



New South Wales

Prevention of Cruelty to Animals (General) Amendment (Penalty Notices and Miscellaneous Matters) Regulation 2005

under the

Prevention of Cruelty to Animals Act 1979

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

IAN MACDONALD, M.L.C.,
Minister for Primary Industries

Explanatory note

The main objects of this Regulation are:

- (a) to prescribe matters for the purposes of certain provisions that are to be inserted in the *Prevention of Cruelty to Animals Act 1979* (**the principal Act**) by the *Prevention of Cruelty to Animals Amendment Act 2005* (**the amending Act**), and
- (b) to make amendments to the *Prevention of Cruelty to Animals (General) Regulation 1996* that are consequential on the amending Act (for example, it is necessary to update certain cross-references in that Regulation in consequence of the repeal of particular sections of the principal Act and their re-enactment with different numbering).

The relevant provisions of the amending Act are to commence on the same day as this Regulation. They include provisions that insert section 33E in the principal Act, which provides for the issue of penalty notices for offences against the principal Act or the regulations made under it.

This Regulation also:

- (a) prescribes matter for the purposes of section 34B (3) of the principal Act (which was amended by the amending Act but commenced on the date of assent to the amending Act), and
- (b) updates a reference to a Department, and
- (c) updates certain other references so as to specify the most recent editions of particular documents, and
- (d) corrects incorrect numbering in a clause.

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Explanatory note

This Regulation is made under the *Prevention of Cruelty to Animals Act 1979*, including section 35 (the general regulation-making power) and the sections specifically referred to in the Regulation.

Prevention of Cruelty to Animals (General) Amendment (Penalty Notices and Miscellaneous Matters) Regulation 2005

under the

Prevention of Cruelty to Animals Act 1979

1 Name of Regulation

This Regulation is the *Prevention of Cruelty to Animals (General) Amendment (Penalty Notices and Miscellaneous Matters) Regulation 2005*.

2 Commencement

This Regulation commences on 25 November 2005.

3 Amendment of Prevention of Cruelty to Animals (General) Regulation 1996

The *Prevention of Cruelty to Animals (General) Regulation 1996* is amended as set out in Schedule 1.

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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 5 Conveyance of stock animals

Omit “swine” from clause 5 (2). Insert instead “pigs”.

[2] Clauses 7 (3), 8A and 14 (4)

Omit “Department of Agriculture” wherever occurring.

Insert instead “Department of Primary Industries”.

[3] Clause 8 Definition of “stock animal”: section 4

Omit the clause.

[4] Clause 8B Prescribed class of animal and prescribed period: sections 8 and 24I

Omit “sections 8 (3) and 26 (2) (a) and (5) (b) (i)”.

Insert instead “sections 8 (3) and 24I (b)”.

[5] Clauses 18, 18A, 19, 19A and 19B

Omit clauses 18, 18A, 19 and 19A. Insert instead:

18 Police officers exercising certain powers: section 24H

For the purposes of section 24H (4) of the Act:

- (a) a police officer is to give a direction to stop a vehicle or vessel by requesting or signalling the person operating the vehicle or vessel to stop the vehicle or vessel, and
- (b) a police officer is identified as a police officer if the officer wears his or her police uniform or otherwise displays evidence that he or she is a police officer.

18A Assistance to inspectors: section 24M

For the purposes of section 24M (b) of the Act, the following classes of persons are prescribed as persons who may accompany and aid an inspector exercising, in residential premises, a power conferred by Division 2 of Part 2A of the Act:

- (a) persons registered as veterinary surgeons under the *Veterinary Surgeons Act 1986* or as veterinary practitioners under the *Veterinary Practice Act 2003*,
- (b) persons who have special expertise in the handling of the animal concerned.

19 Penalty notice offences

- (1) For the purposes of section 33E of the Act:
 - (a) each offence created by a provision specified in Column 1 of Schedule 2 is prescribed as a penalty notice offence, and
 - (b) the prescribed penalty payable in respect of a penalty notice offence that is dealt with under section 33E of the Act is:
 - (i) in the case of an individual—the amount specified in Column 2 of Schedule 2 opposite the relevant provision, or
 - (ii) in the case of a corporation—the amount specified in Column 3 of Schedule 2 opposite the relevant provision.
- (2) If the reference to a provision in Column 1 of Schedule 2 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.

19A Guidelines relating to the welfare of farm or companion animals: section 34A

- (1) For the purposes of section 34A (1) of the Act, the following documents, published by CSIRO Publishing, are prescribed as guidelines:
 - (a) *Model Code of Practice for the Welfare of Animals: Domestic Poultry* (4th Edition, 2002),
 - (b) *Model Code of Practice for the Welfare of Animals: Farmed Buffalo* (1995),
 - (c) *Model Code of Practice for the Welfare of Animals: Animals at Saleyards* (1991),
 - (d) *Model Code of Practice for the Welfare of Animals: The Goat* (1991),
 - (e) *Model Code of Practice for the Welfare of Animals: The Sheep* (1991),
 - (f) *Model Code of Practice for the Welfare of Animals: The Farming of Deer* (1991),
 - (g) *Model Code of Practice for the Welfare of Animals: Cattle* (2nd Edition, 2004),

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- (h) *National Guidelines for Beef Cattle Feedlots in Australia* (2nd Edition, 1997).
- (2) For the purposes of this clause, the *Model Code of Practice for the Welfare of Animals: The Farming of Deer* (1991) is taken to have been amended by omitting clause 5.2 (ii) and by inserting instead:
 - (ii) Removal of the “velvet antlers” should be the responsibility of:
 - (A) a person registered as a veterinary surgeon under the *Veterinary Surgeons Act 1986* or a person acting in accordance with the approval in writing of the Board of Veterinary Surgeons of New South Wales, as referred to in section 44 (2) of that Act, or
 - (B) a person registered as a veterinary practitioner under the *Veterinary Practice Act 2003* or a person referred to in section 9 (2) (e) of that Act.

19B Reports of approved charitable organisations

- (1) A report of an approved charitable organisation under section 34B (3) of the Act must address the following matters in relation to the period covered by the report:
 - (a) complaints and investigations concerning the treatment of animals,
 - (b) counsel, advice or cautions given,
 - (c) notices issued,
 - (d) proceedings for offences instituted,
 - (e) officers of the organisation and training provided for them,
 - (f) complaints about the organisation or its officers.
- (2) Such a report must include the following:
 - (a) a statement of the number of, and a summary of the substance of, complaints relating to animal cruelty or mistreatment received by the organisation,
 - (b) a statement of the number of visits or investigations made by officers of the organisation as a result of those complaints,

- (c) a statement of the number of visits or investigations made by officers of the organisation that were unrelated to those complaints (such as routine inspections of abattoirs, veterinary practices, pet shops or saleyards),
 - (d) a statement of the number of persons counselled or advised by officers of the organisation,
 - (e) a statement of the number of persons cautioned by officers of the organisation,
 - (f) a statement of the number of notices issued by officers of the organisation under section 24N of the Act,
 - (g) a statement of the number of penalty notices issued by officers of the organisation,
 - (h) a statement of the number of proceedings for offences under the Act or the regulations that were instituted by officers of the organisation, together with details of the defendants and the charges,
 - (i) details of the outcome of such of those proceedings as had been finally determined as at the date of the report,
 - (j) details of the outcome of such proceedings for offences as were referred to in the immediately previous report but not finally determined as at the date of that report,
 - (k) a list, current as at the date of the report, of the officers of the organisation, together with any changes made to that list since the immediately previous report,
 - (l) details of any complaints received by the organisation in relation to its activities (or those of its officers) under the Act, including details as to the resolution of those complaints and of the disciplinary action (if any) taken against any person as a result of those complaints,
 - (m) details of the training provided by the organisation for its officers.
- (3) In this clause, *officer* has the same meaning as it has in paragraph (b) of the definition of that term in section 4 (1) of the Act.

[6] Schedule 1 Electrical devices

Omit “swine” from Column 2. Insert instead “pigs”.

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Schedule 1 Amendments

[7] Schedule 2

Insert after Schedule 1:

Schedule 2 Penalty notice offences

(Clause 19)

Column 1	Column 2	Column 3
Provision of the Act	Penalty (individuals)	Penalty (corporations)
Section 5	\$500	\$1,500
Section 7 (1)	\$500	\$1,500
Section 7 (2A)	\$200	—
Section 8	\$200	\$1,000
Section 9 (1)	\$200	\$1,000
Section 10	\$200	\$1,000
Section 12	\$500	\$1,500
Section 12A (1)	\$200	—
Section 12A (2)	\$200	—
Section 14	\$200	—
Section 16	\$500	\$1,500
Section 17	\$500	\$1,500
Section 18 (2) (a)	\$500	\$1,500
Section 18 (2) (c)	\$500	\$1,500
Section 19A (3)	\$500	\$1,500
Section 20	\$500	\$1,500
Section 21A	\$500	\$1,500
Section 21B	\$500	\$1,500
Section 21C	\$500	\$1,500
Section 23	\$500	\$1,500

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Amendments

Schedule 1

Column 1	Column 2	Column 3
Provision of this Regulation	Penalty (individuals)	Penalty (corporations)
Clause 5	\$200	—
Clause 6	\$200	—
Clause 7	\$200	—

BY AUTHORITY