



New South Wales

# Prevention of Cruelty to Animals Regulation 2012

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*.

KATRINA HODGKINSON, MP  
Minister for Primary Industries

## Explanatory note

The object of this Regulation is to remake, with some changes, the provisions of the *Prevention of Cruelty to Animals (General) Regulation 2006*, which is repealed on 1 September 2012 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) the welfare of domestic chickens kept for commercial egg production,
- (b) the circumstances in which the following procedures may be carried out on animals:
  - (i) tail docking of cows, heifers and calves,
  - (ii) debarking of dogs,
  - (iii) declawing of cats,
  - (iv) pinioning of birds' wings,
- (c) the register required to be kept by veterinary practitioners or their employers in relation to tail docking of cows, heifers and calves, debarking of dogs and declawing of cats,
- (d) the businesses that are *animal trades* for the purposes of the *Prevention of Cruelty to Animals Act 1979 (the Act)*, including pet shops, animal boarding and breeding establishments, boarding stables, riding centres and commercial pig establishments, and the welfare of the animals concerned,
- (e) evidence of failure to provide food or shelter to ruminant stock animals during a drought, flood or other emergency,
- (f) evidence relating to the offence of keeping or being in charge of an animal for use:
  - (i) as a lure or kill for blooding greyhounds, or

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#### Explanatory note

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- (ii) in connection with trialing, training or racing coursing dogs,
- (g) the manner in which police officers may exercise their power under the Act to detain a vessel or vehicle and the manner in which police officers exercising that power must be identified,
- (h) the power of inspectors to examine ruminant stock animals that they suspect have not been provided with proper and sufficient food or drink during a drought, flood or other emergency,
- (i) the persons who may accompany and aid an inspector exercising, in residential premises, their powers under the Act,
- (j) offences under the Act for which penalty notices may be issued and the amounts of the fines payable under those notices,
- (k) guidelines relating to the welfare of species of farm or companion animals, compliance or non-compliance with which may be admitted as evidence of compliance or non-compliance with the Act or this Regulation,
- (l) reports of charitable organisations that are approved for the purposes of enabling their officers to exercise law enforcement powers under the Act,
- (m) electrical devices that a person must not use on an animal or sell or possess,
- (n) exemptions for rodeos from certain offences under the Act, including offences relating to bull-fighting and animal baiting,
- (o) an exemption from the offence of organising or participating in a steeplechase or hurdle race,
- (p) the conveyance of stock animals,
- (q) the use of animals in film and theatrical performances,
- (r) savings and formal matters.

This Regulation is made under the *Prevention of Cruelty to Animals Act 1979*, including the definition of **animal trade** in section 4 (1), sections 4 (2A), 8 (3), 12 (2) and 12A (1), the definition of **electrical device** in section 16 (1) and sections 21 (2C), 24H (4), 24I (b), 24M (b), 33E, 34A (1), 34B (3) and 35 (the general regulation-making power).

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## Prevention of Cruelty to Animals Regulation 2012

under the

Prevention of Cruelty to Animals Act 1979

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Prevention of Cruelty to Animals Regulation 2012*.

#### 2 Commencement

This Regulation commences on 1 September 2012.

**Note.** This Regulation replaces the *Prevention of Cruelty to Animals (General) Regulation 2006* which is repealed on 1 September 2012 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definition

- (1) In this Regulation:  
*the Act* means the *Prevention of Cruelty to Animals Act 1979*.
- (2) Notes included in this Regulation do not form part of this Regulation.

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Clause 4 Prevention of Cruelty to Animals Regulation 2012

Part 2 Confinement of fowl for egg production

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## Part 2 Confinement of fowl for egg production

### Division 1 Preliminary

#### 4 Definitions (cf clause 17B 2006 Reg)

In this Part:

*floor area* of a cage includes the area under any egg baffle, manure deflector, drinking nipple or vee-trough for water.

*fowl* means a domesticated chicken (*Gallus gallus*).

*laying fowl* means any fowl being bred, kept or used for the purpose of commercial egg production.

*non-cage housing*, in relation to laying fowl, means any structure, other than a cage, in which the laying fowl are confined (such as a shed).

### Division 2 Laying fowl confined in cages

#### 5 Access to water (cf clause 17C 2006 Reg)

- (1) A person must not confine laying fowl in a cage unless the fowl have access:
  - (a) to at least 2 independent drinking points, or
  - (b) to a water trough the length of which allows at least 10 centimetres for each fowl in the cage.Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.
- (2) This clause does not apply in respect of any laying fowl in the period of 60 hours immediately after the fowl is hatched.
- (3) In this clause, *drinking point* includes a drinking nipple and a cup drinker but does not include a splash cup situated under a drinking nipple.

#### 6 Cage floors (cf clause 17D 2006 Reg)

A person must not confine laying fowl in a cage unless the cage floor provides support for the forward pointing toes of all fowl in the cage.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

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**7 Cage height** (cf clause 17E 2006 Reg)

- (1) A person must not confine laying fowl in a cage unless the height of the cage exceeds the height of the tallest fowl, standing normally, in the cage.  
Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.
- (2) A person must not confine laying fowl in a cage unless the height of the cage is, over at least 65% of the floor area of the cage, not less than 40 centimetres.  
Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.
- (3) A person must not confine laying fowl in a cage if the height of the cage is less than 35 centimetres at any point.  
Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

**8 Cage doors** (cf clause 17F 2006 Reg)

- (1) A person must not confine laying fowl in a cage unless the cage has a door that has:
  - (a) a width of at least:
    - (i) the width of the cage (excluding the width of structural supports for the door), or
    - (ii) if the width of the cage exceeds 50 centimetres—50 centimetres, and
  - (b) a height of at least:
    - (i) the height of the cage measured from the level of the feed trough, or
    - (ii) if the height of the cage measured from the level of the feed trough exceeds 22 centimetres—22 centimetres.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.
- (2) For the purposes of this clause, if a cage door opens from the top of the cage, the width of the door is to be measured using the axis on which the door swings and the height of the door is to be measured on the perpendicular to that axis.

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Clause 9 Prevention of Cruelty to Animals Regulation 2012

Part 2 Confinement of fowl for egg production

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### 9 **Multi-deck structure** (cf clause 17G 2006 Reg)

- (1) A person must not confine laying fowl in a multi-deck structure unless fowl in the lower decks of the structure are protected from excreta from fowl confined in the higher decks of the structure.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

- (2) A person must not confine laying fowl in a multi-deck structure unless each fowl confined in the structure is visible from outside the structure to an extent that allows an assessment to be made of the fowl's welfare.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

- (3) A person must not confine laying fowl in a multi-deck structure unless the fowl can be readily removed from that structure.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

- (4) In this clause, **multi-deck structure** means an arrangement of cages in a structure with more than one deck.

### 10 **Stock density** (cf clause 17H 2006 Reg)

- (1) This clause does not apply to laying fowl confined in a pre-2001 cage (within the meaning of clause 11).

- (2) A person must not confine laying fowl in a cage unless the floor area of the cage is not less than the minimum floor area determined in accordance with this clause.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

- (3) **Cage containing 1 laying fowl**

The minimum floor area of a cage containing only 1 laying fowl is:

- (a) if the laying fowl weighs 4.5 kilograms or less—1,000 square centimetres, or

- (b) if the laying fowl weighs more than 4.5 kilograms, the area calculated by allowing:

- (i) 1 square metre for each 26 kilograms of the total weight of the fowl in the cage, or

- (ii) if the total weight of the fowl in the cage is less than 26 kilograms, a proportionate amount of the area mentioned in subparagraph (i).



**(4) Cage containing 2 laying fowl**

The minimum floor area of a cage containing only 2 laying fowl is:

- (a) if the average weight of the fowl in the cage is 4.5 kilograms or less—1,350 square centimetres, or
- (b) if the average weight of the fowl in the cage is more than 4.5 kilograms, the area calculated by allowing:
  - (i) 1 square metre for each 40 kilograms of total weight of the fowl in the cage, or
  - (ii) if the total weight of the fowl in the cage is less than 40 kilograms, a proportionate amount of the area mentioned in subparagraph (i).

**(5) Cage containing 3 or more laying fowl**

The minimum floor area of a cage containing 3 or more laying fowl is:

- (a) if the average weight of the fowl in the cage is less than 2.4 kilograms—the area calculated by allowing 550 square centimetres for each fowl in the cage, or
- (b) if the average weight of the fowl in the cage is not less than 2.4 kilograms and not more than 4.5 kilograms—the area calculated by allowing 600 square centimetres for each fowl in the cage,
- (c) if the average weight of the fowl in the cage is more than 4.5 kilograms, the area calculated by allowing:
  - (i) 1 square metre for each 46 kilograms of the total weight of the fowl in the cage, or
  - (ii) if the total weight of the fowl in the cage is less than 46 kilograms, a proportionate amount of the area mentioned in subparagraph (i).

**11 Stock density—transitional for cages installed before 2001** (cf clause 171 2006 Reg)

- (1) A person must not confine laying fowl in a pre-2001 cage unless the floor area of the cage is not less than the minimum floor area determined in accordance with this clause.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

- (2) For the purposes of this clause, the minimum floor area of a cage is:
  - (a) if the cage contains only one laying fowl—1,000 square centimetres, or
  - (b) if the cage contains only 2 laying fowl—1,350 square centimetres, or

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Clause 12 Prevention of Cruelty to Animals Regulation 2012

Part 2 Confinement of fowl for egg production

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- (c) if the cage contains 3 or more laying fowl with an average weight of not more than 2.4 kilograms—the area calculated by allowing 450 square centimetres for each fowl, or
  - (d) if the cage contains 3 or more laying fowl with an average weight of more than 2.4 kilograms—the area calculated by allowing 600 square centimetres for each fowl.
- (3) In this clause, a *pre-2001 cage* means a cage:
- (a) installed at the place where the laying fowl are being confined before 1 January 2001, and
  - (b) in respect of which the period of time since the date of the installation of the cage is not more than 20 years.

### 12 Determination of average weight of laying fowls in more than 30 cages for purposes of clauses 10 and 11 (cf clause 17J 2006 Reg)

- (1) For the purposes of clauses 10 and 11, if laying fowl are kept in more than 30 cages at any premises, the minimum floor area of those cages is to be determined on the basis of average flock weight, rather than on the basis of the average weight of the fowl in the individual cages. Accordingly, a reference in those clauses to the average weight of laying fowl in a cage is to be read as a reference to the average flock weight.
- (2) *Average flock weight* is the average weight per fowl of all fowl 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 Hen Cages*, which is included in the *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.

**Note.** The *Model Code of Practice for the Welfare of Animals—Domestic Poultry* is now in its 4th edition. However, the *National Guidelines for RSPCA Inspectors for the Inspection of Layer Hen Cages* do not appear in that edition. Copies of the Guidelines are available from the Department.

## Division 3 Laying fowl confined in non-cage housing

### 13 Access to food and water (cf clause 17K 2006 Reg)

- (1) This clause does not apply in respect of any laying fowl in the period of 60 hours immediately after the fowl is hatched.
- (2) A person must not confine laying fowl in non-cage housing unless:
- (a) all fowl confined in the non-cage housing have access to a pan feeder or flat chain feeder that is provided for feeding purposes, and

- (b) the arrangements for feeding the fowl comply with the minimum standards.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

- (3) For the purposes of this clause, the *minimum standards* in respect of arrangements for feeding laying fowl are as follows:

- (a) if a pan feeder is provided for feeding purposes, there must be at least one pan feeder in the non-cage housing for every 100 laying fowl confined in the non-cage housing,
- (b) if a flat chain feeder is provided for feeding purposes, the length of the flat chain feeder (counting both sides of the feeder chain) must allow at least 2 centimetres for each laying fowl confined in the non-cage housing.

- (4) A person must not confine laying fowl in non-cage housing unless:

- (a) all fowl confined in the non-cage housing have access to a bell drinker or nipple drinker that is provided for the purpose of supplying water to the fowl, and
- (b) the arrangements for supplying water to the fowl comply with the minimum standards.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

- (5) For the purposes of this clause, the *minimum standards* in respect of arrangements for supplying water to laying fowl are as follows:

- (a) if a bell drinker is provided to supply water to laying fowl, there must be at least one bell drinker in the non-cage housing for every 120 laying fowl confined in the non-cage housing,
- (b) if a nipple drinker is provided to supply water to laying fowl, there must be at least one nipple drinker in the non-cage housing for every 20 laying fowl confined in the non-cage housing or, if all the laying fowl are less than 6 weeks of age, one nipple drinker in the non-cage housing for every 40 laying fowl confined in the non-cage housing.

#### 14 Nests (cf clause 17L 2006 Reg)

- (1) A person must not confine laying fowl in non-cage housing unless:

- (a) a single-bird nest or nest box is provided for the use of the laying fowl, and

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Clause 15 Prevention of Cruelty to Animals Regulation 2012

Part 2 Confinement of fowl for egg production

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- (b) the arrangements for the provision of a nest to the laying fowl comply with the minimum standards.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

- (2) For the purposes of this clause, the *minimum standards* in respect of arrangements for the provision of a nest to laying fowl are as follows:
- (a) if a single-bird nest is provided for the use of laying fowl, there must be at least one single-bird nest available in the non-cage housing for every 7 laying fowl that are confined in the non-cage housing,
- (b) if a nest box is provided for the use of laying fowl, the nest box must have an area of not less than:
- (i) 1 square metre for every 120 laying fowl confined in the non-cage housing, or
- (ii) if less than 120 laying fowl are confined in the non-cage housing, a proportionate amount of the area mentioned in subparagraph (i).
- (3) In this clause:
- nest box** means a nest designed for the use of 2 or more laying fowl at any particular point in time.
- single-bird nest** means a nest designed for the use of one laying fowl at any particular point in time.

### 15 Height of non-cage housing (cf clause 17M 2006 Reg)

A person must not confine laying fowl in non-cage housing unless the clearance above any level on which fowl might stand, perch or nest (including any suspended perch or nest box) is not less than 45 centimetres.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

### 16 Multi-level arrangements (cf clause 17N 2006 Reg)

- (1) A person must not confine laying fowl in a multi-level arrangement unless fowl on the lower levels of the arrangement are protected from excreta from fowl on the higher levels of the arrangement.
- Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.
- (2) In this clause, *multi-level arrangement* means an arrangement within any non-cage housing that allows laying fowl to perch or nest on separate levels.

**17 Stock density** (cf clause 17O 2006 Reg)

A person must not confine laying fowl in non-cage housing unless the useable floor area of the non-cage housing (that is, the area of the floor on which fowl might stand, perch or nest) is not less than:

- (a) the area calculated by allowing 1 square metre for each 30 kilograms of the total weight of laying fowl confined in the non-cage housing, or
- (b) if the total weight of laying fowl in the non-cage housing is less than 30 kilograms, a proportionate amount of the area mentioned in paragraph (a).

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

**Division 4 General**

**18 Daily welfare inspections** (cf clause 17P 2006 Reg)

A person who confines laying fowl must ensure that the welfare of the fowl is visually inspected every 24 hours.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

**19 Offences** (cf clause 17Q 2006 Reg)

- (1) A contravention of this Part 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.
- (2) A person is a first offender if the person has not been convicted, or has been found guilty but has not been convicted, of an offence in respect of any previous contravention of this Part or of an offence relating to the confinement of fowl under any other provision of this Regulation or any previous regulation made under the Act.

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Clause 20 Prevention of Cruelty to Animals Regulation 2012

Part 3 Procedures carried out on animals

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### Part 3 Procedures carried out on animals

#### 20 Tail docking of cows, heifers and calves (cf clause 6 2006 Reg)

- (1) For the purposes of section 12 (2) of the Act, the circumstances in which a person may dock the tail of a calf that is less than 6 months old are that the docking is necessary, on the advice of a veterinary practitioner, to treat an injury or disease of the calf.
- (2) For the purposes of section 12 (2) of the Act, it is a condition of the docking of the tail of a female calf that is less than 6 months old that the tail is left long enough to cover the calf's vulva unless it is necessary, on the advice of a veterinary practitioner, to cut the tail shorter so as to treat the injury or disease concerned.
- (3) For the purposes of section 12 (2) of the Act, the circumstances in which a person may dock the tail of a cow or heifer or a female calf that is 6 months of age or older are that:
  - (a) the person is a veterinary practitioner, and
  - (b) the docking is necessary to treat an injury or disease of the animal.

#### 21 Debarking (cf clause 7 2006 Reg)

- (1) For the purposes of section 12 (2) of the Act, the circumstances in which a veterinary practitioner may operate on a dog for the purpose of preventing the dog from being able to bark are that, prior to performing the operation, the veterinary practitioner is provided with:
  - (a) a copy of an order issued under section 21 of the *Companion Animals Act 1998* requiring the owner of the dog (whether or not the existing owner) to prevent it from engaging in nuisance barking, and
  - (b) a statutory declaration by the owner of the dog to the effect of the following:
    - (i) all reasonable steps other than the operation, such as behavioural training or caging of the dog, have been taken, without success, to prevent the dog engaging in nuisance barking, and
    - (ii) unless the operation is performed, the dog will be destroyed.
- (2) In this clause, **nuisance barking** means barking or howling that is persistent or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in premises other than the premises at which the dog is ordinarily kept.

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**22 Declawing of domestic cats** (cf clause 8 2006 Reg)

- (1) For the purposes of section 12 (2) of the Act, the circumstances in which a veterinary practitioner may remove one or more of the claws of a cat are as follows:
  - (a) the cat is a domestic cat, and
  - (b) the veterinary practitioner is, before doing so, provided with complying documents for the cat and a statutory declaration to the effect that:
    - (i) all reasonable steps (other than removing the cat's claws), such as behavioural training or caging of the cat, have been taken without success to prevent the cat causing the damage, injury or death referred to in the complying documents, and
    - (ii) the cat will be destroyed unless its claws are removed.
- (2) In this clause, **complying documents** for a cat are:
  - (a) a copy of an order under section 31 of the *Companion Animals Act 1998* requiring the owner of the cat (whether or not the existing owner) to prevent the cat from repeatedly damaging with its claws anything outside the property on which it is ordinarily kept, or
  - (b) a statutory declaration to the effect that:
    - (i) the cat has caused repeated and unacceptable damage with its claws to anything on the property on which it is ordinarily kept, or
    - (ii) the cat has repeatedly injured humans, or
    - (iii) the cat has repeatedly injured or killed animals (whether or not wildlife), other than vermin.

**23 Register relating to procedures carried out under section 12 (1) of the Act** (cf clause 9 2006 Reg)

- (1) A register referred to in section 12A (1) of the Act must be in writing, have consecutively numbered pages and not form part of any other record relating to animals treated or clients.
- (2) The particulars that a veterinary practitioner who carries out a procedure referred to in section 12 (1) of the Act must enter in the register are as follows:
  - (a) the full name and residential address of the owner of the animal on which the procedure was carried out,
  - (b) the type of procedure,
  - (c) the justification for the procedure,

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Clause 24 Prevention of Cruelty to Animals Regulation 2012

Part 3 Procedures carried out on animals

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- (d) the date on which the procedure was carried out,
  - (e) a full description of the animal on which the procedure was carried out, including:
    - (i) if available, its age, name, breed and electronic identification information (including identification number), and
    - (ii) a description of any distinctive markings,
  - (f) the name of the veterinary practitioner.
- (3) Any statutory declaration (or, in the case of a register kept in electronic form, a copy of any statutory declaration) or copy of an order required to be provided under clause 21 or 22 to the veterinary practitioner who carried out the procedure is to be kept in the register.

### 24 Pinioning of birds' wings (cf clause 4 2006 Reg)

- (1) Clipping short the primary feathers of one of a bird's wings, or taping or brailing one of the bird's wings, is prescribed for the purposes of section 4 (2A) of the Act if:
  - (a) it is carried out in a manner that inflicts no unnecessary pain on the bird, and
  - (b) it does not result in both of the bird's wings being disabled.
- (2) A person is exempt from sections 5 (1), (2) and (3) (a) and 6 of the Act in respect of cutting off the pinion of a bird's wing if:
  - (a) the owner of the bird holds an authority within the meaning of Division 4 of Part 3 of the *Exhibited Animals Protection Act 1986*, and
  - (b) the bird is a member of one of the following taxonomic orders:
    - (i) Anseriformes,
    - (ii) Ciconiiformes,
    - (iii) Gruiformes,
    - (iv) Galliformes (excluding pheasants), and
  - (c) the bird is under 3 days of age, and
  - (d) cutting off the pinion is carried out in a manner that inflicts no unnecessary pain on the bird, and
  - (e) cutting off the pinion will not result in both of the bird's wings being disabled, and



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- (f) the pinion is cut off by:
- (i) a veterinary practitioner, or
  - (ii) the owner of the bird, or an employee of the owner, in a manner that a veterinary practitioner has advised the owner is appropriate.
- (3) A person is exempt from sections 5 (1), (2) and (3) (a) and 6 of the Act in respect of cutting off the pinion of a pheasant's wing if:
- (a) the pheasant is no more than 24 hours old, and
  - (b) cutting off the pinion is carried out in a manner that inflicts no unnecessary pain on the pheasant, and
  - (c) cutting off the pinion will not result in both of the pheasant's wings being disabled, and
  - (d) the pinion is cut off:
    - (i) with a beak trimming machine, or
    - (ii) by a veterinary practitioner (whether or not with a beak trimming machine).
- (4) In this clause:
- brailing** a bird's wing means attaching a thin, pliable leather strap to the wing to prevent the bird from flying but still allow limited movement of that wing.
- pheasant** means a member of the genus *Chrysolophus*, *Lophophorus*, *Lophura*, *Syrmaticus* or *Phasianus*.

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Clause 25 Prevention of Cruelty to Animals Regulation 2012

Part 4 Animal trades

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### Part 4 Animal trades

#### 25 Prescribed animal trades (cf clause 18 2006 Reg)

Each purpose referred to in Column 1 of Schedule 1 is prescribed for the purposes of the definition of *animal trade* in section 4 (1) of the Act.

#### 26 Conduct of animal trades (cf clauses 19 and 20 2006 Reg)

- (1) The proprietor of a business that conducts an animal trade and each person concerned in the management of the business:
  - (a) must comply with the requirements of this clause, and
  - (b) must take all reasonable steps to ensure that:
    - (i) all persons employed by, or working in, the business comply with the requirements of this clause, and
    - (ii) each person who has duties in relation to the requirements of this clause is appropriately supervised in the conduct of that person's duties.

Maximum penalty: 200 penalty units in the case of a corporation and 50 penalty units in the case of an individual.

- (2) Any person employed by or working in a business that conducts an animal trade must comply with the requirements of this clause.

Maximum penalty: 50 penalty units.

- (3) The requirements of this clause are as follows:
  - (a) the premises in which animals are kept must be maintained in a clean and hygienic condition,
  - (b) appropriate records must be kept to ensure that the care and treatment of animals can be properly monitored,
  - (c) each animal is to be provided with accommodation and equipment that is suited to the physical and behavioural requirements of the animal,
  - (d) each animal is to be protected from extreme climatic and environmental conditions and from interference by people,
  - (e) each animal is to be provided with sufficient space within which to rest, stand, stretch, swim, fly or otherwise move about,
  - (f) each animal is to be provided with a sufficient quantity of appropriate food and water to maintain good health,
  - (g) each animal must be protected from exposure to disease, distress and injury and, in the event that the animal becomes diseased, distressed or injured, must be promptly provided with appropriate treatment,

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- (h) each animal must be periodically inspected to ensure that it is receiving appropriate food and water and is free from disease, distress and injury,
  - (i) without limiting the requirements of paragraphs (a)–(h), the provisions of each relevant Code of Practice must be complied with.
- (4) A person does not commit an offence in respect of any failure to comply with the requirements of this clause if the failure occurs despite the person having done all that he or she could reasonably be expected to have done to comply with those requirements.
- (5) For the purposes of this clause, the *relevant Code of Practice* in respect of a business specified in Column 1 of Schedule 1 is the corresponding document specified in Column 2 of that Schedule.

**Note.** Copies of each document are published on the Department's website.

## 2012 No 408

Clause 27 Prevention of Cruelty to Animals Regulation 2012

Part 5 Enforcement

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### Part 5 Enforcement

**27 Evidence that ruminant stock animal not provided with food or shelter during emergency** (cf clause 5 2006 Reg)

For the purposes of section 8 (3) of the Act, the period prescribed in respect of a ruminant stock animal is 72 hours during any period of drought, flood or other emergency.

**28 Evidence of keeping or being in charge of animal for lure or kill for coursing dog** (cf clause 12 2006 Reg)

All species of animals that are not species commonly used as coursing dogs are prescribed for the purposes of section 21 (2C) of the Act.

**29 Police officers exercising certain powers** (cf clause 21 2006 Reg)

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:
  - (i) wears his or her police uniform, or
  - (ii) otherwise displays evidence that he or she is a police officer and that would be visible to the person operating the vehicle or vessel concerned.

**30 Power of inspector to examine ruminant stock animals in relation to sufficiency of food or drink during emergency** (cf clause 5 2006 Reg)

For the purposes of section 24I (b) of the Act, the period prescribed in respect of a ruminant stock animal is 72 hours during any period of drought, flood or other emergency.

**31 Assistance to inspectors** (cf clause 22 2006 Reg)

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) veterinary practitioners,
- (b) persons who have special expertise in the handling of the animal concerned.

**32 Penalty notice offences** (cf clause 23 2006 Reg)

For the purposes of section 33E of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 2 is a penalty notice offence, and
- (b) the penalty prescribed for each such offence is:
  - (i) in the case of an individual—the amount specified opposite the provision in Column 2 of Schedule 2, or
  - (ii) in the case of a corporation—the amount specified opposite the provision in Column 3 of Schedule 2.

**33 Evidence—guidelines relating to the welfare of farm or companion animals** (cf clause 24 2006 Reg)

- (1) For the purposes of section 34A (1) of the Act, the following documents, published by CSIRO Publishing and as in force from time to time, are adopted as guidelines:
  - (a) *Model Code of Practice for the Welfare of Animals: Domestic Poultry*,
  - (b) *Model Code of Practice for the Welfare of Animals: Farmed Buffalo*,
  - (c) *Model Code of Practice for the Welfare of Animals: Animals at Saleyards*,
  - (d) *Model Code of Practice for the Welfare of Animals: The Goat*,
  - (e) *Model Code of Practice for the Welfare of Animals: The Sheep*,
  - (f) *Model Code of Practice for the Welfare of Animals: The Farming of Deer*,
  - (g) *Model Code of Practice for the Welfare of Animals: Cattle*,
  - (h) *National Guidelines for Beef Cattle Feedlots in Australia*.

**Note.** Copies of these documents are available for purchase or download from CSIRO Publishing's website.
- (2) For the purposes of this clause, the *Model Code of Practice for the Welfare of Animals: The Farming of Deer* (as in force at the commencement of this clause) 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 veterinary practitioner or a person referred to in section 9 (2) (e) of the *Veterinary Practice Act 2003*.

## 2012 No 408

Clause 34 Prevention of Cruelty to Animals Regulation 2012

Part 5 Enforcement

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### 34 Reports of approved charitable organisations (cf clause 25 2006 Reg)

- (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) In particular, 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 officially cautioned by officers of the organisation,
  - (e) a statement of the number of notices issued by officers of the organisation under section 24N of the Act,
  - (f) a statement of the number of penalty notices issued by officers of the organisation,
  - (g) 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,
  - (h) details of the outcome of such of those proceedings as had been finally determined as at the date of the report,
  - (i) 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,
  - (j) 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,

- (k) 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,
  - (l) 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.

## 2012 No 408

Clause 35 Prevention of Cruelty to Animals Regulation 2012

Part 6 Miscellaneous

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### Part 6 Miscellaneous

#### 35 Prohibited electrical devices (cf clause 10 2006 Reg)

A device of a type listed in Column 1 of Schedule 3 is an electrical device, for the purposes of section 16 of the Act, unless it is used for a purpose or in circumstances specified in Column 2 of that Schedule.

#### 36 Exemptions for rodeos from prohibitions under sections 18 (1), 18A and 20 of Act (cf clause 11 2006 Reg)

(1) A person is exempt from the operation of section 18 (1) of the Act in respect of:

- (a) using any premises, or managing or controlling any premises that are used, for the purposes of a rodeo, or
- (b) if the person is an owner of premises, authorising those premises to be used for the purposes of a rodeo, or
- (c) receiving money for the admission of another person to premises that are used for the purposes of a rodeo.

(2) A person is exempt from the operation of sections 18A and 20 of the Act in respect of advertising, promoting or taking part in a rodeo.

(3) An exemption under this clause is subject to the condition that the rodeo concerned is at all times conducted in accordance with the relevant Code of Practice.

(4) However, a person does not lose the benefit of the exemption because of a failure to comply with the relevant Code of Practice if the failure occurs despite the person having done all that the person could reasonably be expected to have done to comply with that Code.

(5) In this clause:

**relevant Code of Practice** means the document entitled *Code of Practice for the Welfare of Animals Used in Rodeo Events* that was approved on 30 April 1988 by the Animal Welfare Advisory Council and is published on the Department's website.

**rodeo** means any exhibition, competition, spectacle or display (whether or not conducted for the purpose of gain) involving cattle or horses (but not any other type of animal) that includes any one or more of the following activities:

- (a) saddle bronc riding,
- (b) bareback bronc riding,
- (c) bull riding,
- (d) steer riding or wrestling,



- (e) roping and tying of cattle,
- (f) team roping of cattle or any similar activity involving unbroken horses.

**37 Exemption from prohibition on steeplechasing and hurdle racing**

(cf clause 13 2006 Reg)

A person who organises or participates in a steeplechase or hurdle race is exempt from the operation of section 21C of the Act if the race is organised in such a way that no horse in the race can approach or attempt to jump a particular obstacle or hurdle at the same time as any other horse in the race.

**38 Conveyance of stock animals** (cf clause 15 2006 Reg)

- (1) A person must not carry or convey a large stock animal in a cage or vehicle, or (if the person is in charge of such an 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: 100 penalty units in the case of a corporation and 25 penalty units in the case of an individual.

- (2) In this clause, *large stock animal* means an animal that belongs to any of the following classes of animal:
- (a) cattle,
  - (b) horses,
  - (c) sheep,
  - (d) goats,
  - (e) pigs,
  - (f) deer.

**39 Use of animals in films and theatrical performances** (cf clause 17 2006 Reg)

- (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, except in accordance with the relevant Code of Practice.

Maximum penalty: 100 penalty units in the case of a corporation and 25 penalty units in the case of an individual.

- (2) A person does not commit an offence under this clause in respect of any failure to comply with the relevant Code of Practice if the failure occurs

## 2012 No 408

Clause 40          Prevention of Cruelty to Animals Regulation 2012

Part 6              Miscellaneous

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despite the person having done all that the person 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* that was approved on 3 February 1997 by the Animal Welfare Advisory Council and is published on the Department's website.

### 40 Savings

Any act, matter or thing that, immediately before the repeal of the *Prevention of Cruelty to Animals (General) Regulation 2006*, had effect under that Regulation continues to have effect under this Regulation.

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## Schedule 1 Animal trades and Codes of Practice

(Clauses 25 and 26)

Column 1	Column 2
Animal trade	Code of Practice
Pet shop (that is, a business in the course of which an animal is kept in a shop, or any booth or stall in a market or at a fair, for the purposes of sale)	<i>Animal Welfare Code of Practice No 4—Keeping and Trading of Birds</i> , published in October 1996 by NSW Agriculture <i>Animal Welfare Code of Practice—Animals in Pet Shops</i> , published in August 2008 by the Department of Primary Industries
Animal boarding establishment (that is, a business in the course of which dogs or cats are boarded for fee or reward)	<i>Animal Welfare Code of Practice No 5—Dogs and Cats in Animal Boarding Establishments</i> , published in 1996 by NSW Agriculture
Animal breeding establishment (that is, a business in the course of which dogs or cats are bred for fee or reward)	<i>Animal Welfare Code of Practice—Breeding Dogs and Cats</i> , published in August 2009 by the Department of Industry and Investment
Animal transport establishment (that is, a business in the course of which dogs, cats and other domestic pets are transported for fee or reward)	<i>Animal Welfare Code of Practice No 1—Companion Animal Transport Agencies</i> , published in October 1996 by NSW Agriculture
Pet grooming establishment (that is, a business in the course of which dogs or cats are groomed for fee or reward)	<i>Animal Welfare Code of Practice No 8—Animals in Pet Grooming Establishments</i> , published in October 1996 by NSW Agriculture
Security dog business (that is, a business in the course of which 3 or more dogs are used for the purpose of guarding premises for fee or reward)	<i>Animal Welfare Code of Practice No 9—Security Dogs</i> , published in October 1996 by NSW Agriculture
Security dog training establishment (that is, a business in the course of which dogs are trained as security dogs)	<i>Animal Welfare Code of Practice No 9—Security Dogs</i> , published in October 1996 by NSW Agriculture
Boarding stable (that is, a business in the course of which horses are boarded for fee or reward)	<i>Animal Welfare Code of Practice No 3—Horses in Riding Centres and Boarding Stables</i> , published in October 1996 by NSW Agriculture

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### Prevention of Cruelty to Animals Regulation 2012

#### Schedule 1 Animal trades and Codes of Practice

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<b>Column 1</b>	<b>Column 2</b>
<b>Animal trade</b>	<b>Code of Practice</b>
Riding centre (that is, a business in the course of which horses are hired out for riding)	<i>Animal Welfare Code of Practice No 3—Horses in Riding Centres and Boarding Stables</i> , published in October 1996 by NSW Agriculture
Commercial pig establishment (that is, a business in the course of which pigs are kept or used for commercial purposes)	<i>Animal Welfare Code of Practice—Commercial Pig Production</i> , published in December 2009 by Industry and Investment NSW

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**Schedule 2 Penalty notice offences**

(Clause 32)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of the Act</b>	<b>Penalty (individuals)</b>	<b>Penalty (corporations)</b>
Section 5	\$500	\$1,500
Section 7 (1)	\$500	\$1,500
Section 7 (2)	\$200	\$1,500
Section 7 (2A)	\$200	—
Section 8	\$200	\$1,000
Section 9 (1)	\$200	\$1,000
Section 10	\$200	\$1,000
Section 12 (1)	\$500	\$1,500
Section 12A (1)	\$200	—
Section 12A (2)	\$200	—
Section 12A (3)	\$200	—
Section 14	\$200	—
Section 16 (2)	\$500	\$1,500
Section 17	\$500	\$1,500
Section 18 (1)	\$500	\$1,500
Section 18 (2) (a)	\$500	\$1,500
Section 18 (2) (c)	\$500	\$1,500
Section 18A	\$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
Section 24N (2)	\$200	\$1,000

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### Prevention of Cruelty to Animals Regulation 2012

#### Schedule 2 Penalty notice offences

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of this Regulation</b>	<b>Penalty (individuals)</b>	<b>Penalty (corporations)</b>
Clause 5 (1)	\$500	\$1,500
Clause 6	\$500	\$1,500
Clause 7	\$500	\$1,500
Clause 8 (1)	\$500	\$1,500
Clause 9	\$500	\$1,500
Clause 10 (2)	\$500	\$1,500
Clause 11 (1)	\$500	\$1,500
Clause 13 (2)	\$500	\$1,500
Clause 13 (4)	\$500	\$1,500
Clause 14 (1)	\$500	\$1,500
Clause 15	\$500	\$1,500
Clause 16 (1)	\$500	\$1,500
Clause 17	\$500	\$1,500
Clause 18	\$500	\$1,500
Clause 26 (1)	\$500	\$1,500
Clause 26 (2)	\$500	—
Clause 38 (1)	\$200	\$1,000
Clause 39 (1)	\$200	\$1,000

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**Schedule 3 Electrical devices**

(Clause 35)

<b>Column 1</b>	<b>Column 2</b>
<b>Type of device</b>	<b>Purpose for or circumstances in which not electrical device</b>
Electro-immobiliser	Restraining cattle, but only if used by a veterinary practitioner for purposes other than as an alternative to analgesia or anaesthesia
Electric stock prod	Driving, herding, mustering or controlling weaned cattle or sheep Controlling horses being used in a rodeo, but only for the purpose of getting a horse that has stalled in the chute to exit the chute and not if used on the horse once it has started to exit the chute
Electric fence	Loading or unloading weaned pigs onto or from a vehicle for transportation purposes Confining, controlling or protecting animals (except dogs and cats)
Electro-ejaculator	Collecting semen from conscious cattle or sheep Collecting semen from animals that have been tranquillised and administered with an analgesic or animals that have been anaesthetised
Electric stock grid	Confining stock animals (except poultry)
Electric fightback lure	Training coursing dogs
Electro-fishing device	Catching species of fish under licence, permit or authority under the <i>Fisheries Management Act 1994</i> or in accordance with the <i>Animal Research Act 1985</i>
The device sold under the name Pingg String (including any similar device delivering an electric shock of no greater intensity or duration than a Pingg String)	Confining dogs or cats, but only if used inside a fence through which dogs or cats cannot pass and that is at least 1.5 metres high
Canine invisible boundary	Confining dogs, but only if used inside a fence through which dogs cannot pass and that is at least 1.5 metres high

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Prevention of Cruelty to Animals Regulation 2012

Schedule 3 Electrical devices

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<b>Column 1</b>	<b>Column 2</b>
<b>Type of device</b>	<b>Purpose for or circumstances in which not electrical device</b>
Electronic bird deterrent device	Deterring birds from roosting on building ledges and other external building surfaces
Any other device producing an electrical discharge that is used in such a way that the animal in relation to which it is being used cannot move away from the device	

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