised officer certifies under section 80 that the authorised officer is unable to return the seized thing to its owner.

## **80 Certification of inability to return seized thing**

- (1) An authorised officer may certify in writing that the authorised officer is unable to return a seized thing to its owner if—
- (a) the authorised officer cannot find the owner of the thing after making all reasonable inquiries, or
  - (b) the authorised officer cannot, for another reason, return the thing to its owner after making all reasonable efforts to do so.
- (2) A thing's nature, condition and value must be considered in deciding—
- (a) whether it is reasonable to make inquiries or efforts, and
  - (b) what inquiries or efforts, if any, are reasonable in the circumstances.
- (3) The Secretary may give directions about the inquiries or efforts that must be made by authorised officers in relation to the return of a seized thing or a class of seized things.
- (4) Compliance with a direction under subsection (3) is evidence that all reasonable inquiries or efforts were made.

## **81 Court order requiring delivery of seized thing**

- (1) A court may, on application by a person, make an order directing that a seized thing be delivered to the person.
- (2) A court may make such an order only if satisfied that—
- (a) the person is the owner of the seized thing, and
  - (b) it is lawful for the person to have possession of the thing, and
  - (c) the continued retention of the seized thing in custody is not justified.
- (3) In deciding an application, the court may make—
- (a) a finding or order about the ownership of the thing, and
  - (b) necessary incidental or ancillary findings or orders.
- (4) An application under this section may be made to—
- (a) the Local Court, if the estimated value of the thing is not more than \$100,000, or
  - (b) the Supreme Court, if the estimated value of the thing is greater than \$100,000.
- (5) Despite subsection (4), a court hearing proceedings for an offence may deal with an application relating to a seized thing connected with the offence despite the estimated value of the thing.

- (6) A court cannot make an order under this section about a seized thing that has been forfeited to the Secretary under section 82.
- (7) A requirement to deliver a seized thing to its owner includes a requirement to remove or lift restrictions on an owner's access to a seized thing.

## 82 Forfeiture of seized thing

- (1) The Secretary may, by written order, declare a seized thing to be forfeited to the Secretary.
- (2) The Secretary may make an order only if—
  - (a) the Secretary is satisfied the continued retention of the thing in custody is not justified, and
  - (b) the thing cannot be returned to its owner.
- (3) A thing cannot be returned to its owner if—
  - (a) the Secretary is satisfied it is not lawful for the owner of the seized thing to have possession of the thing, or
  - (b) an authorised officer certifies under section 80 that the authorised officer is unable to return the seized thing to its owner.
- (4) The Secretary must give notice of the Secretary's intention to declare a seized thing to be forfeited to the Secretary.
- (5) The notice must be given at least 21 days before the order is made.
- (6) The Secretary gives notice by—
  - (a) publishing the notice on the Department's website, and
  - (b) serving the notice on the apparent owner of the thing.
- (7) However, it is not necessary to serve the notice on the apparent owner of the thing if an authorised officer has certified under section 80 that the authorised officer is unable to return the seized thing to its owner.

**Note—** Notice of the intention to make the declaration gives the owner of the thing an opportunity to seek a court order for the return of the thing.

## 83 Dealing with forfeited things

- (1) When the Secretary makes an order under section 82 declaring a seized thing forfeited to the Secretary, the seized thing—
  - (a) is forfeited to the Secretary, and
  - (b) becomes the Secretary's property.
- (2) The Secretary may deal with the thing as the Secretary considers appropriate.
- (3) Without limiting subsection (2), the Secretary may destroy, sell or dispose of the thing or authorise its destruction, sale or disposal.

## Division 6 General

### 84 Requiring assistance

- (1) An authorised officer may require the owner or occupier of premises, or a person in or on premises other than a public place, to provide reasonable assistance for the purposes of exercising the authorised officer's functions under this Part in relation to the premises.
- (2) The requirement may be made—

- (a) by verbal direction to the person, or
  - (b) by written notice served on the person.
- (3) The requirement may be, for example—
- (a) to confine or move an animal under the care, custody or control of the person, or
  - (b) to provide facilities, including yards, that the authorised officer requires to inspect, examine, treat or take samples from an animal or thing, or
  - (c) to restrain an animal.

## **85 Recovery of fee for action taken**

- (1) This section applies if 1 or more of the following entities incurs costs in relation to an authorised officer's exercise of a function under this Act in relation to an animal—
- (a) the authorised officer,
  - (b) the Crown, if the authorised officer is—
    - (i) a public service employee, or
    - (ii) a police officer, or
    - (iii) an inspector under the *Greyhound Racing Act 2017*,
  - (c) an approved charitable organisation, if the authorised officer is an employee of, or otherwise engaged by, the organisation.
- (2) The entity may charge the responsible person for the animal a fee for the authorised officer's exercise of the function in relation to the animal.
- (3) The fee must be no more than is reasonable to cover the costs incurred in connection with exercising the function.
- (4) The fee is a debt payable to the entity that may be recovered in a court of competent jurisdiction.

## **86 Offence of failing to comply with requirement made by authorised officer**

- (1) A person who contravenes a requirement made of the person by an authorised officer exercising a power under this Part is guilty of an offence.  
Maximum penalty—category 5 penalty.
- (2) Subsection (1) does not apply to a requirement of a person under a notice given to the person under section 73.
- (3) A person is not guilty of an offence of failing to comply with a requirement to give a document or to answer a question unless the person was warned on that occasion that a failure to comply is an offence.

## **87 Defence to contravention**

- (1) In proceedings in which a person is charged with an offence of contravening a requirement made of the person by an authorised officer exercising a function under this Part, it is a defence to the prosecution for the offence if the person charged proves that the person had a reasonable excuse for the contravention concerned.
- (2) Subsection (1) does not apply to a requirement made under Division 2.
- (3) A requirement made under Division 2 does not affect the privilege against self-incrimination as it applies to an individual.

**88 Revocation or variation of notices**

- (1) A notice given under this Part may be revoked or varied by a subsequent notice or notices.
- (2) Without limiting the above, a notice may be varied by extending the time for complying with the notice.
- (3) A notice may be revoked or varied by the Secretary or by an authorised officer.

**Division 7 Authorised officers**

**89 Appointment of authorised officers**

- (1) The Secretary may, by written instrument, appoint the following persons as an authorised officer for this Act—
  - (a) a public service employee,
  - (b) a person employed or otherwise engaged by an approved charitable organisation.
- (2) An appointment may apply to—
  - (a) a specified person, or
  - (b) persons of a specified class

**90 Terms on which appointment made**

An appointment may be—

- (a) unconditional, or
- (b) subject to conditions or limitations.

**91 Period of appointment**

- (1) An appointment of an authorised officer has effect—
  - (a) for the period stated in the instrument of appointment or
  - (b) if a period is not stated, until revoked by the Secretary.
- (2) The Secretary may, by written instrument, revoke or amend an appointment at any time.
- (3) If an appointment of an authorised officer is made by reference to a particular office, the person appointed ceases to be an authorised officer if the person ceases to hold the office.

**92 Powers subject to instrument of appointment**

- (1) An authorised officer may exercise the functions of an authorised officer under this Act, subject to any conditions or limitations specified in the officer's instrument of appointment.
- (2) Nothing in this Act authorises or requires an authorised officer to act in contravention of the conditions or limitations specified in his or her instrument of appointment as an authorised officer.

**93 Police officers taken to be authorised officers**

- (1) A police officer is taken to be an authorised officer under this Act and may exercise all of the functions of an authorised officer under this Act.
- (2) Nothing in this Act limits the powers of a police officer under the *Law Enforcement (Powers and Responsibilities) Act 2002* or any other law.

**94 Inspectors under Greyhound Racing Act 2017 taken to be authorised officers**

- (1) An inspector appointed under the *Greyhound Racing Act 2017* is taken to be an authorised officer under this Act and may exercise all of the functions of an authorised officer under this Act in relation to animals held in connection with greyhound racing.
- (2) To avoid doubt, nothing in this Act limits the powers of an inspector under the *Greyhound Racing Act 2017*.

**95 Identification**

- (1) Each person appointed by the Secretary as an authorised officer under this Part is to be given evidence of the person's authority as an authorised officer.
- (2) In exercising functions under this Act or the regulations, an authorised officer must, if asked by a person affected by the exercise of the function, produce to the person—
  - (a) for an authorised officer appointed under this Act—the officer's evidence of authority under this Act, or
  - (b) for an inspector under the *Greyhound Racing Act 2017*—the inspector's identification under that Act.
- (3) The Secretary may direct a person who ceases to be an authorised officer to return to the Secretary the evidence of the person's authority as an authorised officer.
- (4) A person who fails to comply with a direction under subsection (3) is guilty of an offence.  
Maximum penalty—category 5 penalty.

**96 Use of assistants other than on premises used for residential premises**

- (1) An authorised officer exercising a function under this Act may exercise the function with the assistance of another person the authorised officer considers necessary.
- (2) The person may accompany an authorised officer and take all reasonable steps to assist the authorised officer in the exercise of the authorised officer's functions under this Act.

**97 Use of assistants—residential premises**

Despite section 96, if an authorised officer is entering premises that are used for residential purposes, the officer may be accompanied only by—

- (a) a veterinary practitioner, or
- (b) a person who, in the authorised officer's opinion, has expertise in the handling of an animal in relation to which the authorised officer is exercising functions, or
- (c) a police officer authorised under section 68 to accompany the authorised officer.

**98 Obstructing authorised officers**

A person who hinders, obstructs or resists an authorised officer in the exercise of the officer's functions under this Act is guilty of an offence.

Maximum penalty—category 3 penalty.

**99 Impersonating authorised officers**

A person who impersonates an authorised officer is guilty of an offence.

Maximum penalty—category 3 penalty.

## Division 8 Approved charitable organisations

### 100 Definition

In this Division—

**financial year** means the 12 months—

- (a) starting on 1 July in a year, and
- (b) ending on 30 June in the following year.

### 101 Approval of charitable organisations

- (1) The Minister may, by gazette notice, approve a charitable organisation for the purposes of this Part.
- (2) The Minister may at any time, by gazette notice, revoke an approval under subsection (1) but only if the Minister considers the revocation to be in the public interest.

### 102 Annual reports

- (1) An approved charitable organisation must, by 30 September in each year, give the Minister an annual report about the functions under this Act or the regulations exercised by the approved charitable organisation, or its officers or employees, during the previous financial year.
- (2) The annual report must include the matters prescribed by the regulations.
- (3) The Minister must give an annual report received by the Minister under subsection (1) to the Presiding Officer of each House of Parliament.
- (4) The Minister may, before giving the annual report to the Presiding Officers, redact any information in the report the Minister considers should not be made public.  
**Example—** the report includes personal information that should not be made public
- (5) A copy of a report provided to the Presiding Office of a House of Parliament under subsection (3) must be laid before that House within 5 sitting days of that House after it is received by the Presiding Officer.

### 103 Other reports

An approved charitable organisation must, if asked by the Minister, give the Minister a report on any matter specified by the Minister that relates to the enforcement of this Act or the regulations by the organisation.

## Division 9 Local authorities—critical situations

### 104 Definition

In this Division—

**critical situation** means—

- (a) an emergency within the meaning of the *State Emergency and Rescue Management Act 1989*, or
- (b) a situation requiring the mass euthanasia of animals, or  
**Example—** a serious road accident involving a truck carrying stock animals
- (c) a situation in which—
  - (i) immediate euthanasia of an animal is required on the basis the animal is so diseased or severely injured, or in so poor a physical condition, that it is cruel to keep the animal alive, and
  - (ii) an authorised officer or veterinary practitioner is not available.

**105 Local authority—meaning**

- (1) The council of a local government area is the local authority for its local government area.
- (2) The local authority for an area within the Western Division that is not within a local government area is the person appointed under this section for that purpose.
- (3) The Lord Howe Island Board is the local authority for Lord Howe Island.
- (4) Local Land Services is also taken to be a local authority for all areas within New South Wales.
- (5) The Minister may appoint a person to be the local authority for the purposes of subsection (2) for an area within the Western Division that is not within a local government area.
- (6) The Minister may revoke an appointment under subsection (5) at any time or for any reason.
- (7) A person appointed under subsection (2), other than a person who is an employee of a government sector agency within the meaning of the *Government Sector Employment Act 2013*, is entitled to be paid the remuneration, including travelling and subsistence allowances, that the Minister may from time to time decide.

**106 Local authorities may appoint authorised officers to assist with critical situations**

- (1) A local authority has the same power as the Secretary to appoint authorised officers to exercise functions in relation to critical incidents within the local authority's area.
- (2) A person appointed by a local authority as an authorised officer may—
  - (a) for an authorised officer appointed by a council for a local government area—humanely euthanase a stock animal in a critical situation if it would be cruel to keep the animal alive, and
  - (b) for an authorised officer not referred to in paragraph (a)—humanely euthanase a stock animal or native animal in a critical situation if it would be cruel to keep the animal alive, and
  - (c) for an authorised officer appointed by Local Land Services—enter premises, other than premises used for residential purposes, to humanely euthanase a stock animal or native animal in a critical situation.
- (3) The regulations may make further provision for the exercise by an authorised officer appointed by a local authority of functions under this Act.
- (4) Nothing in this section limits the functions of an authorised officer appointed by the Secretary in relation to critical situations in any area.

**107 Delegation by local authority**

- (1) A local authority may delegate to any officer or employee of the local authority any function of the local authority under this Act or the regulations, other than this power of delegation.
- (2) A delegate may subdelegate any function delegated to the delegate by the local authority if authorised to do so by the local authority by instrument in writing.
- (3) A delegate cannot subdelegate a function to a person if the local authority does not have power to delegate that function to the person.
- (4) If a local authority delegates functions subject to conditions or limitations, any subdelegation by the delegate is taken to be subject to the same conditions and limitations, and any further conditions or limitations imposed by the delegate.

## Part 8 Legal proceedings

### Division 1 Criminal proceedings generally

#### 108 Category 1 penalty

The *category 1 penalty* is—

- (a) for an individual—1000 penalty units or imprisonment for 2 years, or both, or
- (b) for a corporation—5000 penalty units.

#### 109 Category 2 penalty

The *category 2 penalty* is—

- (a) for an individual—400 penalty units or imprisonment for 1 year, or both, or
- (b) for a corporation—2000 penalty units.

#### 110 Category 3 penalty

The *category 3 penalty* is—

- (a) for an individual—150 penalty units or imprisonment for 6 months, or both, or
- (b) for a corporation—750 penalty units.

#### 111 Category 4 penalty

The *category 4 penalty* is—

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

#### 112 Category 5 penalty

The *category 5 penalty* is—

- (a) for an individual—25 penalty units, or
- (b) for a corporation—125 penalty units.

#### 113 Proceedings for offences

- (1) Proceedings for an offence against this Act or the regulations are to be disposed of summarily—
  - (a) by the Local Court, or
  - (b) by the Supreme Court in its summary jurisdiction.
- (2) The maximum term of imprisonment the Local Court may impose for an offence against this Act or the regulations is the shorter of the following—
  - (a) 2 years,
  - (b) the maximum term of imprisonment provided by law for the offence.

#### 114 Time limit for proceedings

- (1) Proceedings for an offence against this Act or the regulations may be started at any time but not later than the following—
  - (a) 3 years after the date on which the offence is alleged to have been committed,
  - (b) 3 years after the date on which evidence of the alleged offence first came to the attention of any authorised officer.



- (2) If subsection (1)(b) is relied on to start proceedings for an offence, the process by which the proceedings are started must contain particulars of the date on which evidence of the offence first came to the attention of any authorised officer and need not contain particulars of the date on which the offence was committed.
- (3) The date on which evidence first came to the attention of any authorised officer is the date specified in the process by which the proceedings are started, unless the contrary is established.
- (4) In this section—  
**evidence**, of an offence, means evidence of any conduct constituting the offence.

## 115 Authority to prosecute

- (1) Proceedings for an offence against this Act or the regulations may be taken only by—
  - (a) an authorised officer, or
  - (b) the Minister or the Secretary, or
  - (c) another entity prescribed by the regulations for the purpose of this section, or
  - (d) another person with the Minister's or Secretary's written consent.
- (2) Proceedings for an animal welfare offence may also be taken by an approved charitable organisation.
- (3) In proceedings for an offence against this Act or the regulations, consent to take the proceedings, purporting to have been signed by the Minister or the Secretary, is evidence of the consent without proof of the signature of the Minister or Secretary.

## 116 Proceedings for certain offences against section 13

- (1) This section applies to an offence against section 13 if the offence relates to—
  - (a) a stock animal depastured on rateable land, within the meaning of the *Local Land Services Act 2013*, and
  - (b) the responsible person for the animal is alleged to have failed to ensure either of the following minimum care requirements for the animal have been met—
    - (i) the animal having appropriate food and drink,
    - (ii) the animal having appropriate shelter.
- (2) Before starting proceedings for the offence, the prosecution must obtain advice from Local Land Services about—
  - (a) the state of the stock animal, if practicable, and
  - (b) the appropriate care for the stock animal.
- (3) However, the prosecution may, with the leave of the court in circumstances the court considers just, commence or continue proceedings for an offence mentioned in subsection (1), despite having failed to comply with subsection (2).

## 117 Offences against more than one animal

- (1) In proceedings for an offence against this Act or the regulations, an allegation may be made that the act or omission constituting the alleged offence related to more than 1 animal.
- (2) In sentencing a person for an offence against this Act, a court may take into account whether the act or omission constituting the offence related to more than one animal.
- (3) For subsection (2), if the person has already been prosecuted for the act or omission, the court must take into account the penalty imposed on the person as a result of the prosecution.

**118 Alternative summons**

- (1) This section applies if, at any time during proceedings (the *original proceedings*) for an offence against this Act or the regulations, the person (the *defendant*) accused of the offence satisfies the court the act or omission the subject of the original proceedings was done, authorised to be done or omitted to be done by the defendant in accordance with an express direction given by—
  - (a) the animal’s owner, or
  - (b) if the person was bound to comply with the directions of an employee or agent of the animal’s owner in relation to the animal—the employee or agent.
- (2) The court—
  - (a) may—
    - (i) order that the defendant be discharged, or
    - (ii) adjourn the original proceedings until the proceedings (the *alternative proceedings*) referred to in paragraph (b) have been decided, and
  - (b) may issue a summons against the owner, employee or agent for the offence by the earlier of the following—
    - (i) the day that is 6 months after the original proceedings have been adjourned,
    - (ii) the day that is 3 years after the date on which it is alleged the offence was committed.
- (3) The court before which the alternative proceedings are taken may, if it convicts the owner, employee or agent of the offence, order that the owner, employee or agent pay the costs in relation to the original proceedings the court considers appropriate.

**Division 2 Exemptions and related matters**

**119 Specific exemptions**

- (1) A person’s act or omission in relation to an animal is not an offence under this Act or the regulations if the act or omission occurred—
  - (a) in the course of, and for the purpose of, performing prescribed animal husbandry in a way that inflicted no unnecessary harm on the animal, or
  - (b) in the course of, and for the purpose of—
    - (i) fishing, hunting, shooting, snaring, trapping, catching or capturing the animal in a way that inflicted no unnecessary harm on the animal, or
    - (ii) destroying the animal, or preparing the animal for destruction, for the purpose of producing food for human consumption in a way that inflicted no unnecessary harm on the animal, or
  - (c) in the course of, and for the purpose of, destroying the animal that is a pest, within the meaning of the *Biosecurity Act 2015*, in a way that—
    - (i) is reasonable having regard to the species of animal, and
    - (ii) causes no unnecessary harm to the animal, or
  - (d) in the course of, and for the purpose of, undertaking aquaculture, within the meaning of the *Fisheries Management Act 1994*, or
  - (e) in the course of, and for the purpose of—
    - (i) carrying out animal research in accordance with a licence, or
    - (ii) supplying animals for use in connection with animal research in accordance with a licence, or
  - (f) for the purpose of feeding a predatory animal lawfully kept by the person if—

- (i) the act 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 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, or
- (g) for the purpose of using a live fish, decapod crustacean or cephalopod as bait or as a lure to take, or attempt to take, fish, or
- (h) in accordance with the precepts of—
  - (i) the Jewish religion, or
  - (ii) another religion prescribed by the regulations for this paragraph.
- (2) Subsection (1) does not apply to—
  - (a) an act or omission offence against section 20 or 40, or
  - (b) for subsection (1)(b) and (c)— an act or omission that is an offence involving a game park.

## **120 Lawful excuse**

It is a defence to the prosecution for an offence against this Act or the regulations if the person charged with the offence proves—

- (a) that the conduct of the person was authorised or required by or under—
  - (i) this Act, including by a prescribed standard, or
  - (ii) another Act, or
- (b) that the conduct of the person was authorised by or under a law of the Commonwealth.

## **121 Things done by or under the direction of authorised officers**

- (1) An authorised officer is not guilty of an offence against this Act or the regulations for anything done in good faith in the exercise of the officer's functions as an authorised officer.
- (2) A person is not guilty of an offence against this Act or the regulations for anything done by the person in good faith at the request or under the direction of an authorised officer acting in the exercise of the officer's functions as an authorised officer.

## **122 Proof of exemptions**

In proceedings for an offence against this Act or the regulations, proof of the following lies on the accused person—

- (a) that a person was exempt under Part 5 from a requirement to be licensed under that Part,
- (b) was authorised by or under this Act to engage in any conduct.

## **Division 3 Court orders**

### **123 Orders generally**

- (1) One or more orders may be made under this Division against the offender.
- (2) Orders may be made under this Division in addition to any penalty that may be imposed or any other action that may be taken in relation to the offence.

- (3) Orders may be made under this Division regardless of whether any penalty is imposed, or other action taken, in relation to the offence.

**124 Court may order production of animal**

- (1) This section applies if an authorised officer makes a complaint on oath that the officer reasonably suspects an offence against this Act, the regulations or the *Crimes Act 1900*, section 79, 80, 530 or 531 is being, or has been, committed in relation to an animal.
- (2) A court may issue a summons against the responsible person for the animal requiring the person to produce the animal before a court specified in the summons at a specified time and date for the court's inspection.
- (3) The person on whom the summon is served must not, without reasonable cause, fail to comply with the summons.  
Maximum penalty—category 4 penalty.

**125 Court may make order regarding care of animals**

- (1) This section applies if—
- (a) an authorised officer has located an animal that requires urgent care, and
  - (b) after making reasonable inquiries, the authorised officer cannot locate a responsible person for the animal.
- (2) An authorised 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 is located for the animal's urgent care, subject to any conditions the court may specify.
- (3) Before applying for an order under this section, the authorised officer must obtain advice about the appropriate care of the animal—
- (a) for a stock animal—from Local Land Services, or
  - (b) for another animal—from an appropriate entity.
- (4) An order under this section has effect for the period, not more than 30 days, the court orders.
- (5) An officer may, before the expiry of an order under this section, apply to the court for a further order.
- (6) However, the maximum duration of all orders made by the court in respect of the same animal or animals must be no more than 90 days.
- (7) In this section—  
*facilities* includes—
- (a) stockyards and other fixed improvements used for the keeping of stock animals or other animals, water and watering equipment, and
  - (b) any stock or other feed growing or stored on the place on which the animals are located that is necessary and appropriate for the animals' care.

**126 Court may order destruction of animal**

- (1) This section applies if—
- (a) a court—
    - (i) has found a person guilty of an offence against this Act, the regulations or the *Crimes Act 1900*, section 79, 80, 530 or 531 in relation to an animal, or

- (ii) has made an order, entered a special verdict or made a qualified verdict of guilt under the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*, section 14, 19, 20, 31 or 62 in relation to an animal, and
  - (b) the court is satisfied the animal is so diseased or severely injured, or in so poor a physical or psychological condition, that it is cruel to keep the animal alive.
- (2) The court may—
  - (a) make an order that the animal be destroyed by a person specified in the order, and
  - (b) if it has made an order under paragraph (a)—make a further order that the person found guilty of the offence pay to the person specified in the order to destroy the animal the costs of destroying the animal that are specified in that further order.
- (3) A person specified in an order made under subsection (2)(a) must, as soon as practicable after the person is served with the order, destroy the animal to which the order relates in a way that causes it to die quickly and without unnecessary harm.
- (4) If the court has made an order under subsection (2)(b), the person to whom the costs specified in the order are required by the order to be paid may recover the costs from the person who is required by the order to pay the costs as a debt in a court of competent jurisdiction.

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

- (1) A court may order (a *costs order*) a person charged with an offence against this Act, the regulations or the *Crimes Act 1900*, section 79, 80, 530 or 531 in relation to an animal to pay to a specified entity the amount specified in the order for reasonable care and maintenance costs incurred by the entity in relation to the animal as a consequence of the offence or alleged offence or in connection with the proceedings.
- (2) A costs order may be made—
  - (a) at the time the court finds the person guilty of the relevant offence, or
  - (b) at any other time before proceedings for the relevant offence have been concluded.
- (3) An amount required to be paid under a costs order is recoverable by the entity in whose favour the order is made as a debt in a court of competent jurisdiction from the person who is required under the costs order to pay the amount.
- (4) 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, the person may later be required to pay under a costs order.
- (5) If the amount under a 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.
- (6) 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 1 or more 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.
- (7) Reasonable care and maintenance costs incurred after proceedings against a person for an offence have concluded are not recoverable under this section.
- (8) In this section—  
*reasonable care and maintenance costs* for an animal include—
  - (a) taking possession of the animal, and
  - (b) transporting the animal, and
  - (c) providing the animal with food and drink, and
  - (d) providing the animal with shelter, and
  - (e) providing the animal with veterinary treatment, and
  - (f) providing routine animal husbandry.

**128 Court may make interim disqualification order during proceedings**

- (1) In proceedings against a person for an animal cruelty offence, if a court is satisfied that, were the person to be a responsible person for an animal, the person would be likely to commit another offence involving an animal, the court may make a disqualification order (an *interim disqualification order*).
- (2) An interim disqualification order ceases to have effect on the earlier of—
  - (a) completion of all proceedings against the person for an animal cruelty offence, or
  - (b) the end of the period of the order specified by the court.
- (3) A person must not fail to comply with an interim disqualification order.  
Maximum penalty—category 4 penalty or imprisonment for 6 months, or both.

**129 Court may order disposal of animal during proceedings**

- (1) This section applies if an authorised officer has seized an animal under this Act or taken possession of the animal under section 72(1) in relation to the alleged commission of an offence against this Act, the regulations or the *Crimes Act 1900*, section 79, 80, 530 or 531.
- (2) 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 decided.
- (3) The court to which an application under subsection (2) is made may—
  - (a) order that the animal the subject of the application be sold or otherwise disposed of in a way 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 other orders the court considers appropriate.
- (4) In deciding whether to make an order or direction under subsection (3), the court may consider the following—
  - (a) whether the authorised officer seized or took possession of other animals in relation to the alleged commission of the offence and, if so, how many other animals the authorised officer seized or took possession of,

- (b) whether the person alleged to have committed the offence has previously been the subject of an interim disqualification order or a disqualification order under this Act or the repealed *Prevention of Cruelty to Animals Act 1979*,
- (c) the cost and practicality of the authorised officer meeting the minimum care requirements for the animal until the proceedings are finally decided,
- (d) other matters the court considers relevant.

**130 Court may make further orders following finding of guilt etc for offence relating to animal cruelty**

- (1) This section applies if—
  - (a) a court—
    - (i) has found a person guilty of an animal cruelty offence, or
    - (ii) has made an order, entered a special verdict or made a qualified verdict of guilt under the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*, section 14, 19, 20, 31 or 62 in relation to an animal cruelty offence, and
  - (b) the court is satisfied that, were the person to be the responsible person for an animal, the person would be likely to commit another animal cruelty offence.
- (2) The court may make either or both of the following orders—
  - (a) an order for an animal for which the person is a responsible person to be sold or otherwise disposed of in a way the court considers appropriate in the circumstances,
  - (b) a disqualification order.
- (3) An order under subsection (2)(a) may require the disposal by a date or within a period specified by the court.
- (4) An order under subsection (2)(b) ceases to have effect at the end of the period of the order specified by the court.
- (5) An order made in relation to a person because of proceedings in the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* is not limited to the duration of a treatment plan applying to the person under that Act.
- (6) A person in relation to whom an order is made under this section must comply with the order.

Maximum penalty—category 4 penalty or imprisonment for 6 months, or both.

**131 Court may make further orders following conviction for offence under Part 5**

- (1) This section applies if—
  - (a) a court—
    - (i) has found a person guilty of an offence under Part 5, or
    - (ii) has made an order, entered a special verdict or made a qualified verdict of guilt under the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*, section 14, 19, 20, 31 or 62 in relation to an offence under Part 5, and
  - (b) the conduct constituting the offence involved an animal, and
  - (c) the person is a person responsible for the animal.
- (2) The court may make an order for the animal to be sold or otherwise disposed of in a way the court considers appropriate in the circumstances.
- (3) The order may require the disposal by a date or within a period specified by the court.

- (4) An order made in relation to a person because of proceedings in the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* is not limited to the duration of a treatment plan applying to the person under that Act.
- (5) A person in relation to whom an order is made under this section must comply with the order.  
Maximum penalty—category 4 penalty.

### 132 Orders regarding costs of investigation

- (1) The court may, if it appears to the court that a government agency or approved charitable organisation has reasonably incurred costs during the investigation of the offence, order the offender to pay to the government agency or approved charitable organisation the costs fixed by the order.
- (2) In this section—  
*costs*, in relation to the investigation of an offence, means the costs incurred—
  - (a) in taking any sample or conducting any inspection, test, measurement or analysis during the investigation, or
  - (b) in transporting, storing or disposing of evidence during the investigation.

### 133 Appeals against orders

- (1) An order made by the Supreme Court under this Division is a sentence for the purposes of the *Criminal Appeal Act 1912*.
- (2) An order made by the Local Court under this Division is a sentence for the purposes of the *Crimes (Appeal and Review) Act 2001*.

## Division 4 Penalty notices

### 134 Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer 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.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.  
**Note—** The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged 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.

## Division 5 Ancillary offences

### 135 Liability of directors etc for offences by corporation—executive liability offences

- (1) A person commits an offence against this section if—
  - (a) a corporation commits an executive liability offence, and
  - (b) the person is—
    - (i) a director of the corporation, or



- (ii) an individual who is concerned in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the executive liability offence, and
  - (c) the person—
    - (i) knows or ought reasonably to know that the executive liability offence, or an offence of the same type, would be or is being committed, and
    - (ii) fails to take all reasonable steps to prevent or stop the commission of that offence.
- (2) The maximum penalty for the offence is the maximum penalty for the executive liability offence if committed by an individual.
- (3) For the purposes of this section, an ***executive liability offence*** is any offence against any of the following provisions—
  - (a) sections 13(1), 20(1), 22(1), 23(1) and 24(2),
  - (b) sections 25(1), 26(1), 27(1), 28(1) and (3), 30(1), 32(1), 33(1), 34(1), 35, 36(1), 37(1) and (3), 39(1) and 40(1) and (2),
  - (c) sections 42(1) and 43,
  - (d) sections 86(1) and 98 so far as the offence relates to an animal welfare offence,
  - (e) sections 124(3), 128(3), 130(6) and 131(4).
- (4) The prosecution bears the legal burden of proving the elements of the offence against this section.
- (5) This section does not affect the liability of the corporation for the executive liability offence, and applies whether or not the corporation is prosecuted for, or convicted of, the executive liability offence.
- (6) This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are accessories to the commission of the executive liability offence or are otherwise concerned in, or party to, the commission of the executive liability offence.
- (7) In this section—

***reasonable steps***, in relation to the commission of an executive liability offence, includes, but is not limited to, such action (if any) of the following kinds as is reasonable in all the circumstances—

  - (a) action towards—
    - (i) assessing the corporation’s compliance with the provision creating the executive liability offence, and
    - (ii) ensuring that the corporation arranges regular professional assessments of its compliance with the provision,
  - (b) action towards ensuring that the corporation’s employees, agents and contractors are provided with information, training, instruction and supervision appropriate to them to enable them to comply with the provision creating the executive liability offence so far as the provision is relevant to them,
  - (c) action towards ensuring that—
    - (i) the plant, equipment and other resources, and
    - (ii) the structures, work systems and other processes,relevant to compliance with the provision creating the executive liability offence are appropriate in all the circumstances,

- (d) action towards creating and maintaining a corporate culture that does not direct, encourage, tolerate or lead to non-compliance with the provision creating the executive liability offence.

**136 Liability for complicity**

A person who—

- (a) aids, abets, counsels or procures another person to commit an offence against this Act or the regulations, or
- (b) incites another person to commit an offence against this Act or the regulations, or
- (c) conspires to commit an offence against this Act or the regulations, or
- (d) attempts to commit an offence against this Act or the regulations,

is guilty of that offence and liable to the penalty prescribed by this Act or the regulations for that offence.

**137 False or misleading information**

A person is guilty of an offence if the person gives information the person knows to be false or misleading in a material particular—

- (a) in or in connection with an application under this Act or the regulations, or
- (b) in purported compliance with any requirement imposed by or under this Act.

Maximum penalty—category 4 penalty.

## Part 9 Committees

### Division 1 Animal Welfare Advisory Council

#### 138 Establishment

The Animal Welfare Advisory Council is established.

#### 139 Functions

- (1) The Animal Welfare Advisory Council's functions are—
  - (a) to provide scientific advice to the Minister on matters relating to animal welfare, and
  - (b) to review proposed standards and provide advice to the Minister about the proposed standards, and
  - (c) any other function prescribed by the regulations.
- (2) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Council to exercise its functions.

**Note—** The *Government Sector Employment Act 2013*, section 59 provides that persons employed as referred to in this section, or other persons whose services the Panel makes use of, may be referred to as officer or employees, or members of staff of the Panel. The *Constitution Act 1902* precludes the Panel from employing staff.

#### 140 Membership

- (1) The Animal Welfare Advisory Council consists of the number of members prescribed by the regulations.
- (2) The members of the Council are appointed by the Minister.
- (3) The regulations may provide for—
  - (a) the skills and qualifications of members, and
  - (b) the process for selecting and appointing members, and
  - (c) the conditions on which members hold office, including the term of appointment, remuneration and matters relating to reappointment of members, and
  - (d) the Council's procedures, including meeting procedures, acting arrangements for absent members and arrangements when members' offices are vacant.

### Division 2 Animal Research Review Panel

#### 141 Establishment

The Animal Research Review Panel is established.

#### 142 Functions

- (1) The Animal Research Review Panel's functions are—
  - (a) to investigate matters relating to the conduct of animal research and the supply of animals for use in animal research, and
  - (b) to investigate and evaluate the efficacy of the Code of Practice in regulating animal research and the supply of animals for use in animal research, and
  - (c) to investigate applications for licences for animal research and complaints referred to the Panel under this Act, and
  - (d) to ask the Secretary to carry out inspections of premises at which animal research is carried out under this Act, and

- (e) to review and evaluate proposals to make, amend or review regulations under this Act relating to animal research, if the proposals are referred to the Panel, and
  - (f) any other function prescribed by the regulations.
- (2) The Panel may, by written instrument, authorise a member of the Panel to accompany an inspector during an inspection referred to in subsection (1).
- (3) In this section—  
**Code of Practice** means—
- (a) a code of practice prescribed by the regulations for this Part, or
  - (b) if the regulations do not prescribe a code of practice, the document published by the Australian Government titled the *Australian code for the care and use of animals for scientific purposes*, as in force from time to time.

## 143 Membership

- (1) The Animal Research Review Panel consists of the number of members prescribed by the regulations.
- (2) The members of the Panel are appointed by the Minister.
- (3) The regulations may provide for—
  - (a) the skills and qualifications of members, and
  - (b) the process for selecting and appointing members, including the nomination of members by relevant organisations, and
  - (c) the conditions on which members hold office, including the term of appointment, remuneration and matters relating to reappointment of members, and
  - (d) the Panel's procedures, including meeting procedures, acting arrangements for absent members and arrangements when members' offices are vacant.

## 144 Staff

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Panel to exercise its functions.

**Note—** The *Government Sector Employment Act 2013*, section 59 provides that persons employed as referred to in this section, or other persons whose services the Panel makes use of, may be referred to as officer or employees, or members of staff of the Panel. The *Constitution Act 1902* precludes the Panel from employing staff.

## 145 Annual reports

- (1) As soon as practicable after 30 June but no later than 31 December in each year, the Panel must give to the Minister a report of its work and activities for the 12 months ending on 30 June in the year.
- (2) The Minister must, as soon as practicable after receiving the report, ensure the report is laid before both Houses of Parliament.

## 146 Delegation

The Panel may delegate to a person the exercise of any the Panel's functions, other than this power of delegation.

### **Division 3 Exhibited Animals Advisory Committee**

#### **147 Establishment**

The Exhibited Animals Advisory Committee is established.

#### **148 Functions**

- (1) The Exhibited Animals Advisory Committee's functions are—
  - (a) to provide advice to the Secretary that helps to promote a coordinated approach to the importation, control, care and welfare of animals, including a coordinated approach between—
    - (i) the Secretary and the heads of other government sector agencies that administer legislation relating to the importation, control, care or welfare of animals, and
    - (ii) the Secretary and entities of the Commonwealth, other States and the Territories that administer legislation relating to the importation, control, care or welfare of animals, and
  - (b) to monitor the effectiveness of the scheme regulating the exhibition of animals under this Act, and
  - (c) to make recommendations to the Secretary about changes that may be necessary for the efficient and effective operation of the scheme regulating the exhibition of animals, and
  - (d) any other function prescribed by the regulations.
- (2) The Exhibited Animals Advisory Committee may delegate the Committee's functions, other than this power of delegation.

#### **149 Membership**

- (1) The Exhibited Animals Advisory Committee consists of the number of members prescribed by the regulations.
- (2) The members of the Committee are appointed by the Minister.
- (3) The regulations may provide for—
  - (a) the skills and qualifications of members, and
  - (b) the process for selecting and appointing members, including the nomination of members by relevant organisations, and
  - (c) the conditions on which members hold office, including the term of appointment, remuneration and matters relating to reappointment of members, and
  - (d) the Committee's procedures, including meeting procedures, acting arrangements for absent members and arrangements when members' offices are vacant.

#### **150 Staff**

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Panel to exercise its functions.

**Note—** The *Government Sector Employment Act 2013*, section 59 provides that persons employed as referred to in this section, or other persons whose services the Panel makes use of, may be referred to as officer or employees, or members of staff of the Panel. The *Constitution Act 1902* precludes the Panel from employing staff.

**151 Inspections**

The Exhibited Animals Advisory Committee may, at any time, ask the Secretary to arrange for an authorised officer to inspect premises to which a licence relates.

## Part 10 General

### Division 1 Other matters relating to animals

#### 152 Prohibition for persons convicted of certain offences

If a person is convicted of an offence against the *Crimes Act 1900*, section 79, 80, 530 or 531, the person must not—

- (a) purchase or own an animal, or
- (b) engage in work, whether paid or unpaid, involving direct contact with, or care of, an animal.

Maximum penalty—category 2 penalty.

#### 153 Information required when dogs or cats are advertised for sale or for giving away

- (1) A person must not advertise a regulated dog or cat for sale, to be given away, or to be transferred by any other means, unless the advertisement includes at least one of the following—
  - (a) the microchip identification number allocated to the microchip implanted in the animal—
    - (i) in connection with the identification of the animal for the *Companion Animals Act 1998*, section 8, or
    - (ii) in compliance with the greyhound racing rules,
  - (b) the breeder identification number of the person, that is, the number allocated to the person—
    - (i) under the *Companion Animals Act 1998*, section 83M, or
    - (ii) by any recognised breeders' organisation of which the person is a member, or
    - (iii) at the time of registration under the greyhound racing rules of the animal from whose litter the greyhound being advertised was born,
  - (c) for a dog or cat that is being sold or given away by an organisation that is, at the time the advertisement is made, a rehoming organisation—the rehoming organisation number allocated to the organisation under that Act, section 83N.

Maximum penalty—category 4 penalty.

**Note—** To comply with the requirements of this section, a person who advertises a companion animal must either obtain a breeder identification number or a rehoming organisation number, or have the animal microchipped so the advertisement may include the microchip number. For a companion animal that has not been born yet, the owner must have a breeder identification number or a rehoming organisation number.

- (2) A person who, when advertising a regulated dog or cat for sale, or when doing something in relation to that advertising, gives a microchip identification number, breeder identification number or rehoming organisation number the person knows, or ought reasonably to have known, is false is guilty of an offence.

Maximum penalty—category 4 penalty.

- (3) A person is not liable to be convicted in relation to the same act or omission for both an offence under this section and an offence under the *Companion Animals Act 1998*, section 52A(1) or 57A(1).

**Note—** The *Companion Animals Act 1998*, sections 52A(1) and 57A(1) make it an offence to sell or advertise the sale of a dangerous, menacing or restricted dog or a dog that is proposed to be a dangerous, menacing or restricted dog.

- (4) In this section—

**greyhound racing rules** means the racing rules made by the Greyhound Welfare and Integrity Commission under the *Greyhound Racing Act 2017*.

**recognised breeders' organisation** has the same meaning as in the *Companion Animals Act 1998*, Part 9.

**regulated dog or cat** means any of the following—

- (a) a dog or cat that is or will be required by the *Companion Animals Act 1998* to be identified, for example, by being microchipped, including a dog or cat that has not been born or has not yet reached the age at which identification is required,
- (b) a greyhound, whether or not it is registered in accordance with the greyhound racing rules, including a greyhound that has not been born,
- (c) a dog or cat in the custody of a council, including a council pound,
- (d) a dog or cat in the custody of the Animal Welfare League NSW,
- (e) a dog or cat in the custody of The Cat Protection Society of NSW Inc,
- (f) a dog or cat in the custody of the Royal Society for the Prevention of Cruelty to Animals, New South Wales.

#### **154 Sale of certain animals by charitable organisations**

- (1) This section applies to—
  - (a) an animal that, under this Act, is seized or otherwise in the possession of an employee of, or a person otherwise engaged by, a charitable organisation, or
  - (b) an abandoned or stray animal delivered to, or otherwise coming into the possession of, a charitable organisation, or
  - (c) an animal surrendered to a charitable organisation, or
  - (d) a greyhound in the possession of the Greyhound Welfare Integrity Commission under the *Greyhound Racing Act 2017*.
- (2) A charitable organisation or the Commission may—
  - (a) sell or rehome, either permanently or temporarily, an animal to which this section applies, or
  - (b) arrange for the animal to be humanely euthanased and its body disposed of if the charitable organisation—
    - (i) has considered alternative actions to euthanasing the animal, and
    - (ii) is satisfied that the alternative actions are not reasonably practicable.
- (3) However, a charitable organisation or the Commission may sell, rehome or euthanase an animal that was not surrendered by or with the authority of the owner of the animal only if the charitable organisation or Commission—
  - (a) for an animal for whom the identity of the owner is known—has kept the animal for at least 14 days after notifying the owner the animal is being kept by, or is in the possession of, the organisation or Commission, or
  - (b) for animal for whom the identity of the owner is not known—has kept the animal for at least 7 days after reasonable attempts by the organisation or Commission to find the owner of the animal have ended.
- (4) If an animal is sold or rehomed under this section—
  - (a) the purchaser or person who otherwise acquires the animal acquires good title to the animal, and
  - (b) the interests of the animal's former owner and any other person who had an interest in the animal is extinguished.



- (5) An animal may not be sold or otherwise disposed of under this section if—
  - (a) proceedings in relation to the animal for an offence against this Act or the regulations have been started but not finished, or
  - (b) an order has been made by a court under this Act preventing the sale, destruction or other disposal of the animal.
- (6) This section does not authorise a charitable organisation or the Commission to sell or rehome any of the following dogs, within the meaning of the *Companion Animals Act 1998*—
  - (a) a dangerous dog,
  - (b) menacing dog,
  - (c) a restricted dog.
- (7) To avoid doubt, this section does not override a requirement of the *Biodiversity Conservation Act 2016* in relation to a protected animal within the meaning of that Act.

**155 Power to destroy animals—veterinary practitioners**

- (1) This section applies if, in a veterinary practitioner’s opinion—
  - (a) an animal is so diseased or severely injured, or in so poor a physical or psychological condition, that it is cruel to keep the animal alive, and
  - (b) the animal is not about to be destroyed or is about to be destroyed in a way that will inflict unnecessary harm on the animal.
- (2) The veterinary practitioner may—
  - (a) take possession of the animal, and
  - (b) move the animal to a place the veterinary practitioner considers appropriate, and
  - (c) destroy the animal, or arrange for the animal to be destroyed, in a way that causes the animal to die quickly and without unnecessary harm.
- (3) If the veterinary practitioner is exercising a function under subsection (2)—
  - (a) the veterinary practitioner may be accompanied by another person (an *assistant*) to assist the veterinary practitioner, and
  - (b) the assistant may take all reasonable steps to assist the veterinary practitioner.
- (4) The veterinary practitioner may, in a court of competent jurisdiction, recover from an animal’s owner the reasonable costs incurred by the veterinary practitioner in exercising functions under this section in relation to the animal.

**156 Power to destroy animals—abattoir and saleyard managers**

- (1) This section applies if, in a manager’s opinion—
  - (a) an animal at the abattoir or saleyard is so diseased or severely injured, or in so poor a physical condition, that it is cruel to keep the animal alive, and
  - (b) the animal is not about to be destroyed or is about to be destroyed in a way that will inflict unnecessary harm on the animal.
- (2) The manager may—
  - (a) if the manager doesn’t have possession of the animal, take possession of the animal, and
  - (b) destroy the animal, or arrange for the animal to be destroyed, in a way that causes the animal to die quickly and without unnecessary harm.

- (3) The manager may, in a court of competent jurisdiction, recover from the animal's owner the reasonable costs incurred by the manager in exercising functions under this section in relation to the animal.
- (4) In this section—  
*manager* means—
  - (a) the manager of an abattoir, or
  - (b) the manager of a saleyard.

## **Division 2 Administration**

### **157 Service of documents**

- (1) A notice or other document that is authorised or required by this Act or the regulations to be served on a person may be served in the following ways—
  - (a) for an individual—
    - (i) delivering it to the individual personally, or
    - (ii) sending it by post to the address specified by the individual for the service of documents, or
    - (iii) if an address is not specified by the individual, the residential or business address of the person last known to the person serving the document, or
    - (iv) by email or other electronic means to an email address or other location nominated by the individual for the service of documents,
  - (b) for a corporation—
    - (i) leaving it with a person apparently over the age of 16 years at the corporation's registered office or another office of the corporation, or
    - (ii) sending it by post to the address of corporation's registered office or another office of the corporation, or
    - (iii) by email or other electronic means to an email address or other location nominated by the corporation for the service of documents,
  - (c) if the notice or other document relates to an animal kept by a person—by fixing the notice or document to a conspicuous part of the premises at which the animal is kept.
  - (d) in another way authorised by the regulations for the service of documents.
- (2) This section does not affect the operation of any provision of a law or of the rules of a court authorising a document to be served on a person in another way.
- (3) In this section—  
*serve* includes give and send.

### **158 Recognition of interstate prohibition decisions**

- (1) The Secretary may, by written notice served on a person, recognise an interstate prohibition decision made against the person for its enforcement in New South Wales.
- (2) A person served with a notice under subsection (1) recognising an interstate prohibition decision must, within 14 days after being served with the notice and while in New South Wales, comply with the decision.  
Maximum penalty—category 3 penalty.
- (3) In this section—

***interstate law***—

- (a) means a law of another State or Territory, or the Commonwealth, that corresponds to the provisions of this Act, and
- (b) includes a law prescribed by the regulations for this definition.

***interstate prohibition decision*** means an order or other decision that—

- (a) is made under an interstate law, and
- (b) has the effect of prohibiting a person from—
  - (i) purchasing or acquiring, or taking possession or custody of, an animal,
  - (ii) keeping, or participating in keeping, an animal,
  - (iii) being party to an arrangement under which the person is entitled to control or influence the keeping of an animal, including an animal owned by another person or in another person's possession,
  - (iv) otherwise being involved with the keeping or care of an animal, including an animal owned by another person or in another person's possession.

**159 Compensation not payable**

Compensation is not payable for any of the following actions taken under this Act—

- (a) the seizure or disposal of a stock animal under this Act,
- (b) the seizure or disposal of another animal under this Act,
- (c) the destruction of an animal by an authorised officer under section 72,
- (d) the destruction of an animal by a veterinary practitioner under section 155,
- (e) the destruction of an animal by a manager of an abattoir or a saleyard under section 156,
- (f) the destruction of an animal by an authorised officer under Part 7 or 8,
- (g) the use of facilities in accordance with an order of a court under Part 8.

**160 Protection from liability**

- (1) Neither a protected person nor the Crown is subject to any liability for anything done—
  - (a) in good faith, and
  - (b) for the purpose of exercising a function under this Act.

- (2) In this section—

***done*** includes omitted to be done.

***liability***—

- (a) means civil liability, and
- (b) includes action, claim or demand.

***protected person*** means the following—

- (a) the Secretary,
- (b) an authorised officer,
- (c) a member of the Animal Welfare Advisory Council,
- (d) a member of the Animal Research Review Panel,
- (e) a member of the Exhibited Animals Advisory Committee,
- (f) a member of an animal ethics committee,
- (g) a member of another committee established under this Act,

- (h) a member of a stock welfare panel,
- (i) a local council employee,
- (j) a member of staff of Local Land Services,
- (k) a veterinary practitioner,
- (l) an abattoir manager or saleyard manager,
- (m) a person acting under the direction of a person mentioned in paragraphs (a)—  
(l).

**161 Disclosure of information**

- (1) A person must not disclose information obtained in connection with the administration or execution of this Act unless the disclosure is made—
- (a) with the consent of the person from whom the information was obtained, or
  - (b) in connection with the administration or execution of this Act or another Act, or
  - (c) for the purposes of any legal proceedings arising out of this Act or another Act or of any report of any such proceedings, or
  - (d) in accordance with a requirement imposed under the *Ombudsman Act 1974*, or
  - (e) with another lawful excuse.

Maximum penalty—category 4 penalty.

- (2) Despite subsection (1), a relevant agency may give a relevant document held by the relevant agency to another relevant agency—
- (a) for the purposes of administering or executing this Act, or
  - (b) if, in the relevant agency's opinion, it is appropriate to give the information to the other relevant agency for significant safety reasons.
- (3) A relevant agency may rely on information given to the agency under subsection (2) for the purposes of administering this Act.
- (4) In this section—
- administering or executing this Act*** includes—
- (a) granting licences under this Act and suspending, cancelling or revoking licences under this Act, and
  - (b) issuing a direction, notice or order under this Act, and
  - (c) exercising enforcement and compliance functions under this Act, and
  - (d) conducting legal proceedings for offences under this Act.

***relevant agency*** means—

- (a) the head of a government sector agency, within the meaning of the *Government Sector Employment Act 2013*,
- (b) an approved charitable organisation,
- (c) a person exercising functions under this Act or the regulations in relation to enforcement, compliance or administration of the Act or regulations,
- (d) another entity prescribed by the regulations for this definition.

***relevant document***—

- (a) means—
  - (i) a document obtained or created by the Secretary, or a person employed or otherwise engaged by the Department, in connection with administering this Act, or

- (ii) a document obtained by, or otherwise in the possession or control of, another relevant agency to the extent the information relates to administering this Act, and
- (b) includes a database or other system containing a document.

## 162 Evidentiary certificate

A certificate signed by the Secretary that certifies on a stated date or during a specified period any of the following was correct is admissible in any proceedings under this Act and is evidence of the fact certified—

- (a) a stated person was or was not an authorised officer,
- (b) a stated person was or was not the holder of a licence,
- (c) a stated licence was or was not subject to a stated condition.

## 163 Delegation

The Minister may delegate any of the Minister's functions, other than this power of delegation, and the Secretary may delegate any of the Secretary's functions, other than this power of delegation, to—

- (a) a person employed in the Department, or
- (b) a person, or a member of a class of persons, prescribed for this section by the regulations.

## 164 Approval of forms

The Secretary may approve forms for use under this Act or the regulations.

## Division 3 Miscellaneous

### 165 Repeals

The following Acts are repealed—

- (a) the *Animal Research Act 1985*,
- (b) the *Exhibited Animals Protection Act 1986*,
- (c) the *Prevention of Cruelty to Animals Act 1979*.

### 166 Regulations

- (1) The Governor may make regulations about a matter that is—
  - (a) required or permitted to be prescribed by this Act, or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the regulations may provide for the following—
  - (a) the fees and charges that may be imposed for the purposes of this Act,
  - (b) matters relating to the confinement of poultry for egg production including—
    - (i) standards for the confinement and care of poultry, and
    - (ii) requirements for the inspection of laying poultry, and
    - (iii) offences for failing to meet standards and requirements for the confinement, care and inspection of poultry.
- (3) The regulations may create offences punishable by a maximum penalty of —
  - (a) for an offence mentioned in subsection (2)(b)(iii)—a category 3 penalty, other than a period of imprisonment, and

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- (b) otherwise—a category 4 penalty.



## Schedule 1 Restricted procedures

section 23

<b>Column 1: Procedure</b>	<b>Column 2: Restriction</b>
ear cropping	performed by a veterinary practitioner for the purpose of treating disease, illness or injury
declawing	performed by a veterinary practitioner for the purpose of treating disease, illness or injury
clitoridectomy on a dog	performed by a veterinary practitioner for the purpose of treating disease, illness or injury
tail docking of cattle, a horse or a dog	performed by a veterinary practitioner for the purpose of treating disease, illness or injury
debarking	performed in circumstances prescribed by the regulations
dewclaw removal on a dog	performed in circumstances prescribed by the regulations
pinioning	performed in circumstances prescribed by the regulations

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## Schedule 2 Savings, transitional and other provisions

### Part 1 General

#### 1 Transitional regulation-making power

- (1) The regulations may contain provisions of a savings or transitional nature (a *savings or transitional provision*) consequent on the commencement of—
  - (a) a provision of this Act, or
  - (b) a provision amending this Act.
- (2) A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after the commencement.
- (3) A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after the commencement.
- (4) A savings or transitional provision made consequent on the commencement of a provision may take effect before the commencement but not before—
  - (a) for a provision of this Act, the date of assent to this Act, or
  - (b) for a provision amending this Act, the date of assent to the amending Act.
- (5) A savings or transitional provision taking effect before its publication on the NSW legislation website does not, before its publication—
  - (a) affect the rights of a person in a way prejudicial to the person, or
  - (b) impose liabilities on a person for anything done or omitted to be done.
- (6) In this section—*person* does not include—
  - (a) the State, or
  - (b) an authority of the State.

### Part 2 Provisions consequent on enactment of this Act

#### 2 Definitions

In this Part—

*authorisation* means any of the following—

- (a) an accreditation,
- (b) an approval,
- (c) an authority, other than authority to seize and dispose of animals under the *Prevention of Cruelty to Animals Act 1979*,
- (d) a licence,
- (e) a permit.

*made*, in relation to an authorisation or relevant instrument, includes given, granted and issued.

*repealed Act* means the following—

- (a) the *Animal Research Act 1985*,
- (b) the *Exhibited Animals Protection Act 1986*,
- (c) the *Prevention of Cruelty to Animals Act 1979*.

### 3 Continuation of certain instruments

- (1) A relevant instrument, in force immediately before the repeal of the repealed Act under which it was made, continues to have effect.
- (2) For the purposes of subsection (1), the repealed Act under which a relevant instrument was made continues to have effect, including in relation anything done under or in connection with the instrument.
- (3) Without limiting subsection (2)—
  - (a) a relevant instrument may be cancelled, revoked, varied or withdrawn under the repealed Act under which it was made, and
  - (b) a function conferred on a person under a repealed Act in connection with a relevant instrument, including a power to give directions or to seize or destroy a thing, may continue to be exercised after the repeal of the repealed Act, and
  - (c) a requirement for a person to comply with a relevant instrument, and any penalty for failing to comply with the requirement, continues to have effect.
- (4) A relevant instrument continues to have effect until the earlier of the following happens—
  - (a) the relevant instrument is cancelled, revoked, withdrawn or otherwise ceases to have effect under the repealed Act under which it was made,
  - (b) the Secretary, by written notice, declares that the relevant instrument, or a class of relevant instruments to which the instrument belongs, is superseded and ceases to have effect.
- (5) In this section—

***relevant instrument***—

  - (a) means a declaration, delegation, direction, notice, order, warrant or other instrument made under a repealed Act, but
  - (b) does not include an authorisation.

### 4 Continuation of certain authorisations

- (1) An authorisation, in force immediately before the repeal of the repealed Act under which it was made, continues in force.
- (2) An authorisation mentioned in subsection (1) continues subject to the terms and conditions that applied to the authorisation immediately before the repeal of the repealed Act under which it was made.
- (3) An authorisation mentioned in subsection (1) continues in force until the earlier of the following happens—
  - (a) the period for which the authorisation was in force under the repealed Act under which it was made ends, or
  - (b) the Secretary, by written notice, declares that the authorisation, or a class of authorisations to which the authorisation belongs, is superseded and ceases to have effect.

### 5 Applications for authorisations

- (1) An application for an authorisation, or the variation or renewal of an authorisation, made but not finally decided before the repeal of the repealed Act under which the application was made is to be dealt with under the repealed Act as if the Act had not been repealed.

- (2) If the application for the authorisation or variation or renewal of the application is granted, an authorisation that corresponds to the authorisation, or varied or renewed authorisation, under the repealed Act is to be issued under this Act to the applicant.

## 6 Authorised officers

- (1) A person who, immediately before the repeal of the *Animal Research Act 1985* was an inspector appointed under that Act is taken to be an authorised officer appointed under this Act, section 89(1)(a).
- (2) A person who, immediately before the repeal of the *Exhibited Animals Protection Act 1986* was an inspector appointed under that Act is taken to be an authorised officer appointed under this Act, section 89(1)(a).
- (3) A public service employee who, immediately before the repeal of the *Prevention of Cruelty to Animals Act 1979* was an officer appointed for that Act is taken to be an authorised officer appointed under this Act, section 89(1)(a).
- (4) A person who, immediately before the repeal of the *Prevention of Cruelty to Animals Act 1979*, was an officer of an approved charitable organisation appointed as an officer for the purposes of the *Prevention of Cruelty to Animals Act 1979* is taken to be an authorised officer appointed under this Act, section 89(1)(b).
- (5) An appointment mentioned in subsection (1)—(4) is subject to any conditions or limitations that applied to the appointment under the repealed Act.
- (6) An instrument of authority as an inspector or officer in force under a repealed Act immediately before the repeal of the Act is taken to be evidence of the person's authority as an authorised officer under this Act until the Secretary issues a new evidence of the person's authority under section 95.
- (7) For subsection (6), the Secretary must issue to each authorised officer whose appointment is continued by this section evidence of the person's authority under this Act as soon as practicable after the commencement of this section.

## 7 Seizure of property

To avoid doubt, a thing, including an animal, seized under a repealed Act, whether before or after the repeal of the repealed Act, may continue to be held and otherwise dealt with under the repealed Act as if the Act had not been repealed.

**Note.** See also the *Interpretation Act 1987*, section 30 which provides for the effect of the repeal of an Act including the effect of the repeal on rights, privileges, obligations, liabilities or penalties acquired, accrued or incurred under the Act and investigations, legal proceeds and remedies in respect of the rights, privileges, obligations, liabilities and penalties.

## 8 Approved charitable organisations

The Animal Welfare League NSW and the Royal Society for the Prevention of Cruelty to Animals, New South Wales are taken to be approved charitable organisations under this Act.

## Schedule 3 Dictionary

section 6

**abattoir** means premises used for or in connection with the slaughter of animals and includes a knackery.

**act of aggravated cruelty**—see section 8.

**act of cruelty**—see section 7.

**alpaca** means an animal of the species *Vicugna pacos*.

**animal** means—

- (a) means—
  - (i) a member of a vertebrate species including—
    - (A) an amphibian, and
    - (B) a bird, and
    - (C) a fish, and
    - (D) a mammal, other than a human, and
    - (E) a reptile, and
  - (ii) a cephalopod, and
  - (iii) a decapod crustacean, and
- (b) in relation to animal research—includes other animals or forms of animals prescribed by the regulations.

**animal cruelty offence** means—

- (a) an offence under this Act in relation to an animal, other than an offence under Part 5 that relates to a licence or approval in relation to—
  - (i) animal research, or
  - (ii) the supply of animals for animal research, or
  - (iii) exhibiting an animal, or
- (b) an offence against the *Crimes Act 1900*, section 79, 80, 530, 531 or 547E.

**animal research**—see section 9.

**animal welfare offence** means—

- (a) an offence under this Act in relation to an animal, other than—
  - (i) an offence under Part 5 that relates to animal research, the supply of animals for animal research or exhibiting animals, or
  - (ii) an offence under another provision of the Act that is prescribed by the regulations as not being an animal welfare offence, and
- (b) an offence under the regulations or other legislation that is prescribed by the regulations as an animal welfare offence.

**approved charitable organisation** means a charitable organisation approved under section 101.

**authorise** includes direct and permit.

**authorised officer**—

- (a) means a person appointed under section 89, and
- (b) includes a police officer.

**cat** means an animal of the species *Felis catus*.

**category 1 penalty**—see section 108.

**category 2 penalty**—see section 109.

**category 3 penalty**—see section 110.

**category 4 penalty**—see section 111.

**category 5 penalty**—see section 112.

**cattle** means animals of the genus *Bos*, and includes American bison or buffalo (*Bison bison*) and domestic water buffalo (*Bubalus bubalis*).

**charitable organisation** means—

- (a) the Royal Society for the Prevention of Cruelty to Animals, New South Wales, or
- (b) the Animal Welfare League NSW, or
- (c) another association or organisation that—
  - (i) has as one of its objects promoting the welfare of, or preventing cruelty to, animals or a class of animals, and
  - (ii) is a non-profit organisation having as one of its objects a benevolent, charitable, patriotic or philanthropic purpose.

**debarking** means a procedure in which a dog is operated on to reduce or eliminate the volume of the dog's bark.

**declawing** means a procedure in which 1 or more claws, or all or part of 1 or more digits, of a cat is removed.

**Department** means the Department in which this Act is administered.

**disease** includes—

- (a) infectious and non-infectious conditions, and
- (b) congenital abnormalities.

**disqualification order** means an order that a person must not, for the period stated in the notice, do one or more of the following—

- (a) purchase or acquire, or take possession or custody of, an animal,
- (b) keep, or participate in keeping, an animal,
- (c) be party to an arrangement under which the person is entitled to control or influence the keeping of an animal, including an animal owned by another person or in another person's possession,
- (d) otherwise be involved with the keeping or care of an animal, including an animal owned by another person or in another person's possession.

**dog**—

- (a) means an animal, of either sex or desexed and whether or not domesticated, of a species with any of the following scientific names or a synonym of any of the names—
  - (i) *Canis familiaris*,
  - (ii) *Canis lupis familiaris*,
  - (iii) *Canis lupis dingo*,
  - (iv) *Canis familiaris dingo*,
  - (v) *Canis dingo*, and
- (b) includes a hybrid of any of the species mentioned in paragraph (a)(i)—(v).

**domestic animal** means any animal other than—

- (a) a feral animal, or
- (b) a native animal.

**ear cropping** means a procedure in which all or part of a dog's ear is removed.

**established** includes continued in existence.

**exercise**, a function, includes perform a duty.

**exhibiting an animal**—see section 10.

**function** includes a power, authority or duty.

**game park** means premises on which—

- (a) mammals are confined, and
- (b) the capturing, hunting, injuring, killing, netting, poisoning, pursuing, shooting, snaring or spearing of the mammals as recreation or sport is allowed on payment of an admission fee or giving of other consideration.

**gazette notice** means a notice published in the Gazette.

**goat** means an animal of the genus *Capra*.

**harm**—see section 11.

**horse** means the following—

- (a) an animal of the species *Equus caballus*,
- (b) an animal of the species *Equus asinus*,
- (c) a hybrid of the species referred to in paragraphs (a) and (b).

**licence** means a licence granted under regulations made under Part 4.

**licensed activity**—see section 42.

**minimum care requirements** means the requirements set out in section 13(2).

**owner** includes a joint owner.

**pig** means an animal of the genus *Sus*.

**pinioning** means a surgical procedure performed on a bird's wing for the purpose of removing or restricting the bird's ability to fly.

**poultry** means the following—

- (a) *Anas* spp. and *Cairina moschata*, commonly known as ducks,
- (b) *Anser anser*, commonly known as geese,
- (c) *Columba livia*, commonly known as pigeons,
- (d) *Coturnix japonica*, commonly known as quails,
- (e) *Gallus gallus domesticus*, commonly known as domestic chickens,
- (f) *Meleagris gallopavo*, commonly known as turkeys,
- (g) *Numida meleagris*, commonly known as guinea fowl,
- (h) *Syrnaticus* spp., *Lophura* spp., *Phasianus* spp., *Chrysolophus* spp. and *Lophophorus* spp., commonly known as pheasants and partidges.

**premises** includes the following—

- (a) a building,
- (b) land,
- (c) a structure,
- (d) a vehicle,
- (e) a vessel,
- (f) any other place, whether built on or not.

**reasonably suspects** means suspects on reasonable grounds.

**recognised research purpose** means—

- (a) the purpose of acquiring, demonstrating or developing knowledge in the field of agriculture, biology, medicine or veterinary behaviour, or
- (b) the purpose of acquiring, demonstrating, developing or exercising techniques used in the field of agriculture, biology, medicine or veterinary behaviour, or
- (c) the purpose of developing or testing substances intended for therapeutic use, or

(d) another purpose prescribed by the regulations for this definition.

**rehoming organisation** has the same meaning as in the *Companion Animals Act 1998*.

**responsible person** for an animal—see section 12.

**saleyard** means—

- (a) premises or a public place used, or established for use, wholly or partly for the sale of animals, or
- (b) a facility at which livestock are delivered for assembly before a journey, or
- (c) a facility or yard in which livestock are rested between journeys.

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

**sheep** means an animal of the genus *Ovis*.

**standard** means a standard, code, rule, specification or other document, however described, prepared or published by—

- (a) the NSW Government, or
- (b) another entity, whether or not in New South Wales.

**stock animal** means the following—

- (a) alpacas,
- (b) camels (*Camelus dromedarius*),
- (c) cattle,
- (d) deer, being animals of the family *Cervidae*,
- (e) emus (*Dromaius novaehollandiae*),
- (f) goats,
- (g) horses,
- (h) llamas (*Lama glama*),
- (i) ostriches (*Struthio camelus*),
- (j) pigs,
- (k) poultry,
- (l) sheep,
- (m) another kind of animal prescribed by the regulations for this definition.

**stock welfare panel**, for Part 6—see section 50.

**tail docking** means a procedure in which all or part of the tail of an animal is removed, other than a part of the tail consisting only of fur, hair or similar matter.

**therapeutic use** has the same meaning as in the *Therapeutic Goods Act 1989* of the Commonwealth.

**vehicle** has the same meaning as in the *Road Transport Act 2013*.

**vessel** includes a ship, hovercraft, boat, ferry, raft and pontoon or other water craft,

**veterinary practitioner** has the same meaning as in the *Veterinary Practice Act 2003*.

**veterinary treatment**, for an animal, means—

- (a) medical treatment of a prophylactic or therapeutic nature carried out on the animal by, or as directed by, a veterinary practitioner, or
- (b) surgical treatment of a prophylactic or therapeutic nature, or sterilisation, carried out on 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 for the animal by a veterinary practitioner.

## Schedule 4 Consequential amendments of other legislation

### 4.1 Biosecurity Act 2015 No 24

**[1] Section 55 Destruction requirements**

Omit “Part 2B of the *Prevention of Cruelty to Animals Act 1979*” from section 55(3).

Insert instead “The *Animal Welfare Act 2022*, Part 6”.

**[2] Section 389 Cruelty to animals not authorised**

Omit “*Prevention of Cruelty to Animals Act 1979*”.

Insert instead “*Animal Welfare Act 2022*”.

**[3] Schedule 3 Prohibited dealings**

Omit clause 1(b) and (c). Insert instead—

- (b) a dealing with an animal is for *permitted exhibition purposes* if—
  - (i) the exhibition of the animal is authorised by a licence under the *Animal Welfare Act 2022*, and
  - (ii) the dealing relates to the exhibition, and
- (c) a dealing with an animal is for *permitted research purposes* if the person keeping the animal holds a licence under the *Animal Welfare Act 2022* to carry out animal research or for the supply of animals for animal research, and

**[4] Schedule 4 Registrable dealings**

Omit clause 2(2)(a) and (b). Insert instead—

- (a) a dealing with an animal is for *permitted exhibition purposes* if—
  - (i) the exhibition of the animal is authorised by a licence under the *Animal Welfare Act 2022*, and
  - (ii) the dealing relates to the exhibition, and
- (b) a dealing with an animal is for *permitted research purposes* if the person keeping the animal holds a licence under the *Animal Welfare Act 2022* to carry out animal research or for the supply of animals for animal research.

### 4.2 Biodiversity Conservation Regulation 2017

**Clause 2.27 Persons eligible to hold a licence (section 2.17)**

Omit “the *Prevention of Cruelty to Animals Act 1979*, the *Animal Research Act 1985* or the *Exhibited Animals Protection Act 1986*” from clause 2.27(3)(e).

Insert instead “the *Animal Welfare Act 2022*”.

### 4.3 Biosecurity (National Livestock Identification System) Regulation 2017

**[1] Clause 3 Interpretation**

Omit the definition of *animal welfare inspector* from clause 3(1).

Insert instead—



*animal welfare inspector* means an authorised officer employed, or otherwise engaged, by an approved charitable organisation under the *Animal Welfare Act 2022*.

**[2] Clause 19 Exempt movements of stock**

Omit clause 19(a)(ii). Insert instead—

- (ii) premises used for the purpose of exhibiting animals under a licence under the *Animal Welfare Act 2022*,

**[3] Clause 19(c)**

Omit “display under a licence or approval under the *Exhibited Animals Protection Act 1986*”.

Insert instead “exhibition authorised by a licence under the *Animal Welfare Act 2022*”.

**4.4 Child Protection (Working With Children) Act 2012 No 51**

**Schedule 1 Assessment requirement triggers**

Omit “section 6 of the *Prevention of Cruelty to Animals Act 1979*” from clause 1(2)(g).

Insert instead “the *Animal Welfare Act 2022*, section 26”.

**4.5 Companion Animals Act 1998 No 87**

**[1] Section 6B Duty to provide certain information to councils**

Omit section 6B(3)(b). Insert instead—

- (b) an authorised officer employed, or otherwise engaged, by an approved charitable organisation under the *Animal Welfare Act 2022*.

**[2] Section 11G Further exemptions**

Omit section 11G(d) and (e). Insert instead—

- (d) a companion animal that is—
  - (i) in the custody of the holder of a licence under the *Animal Welfare Act 2022* to carry out animal research, and
  - (ii) subject to animal research, or supplied for animal research, in accordance with the licence,
- (e) a companion animal that is—
  - (i) in the custody of the holder of a licence under the *Animal Welfare Act 2022* to exhibit animals, and
  - (ii) exhibited in accordance with the licence,

**[3] Section 22 Action to protect persons and property against dogs**

Omit “*Prevention of Cruelty to Animals Act 1979*” from section 22(9).

Insert instead “*Animal Welfare Act 2022*”.

**[4] Section 32 Action to protect persons and animals against cats**

Omit “*Prevention of Cruelty to Animals Act 1979*” from section 32(7).

Insert instead “*Animal Welfare Act 2022*”.

- [5] **Section 52A Prohibition on selling dangerous or menacing dog or proposed dangerous or menacing dog**  
Omit “section 11 of the *Prevention of Cruelty to Animals Act 1979*” from section 52A(1), note.  
Insert instead “the *Animal Welfare Act 2022*, section 27”.
- [6] **Section 57A Prohibition on selling restricted dog or proposed restricted dog**  
Omit “section 11 of the *Prevention of Cruelty to Animals Act 1979*” from section 57A(1), note.  
Insert instead “the *Animal Welfare Act 2022*, section 27”.
- [7] **Section 78 Definitions**  
Insert “before its repeal” after “that Act” in section 78, definition of *compliance history*, paragraph (a)(iv).
- [8] **Section 78, definition of “compliance history”, paragraph (a)(v)**  
Insert at the end of section 78, definition of *compliance history*, paragraph (a)(iv)—  
    , or  
    (v) the *Animal Welfare Act 2022* or regulations made under that Act,
- [9] **Section 78, definition of “compliance history”, paragraph (b)(iii)**  
Insert “before its repeal” after “that Act”.
- [10] **Section 78, definition of “compliance history”, paragraph (b)(iv)**  
Insert after section 78, definition of *compliance history*, paragraph (b)(iii)—  
    (iv) an offence against the *Animal Welfare Act 2022* or regulations made under that Act,
- [11] **Section 78, definition of “compliance history”, paragraph (d)**  
Insert “before the repeal of that Act” after “made”.
- [12] **Section 78, definition of “compliance history”, paragraph (d1)**  
Insert after paragraph (d)—  
    (d1) any of the following orders or decisions under the *Animal Welfare Act 2022*, including an expired order, made in relation to the person or an animal for which the person is a responsible person—  
        (i) an order under section 125 about the care of an animal,  
        (ii) an order under section 126 about the destruction of an animal,  
        (iii) an order under section 130 relating to a conviction,  
        (iv) an interstate prohibition decision that is recognised under section 158,
- [13] **Section 83B, heading**  
Omit “of Department of Industry and persons authorised by that Secretary” from the heading to section 83B.  
Insert instead “and persons authorised by Secretary”.

**[14] Section 83B(1)**

Omit “of the Department of Industry, and any person authorised by the Secretary for the purposes of the administration and enforcement of the *Prevention of Cruelty to Animals Act 1979*”.

Insert instead “, and any person authorised by the Secretary for the purposes of the administration and enforcement of the *Animal Welfare Act 2022*”.

**[15] Section 83B(3)**

Insert after section 83B(2)—

(3) In this section—

*Secretary* means the Secretary within the meaning of the *Animal Welfare Act 2022*.

**[16] Section 83K Exchange of information with other Australian jurisdictions**

Omit “*Prevention of Cruelty to Animals Act 1979*” from section 83K(3)(b).

Insert instead “*Animal Welfare Act 2022*”.

## **4.6 Companion Animals Regulation 2018**

### **Clause 17 Exemptions from registration requirement**

Omit clause 17(1)(g) and (h). Insert instead—

- (g) an animal that is—
  - (i) in the custody of the holder of a licence under the *Animal Welfare Act 2022* to carry out animal research, and
  - (ii) subject to animal research, or supplied for animal research, in accordance with the licence,
- (h) an animal that is—
  - (i) in the custody of the holder of a licence under the *Animal Welfare Act 2022* to exhibit animals, and
  - (ii) exhibited in accordance with the licence,

## **4.7 Crimes Act 1900 No 40**

**[1] Section 60AA Meaning of “law enforcement officer”**

Omit the definition of *law enforcement officer*, paragraph (q). Insert instead—

(q) an authorised officer appointed under the *Animal Welfare Act 2022*.

**[2] Section 530 Serious animal cruelty**

Omit section 530(2). Insert instead—

- (2) A person is not criminally responsible for an offence against subsection (1) if the conduct occurred in connection with animal research carried out in accordance with—
  - (a) a licence under the *Animal Welfare Act 2022*, or
  - (b) an authority given by or under another Act or law.
- (2A) A person is not criminally responsible for an offence against subsection (1A) if the conduct occurred in a circumstance mentioned in the *Animal Welfare Act 2022*, section 119.

**[3] Section 530(3), definition of “animal”**

Omit the definition. Insert instead—

*animal* has the same meaning as it has in the *Animal Welfare Act 2022*.

**[4] Section 530(3), definition of “kill or seriously injure”**

Omit “section 21 (1) (d) of the *Prevention of Cruelty to Animals Act 1979*”.

Insert instead “the *Animal Welfare Act 2022*, section 33(1)(d)”.

**[5] Section 530(3), definition of “serious act of cruelty”**

Omit “section 21 (1) (d) of the *Prevention of Cruelty to Animals Act 1979*”.

Insert instead “the *Animal Welfare Act 2022*, section 33(1)(d)”.

**[6] Section 547E Bestiality or animal crush material**

Insert after section 547E(2)—

(2A) In proceedings for an offence against subsection (1) or (2), the court may find the person guilty of an offence under the *Animal Welfare Act 2022*, section 39 if the court—

- (a) is not satisfied the person is guilty of the offence of producing, disseminating or possessing bestiality or animal crush material, but
- (b) is guilty under the *Animal Welfare Act 2022*, section 39 of producing, disseminating or possessing material that depicts an act or omission that constitutes an animal cruelty offence.

## **4.8 Crimes (Appeal and Review) Act 2001 No 120**

### **Section 70 Limit on costs awarded against public prosecutor**

Omit “an officer of an approved charitable organisation (within the meaning of the *Prevention of Cruelty to Animals Act 1979*)” from section 70(3).

Insert instead “a person employed or otherwise engaged by an approved charitable organisation, within the meaning of the *Animal Welfare Act 2022*, who is appointed as an authorised officer under that Act.”.

## **4.9 Criminal Procedure Act 1986 No 209**

**[1] Section 214 Limit on award of professional costs to accused person against prosecutor acting in public capacity**

Omit “An officer of an approved charitable organisation under the *Prevention of Cruelty to Animals Act 1979*” from section 214(3).

Insert instead “A person employed or otherwise engaged by an approved charitable organisation, within the meaning of the *Animal Welfare Act 2022*, who is appointed as an authorised officer under that Act.”.

**[2] Section 257D Limit on award of professional costs against a prosecutor acting in a public capacity**

Omit “An officer of an approved charitable organisation under the *Prevention of Cruelty to Animals Act 1979*” from section 257D(3).

Insert instead “A person employed or otherwise engaged by an approved charitable organisation, within the meaning of the *Animal Welfare Act 2022*, who is appointed as an authorised officer under that Act.”.

#### 4.10 Crimes (Sentencing Procedure) Regulation 2017

##### Clause 4 Lists of additional charges

Omit clause 4(2)(l). Insert instead—

- (l) authorised officers under the *Animal Welfare Act 2022*—
  - (i) employed or otherwise engaged by an approved charitable organisation within the meaning of that Act, and
  - (ii) designated by the chief executive of the organisation.

#### 4.11 Fines Act 1996 No 99

##### Section 3 Definitions

Omit section 3(1), definition of *law enforcement officer*, paragraph (h).

Insert instead—

- (h) an authorised officer within the meaning of the *Animal Welfare Act 2022*,

#### 4.12 Firearms Act 1996 No 46

##### Section 12 Genuine reasons for having a licence

Omit paragraph (a) from the matter relating to “Reason: animal welfare” in the Table.

Insert instead—

- (a) a person employed or otherwise engaged by an approved charitable organisation, within the meaning of the *Animal Welfare Act 2022*, who is appointed as an authorised officer under that Act, or”.

#### 4.13 Game and Feral Animal Control Act 2002 No 64

##### Section 6 Application of other legislation

Omit “*Prevention of Cruelty to Animals Act 1979*” from section 6(b).

Insert instead “*Animal Welfare Act 2022*”.

#### 4.14 Government Information (Public Access) Regulation 2018

##### Clause 12A

Insert after clause 12—

##### **12A Approved charitable organisations declared to be agencies—the Act, Sch 4, cl 5(1)**

An approved charitable organisation, within the meaning of the *Animal Welfare Act 2022*, is declared to be an agency in relation to its functions under the following provisions of that Act for the purposes of the Act—

- (a) Parts 4–6 and 8,
- (b) Part 7, Divisions 2–4.

#### 4.15 Greyhound Racing Act 2017 No 13

**[1] Section 3 Definitions**

Omit “*Prevention of Cruelty to Animals Act 1979*” from section 3(1), definition of *animal welfare body*.

Insert instead “*Animal Welfare Act 2022*”.

**[2] Section 35 Commission to prepare code of practice**

Omit “*Prevention of Cruelty to Animals Act 1979*” from section 35(3).

Insert instead “*Animal Welfare Act 2022*”.

**[3] Section 40 Life ban for committing live baiting offence**

Omit “section 21 (1) (d) or (e) of the *Prevention of Cruelty to Animals Act 1979*” from section 40(2), definition of live baiting offence, paragraph (a).

Insert instead “the *Animal Welfare Act 2022*, section 33(1)(d)”.

**[4] Section 40(2), definition of "live baiting offence", paragraph (b)**

Omit “section 21 (1) (d) or (e) of the *Prevention of Cruelty to Animals Act 1979*”.

Insert instead “the *Animal Welfare Act 2022*, section 33(1)(d)”.

**[5] Section 90 Exchange of information**

Omit “*Prevention of Cruelty to Animals Act 1979*” from section 90(2)(b).

Insert instead “*Animal Welfare Act 2022*”.

#### 4.16 Greyhound Racing Regulation 2019

**[1] Clause 15 Commission to be notified of information relating to registered greyhound racing industry participants**

Omit “animal cruelty offence under the *Prevention of Cruelty to Animals Act 1979*” from clause 15(1)(b).

Insert instead “animal welfare offence under the *Animal Welfare Act 2022*”.

**[2] Clause 18 Commission to be notified of information relating to registered greyhound trial tracks**

Omit “animal cruelty offence under the *Prevention of Cruelty to Animals Act 1979*” from clause 18(1)(b).

Insert instead “animal welfare offence under the *Animal Welfare Act 2022*”.

#### 4.17 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

**[1] Section 134 Orders for the taking of identification particulars**

Omit “section 5 or 6 of the *Prevention of Cruelty to Animals Act 1979*” from section 134(5)(c1).

Insert instead “the *Animal Welfare Act 2022*, section 25 or 26”.

**[2] Schedule 2 Search warrants under other Acts**

Omit “*Animal Research Act 1985*, section 51”.

Insert instead “*Animal Welfare Act 2022*, section 68”.

**[3] Schedule 2**

Omit “*Exhibited Animals Protection Act 1986*, section 42” and “*Prevention of Cruelty to Animals Act 1979*, section 24F”.

**4.18 National Disability Insurance Scheme (Worker Checks) Regulation 2020**

**Schedule 2 Presumptively disqualifying offences**

Omit “*Prevention of Cruelty to Animals Act 1979*” and “s 6” from item 5 of the table to Part 1.

Insert instead “*Animal Welfare Act 2022*” and “s 26”, respectively.

**4.19 Ombudsman Act 1974 No 68**

**[1] Section 5 Definitions**

Omit “and” from section 5(1), definition of *public authority*, paragraph (g1).

**[2] Section 5(1), definition of “public authority”, paragraph (g2)**

Insert after paragraph (g1)—

- (g2) an approved charitable organisation within the meaning of the *Animal Welfare Act 2022*, but only in relation to conduct that relates to the exercise of functions under that Act, and

**4.20 Poisons and Therapeutic Goods Regulation 2008**

**Clause 65A**

Insert after clause 65—

**65A Use of certain restricted substances on animals for sedation or pain relief—the Act, s 17(1)(c)**

- (1) This clause applies to the following substances (*relevant substances*)—
- (a) acepromazine,
  - (b) detomidine HCl,
  - (c) xylazine,
  - (d) zoletil, being tiletamine hydrochloride and zolazepam hydrochloride.
- (2) An authorised person may obtain or use a relevant substance—
- (a) only for the purpose of sedating or providing pain relief to an animal, and
  - (b) in accordance with the requirements of subclauses (3)–(6).
- Maximum penalty—20 penalty units.
- (3) A relevant substance must be kept separately from all other goods in a safe, cupboard or other receptacle that is—
- (a) securely attached to a part of the premises, and
  - (b) kept securely locked except when in immediate use.
- (4) An authorised person must keep a separate register of all relevant substances that are obtained or used by the authorised person.

- (5) On the day an authorised person obtains or uses a relevant substance, the authorised person must enter in the register the following details, as relevant to the transaction—
- (a) the quantity that was obtained or used,
  - (b) the name and address of the person from whom it was obtained,
  - (c) the number and species of animals for which it was used,
  - (d) the total quantity held by the authorised person after the entry is made.
- (6) Each entry must be dated and signed by the authorised person.
- (7) In this clause—
- authorised person** means a person—
- (a) employed or otherwise engaged by an approved charitable organisation, within the meaning of the *Animal Welfare Act 2022*, who is appointed as an authorised officer under that Act, and
  - (b) who—
    - (i) for a substance specified in subclause (1)(a)–(c)—has an authority under Part 8 to obtain and use the substance, or
    - (ii) for the substance specified in subclause (1)(d)—is authorised under the Act, section 16(1)(d) to obtain possession of the substance.

#### 4.21 Public Interest Disclosures Act 1994 No 92

**Note.** A bill for a *Public Interest Disclosures Act 2022* is currently before the Parliament. Depending on the timing of the passage of that bill, these consequential amendments may be omitted and replaced with consequential amendments to the 2022 Act.

##### Section 4A Public officials

Omit section 4A(2)(c). Insert instead—

- (c) an authorised officer under the *Animal Welfare Act 2022* employed or otherwise engaged by an approved charitable organisation,

#### 4.22 Veterinary Practice Act 2003 No 87

**[1] Section 14 Offence of representing certain corporations and firms to be veterinary practices**

Omit “*Prevention of Cruelty to Animals Act 1979*” from section 14(5)(c).

Insert instead “*Animal Welfare Act 2022*”.

**[2] Section 18 Refusal of registration**

Omit “the *Prevention of Cruelty to Animals Act 1979*,” from section 18(b)(i).

**[3] Section 18(b)(i1)**

Insert after section 18(b)(i)—

- (i1) an animal welfare offence under the *Animal Welfare Act 2022*,

**[4] Section 27 Removal of person’s name from Register**

Omit “the *Prevention of Cruelty to Animals Act 1979*,” from section 27(2)(c)(i).

**[5] Section 27(2)(c)(i1)**

Insert after section 27(2)(c)(i)—



(11) an animal welfare offence under the *Animal Welfare Act 2022*,

**[6] Section 33 Annual return to be submitted**

Omit “the *Prevention of Cruelty to Animals Act 1979*,” from section 33(1)(a)(i).

**[7] Section 33(1)(a)(i1)**

Insert after section 33(1)(a)(i)—

(11) an animal welfare offence under the *Animal Welfare Act 2022*,

#### **4.23 Veterinary Practice Regulation 2013**

**[1] Clause 4 Restricted acts of veterinary science**

Insert “, other than surgical artificial insemination on a dog” after “surgery” in clause 4(1)(d)(vii).

**[2] Schedule 2 Veterinary practitioners code of professional conduct**

Omit clause 12(b). Insert instead—

- (b) to an authorised officer under the *Animal Welfare Act 2022* and relates to—
- (i) an alleged animal welfare offence under that Act, or
  - (ii) an alleged offence relating to animal cruelty under the *Crimes Act 1900*.

**[3] Schedule 2, clause 12(c)**

Omit “*Prevention of Cruelty to Animals Act 1979*”.

Insert instead “*Animal Welfare Act 2022*”.

#### **4.24 Weapons Prohibition Regulation 2017**

**Schedule 1 Persons exempt from requirement for permit**

Omit clause 2(1)(j). Insert instead—

- (j) an authorised officer under the *Animal Welfare Act 2022*.