

**PREVENTION OF CRUELTY TO ANIMALS ACT,  
1979, No. 200**

**New South Wales**



ANNO VICESIMO OCTAVO

**ELIZABETHÆ II REGINÆ**

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**Act No. 200, 1979.**

An Act for the prevention of cruelty to animals. [Assented to,  
21st December, 1979.]

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*Prevention of Cruelty to Animals.*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

**PART I.**

**PRELIMINARY.**

- Short title.**     **1.** This Act may be cited as the "Prevention of Cruelty to Animals Act, 1979".
- Commence-  
ment.**         **2.** (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.
- Arrange-  
ment.**         **3.** This Act is divided as follows :—
- PART I.—PRELIMINARY—ss. 1–4.**
- PART II.—OFFENCES—ss. 5–24.**
- PART III.—MISCELLANEOUS—ss. 25–36.**
- SCHEDULE 1.—REPEALS.**
- SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.**
- Interpre-  
tation.**       **4.** (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—
- "animal" means a vertebrate animal, including a mammal, bird, reptile, amphibian or fish, but does not include a human being;

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

“authorise” includes permit;

“cage” includes a pit, pen, kennel, hutch and any other similar receptacle;

“confine”, in relation to an animal, includes—

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

“court” means a court of petty sessions;

“dog” includes a bitch and a puppy;

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

“horse” includes a stallion, gelding, mare, colt, filly, foal, pony, mule, donkey, ass and jenny;

“officer” means—

- (a) a member of the police force; or
- (b) an officer of—
  - (i) the Royal Society for the Prevention of Cruelty to Animals, New South Wales;or

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- (ii) an organisation or association which has as one of its objects the promotion of the welfare of, or the prevention of cruelty to, animals, or any class of animals, and which is registered as a charity under the Charitable Collections Act, 1934,

who is a special constable within the meaning of the Police Offences Act, 1901;

“owner” includes a joint owner;

“pain” includes suffering and distress;

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

- (a) the owner of the animal;
- (b) a person who has the animal in his possession or custody, or under his care, control or supervision;
- (c) where a person referred to in paragraph (b) is bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal, that servant or agent, as the case may be; and
- (d) where the animal, being a stock animal, is confined in a sale-yard—
  - (i) the owner of the sale-yard; or
  - (ii) where the sale-yard is the subject of a lease, the lessee of the sale-yard;

“premises” means any place which is not a public place;

“public place” means any place, including any road, to which the public has its own right to resort;

“regulation” means a regulation made under this Act;

“sale-yard” means any premises or public place used or established for use wholly or partly for the sale of stock animals;

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“stock animal” means an animal which belongs to the class of animals comprising cattle, horses, sheep, goats, swine, poultry and any other species of animal prescribed for the purposes of this definition;

“veterinary surgeon” has the meaning ascribed to that expression in section 3 of the Veterinary Surgeons Act, 1923;

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

- (a) medical treatment of a prophylactic or therapeutic nature carried out upon the animal by, or in accordance with directions given in respect of the animal by, a veterinary surgeon; or
- (b) surgical treatment of a prophylactic or therapeutic nature, or sterilisation, carried out upon the animal by a veterinary surgeon.

(2) For the purposes of this Act, a person commits an act of cruelty upon an animal if he unreasonably, unnecessarily or unjustifiably—

- (a) beats, kills, wounds, pinions, mutilates, maims, abuses, torments, tortures, terrifies or infuriates the animal;
- (b) over-loads, over-works, over-drives, over-rides or over-uses the animal;
- (c) exposes the animal to excessive heat or excessive cold; or
- (d) inflicts pain upon the animal.

(3) For the purposes of this Act, a person commits an act of aggravated cruelty upon an animal if he commits an act of cruelty upon the animal which results in—

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

## OFFENCES.

Cruelty to animals.

**5.** (1) A person shall not—

- (a) commit an act of cruelty upon an animal; or
- (b) where the person is a person in charge of an animal—authorise the commission of an act of cruelty upon the animal.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(2) For the purposes of subsection (1) (b), if a person in charge of an animal has failed at any time—

- (a) to exercise such reasonable care, control or supervision of the animal as would have prevented the commission of an act of cruelty upon the animal;
- (b) where pain has been inflicted upon the animal—to take such reasonable steps as would have alleviated the pain;  
or
- (c) where it has been necessary that the animal be provided with veterinary treatment for a period of time—to provide it with that treatment for that period,

that person shall be deemed to have authorised the commission, at that time, of an act of cruelty upon the animal.

Aggravated cruelty to animals.

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

Penalty : Upon summary conviction, \$2,000 or imprisonment for 1 year, or both; upon conviction on indictment, imprisonment for 2 years.

(2) In any proceedings for an offence against subsection (1), the court before which the proceedings are being taken may—

- (a) where it is not satisfied that the person accused of the offence is guilty of the offence; and

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(b) where it is satisfied that that person is guilty of an offence against section 5 (1),  
convict that person of an offence against section 5 (1).

7. A person shall not—

(a) carry or convey an animal; or

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

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

Penalty : \$1,000 or imprisonment for 6 months, or both.

Carriage  
and con-  
veyance of  
animals.

8. (1) A person in charge of an animal shall not fail to provide the animal with proper and sufficient food, drink and shelter.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Animals to  
be provided  
with food,  
drink  
and  
shelter.

(2) In any proceedings for an offence against subsection (1), evidence that an animal was not provided with food, drink or shelter during a period of 24 hours is evidence that the person accused of the offence has failed to provide the animal with proper and sufficient food, drink and shelter during that period.

9. (1) A person in charge of an animal which is confined (other than a stock animal or an animal of a species which is usually kept in captivity by means of a cage) shall not fail to provide the animal with adequate exercise.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Confined  
animals  
to be  
exercised.

(2) In any proceedings for an offence against subsection (1), evidence that an animal referred to in that subsection was not released from confinement during a period of 24 hours is evidence that the person accused of the offence has failed to provide the animal with adequate exercise during that period.

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

Penalty : \$1,000 or imprisonment for 6 months, or both.

(4) In any proceedings for an offence against subsection (3) in respect of an animal, the person accused of the offence is not guilty of the offence if he satisfies the court before which the proceedings are being taken that he confined the animal—

(a) for the purpose of—

(i) carrying or conveying the animal; or

(ii) displaying the animal in a public exhibition or public competition,

in a manner that inflicted no unnecessary pain upon the animal; and

(b) for a period not exceeding 48 hours.

Tethering  
of animals.

**10.** A person shall not—

(a) tether an animal; or

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

for an unreasonable length of time or by means of an unreasonably heavy, or unreasonably short, rope, chain or cord.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Animals not  
to be  
abandoned.

**11.** A person shall not abandon an animal.

Penalty : \$1,000 or imprisonment for 6 months, or both.



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**12.** A person shall not—

- (a) dock the tail of a horse;
- (b) crop the ears of a dog; or
- (c) operate upon a dog for the purpose of preventing the dog from being able to bark.

Certain operations not to be performed on animals.

Penalty : \$1,000 or imprisonment for 6 months, or both.

**13.** A person shall not—

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

Certain animals not to be ridden, etc.

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

Penalty : \$1,000 or imprisonment for 6 months, or both.

**14.** The driver of a vehicle which strikes and injures an animal (other than a bird) shall not fail—

Injuries to animals to be reported.

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

Penalty : \$1,000 or imprisonment for 6 months, or both.

**15.** (1) In this section, “poison” includes any substance included in the list, as in force for the time being, proclaimed under section 8 of the Poisons Act, 1966.

Poisons, etc., not to be administered to animals.

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(2) A person shall not—

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

Penalty : \$1,000 or imprisonment for 6 months, or both.

Electrical devices not to be used upon animals.

**16.** (1) In this section, “electrical device” means a device, article or appliance which is manufactured, adapted or used for the purpose of administering an electric shock upon an animal.

(2) A person shall not use an electrical device upon an animal.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(3) Nothing in subsection (2) prevents a person from using an electrical device of a prescribed type upon an animal belonging to a prescribed species.

Certain spurs, etc., not to be kept.

**17.** A person shall not keep in his possession or custody any spur, or any other similar appliance, which has sharpened rowels.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Animal baiting prohibited.

**18.** A person shall not—

- (a) use any premises, or manage or control any premises which are used;
- (b) where the person is an owner of premises—authorise the premises to be used; or
- (c) receive money for the admission of another person to premises which are used,

for the purpose of baiting an animal or causing an animal to fight.

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Penalty : \$1,000 or imprisonment for 6 months, or both, and, in the case of a continuing offence, a further penalty not exceeding \$500 for each day the offence continues.

**19.** A person shall not promote or take part in a match, competition or other activity in which an animal is released from confinement for the purpose of that person, or any other person, shooting at it. Trap-shooting prohibited.

Penalty : \$1,000 or imprisonment for 6 months, or both.

**20.** A person shall not promote or take part in a match, competition or other activity in which an animal belonging to a prescribed species is released from confinement for the purpose of that person, or any other person, chasing, catching or confining it. Certain animal-catching activities prohibited.

Penalty : \$1,000 or imprisonment for 6 months, or both.

**21.** (1) A person shall not—

- (a) promote or take part in an activity in which an animal is used for the purpose of its being chased, caught or confined by a dog; or
- (b) at a place used for the purpose of the activity referred to in paragraph (a)—keep an animal for the purpose of using it in connection with that activity. Coursing, etc., prohibited.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(2) In any proceedings for an offence against subsection (1) (b), evidence that the person accused of the offence, while at a place used for the purpose of an activity referred to in subsection (1) (a), had an animal belonging to a prescribed species in his possession or custody, or under his care, control or supervision, is evidence that that person kept the animal at that place and at that time for the purpose of his using it in connection with that activity.

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(3) In any proceedings for an offence against subsection (1), the person accused of the offence is not guilty of the offence if he satisfies the court before which the proceedings are being taken that the act in respect of which the proceedings are being taken was done by that person in the course of, and for the purpose of, mustering stock animals.

Severely  
injured  
animals  
not to be  
sold.

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

Penalty : \$1,000 or imprisonment for 6 months, or both.

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

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

Penalty for an offence against this subsection : \$1,000 or imprisonment for 6 months, or both.

Certain  
traps  
not to be  
set.

**23.** A person shall not, in a prescribed part of New South Wales, set a trap of a prescribed type.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Certain  
defences.

**24.** In any proceedings for an offence against this Part or the regulations in respect of an animal, the person accused of the offence is not guilty of the offence if he satisfies the court before

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which the proceedings are being taken that the act or omission in respect of which the proceedings are being taken was done, authorised to be done or omitted to be done by that person—

- (a) where, at the time when the offence is alleged to have been committed, the animal was—
  - (i) a stock animal—in the course of, and for the purpose of, ear-marking, ear-tagging or branding the animal;
  - (ii) a stock animal of less than 6 months of age—in the course of, and for the purpose of, castrating the animal;
  - (iii) a stock animal of less than 12 months of age—in the course of, and for the purpose of, dehorning the animal; or
  - (iv) a lamb—in the course of, and for the purpose of, tailing the animal or performing the Mules operation upon the animal,

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

- (b) in the course of, and for the purpose of—
  - (i) hunting, shooting, snaring, trapping, catching or capturing the animal; or
  - (ii) destroying the animal, or preparing the animal for destruction, for the purpose of producing food for human consumption,

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

- (c) in the course of, and for the purpose of, destroying the animal, or preparing the animal for destruction—
  - (i) in accordance with the precepts of the Jewish religion or of any other religion prescribed for the purposes of this section; or
  - (ii) in compliance with any duty imposed upon that person by or under this or any other Act;

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- (d) in the course of, and for the purpose of, providing the animal with veterinary treatment; or
- (e) in the course of, and for the purpose of, carrying out upon the animal—
  - (i) a surgical operation;
  - (ii) an operation for the purpose of physiological or pathological investigation of the animal;
  - (iii) an operation for the purpose of inoculating the animal; or
  - (iv) an operation for the purpose of conducting a feeding experiment upon the animal,
 in accordance with the regulations.

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PART III.

MISCELLANEOUS.

Powers of officers in respect of certain premises.

- 25.** (1) An officer who is the holder of a prescribed authority, together with any veterinary surgeon accompanying him, may—
- (a) enter premises—
    - (i) which are used for the purpose of a sale-yard or an animal trade; or
    - (ii) in which an animal is being used, or kept for use, in connection with a trade, business or profession; and
  - (b) inspect and examine—
    - (i) the premises;
    - (ii) any animal which is in the premises; and
    - (iii) any accommodation or shelter which is provided in the premises for any animal.

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(2) A prescribed person who is the holder of a prescribed authority may—

- (a) enter premises in which he suspects, on reasonable grounds, that an animal is being kept for the purpose of the carrying out upon the animal of an operation referred to in section 24 (e); and
- (b) inspect and examine—
  - (i) the premises;
  - (ii) any animal which is in the premises; and
  - (iii) any accommodation or shelter which is provided in the premises for any animal.

(3) Where an officer, or a prescribed person, who is the holder of a prescribed authority exercises a power conferred upon him by this section, he shall produce the authority, if requested to do so by an occupier of the premises, for inspection by that occupier.

(4) For the purposes of this section, “prescribed person” means—

- (a) a medical officer of health or an assistant medical officer of health within the meaning of the Public Health Act, 1902;
- (b) a veterinary inspector within the meaning of the Pastures Protection Act, 1934; or
- (c) a veterinary officer employed in the Department of Agriculture.

**26.** (1) Where an officer who is the holder of a prescribed authority suspects, on reasonable grounds, that an offence against Part II is being, has been or is about to be committed in respect of an animal, the officer may—

- (a) take possession of the animal;
- (b) remove the animal to such place as he thinks fit; and

Powers of  
officers,  
generally.

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(c) retain possession of the animal—

- (i) except as provided in subparagraph (ii)—for a period not exceeding 7 days from the date upon which the officer takes possession of the animal under paragraph (a); or
- (ii) where, within the period referred to in subparagraph (i), proceedings are commenced in respect of the offence, and unless the court before which the proceedings are being taken otherwise directs—until the proceedings are finally determined,

but nothing in this subsection limits the operation of subsections (2)–(5).

(2) Where, in the opinion of an officer who is the holder of a prescribed authority—

(a) an animal has not been provided with proper and sufficient food or drink during the previous 24 hours; and

(b) the animal is not being provided with that food or drink, the officer may—

- (c) take possession of the animal;
- (d) remove the animal to such place as he thinks fit; and
- (e) retain possession of the animal for such period of time as may be necessary for it to be provided with that food or drink.

(3) Where, in the opinion of an officer who is the holder of a prescribed authority—

(a) an animal is so severely injured, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment; and

(b) the animal is not being provided with that treatment, the officer may—

- (c) take possession of the animal;



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- (d) remove the animal to such place as he thinks fit; and
- (e) retain possession of the animal for such period of time as may be necessary for it to be provided with that treatment.

(4) Where, in the opinion of an officer who is the holder of a prescribed authority—

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

the officer may—

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

(5) Where an officer who is the holder of a prescribed authority suspects, on reasonable grounds, that—

- (a) an offence against Part II is being, has been or is about to be committed in respect of an animal;
- (b) an animal—
  - (i) has not been provided with proper and sufficient food or drink during the previous 24 hours; and
  - (ii) is not being provided with that food or drink;

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## (c) an animal—

- (i) is so severely injured, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment; and
- (ii) is not being provided with that treatment; or

## (d) an animal—

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

the officer may inspect and examine the animal.

(6) Where an officer who is the holder of a prescribed authority exercises a power conferred upon him by subsection (1)–(5) in respect of an animal, the officer shall produce the authority, if requested to do so by a person in charge of the animal, for inspection by that person.

(7) An officer who is the holder of a prescribed authority may, for the purpose of exercising a power conferred upon him by subsection (1)–(5), enter or remain in premises and, where he does so enter or remain, shall produce the authority, if requested to do so by an occupier of the premises, for inspection by that occupier.

## (8) The reasonable costs incurred by an officer—

- (a) in the exercise of the powers conferred upon the officer by this section in respect of an animal; and

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- (b) in complying with the duties imposed upon the officer by this Act or the regulations, in consequence of the exercise by the officer of those powers,

may be recovered from the owner of the animal as a debt in a court of competent jurisdiction by—

- (c) where the officer is a member of the police force—the officer or the Crown;
- (d) where the officer is an officer of the Royal Society for the Prevention of Cruelty to Animals, New South Wales—the officer or any other officer of that society; or
- (e) where the officer is an officer of an organisation or association referred to in paragraph (b) (ii) of the definition of “officer” in section 4 (1)—the officer or any other officer of that organisation or association.

**27.** Upon complaint made on oath by a person that the person suspects, on reasonable grounds, that there is, in any premises, an animal in respect of which an offence against this Act or the regulations—<sup>Search warrants.</sup>

- (a) is, or is suspected of, being committed;
- (b) has, or is suspected of having, been committed; or
- (c) is, or is suspected of being, about to be committed,

a stipendiary magistrate may issue a warrant authorising an officer or officers named in the warrant, together with any person or persons so named (each of whom may, if the warrant so provides, be accompanied by one or more members of the police force), at any time or times within 14 days after the date of issue of the warrant—

- (d) to enter, if need be by the use of reasonable force;
- (e) to search; and

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(f) to inspect and examine any animal which is in,  
the premises described in the warrant.

Obstruction  
of persons  
exercising  
powers, etc.

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

Penalty : \$500.

Court  
may order  
production  
of animal.

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

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

Penalty: \$100.

Court may  
order  
destruction  
of animal.

**30.** (1) Where—

- (a) a court has convicted a person of an offence against this Act or the regulations in respect of an animal; and
- (b) the court is satisfied that the animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive,

the court may—

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

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

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

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

**31.** (1) Subject to subsection (2), where—

- (a) a court has convicted a person in charge of an animal of an offence against this Act or the regulations in respect of the animal; and
- (b) the court is satisfied that, if that person continues to be a person in charge of the animal, that person is likely to commit a further offence against this Act or the regulations in respect of the animal,

Court may  
make  
order  
regarding  
disposal of  
animal.

the court may, in addition to any penalty which it may otherwise impose, make such order in respect of the disposal of the animal as it thinks fit.

(2) Where a court has convicted a person in charge of an animal of an offence against section 6 (1), the court may, in addition to any penalty which it may otherwise impose—

- (a) make such order in respect of the disposal of—
  - (i) the animal in respect of which the offence was committed; and

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(ii) any other animal of which the person is a person in charge,  
as it thinks fit; and

(b) where it has made an order under paragraph (a), make a further order that the person shall not—

(i) purchase or acquire; or

(ii) take possession or custody of,  
any animal within such period as is specified in the order.

(3) A person upon whom an order made under subsection (1) or (2) is served shall not fail to comply with the order.

Penalty : \$1,000.

Sale-yard  
owner  
may  
recoup  
expenses.

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

Alterna-  
tive  
summons.

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

(a) the owner of the animal; or

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

that court—

- (c) may—

- (i) make an order that that person be discharged;  
or
- (ii) adjourn those proceedings until the proceedings referred to in subsection (2) have been determined; and

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

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

whichever period expires earlier.

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

**34.** (1) Except as provided in subsection (2), proceedings for an offence against this Act or the regulations may be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone. <sup>Proceedings for offences.</sup>

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(2) An offence against section 6 (1) may—

- (a) if the informant so elects, be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone; or
- (b) be taken on indictment.

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

**Regulations.** **35.** (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the conditions under which any animal or species of animal may be—
  - (i) confined;
  - (ii) carried or conveyed;
  - (iii) kept or used in connection with a circus; or
  - (iv) kept or used in connection with the production of films, television programmes or film, television or photographic advertisements;
- (b) the accommodation or shelter to be provided for any animal or species of animal;
- (c) the manner in which, and the conditions under which, any animal or species of animal may be destroyed;
- (d) the licensing, prohibition, regulation and control of animal trades; and
- (e) the fees to be paid in connection with the issue of a licence under this Act.



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(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body; or
- (d) exempt any person, or any specified class of persons, either absolutely or subject to conditions, from the operation of any specified provision of this Act,

or may do any combination of those things.

(3) A regulation may impose a penalty not exceeding \$200 for an offence against the regulation.

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

- (a) with respect to the licensing of an animal trade, provide for the issue of a licence subject to such conditions as the regulation may impose; or
- (b) with respect to the regulation or control of an animal trade, provide that a person shall not conduct an animal trade unless he is the holder of a licence issued in respect of the animal trade.

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

- (a) prescribe, as a part of New South Wales, the whole of New South Wales except such part thereof as may be specified in the regulation; and
- (b) prescribe a type of trap—
  - (i) by words;
  - (ii) by reference to a photographic representation which is depicted in, and forms part of, the regulation; or

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(iii) by reference to a diagram which is depicted in,  
and forms part of, the regulation,  
or by any combination of those methods.

**Repeals and savings and transitional provisions.**     **36.** (1) Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

(2) Schedule 2 has effect.

**Sec. 36**  
**(1).**

**SCHEDULE 1.**

**REPEALS.**

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1901, No. 64 ..	Prevention of Cruelty to Animals Act, 1901.	The whole Act.
1928, No. 54 ..	Prevention of Cruelty to Animals (Amendment) Act, 1928.	The whole Act.
1937, No. 35 ..	Statute Law Revision Act, 1937 ..	So much of the Second Schedule as amended Act No. 64, 1901.
1943, No. 44 ..	Prevention of Cruelty to Animals (Amendment) Act, 1943.	Sections 1 (2) and (3) and 2 (1) and (3).
1951, No. 17 ..	Prevention of Cruelty to Animals (Amendment) Act, 1951.	The whole Act.
1952, No. 1 ..	Prevention of Cruelty to Animals (Amendment) Act, 1952.	The whole Act.
1953, No. 35 ..	Prevention of Cruelty to Animals (Amendment) Act, 1955.	Sections 1 (2) and (3) and 2.
1967, No. 91 ..	Prevention of Cruelty to Animals (Amendment) Act, 1967.	Sections 1 (2), 2, 3, 4 and 5 (2).
1973, No. 45 ..	Prevention of Cruelty to Animals (Amendment) Act, 1973.	The whole Act.
1977, No. 19 ..	Notice of Action and Other Privileges Abolition Act, 1977.	So much of Schedule 1 as amended Act No. 64, 1901.

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SCHEDULE 2.

Sec. 36  
(2).

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule, "commencement day" means the day appointed and notified under section 2 (2). **Interpreta-  
tion.**
  2. A regulation which was made under the Prevention of Cruelty to Animals Act, 1901, and which was in force immediately before the commencement day, shall be deemed to be a regulation made under this Act. **Regulations.**
  3. On and from the commencement day, a reference in any other Act to the "Prevention of Cruelty to Animals Act, 1901" shall be read and construed as a reference to the "Prevention of Cruelty to Animals Act, 1979". **References  
in other  
Acts.**
  4. An authority in writing issued by the Minister for the purposes of section 12A (2) of the Prevention of Cruelty to Animals Act, 1901, before the commencement day, and in force immediately before that day, shall be deemed to be a prescribed authority for the purposes of section 25 (2). **Authorities.**
  5. The provisions of sections 4A (4), 12D, 12E and 12G of the Prevention of Cruelty to Animals Act, 1901, continue to apply to and in respect of any proceeding for an offence against that Act commenced before the commencement day in the manner those provisions would have applied had not this Act been enacted. **Transitional.**
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