



New South Wales

Prevention of Cruelty to Animals (General) Regulation 1996

under the

Prevention of Cruelty to Animals Act 1979

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Prevention of Cruelty to Animals Act 1979*.

RICHARD AMERY, M.P.,

Minister for Agriculture

Explanatory note

The object of this Regulation is to repeal and remake, with minor changes of substance, the provisions of various regulations in force under the *Prevention of Cruelty to Animals Act 1979*. The new Regulation deals with the following matters:

- (a) the conveyance of stock animals (clause 5),
- (b) minimum cage sizes for fowls used for egg production (clause 6),
- (c) the use of animals in films and theatrical performances (clause 7),
- (d) extending the definition of “stock animal” (clause 8),
- (e) tail docking (clause 9),
- (f) debarking dogs (clause 10),
- (g) declawing cats (clause 11),
- (h) the keeping of records of certain veterinary procedures (clause 12),
- (i) the use of electrical devices on animals (clause 13 and Schedule 1),
- (j) exemptions in favour of rodeos (clause 14),
- (k) animal catching activities (clause 15),

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Explanatory note

- (l) the use of animals for coursing (clause 16),
- (m) the use of animal traps (clause 17),
- (n) forms of authority to be held by persons (clause 18),
- (o) publications concerning the sale of animals (clause 19),
- (p) other matters of a minor, consequential or ancillary nature (clauses 1, 2, 3, 4 and 20).

This Regulation is made under the *Prevention of Cruelty to Animals Act 1979*, including section 35 (the general regulation making power) and sections 4, 12, 12A, 16, 18, 18A, 20, 21, 23, 25, 26 and 31A.

Clauses 1, 2, 3, 4, 12, 18, 19 and 20 of this Regulation comprise or relate to matters of a machinery nature.

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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Clause 1 Prevention of Cruelty to Animals (General) Regulation 1996

Part 1 Preliminary

**Prevention of Cruelty to Animals (General)
Regulation 1996**

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Prevention of Cruelty to Animals (General) Regulation 1996*.

2 Commencement

This Regulation commences on 1 September 1996.

3 Definition

In this Regulation:

the Act means the *Prevention of Cruelty to Animals Act 1979*.

4 Notes

The explanatory note and table of contents do not form part of this Regulation.

Part 2 Confinement, carriage and use of animals

5 Conveyance of stock animals

- (1) A person must not:
- (a) carry or convey a large stock animal in a cage or vehicle, or
 - (b) being a person in charge of a large stock animal, authorise the carriage or conveyance of the animal in a cage or vehicle,

unless the cage or vehicle is of a height that allows the animal to stand upright without any part of the animal coming into contact with the roof, ceiling or cover of the cage or vehicle.

Maximum penalty: 10 penalty units.

- (2) In this clause, a reference to a large stock animal is a reference to an animal that belongs to the class of animals comprising cattle, horses, sheep, goats, swine and deer.

6 Minimum cage sizes for fowls used for egg production

- (1) A person must not confine fowls in a cage for the purpose of their being used for egg production unless the floor area of the cage is not less than the minimum floor area applicable to the cage, as follows:
- (a) for a cage that contains one fowl, the minimum floor area is 1 000 square centimetres,
 - (b) for a cage that contains 2 fowls, the minimum floor area is 1 350 square centimetres,
 - (c) for a cage that contains 3 or more fowls, the minimum floor area is the area calculated by allowing:
 - (i) 450 square centimetres for each fowl. if the average weight of the fowls in the cage is 2.4 kilograms or less, or
 - (ii) 600 square centimetres for each fowl. if the average weight of the fowls in the cage is more than 2.4 Kilograms.

Maximum penalty: 10 penalty units.

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Clause 6 Prevention of Cruelty to Animals (General) Regulation 1996

Part 2 Confinement, carriage and use of animals

- (2) If fowls are kept in more than 30 cages at a place, compliance with subclause (1) (c) in relation to those cages is to be determined on the basis of average flock weight rather than on the basis of the average weight of the fowls in the individual cages. For that purpose, the reference in subclause (1) (c) to the average weight of the fowls in the cage is to be read as a reference to the average flock weight.
- (3) Average flock weight is the average weight of the fowls in all the cages concerned, determined in a manner that follows the procedures for counting and weighing set out in the *National Guidelines for RSPCA Inspectors for the Inspection of Layer Hens in Cages*, which is included in the *Australian Model Code of Practice for the Welfare of Animals—Domestic Poultry*, 3rd edition, issued by the Agriculture and Resource Management Council of Australia and New Zealand.
- (4) A contravention of this clause by a person who is a first offender does not constitute an offence unless:
 - (a) an officer has given the person a direction in writing to remedy the contravention within a period (not longer than 3 months) specified in the direction, and
 - (b) the person has failed to remedy the contravention within that period.
- (5) A person is a first offender if the person has not been convicted of an offence in respect of any previous contravention of this clause.
- (6) For the purposes of this clause, the floor area of a cage is taken to include the area under any egg baffle, manure deflector, drinking nipple or vee-trough for water.

7 Use of animals in films and theatrical performances

- (1) A person must not use an animal in connection with the production of a film or theatrical performance, or cause or permit an animal to be used in connection with the production of a film or theatrical performance, otherwise than in accordance with the relevant Code of Practice.

Maximum penalty: 10 penalty units.

- (2) A person does not commit an offence in respect of any failure to comply with the relevant Code of Practice if the failure occurs despite the person's having done all that he or she could reasonably be expected to have done to comply with that Code.
- (3) In this clause:

relevant Code of Practice means the document entitled *Code of Practice for the Welfare of Animals in Films and Theatrical Performances*, as approved on 1 June 1989 by the New South Wales Animal Welfare Advisory Council, copies of which are available from the Department of Agriculture.

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Clause 8 Prevention of Cruelty to Animals (General) Regulation 1996

Part 3 Miscellaneous

Part 3 Miscellaneous

8 Definition of “stock animal”: section 4

For the purposes of the definition of *stock animal* in section 4 (1) of the Act, deer are a prescribed species, and are therefore stock animals.

9 Prescribed circumstances in which Pail docking permitted: section 12

- (1) For the purposes of section 12 (2) of the Act, the prescribed circumstances in which the docking of the tail of a cow, heifer or female calf may be performed are:
 - (a) that it is or will be a dairy cow and that the pastoral and environmental conditions in the place where it is or will be kept are such that there is a likelihood of disease to its udder, and
 - (b) if it is 6 months old or older, that the veterinary surgeon who docks its tail is, before doing so, provided with a statutory declaration stating reasons sufficient to establish the circumstances set out in paragraph (a).
- (2) For the purposes of section 12 (2) of the Act, the prescribed conditions in accordance with which the docking of the tail of a cow, heifer or female calf may be performed are that the tail is docked in such a manner that the tail is left long enough to cover the animal’s vulva.

10 Prescribed circumstances in which “debarking” permitted: section 12

For the purposes of section 12 (2) of the Act, the prescribed circumstances in which a dog may be operated on for the purpose of preventing the dog from being able to bark are that the veterinary surgeon who performs the operation is, before doing so, provided with a statutory declaration to the effect that the dog will be destroyed unless the operation is performed because the dog’s barking causes an unacceptable public nuisance.

**11 Prescribed circumstances in which “declawing” permitted:
section 12**

For the purposes of section 12 (2) of the Act, the prescribed circumstances in which a cat’s claws may be removed are as follows:

- (a) in the case of a domestic cat, that the veterinary surgeon who removes the cat’s claws is, before doing so, provided with a statutory declaration to the effect that the cat will be destroyed unless its claws are removed:
 - (i) because the cat is causing unacceptable damage to property with its claws and attempted retraining of the cat has been unsuccessful, or
 - (ii) because the cat has repeatedly killed wildlife,
- (b) in any other case, that the veterinary surgeon who removes the cat’s claws is, before doing so, provided with a statutory declaration to the effect that the procedure is being requested because of potential damage by the cat to property, persons or animals.

12 Particulars of certain procedures to be recorded: section 12A

- (1) For the purposes of section 12A (1) of the Act, the prescribed form for a register is that it is in writing.
- (2) The prescribed particulars to be recorded in the register are as follows:
 - (a) the name and address of the owner of the animal on which the procedure was carried out,
 - (b) the nature of the procedure,
 - (c) the date on which the procedure was carried out,
 - (d) a full description of the animal on which the procedure was carried out,
 - (e) the name of the veterinary surgeon who carried out the procedure.

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Clause 13 Prevention of Cruelty to Animals (General) Regulation 1996

Part 3 Miscellaneous

13 Prescribed types of electrical devices and prescribed species: section 16

- (1) The object of this clause is to prescribe the kinds of electrical devices that may be used on certain kinds of animal as an exception to the prohibitions contained in section 16 of the Act.
- (2) For the purposes of section 16 (3) of the Act:
 - (a) a type of device, article or appliance listed in Column 1 of Schedule 1 is a prescribed type of electrical device, but only when used for a purpose or in circumstances specified in Column 2 of that Schedule in respect of a device, article or appliance of that type, and
 - (b) a species of animal specified in Column 3 of Schedule 1 in respect of a type of device, article or appliance is a prescribed species of animal in respect of a device, article or appliance of that type.

14 Exemptions: sections 18, 18A

- (1) Any person who:
 - (a) uses any premises, or manages or controls any premises that are used, for the purposes of a rodeo, or
 - (b) receives money for the admission of another person to premises that are used for the purposes of a rodeo, or
 - (c) being an owner of premises, authorises the premises to be used for the purposes of a rodeo,

is exempt from the operation of section 18 of the Act in respect of the use of the premises for the purposes of a rodeo, subject to the condition that the rodeo is at all times conducted in accordance with the relevant Code of Practice.

- (2) Any person who advertises, promotes or takes part in a rodeo is exempt from the operation of section 18A of the Act in respect of the advertising, promoting or taking part in the rodeo, subject to the condition that the rodeo is at all times conducted in accordance with the relevant Code of Practice.

(3) A person does not commit an offence in respect of any failure to comply with the relevant Code of Practice if the failure occurs despite the person having done all that he or she could reasonably be expected to have done to comply with that Code.

(4) In this clause:

relevant Code of Practice means the document entitled *Code of Practice for the Welfare of Animals Used in Rodeo Events*, as approved on 30 April 1988 by the New South Wales Animal Welfare Advisory Council, copies of which are available from the Department of Agriculture,

rodeo means any exhibition, spectacle or display (whether or not conducted for the purpose of gain) in which a person takes part in:

- (a) buck-jumping,
- (b) rough riding, or
- (c) the dogging, roping or tying of any animal.

15 Certain animal-catching activities prohibited: section 20

- (1) The object of this clause is to prescribe certain kinds of animal as animals in relation to which the prohibition contained in section 20 of the Act applies.
- (2) For the purposes of section 20 of the Act, all species of animal are prescribed species.

16 Coursing prohibited: section 21

- (1) The object of this clause is to prescribe certain kinds of animal whose possession, at places where an activity prohibited by section 21 of the Act is being conducted, is taken to be evidence that the animal is kept for the purpose of being used in connection with that activity.
- (2) For the purposes of section 21 (2) of the Act, all animals (other than dogs) are prescribed species.

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Clause 17 Prevention of Cruelty to Animals (General) Regulation 1996

Part 3 Miscellaneous

17 Prescribed parts of N.S.W. and prescribed traps: section 23

- (1) The object of this clause is to prescribe the various parts of New South Wales in which the use of various kinds of traps is prohibited by section 23 of the Act.
- (2) For the purposes of section 23 of the Act, the prescribed parts of New South Wales are as follows:
 - (a) the Eastern and Central Division within the meaning of the *Crown Lands Act 1989*,
 - (b) the Western Division within the meaning of the *Crown Lands Act 1989*,
 - (c) Lord Howe Island.
- (3) For the purposes of section 23 of the Act, the prescribed types of trap are those traps that are sold under any of the following trade or proprietary names or descriptions:
 - (a) “Lane’s ‘Ace’ Rabbit Trap”,
 - (b) “Lane’s Dog Trap”,
 - (c) “Lane’s Round Jaw Wild Dog Trap”,
 - (d) “Lane’s Dingo Trap”,
 - (e) “Oneida No 14 Steel Trap”,

and any other trap that is similar in design, construction or manner of operation to any of those traps (except for a soft-jawed trap, that is, a trap with steel jaws that are offset and padded).

18 Prescribed authorities: sections 25, 26

- (1) The object of this clause is to prescribe the form of authority that must be held by an officer exercising powers under section 25 or 26 of the Act.
- (2) For the purposes of sections 25 and 26 of the Act, a prescribed authority is:
 - (a) in relation to a police officer—an identification certificate issued in respect of the officer by the Commissioner of Police, and

- (b) in relation to any other officer—an authority, bearing the photograph of the officer, in a form approved by the Minister.

19 Advertisement of sale of animals: section 31A

For the purposes of section 31A (I) (b) (ii) of the Act, an advertisement for the proposed sale of an animal under section 31A of the Act:

- (a) must appear, at least once before the date of the proposed sale, in the public notices or equivalent section of a newspaper circulating in the locality in which the animal was seized, and
- (b) must include a description of the animal.

20 Repeal

- (1) The *Prevention of Cruelty to Animals (General) Regulation 1981* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Prevention of Cruelty to Animals (General) Regulation 1981* had effect under that Regulation continues to have effect under this Regulation.

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Schedule 1 Electrical devices

Schedule 1 Electrical devices

(Clause 13)

Column 1	Column 2	Column 3
Type of device, article or appliance	Purpose or circumstance	Species of animal
Electro-ejaculator	Collecting semen from conscious animals	Cattle and sheep
	Collecting semen from tranquillised or anaesthetised animals	All species of animal including cattle and sheep
Electric stock prod	Driving, herding, mustering or controlling animals	Cattle and swine
Electric fence	Confining and controlling animals within an enclosure	All species of animal other than dogs, cats and poultry
	Excluding animals from an enclosure	All species of animal including dogs, cats and poultry
Electric preventer wire	Confining and controlling animals	Poultry
The device sold under the name of a Kawe stock prod (including any similar device delivering an electric shock of no greater intensity or duration than a Kawe stock prod)	Controlling animals being used in a rodeo	Horses
Electric stock grid	Confining animals	Stock animals other than poultry
Electric fightback lure	Training dogs	Dogs
Electro-immobiliser	Restraining animals, but only if used by a veterinary surgeon otherwise than as an alternative to analgesia or anaesthesia	Cattle