

[Act 1997 No 25]



New South Wales

Animal Research Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Animal Research Act 1989*:

- (a) to include an objects section that gives an overview of the Act, and
 - (b) to replace the requirement for an independent animal researcher to obtain an animal research licence with a requirement to obtain an animal research authority, and
 - (c) to provide for the issuing of animal research authorities to independent animal researchers by either the Director-General of Agriculture or accredited research establishments, and
 - (d) to extend the period of accreditation of accredited research establishments, and
 - (e) to require an animal supplier to have an animal care and ethics committee, and
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- (f) to impose a 28-day time limit on the lodging of appeals to the District Court against decisions of the Director-General relating to accreditation, authorities, licensing and determination of complaints, and
- (g) to include an offence of an unauthorised person keeping animals with the intention of using them in connection with animal research, and
- (h) to provide that particulars of lethality tests are to be kept by animal researchers and may be recorded and published by the Animal Research Review Panel, and
- (i) to increase penalties for offences, and
- (j) to make other amendments of a minor or consequential nature.

The Bill also amends the *Prevention of Cruelty to Animals Act 1979* consequentially.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Animal Research Act 1985* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Prevention of Cruelty to Animals Act 1979* set out in Schedule 2.

Schedule 1 Amendment of Animal Research Act 1985

Period of accreditation of research establishments

The Act currently provides for an accreditation of a research establishment to remain in force for 12 months. Schedule 1 [14] provides that the first accreditation of a research establishment remains in force for 12 months but subsequent accreditations remain in force for 36 months. If a research establishment has had a previous accreditation cancelled or suspended, any new accreditation remains in force for 12 months or such lesser period as the Director-General approves.

Animal research authorities

At present, the Act provides that an independent animal researcher (that is, a researcher who is not connected with an accredited research establishment) must apply to the Director-General for an animal research licence or to an accredited research establishment for an animal research authority authorising the carrying out of animal research. Schedule 1 [21] removes the provisions dealing with the issue of animal research licences. Schedule 1 [15] provides that the Director-General, as well as an accredited research establishment, will now be able to issue animal research authorities (proposed section 25).

Proposed section 25A sets out the matters that must be included in an application to the Director-General for an animal research authority.

Proposed section 25B sets out the matters that must be included in an application to an accredited research establishment for an animal research authority.

Proposed section 25C enables an accredited research establishment to charge a fee for dealing with an application for an animal research authority from an independent animal researcher. Certain records must be kept by an accredited research establishment of applications made to it by independent researchers.

Schedule 1 [20] enables a complaint to be made to the Director-General about the holder of an animal research authority. The Director-General is to refer such a complaint to the Animal Research Panel for investigation. On receiving the Panel's report the Director-General may decide to suspend or cancel the authority, caution or reprimand the holder of the authority or may dismiss the complaint (proposed sections 28–28B).

An accredited research establishment may, at any time, cancel an animal research authority that it issued (proposed section 28C).

Schedule 1 [2], [3], [5], [7], [9], [11], [12], [16], [18], [19], [28], [30], [31], [33] and [38] make consequential amendments.

Land on which animal research may be carried out

The Act currently provides that a research establishment must identify in its application for accreditation land which it occupies or will occupy as the land on which it will carry out animal research. Schedule 1 [13] removes the requirement that the land must be land occupied or to be occupied by the accredited research establishment.

Schedule 1 [15] makes it clear that a person applying for an animal research authority must specify the land on which the animal research is to be carried out (proposed sections 25A and 25B).

Schedule 1 [17] contains a consequential amendment.

Animal supply licences

Schedule 1 [22] provides that the Director-General is not to grant an animal supplier's licence unless the applicant has an animal care and ethics committee.

Schedule 1 [23] requires the supply of animals under an animal supplier's licence to be in accordance with the directions of the supplier's animal care and ethics committee and, as is currently the case, in accordance with the prescribed Code of Practice.

Schedule 1 [4], [6], [8], [10], [24] and [25] make consequential amendments.

Increase in penalties for offences

Schedule 1 [27], [29], [32], [35], [36], [40], [42]–[46] and [48] increase penalties for offences under the Act.

Unlawful keeping and supply of animals in connection with research

Schedule 1 [34] makes it an offence for an unauthorised person to keep animals with the intention of using them in connection with animal research. Evidence that the animals concerned were kept on premises containing research equipment or the person charged was about to receive any fee or reward for conducting animal research, is evidence that the animals were kept for the purpose of using them in connection with research (proposed section 47A).

Section 48 of the Act contains offences dealing with the unauthorised supply of animals in connection with animal research. Schedule 1 [37] places on the person charged with the relevant offence the onus of proving that animals obtained, bred, nurtured or kept by the person were not being unlawfully supplied for research if it is proved that the person was about to receive any fee or reward for the supply of animals in connection with animal research.

Schedule 1 [41] enables an inspector to take possession of animals for a limited period if the inspector is of the opinion that an offence under the Act has been or is about to be committed in relation to the animals. The inspector may apply to the court before which proceedings for the relevant offence are brought for an order to dispose of the animals (proposed section 51A).

Lethality tests

Schedule 1 [47] provides that an accredited research establishment must keep records of lethality tests approved by its animal care and ethics committees or subcommittees. A lethality test is defined as 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. Copies of the records must be given to the Animal Research Review Panel. The Panel is authorised to release the information it receives to the public but cannot give out the name of the research establishments concerned (proposed section 56A).

Miscellaneous amendments

Schedule 1 [1] inserts an objects section that gives an overview of the Act.

Schedule 1 [26] provides that an appeal against a determination of the Director-General under the Act must be made within 28 days of notice being given of the determination. If the appeal relates to a failure of the Director-General to make a determination within 90 days of receiving an application, the appeal must be made within 28 days after the end of that 90-day period.

Schedule 1 [39] makes it clear that the powers of inspectors under the Act may be exercised only in relation to animals used in connection with animal research.

Schedule 1 [49] and [53] contain savings and transitional provisions.

Schedule 1 [50] enables the Minister to appoint a Deputy Chairperson of the Animal Research Review Panel. Schedule 1 [51] and [52] make consequential amendments.

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

Schedule 2 contains amendments to the *Prevention of Cruelty to Animals Act 1979* that are consequent on the removal of provisions relating to animal research licences.