



New South Wales

Animal Research Amendment Act 1997 No 25

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New South Wales

Animal Research Amendment Act 1997 No 25

Act No 25, 1997

An Act to amend the *Animal Research Act 1985* to make miscellaneous changes concerning the use of animals for research and educational purposes; to amend the *Prevention of Cruelty to Animals Act 1979* consequentially; and for other purposes. [Assented to 25 June 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Animal Research Amendment Act 1997*.

2 Commencement

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

3 Amendment of Animal Research Act 1985 No 123

The *Animal Research Act 1985* is amended as set out in Schedule 1.

4 Consequential amendment of Prevention of Cruelty to Animals Act 1979 No 200

The *Prevention of Cruelty to Animals Act 1979* is amended as set out in Schedule 2.

Schedule 1 Amendment of Animal Research Act 1985

(Section 3)

[1] Section 2A

Insert after section 2:

2A Object of Act

- (1) The object of this Act is to protect the welfare of animals used in connection with research by requiring persons or organisations carrying out animal research or supplying animals for research to be authorised under this Act and by regulating the carrying out of animal research and the supply of animals for research by those persons or organisations.
- (2) Authorisations under this Act may be granted only for recognised research purposes. Recognised research purposes include purposes involving the use of animals for research, teaching, testing and the production of biological products.

[2] Section 3 Definitions

Omit the definition of *animal research licence* from section 3 (1).

[3] Section 3 (1)

Omit paragraph (b) of the definition of *designated land*.
Insert instead:

- (b) in relation to an animal research authority—the land designated in the authority as the land in or on which it is intended that the business of animal research will be carried on by the holder of the authority, or

[4] Section 3 (1)

Insert in alphabetical order:

licensed animal supplier means the holder of an animal supplier's licence.

[5] Section 10 Inspections

Omit “animal research licence” from section 10 (1).
Insert instead “animal research authority”.

[6] Section 13 Constitution of animal care and ethics committees

Omit section 13 (1) and (2). Insert instead:

- (1) A person may appoint an animal care and ethics committee.
- (2) If a corporation is accredited as a research establishment or a person is granted an animal supplier’s licence, the animal care and ethics committee appointed by the person under subsection (1) becomes the animal care and ethics committee for the accredited research establishment or licensed animal supplier.

[7] Section 13 (3)

Omit “holders of animal research licences”.
Insert instead “holders of animal research authorities”.

[8] Section 14 Functions of animal care and ethics committees

Insert after section 14 (1):

- (1A) The animal care and ethics committee for a licensed animal supplier has the following functions:
 - (a) the supervision of the supply of animals for use in connection with animal research by the animal supplier, and
 - (b) such other functions as may be conferred or imposed on it by the Code of Practice.
- (1B) If a corporation is both an accredited research establishment and a licensed animal supplier, the animal care and ethics committee for the corporation has both the functions set out in subsection (1) and (1A).

[9] Section 14 (2)

Omit the subsection. Insert instead:

- (2) An animal care and ethics committee appointed by the Director-General has the following functions:
 - (a) the making of recommendations concerning the granting of animal research authorities by the Director-General,
 - (b) the supervision of the carrying out of animal research by holders of animal research authorities granted by the Director-General,
 - (c) such other functions as may be conferred or imposed on it by the Code of Practice.

[10] Section 15 Appointment of animal care and ethics subcommittees

Omit “may, on the recommendation of its animal care and ethics committee”.

Insert instead “or licensed animal supplier may, on the recommendation of the animal care and ethics committee for the establishment or supplier”.

[11] Section 17 Definitions

Insert after paragraph (a) of the definition of *disqualified individual*:

- (a1) was the holder of an animal research authority or animal supplier’s licence that was cancelled by the Director-General within the previous 12 months, or

[12] Section 17 (2)

Insert at the end of section 17:

- (2) In this Part, a reference to an animal care and ethics committee in relation to an animal research authority is a reference to the animal care and ethics committee specified in the authority.

[13] Section 18 Applications for accreditation

Omit “(being land occupied or to be occupied by the applicant)” from section 18 (2) (c).

[14] Section 21 Duration of accreditation

Omit section 21 (1). Insert instead:

- (1) Unless sooner cancelled, an accreditation remains in force as follows:
 - (a) if the research establishment has not been accredited before—12 months from the date on which the accreditation is granted,
 - (b) if the research establishment has been accredited before and during the last period of accreditation the accreditation was cancelled or suspended—12 months from the date on which the accreditation is granted or such lesser period as the Director-General determines,
 - (c) if the research establishment has been accredited before and paragraph (b) does not apply—36 months from the date on which the accreditation is granted.

[15] Sections 25–25C

Omit section 25. Insert instead:

25 Authorities may be issued by Director-General and accredited research establishments

- (1) The Director-General or an accredited research establishment may issue an authority to any individual to carry out animal research for the purpose of a particular research project.
- (2) The Director-General may issue an animal research authority only on the recommendation of an animal care and ethics committee.
- (3) An accredited research establishment may issue an animal research authority only on the recommendation of its animal care and ethics committee.
- (4) An animal research authority is not to be issued to a disqualified individual.

25A Application to Director-General

- (1) An individual may apply to the Director-General for an animal research authority.
- (2) The application must:
 - (a) be in or to the effect of the approved form, and
 - (b) include such particulars of the research project in connection with which the animal research is to be carried out as may be prescribed by the regulations, and
 - (c) include particulars of any application made to an accredited research establishment for an animal research authority in respect of the same project and of any refusal of such an application, and
 - (d) identify the land in or on which the applicant intends to carry out the animal research, and
 - (e) include particulars of any cancellation of any animal research authority or animal supplier's licence previously held by the applicant, and
 - (f) be accompanied by the fee prescribed by the regulations, and
 - (g) be lodged at the office of the Director-General.
- (3) Subject to section 25, the Director-General is to determine an application:
 - (a) by issuing the authority to the applicant, or
 - (b) by refusing to issue an authority to the applicant.
- (4) If the Director-General refuses to issue an authority, the Director-General is, as soon as practicable after so refusing, to cause notice of the refusal, and of the reasons for the refusal, to be served on the applicant for the authority.
- (5) If, at the expiration of 90 days after an application has been made, the Director-General has failed to determine the application, the Director-General is, for the purposes only of any appeal, taken to have refused to issue an authority to the applicant.

25B Applications to accredited research establishments

- (1) An individual may apply to an accredited research establishment for an animal research authority.
- (2) The application must:
 - (a) include such particulars of the research project in connection with which the animal research is to be carried out as may be prescribed by the regulations, and
 - (b) include particulars of any application made to the Director-General or another accredited research establishment for an animal research authority in respect of substantially the same project and any refusal of such an application, and
 - (c) identify the land in or on which the applicant intends to carry out the animal research, and
 - (d) include particulars of any cancellation of any animal research authority or animal supplier's licence previously held by the applicant, and
 - (e) otherwise be made in the form and manner approved by the accredited research establishment.
- (3) Subject to section 25, an accredited research establishment may determine an application by issuing an animal research authority or refusing to issue an animal research authority.

25C Applications by independent researchers

- (1) An accredited research establishment may charge a fee in respect of an application for an animal research authority (including an application for renewal of an animal research authority) that is made by an independent researcher.
- (2) The maximum fee that may be charged is the amount prescribed by the regulations as the maximum application fee.

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- (3) An accredited research establishment must ensure that a record is kept for the period prescribed by the regulations that includes the particulars prescribed by the regulations of all applications for animal research authorities that are made to it by independent researchers during each reporting period.

Maximum penalty: 30 penalty units.

- (4) An accredited research establishment that makes a record under this section must give a copy of the record to the Director-General within one month after the end of the reporting period to which the record relates.

Maximum penalty: 30 penalty units.

- (5) In this section:

independent researcher, in relation to an accredited research establishment, means a person who carries out animal research, or applies for an authority to carry out animal research, otherwise than on behalf of the accredited research establishment.

reporting period means the period commencing on the commencement of this section and ending on 31 December in the same year and each subsequent period of 12 months.

[16] Section 26 Form of authorities

Omit “the research establishment by which the authority is issued” from section 26 (1) (b).

Insert instead “the person who issued the authority”.

[17] Section 26 (1) (c1)

Insert after section 26 (1) (c):

- (c1) designate the land in or on which it is intended that the business of animal research will be carried on by the person,

[18] Section 26 (1) (d), (d1) and (d2)

Omit section 26 (1) (d). Insert instead:

- (d) describe the kind of animal research which the authority authorises the person to carry out and the research project in connection with which the person is authorised to carry out animal research,
- (d1) specify the animal care and ethics committee under whose supervision the individual is authorised to carry out animal research,
- (d2) specify any conditions to which the authority is subject, and

[19] Section 26 (2) (a), (3)

Omit “for the research establishment by which the authority is issued” wherever occurring.

Insert instead “specified in the authority”.

[20] Sections 28–28C

Omit section 28. Insert instead:

28 Complaints

- (1) The following complaints about the holder of an animal research authority may be made to the Director-General:
 - (a) that the holder of the authority is carrying out or has carried out animal research:
 - (i) otherwise than as authorised by the authority, or
 - (ii) otherwise than with the approval, or in contravention of the directions, of the animal care and ethics committee specified in the authority, or
 - (iii) in contravention of the Code of Practice, or
 - (iv) otherwise than for a recognised research purpose, or

- (v) in connection with animals (other than exempt animals) that have not been obtained from a licensed animal supplier,
 - (b) that the holder of the authority is a disqualified individual,
 - (c) that the holder of the authority has failed to comply with a condition to which the authority is subject.
- (2) A complaint must:
- (a) be in writing, and
 - (b) specify the grounds on which it is made, and
 - (c) be signed by the complainant, and
 - (d) be lodged at the office of the Director-General.

28A Investigation of complaints

- (1) The Director-General is to refer all complaints to the Panel for investigation.
- (2) The Panel is to investigate each complaint referred to it and furnish a report to the Director-General on each such complaint.

28B Determination of complaints

- (1) After considering a report furnished in respect of a complaint, the Director-General is to determine the complaint:
 - (a) by cancelling the authority the subject of the complaint, or
 - (b) by suspending the authority the subject of the complaint for such period as the Director-General thinks fit, or
 - (c) by cautioning or reprimanding the holder of the authority the subject of the complaint, or
 - (d) by dismissing the complaint.

- (2) The Director-General is not to cancel or suspend an authority unless:
 - (a) notice has been served on the holder of the authority:
 - (i) of the Director-General's intention to cancel or suspend the authority, and
 - (ii) of the reasons for which the Director-General intends to cancel or suspend the authority, and
 - (b) the holder of the authority has had a reasonable opportunity to make submissions to the Director-General in relation to the intended cancellation or suspension of the authority, and
 - (c) the Director-General has considered any such submission.
- (3) As soon as practicable after determining a complaint, the Director-General is to cause written notice of the determination to be served on:
 - (a) the holder of the authority the subject of the complaint, and
 - (b) the complainant.
- (4) The cancellation or suspension of an authority takes effect:
 - (a) except as provided by paragraph (b)—at the expiration of 14 days after written notice of the cancellation or suspension is served on the holder of the authority, or
 - (b) if an appeal is made before the expiration of the period referred to in paragraph (a)—when the appeal is withdrawn or otherwise finally disposed of.
- (5) For avoidance of doubt, an authority may be cancelled or suspended by the Director-General under this section whether or not the Director-General issued the authority.
- (6) As soon as practicable after cancelling an authority, the Director-General is to cause notice of the cancellation to be given to each accredited research establishment.

28C Cancellation of authority by research establishment

An animal research authority that was issued by an accredited research establishment may be cancelled at any time by the accredited research establishment.

[21] Part 4, Division 4 (sections 29–36)

Omit the Division.

[22] Section 39 Determination of applications

Omit subsection (2). Insert instead:

- (2) Despite subsection (1), the Director-General is not to grant an animal supplier's licence to an applicant:
 - (a) if the applicant does not have a duly constituted animal care and ethics committee, or
 - (b) if the applicant is a disqualified individual or a disqualified corporation.

[23] Section 40 Form of licences

Omit section 40 (2). Insert instead:

- (2) An animal supplier's licence is not to authorise, or purport to authorise, the supply of animals otherwise than:
 - (a) with the approval, and in accordance with the directions, of the animal care and ethics committee for the animal supplier, and
 - (b) in accordance with the Code of Practice.

[24] Section 42 Complaints

Insert before section 42 (1) (a):

- (aa) that the holder of the licence does not have a duly constituted animal care and ethics committee,

[25] Section 42 (1) (a) (ia)

Insert after section 42 (1) (a) (i):

- (ia) otherwise than with the approval, or in contravention of the directions, of the animal care and ethics committee for the animal supplier, or

[26] Section 45 Appeals

Insert after section 45 (1):

- (1A) An appeal is to be made within 28 days after written notice of the determination of the Director-General is served on the person or, if the appeal relates to a failure to determine an application under this Part within 90 days after the application was made, within 28 days after the expiration of that 90 day period.

[27] Section 46 Unlawfully carrying on the business of animal research

Omit “100 penalty units” from section 46 (1).
Insert instead “160 penalty units”.

[28] Section 46 (2)

Omit “animal research licence” from section 46 (2).
Insert instead “animal research authority”.

[29] Section 46 (2)

Omit “20 penalty units”. Insert instead “30 penalty units”.

[30] Section 47 Unlawfully carrying out animal research

Omit “or an animal research licence” from section 47 (1).

[31] Section 47 (2) (b)

Omit “for the research establishment by which the authority was issued”.

Insert instead “specified in the authority”.

[32] Section 47 (2)

Omit “20 penalty units”. Insert instead “30 penalty units”.

[33] Section 47 (3)

Omit the subsection.

[34] Section 47A

Insert after section 47:

47A Keeping animals with intention of using them for animal research

- (1) A person must not keep any animals with the intention of using them in connection with animal research unless the person is an authorised person.

Maximum penalty: 30 penalty units.

- (2) In proceedings for an offence against this section, evidence that a person who kept animals (other than exempt animals):

(a) kept the animals on premises containing any equipment, material or substance used in relation to the conduct of animal research, or

(b) was receiving or was about to receive any fee or reward for animal research conducted or to be conducted by or on behalf of the person,

is evidence that the person kept the animals with the intention of using them in relation to the conduct of animal research.

- (3) In this section, *authorised person* means an accredited research establishment, the holder of an animal research authority or a licensed animal supplier.

[35] Section 48 Unlawfully supplying animals for use in connection with animal research

Omit “100 penalty units” wherever occurring.
Insert instead “160 penalty units”.

[36] Section 48

Omit “20 penalty units” wherever occurring.
Insert instead “30 penalty units”.

[37] Section 48 (3)

Insert after section 48 (2):

- (3) In proceedings for an offence against this section, it is to be presumed, in the absence of evidence to the contrary adduced by the person charged with the offence, that a person who obtained, bred, nurtured or kept animals (other than exempt animals) did so for the purpose of their being supplied for use in connection with animal research if it is proved that the person was receiving or was about to receive any fee or reward for the supply of animals for use in connection with animal research.

[38] Section 50 Powers of inspectors

Omit “animal research licence” from section 50 (1) (a).
Insert instead “animal research authority”.

[39] Section 50 (1) (b) (i), (c) (i) and (f) (i)

Insert “used in relation to the conduct of animal research or supplied or to be supplied for use in connection with animal research” after “any animal” wherever occurring.

[40] Section 50 (2)

Omit “20 penalty units”. Insert instead “30 penalty units”.

[41] Section 51A

Insert after section 51:

51A Seizure of animals

- (1) An inspector, who is of the opinion that an offence against this Act or the regulations has been or is about to be committed in respect of one or more animals, may:
 - (a) take possession of the animal or animals, and
 - (b) remove the animal or animals to such place as the inspector thinks fit, and
 - (c) retain possession of the animal or animals:
 - (i) for a period not exceeding 30 days from the date on which the inspector takes possession of the animal or animals, or
 - (ii) if proceedings are commenced during that 30-day period in respect of the offence, until the proceedings are finally determined unless the court before which the proceedings are being heard otherwise directs.
- (2) If an inspector has taken possession of an animal or animals under this section, the inspector may apply to the court before which the proceedings for the offence are commenced for an order for the disposal of the animal or animals concerned before the proceedings are finally determined.
- (3) The court to which the application is made may:
 - (a) order that the animal or animals be sold or otherwise disposed of in such manner as the court considers appropriate in the circumstances, and
 - (b) direct that the proceeds of the sale or other disposal be held in trust pending the determination of the proceedings for the offence and the further order of the court, and
 - (c) make such other orders as the court considers appropriate.

- (4) The reasonable expenses incurred by an inspector in the exercise of powers under this section in respect of an animal or animals may be recovered from the owner of the animal or animals as a debt in a court of competent jurisdiction by the inspector or any other person acting on behalf of the Crown.
- (5) Compensation is not recoverable against any person in respect of the retention or disposal of an animal under this section.

[42] Section 52 Inspectors may demand name and address

Omit “10 penalty units” from section 52 (2).
Insert instead “20 penalty units”.

[43] Section 53 Obstruction of inspectors

Omit “20 penalty units”. Insert instead “30 penalty units”.

[44] Section 54 Impersonation of inspectors

Omit “20 penalty units”. Insert instead “30 penalty units”.

[45] Section 55 False or misleading information

Omit “20 penalty units”. Insert instead “30 penalty units”.

[46] Section 56 Disclosure of information

Omit “20 penalty units”. Insert instead “30 penalty units”.

[47] Section 56A

Insert after section 56:

56A Approval of lethality tests

- (1) An accredited research establishment must ensure that a record is kept for the period prescribed by the regulations, being a record that includes the particulars prescribed by the regulations, of all lethality tests that are approved by its animal care and ethics committee, or by a subcommittee of the committee, during each reporting period.

Maximum penalty: 30 penalty units.

- (2) An accredited research establishment that makes a record under this section must give a copy of the record to the Panel within one month after the end of the reporting period to which the record relates.

Maximum penalty: 30 penalty units.

- (3) The Panel may cause any information contained in a record provided to it under this section (other than the name of the accredited research establishment that provided it) to be made available to the public.

- (4) In this section:

lethality test means an animal research procedure in which any material or substance is administered to animals for the purpose of determining whether any animals will die or how many animals will die.

reporting period means the period commencing on the commencement of this section and ending on 31 December in the same year and each period of 12 months thereafter.

[48] Section 62 Regulations

Omit “5 penalty units” from section 62 (3).
Insert instead “10 penalty units”.

[49] Section 63

Insert after section 62:

63 Savings, transitional and other provisions

Schedule 3 has effect.

[50] Schedule 1 Provisions relating to the members of the Panel

Insert after clause 2 of Schedule 1:

2A Deputy Chairperson

- (1) Of the members of the Panel, one is, in and by the relevant instrument of appointment as such a member or in and by another instrument executed by the Minister, to be appointed as Deputy Chairperson of the Panel.

- (2) A person who is the Deputy Chairperson vacates office if the person:
- (a) resigns that office by instrument in writing addressed to the Minister, or
 - (b) ceases to be a member of the Panel, or
 - (c) is removed from office by the Minister under subclause (3).
- (3) The Minister may remove a member of the Panel from the office of Deputy Chairperson.

[51] Schedule 2 Provisions relating to the procedure of the Panel

Omit “another member of the Panel elected as chairperson for the meeting by the members of the Panel present” from clause 3 (1). Insert instead “the Deputy Chairperson”.

[52] Schedule 2, clause 3 (1A)

Insert after clause 3 (1):

- (1A) In the absence of the Chairperson and Deputy Chairperson, another member of the Panel elected as chairperson for the meeting by the members of the Panel present is to preside at the meeting of the Panel.

[53] Schedule 3

Insert after Schedule 2:

Schedule 3 Savings, transitional and other provisions

(Section 63)

Part 1 Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Animal Research Amendment Act 1997

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of Animal Research Amendment Act 1997

2 Animal research licences

A reference to an animal research authority in paragraph (a1) of the definition of *disqualified individual* in section 17 and in sections 25A (2) (e) and 25B (2) (d) is taken to include a reference to an animal research licence granted under Division 4 of Part 4 before its repeal by the *Animal Research Amendment Act 1997*.

3 Animal research authorities

An amendment made to section 26 by the *Animal Research Amendment Act 1997* does not apply to an animal research authority in force at the commencement of the amendment.

Schedule 2 Consequential amendment of Prevention of Cruelty to Animals Act 1979

(Section 4)

[1] Section 25 Powers of officers in respect of certain places

Omit “or an animal research licence (being an authority or licence that is in force)” from section 25 (2).

Insert instead “(being an authority that is in force)”.

[2] Section 25 (2)

Omit “, *animal research licence*”.

[3] Section 26 Powers of officers, generally

Omit “or an animal research licence (being an authority or licence that is in force)” from section 26 (7A).

Insert instead “(being an authority that is in force)”.

[4] Section 26 (7A)

Omit “, *animal research licence*”.

[Minister’s second reading speech made in—
Legislative Assembly on 7 May 1997
Legislative Council on 16 June 1997]