

# Prevention of Cruelty to Animals Act 1979 No 200

[1979-200]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [Miscellaneous Acts \(Local Court\) Amendment Act 2007 No 94](#) (not commenced)
  - [Rural Lands Protection Amendment Act 2008 No 112](#) (not commenced — to commence on 1.1.2009)
- **See also**
  - [Animals \(Regulation of Sale\) Bill 2008](#) [Non-government Bill: Ms Clover Moore, MP]

### Authorisation

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# Prevention of Cruelty to Animals Act 1979 No 200



New South Wales

An Act for the prevention of cruelty to animals.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Prevention of Cruelty to Animals Act 1979*.

### 2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

### 3 Objects of Act

The objects of this Act are:

- (a) to prevent cruelty to animals, and
- (b) to promote the welfare of animals by requiring a person in charge of an animal:
  - (i) to provide care for the animal, and
  - (ii) to treat the animal in a humane manner, and
  - (iii) to ensure the welfare of the animal.

### 4 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**animal** means:

- (a) a member of a vertebrate species including any:

- (i) amphibian, or
  - (ii) bird, or
  - (iii) fish, or
  - (iv) mammal (other than a human being), or
  - (v) reptile, or
- (b) a crustacean but only when at a building or place (such as a restaurant) where food is prepared or offered for consumption by retail sale in the building or place.

**animal trade** means a trade, business or profession in the course of which any animal is kept or used for a purpose prescribed for the purposes of this definition.

**approved charitable organisation** means a charitable organisation for the time being approved by the Minister in accordance with section 34B.

**authorise** includes direct and permit.

**bull** includes ox, bullock, steer, cow, heifer and calf.

**bull-fight** includes any exhibition, spectacle or display (whether or not conducted for the purpose of gain) in which a person:

- (a) commits an act of cruelty upon a bull,
  - (b) teases a bull, or does any other thing in relation to a bull, in a manner that is likely to cause the bull to fight or to suffer pain or injury, or
  - (c) attempts to do any of the things mentioned in paragraph (a) or (b),
- whether or not for the purpose of causing the bull to fight.

**cage** includes a pit, pen, kennel, hutch and any other similar receptacle.

**cat** means an animal which is a member of the family Felidae.

**charitable organisation** means:

- (a) the Royal Society for the Prevention of Cruelty to Animals, New South Wales, and
- (b) any other organisation or association which has as one of its objects the promotion of the welfare of, or the prevention of cruelty to, animals, or any class of animals, and which is a non-profit organisation having as one of its objects a charitable, benevolent, philanthropic or patriotic purpose.

**confine**, in relation to an animal, includes:

- (a) keep the animal in captivity by means of a cage or by any other means,

- (b) pinion, mutilate or maim the animal for the purpose of hindering, impeding or preventing the freedom of movement of the animal,
- (c) subject the animal to a device or contrivance for the purpose of hindering, impeding or preventing the freedom of movement of the animal, and
- (d) tether the animal by means of a rope, chain or cord or by any other means.

**court** means a Local Court.

**dog** includes a bitch and a puppy.

**domestic animal** means an animal which is tame or which has been, or is being, sufficiently tamed to serve some purpose for the use of human beings, or which, although it neither has been nor is being nor is intended to be so tamed, is or has become in fact wholly or partly tame.

**horse** includes a stallion, gelding, mare, colt, filly, foal, pony, mule, donkey, ass and jenny.

**officer** means:

- (a) a member of the police force or an inspector within the meaning of the [Animal Research Act 1985](#),
- (b) an officer of an approved charitable organisation who is a special constable within the meaning of the [Police Offences Act 1901](#), or
- (c) a public servant who is appointed by the Minister, or by an officer of the Department of Primary Industries authorised by the Minister, as an officer for the purposes of this Act.

**owner** includes a joint owner.

**pain** includes suffering and distress.

**person in charge**, in relation to an animal, includes:

- (a) the owner of the animal,
- (b) a person who has the animal in the person's possession or custody, or under the person's care, control or supervision,
- (c) where a person referred to in paragraph (b) is bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal, that servant or agent, as the case may be, and
- (d) where the animal, being a stock animal, is confined in a sale-yard:
  - (i) the owner of the sale-yard, or



(ii) where the sale-yard is the subject of a lease, the lessee of the sale-yard.

**pinion**, in relation to an animal, means cut off the pinion of a wing of a bird or otherwise disable the wing or wings of a bird.

**premises** means any place which is not a public place.

**public place** means any place, including any road, to which the public has its own right to resort.

**regulation** means a regulation made under this Act.

**sale-yard** means any premises or public place used or established for use wholly or partly for the sale of stock animals.

**stock animal** means an animal which belongs to the class of animals comprising cattle, horses, sheep, goats, deer, pigs, poultry and any other species of animal prescribed for the purposes of this definition.

**veterinary practitioner** has the same meaning as in the [Veterinary Practice Act 2003](#).

**veterinary treatment**, in relation to an animal, means:

- (a) medical treatment of a prophylactic or therapeutic nature carried out upon the animal by, or in accordance with directions given in respect of the animal by, a veterinary practitioner, or
  - (b) surgical treatment of a prophylactic or therapeutic nature, or sterilisation, carried out upon the animal by a veterinary practitioner, or
  - (c) a veterinary diagnostic procedure carried out on the animal by a veterinary practitioner, or
  - (d) a veterinary consultation undertaken in respect of the animal by a veterinary practitioner.
- (2) For the purposes of this Act, a reference to an act of cruelty committed upon an animal includes a reference to any act or omission as a consequence of which the animal is unreasonably, unnecessarily or unjustifiably:
- (a) beaten, kicked, killed, wounded, pinioned, mutilated, maimed, abused, tormented, tortured, terrified or infuriated,
  - (b) over-loaded, over-worked, over-driven, over-ridden or over-used,
  - (c) exposed to excessive heat or excessive cold, or
  - (d) inflicted with pain.

- (2A) For the purposes of subsection (2) (a), the pinioning of a bird is not an act of cruelty if it is carried out in the manner prescribed by the regulations.
- (3) For the purposes of this Act, a person commits an act of aggravated cruelty upon an animal if the person commits an act of cruelty upon the animal or (being the person in charge of the animal) contravenes section 5 (3) in a way which results in:
- (a) the death, deformity or serious disablement of the animal, or
  - (b) the animal being so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive.
- (4) Notes included in this Act do not form part of this Act.

## Part 2 Offences

### Note—

Section 9 (1) of the *Veterinary Practice Act 2003* makes it an offence for a person to do a restricted act of veterinary science except in certain circumstances. **Restricted act of veterinary science** is defined in section 7 of that Act.

### 5 Cruelty to animals

- (1) A person shall not commit an act of cruelty upon an animal.
- (2) A person in charge of an animal shall not authorise the commission of an act of cruelty upon the animal.
- (3) A person in charge of an animal shall not fail at any time:
- (a) to exercise reasonable care, control or supervision of an animal to prevent the commission of an act of cruelty upon the animal,
  - (b) where pain is being inflicted upon the animal, to take such reasonable steps as are necessary to alleviate the pain, or
  - (c) where it is necessary for the animal to be provided with veterinary treatment, whether or not over a period of time, to provide it with that treatment.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

### 6 Aggravated cruelty to animals

- (1) A person shall not commit an act of aggravated cruelty upon an animal.

Maximum penalty: 1,000 penalty units in the case of a corporation and 200 penalty units or imprisonment for 2 years, or both, in the case of an individual.

- (2) In any proceedings for an offence against subsection (1), the court before which the proceedings are being taken may:

- (a) where it is not satisfied that the person accused of the offence is guilty of the offence, and
- (b) where it is satisfied that that person is guilty of an offence against section 5 (1), convict that person of an offence against section 5 (1).

## **7 Carriage and conveyance of animals**

(1) A person shall not:

- (a) carry or convey an animal, or
- (b) where the person is a person in charge of an animal—authorise the carriage or conveyance of the animal,

in a manner which unreasonably, unnecessarily or unjustifiably inflicts pain upon the animal.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2) Without limiting the generality of subsection (1), a person shall not:

- (a) carry or convey a horse on a multi-deck vehicle, or
- (b) where the person is a person in charge of the horse—authorise the carriage or conveyance of a horse on a multi-deck vehicle.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2A) Without limiting subsection (1), a person must not carry or convey a dog (other than a dog being used to work livestock), on the open back of a moving vehicle on a public street unless the dog is restrained or enclosed in such a way as to prevent the dog falling from the vehicle.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

(3) In this section:

**multi-deck vehicle** means a motor vehicle or a trailer drawn by a motor vehicle that:

- (a) is used to carry or convey animals, and
- (b) on which animals are carried or conveyed in two or more layered sections.

## **8 Animals to be provided with food, drink or shelter**

(1) A person in charge of an animal shall not fail to provide the animal with food, drink or shelter, or any of them, which, in each case, is proper and sufficient and which it is

reasonably practicable in the circumstances for the person to provide.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

- (2) In any proceedings for an offence against subsection (1), evidence that an animal was not provided with clean water during a period of 24 hours is evidence that the person accused of the offence has failed to provide the animal with proper and sufficient drink during that period.
- (3) In any proceedings for an offence against subsection (1), evidence that an animal was not provided with food or shelter during a period of 24 hours (or, in the case of an animal of a class prescribed by the regulations, during the period prescribed for that class of animal) is evidence that the person accused of the offence has failed to provide the animal with proper and sufficient food or shelter during that period.
- (4) Before commencing proceedings for an offence against subsection (1) in respect of a stock animal depastured on rateable land (within the meaning of the *Rural Lands Protection Act 1998*), the prosecution must obtain advice from a rural lands protection board and the Department of Agriculture about the state of the animal (if practicable) and the appropriate care for it.
- (5) The prosecution may, with leave of the court granted in such circumstances as the court considers just, commence or continue proceedings for an offence against subsection (1), despite having failed to comply with subsection (4).

## **9 Confined animals to be exercised**

- (1) A person in charge of an animal which is confined shall not fail to provide the animal with adequate exercise.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

- (1A) Subsection (1) does not apply to a person in charge of an animal if the animal is:
  - (a) a stock animal other than a horse, or
  - (b) an animal of a species which is usually kept in captivity by means of a cage.
- (2) In any proceedings for an offence against subsection (1), evidence that an animal referred to in that subsection was not released from confinement during a period of 24 hours is evidence that the person accused of the offence has failed to provide the animal with adequate exercise during that period.
- (3) A person in charge of an animal (other than a stock animal) shall not confine the animal in a cage of which the height, length or breadth is insufficient to allow the animal a reasonable opportunity for adequate exercise.

Maximum penalty: 250 penalty units in the case of a corporation or 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

- (4) In any proceedings for an offence against subsection (3) in respect of an animal, the person accused of the offence is not guilty of the offence if the person satisfies the court before which the proceedings are being taken that the person confined the animal:
- (a) for the purpose of:
    - (i) carrying or conveying the animal, or
    - (ii) displaying the animal in a public exhibition or public competition, in a manner that inflicted no unnecessary pain upon the animal, and
  - (b) for a period not exceeding 24 hours.

## **10 Tethering of animals**

- (1) A person shall not:

- (a) tether an animal, or
- (b) where the person is a person in charge of an animal—authorise the tethering of the animal,

for an unreasonable length of time or by means of an unreasonably heavy, or unreasonably short, tether.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

- (2) A person must not tether a sow in a piggery.

Maximum penalty: 250 penalty units in the case of a corporation or 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

- (3) A person must not confine a bird by means of a tether.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

- (4) It is a defence to a prosecution for an offence against subsection (3) if the defendant satisfies the court before which the proceedings are being taken that the bird to which the offence relates was a raptor and that the tether involved was a jess that was used solely to tether the bird to its handler.

## **11 Animals not to be abandoned**

A person shall not abandon an animal.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

**12 Certain procedures not to be performed on animals**

(1) A person shall not:

- (a) dock the tail of a horse, bull, ox, bullock, steer, cow, heifer, calf or dog,
- (b) crop the ears of a dog,
- (c) operate upon a dog for the purpose of preventing the dog from being able to bark,
- (d) remove one or more of the claws of a cat,
- (e) grind, trim or clip one or more teeth of a sheep,
- (f) perform a clitoridectomy on a greyhound, or
- (g) fire or hot iron brand the face of an animal.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2) A person is not guilty of an offence against this section if the court is satisfied that the procedure comprising the alleged offence:

- (a) was docking the tail of a calf less than 6 months old when the offence was alleged to have been committed, or
- (a1) (Repealed)
- (b) was:
  - (i) docking the tail of a cow, heifer or female calf,
  - (ii) operating upon a dog for the purpose of preventing the dog from being able to bark,
  - (iii) removing one or more of the claws of a cat,
  - (iv) grinding, trimming or clipping one or more teeth of a sheep,
  - (v) performing a clitoridectomy on a greyhound, or
  - (vi) firing or hot iron branding the face of an animal,by a veterinary practitioner,

and the procedure was performed in the prescribed circumstances and in accordance with any conditions specified in the regulations.

(2A) A person is not guilty of an offence against this section if the court is satisfied that the procedure comprising the alleged offence was the docking of the tail of a dog, was performed by a veterinary practitioner and was in the interests of the dog's welfare.

(3) In this section:

**clip** the tooth of a sheep means breaking off the crown of a tooth with pliers or another tool or implement.

**dock** the tail of an animal means to remove all or part of the tail of the animal (other than a part of the tail consisting only of fur, hair, feathers or the like) whether by surgical or other means.

**grind** the tooth of a sheep means grinding down a tooth with an electric angle grinder or another tool or implement.

**trim** the tooth of a sheep means cutting off a tooth with an abrasive disc or another tool or implement.

#### **12A Registers relating to certain procedures**

(1) A veterinary practitioner who carries out a procedure referred to in section 12 (1) shall, not later than 7 days after carrying out the procedure, enter the prescribed particulars of the procedure in a register kept in the prescribed form by the veterinary practitioner or the employer of the veterinary practitioner.

Maximum penalty: 50 penalty units.

(2) A register containing the prescribed particulars of a procedure shall be kept by:

(a) the veterinary practitioner or former veterinary practitioner who carried out the procedure, or

(b) if the veterinary practitioner who carried out the procedure did so in the course of employment by another person, by that employer or former employer,

for a period of not less than 2 years after the procedure is carried out.

Maximum penalty: 50 penalty units.

(3) A person shall, at the request of an officer, make available for inspection by the officer any register required to be kept by the person under this section.

Maximum penalty: 50 penalty units.

(4) Nothing in subsection (3) limits the powers of an officer under section 24G.

#### **13 Certain animals not to be ridden etc**

A person shall not:

- (a) ride, drive, use, carry or convey an animal, or
- (b) where the person is a person in charge of an animal—authorise the riding, driving, using, carrying or conveying of the animal,

if the animal is unfit for the purpose of its being so ridden, driven, used, carried or conveyed.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

#### **14 Injuries to animals to be reported**

The driver of a vehicle which strikes and injures an animal (other than a bird) shall not fail:

- (a) where, in consequence of the injury, pain has been inflicted upon the animal—to take reasonable steps to alleviate the pain, and
- (b) where that driver believes, or ought reasonably to believe, that the animal is a domestic animal—to inform, as soon as practicable, an officer or a person in charge of the animal that the animal has been injured.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

#### **15 Poisons not to be administered to animals**

(1) In this section, **poison** includes:

- (a) a substance included in the list, as in force for the time being, proclaimed under section 8 of the *Poisons and Therapeutic Goods Act 1966* (or a substance that includes such a substance), or
- (b) a substance containing glass or any other thing likely to kill or injure an animal.

(2) A person shall not:

- (a) administer a poison, or a substance containing a poison, to a domestic animal,
- (b) with the intention of destroying or injuring a domestic animal, throw, cast, drop, leave or lay a poison, or a substance containing a poison, in any place, or
- (c) have in his or her possession a poison with the intention of using it to kill or injure a domestic animal.

Maximum penalty: 1,000 penalty units in the case of a corporation and 200 penalty units or imprisonment for 2 years, or both, in the case of an individual.

#### **16 Certain electrical devices not to be used upon animals**

(1) In this section:



**electrical device** means a device of a type prescribed by the regulations.

**sell** includes:

- (a) auction or exchange,
- (b) offer, expose, supply or receive for sale, and
- (c) send, forward or deliver for sale or on sale.

(2) A person shall not:

- (a) use an electrical device upon an animal,
- (b) sell any electrical device, or
- (c) have in his or her possession or custody any electrical device.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(3) Nothing in subsection (2) prevents a person from:

- (a) using an electrical device upon an animal belonging to a prescribed species, or
- (b) selling or having in his or her possession or custody an electrical device for use upon an animal belonging to a prescribed species.

#### **17 Certain spurs etc or implements designed for fighting not to be kept**

A person shall not have in his or her possession or custody:

- (a) any spur, or any other similar appliance, which has sharpened rowels, or
- (b) any article, implement or other thing made or adapted, or intended by the person to be used, for attachment to an animal for the purpose of:
  - (i) training the animal to fight another animal, or
  - (ii) increasing the ability of the animal to inflict injury on another animal during fighting.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

#### **18 Animal baiting and fighting prohibited**

(1) A person shall not:

- (a) use any place, or manage or control any place which is used,
- (b) authorise any place to be used, or

(c) receive money for the admission of another person to any place which is used, for the purpose of conducting a bull-fight, baiting an animal or causing an animal to fight.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2) A person must not:

(a) cause, procure, permit, encourage or incite a fight in which one or more animals are pitted against another animal or animals, whether of the same species or not, or

(b) advertise the intention to conduct such a fight, or

(c) promote, organise or attend such a fight.

Maximum penalty: 250 penalty units in the case of a corporation or 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(3) In any proceedings under subsection (2), evidence that the defendant was present at a place at which a fight of the kind referred to in that subsection was being conducted is prima facie evidence that the defendant attended the fight.

### **18A Bull-fighting prohibited**

A person shall not advertise, promote or take part in a bull-fight.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

### **19 Trap-shooting prohibited**

A person shall not advertise, promote or take part in a match, competition or other activity in which an animal is released from confinement for the purpose of that person, or any other person, shooting at it.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

### **19A Game parks prohibited**

(1) In this section:

***animal*** does not include a bird, reptile, amphibian or fish.

***game park*** means premises within the boundaries of which:

(a) animals are confined, and

(b) the taking or killing of those animals as a sport or recreation is permitted by virtue of the payment of an admission fee or the giving of other consideration.

**take**, in relation to any animal, includes hunt, shoot, poison, net, snare, spear, pursue, capture and injure the animal.

(2) A person shall not:

(a) use any premises, or manage or control any premises which are used,

(b) authorise any premises to be used, or

(c) receive money or any other consideration for the admission of another person to any premises which are used,

for the purposes of a game park.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(3) A person admitted to a game park by virtue of the payment of an admission fee or the giving of other consideration shall not take or kill any animal in the game park.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(4) Nothing in this section applies to:

(a) such animals, or

(b) the taking or killing of animals in such circumstances by such persons or in or on such premises,

as may be prescribed for the purposes of this section.

## **20 Certain animal-catching activities prohibited**

A person shall not advertise, promote or take part in a match, competition or other activity in which an animal is released from confinement for the purpose of that person, or any other person, chasing, catching or confining it.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

## **21 Coursing and other similar activities prohibited**

(1) A person who:

(a) causes, procures, permits or encourages an activity in which an animal is released from confinement for the purpose of its being chased, caught or confined by a dog, or

- (b) advertises the intention to conduct such an activity, or
- (c) promotes, organises or attends such an activity, or
- (d) uses an animal as a lure or kill for the purpose of bleeding greyhounds or in connection with the trialing, training or racing of any coursing dog, or
- (e) keeps or is in charge of an animal for use as a lure or kill for the purpose of bleeding greyhounds or in connection with the trialing, training or racing of any coursing dog,

is guilty of an offence.

Maximum penalty: 1,000 penalty units in the case of a corporation or 200 penalty units or imprisonment for 2 years, or both, in the case of an individual.

- (2) In any proceedings under subsection (1), evidence in writing by a veterinary practitioner that an animal was alive at the time of its attack by a dog is prima facie evidence that the animal was alive at the time of that attack.
- (2A) In any proceedings under subsection (1) (c), evidence that the defendant was present at a place at which an activity of the kind referred to in that subsection was being conducted is prima facie evidence that the defendant attended the activity.
- (2B) In any proceedings under subsection (1) (d), evidence that the defendant was in charge of an animal that appeared to have been used as a lure or kill in the manner referred to in that subsection is prima facie evidence that the defendant used the animal as a lure or kill in that manner.
- (2C) In any proceedings under subsection (1) (e), evidence that the defendant was in charge of an animal of a species prescribed by the regulations at a place used for the trialing, training or racing of any coursing dog is prima facie evidence that the defendant kept or was in charge of an animal for use as a lure or kill for the purpose referred to in that subsection.
- (3) It is a defence to any proceedings for an offence against subsection (1) if the defendant shows that the act constituting the alleged offence was done by the defendant in the course of, and for the purpose of:
  - (a) mustering stock, the working of stock in yards or any other animal husbandry activity, or
  - (b) sheep dog trials.
- (4) For the removal of doubt, section 24 (1) (b) (i), in its application to this section, includes hunting, shooting, snaring, trapping, catching or capturing an animal by using a dog, but only in a manner that inflicted no unnecessary pain on the animal.

### **21A Firing prohibited**

A person who applies a thermal stimulus (such as hot wires) to the leg of an animal with the intention of causing tissue damage and the development of scar tissue around tendons and ligaments of the leg is guilty of an offence.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

### **21B Tail nicking prohibited**

A person who cuts the tail of a horse with the intention of causing the horse to carry the tail high is guilty of an offence.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

### **21C Steeplechasing and hurdle racing prohibited**

A person who organises or participates in a steeplechase or hurdle race is guilty of an offence.

Maximum penalty: 250 penalty units in the case of a corporation or 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

### **21D (Repealed)**

## **22 Severely injured animals not to be sold**

(1) Subject to subsection (2), a person shall not purchase, acquire, keep or sell, or offer or expose for sale, an animal which is so severely injured, so diseased or in such a condition that it is cruel to keep it alive.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

(2) In any proceedings for an offence against subsection (1), the person accused of the offence is not guilty of the offence if the person satisfies the court before which the proceedings are being taken that the person purchased, acquired, kept or sold, or offered or exposed for sale, the animal referred to in that subsection for the purpose of causing it to be promptly destroyed.

(3) Where a person purchases or acquires an animal for the purpose of causing the animal to be promptly destroyed, the person shall cause it to be promptly destroyed in a manner that causes it to die quickly and without unnecessary pain.

Maximum penalty (subsection (3)): 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

### 23 Certain traps not to be set

- (1) A person shall not, in a prescribed part of New South Wales, set a trap of a prescribed type.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

- (2) A person must not:

- (a) in any part of New South Wales, set a steel-jawed trap, or
- (b) possess a steel-jawed trap with the intention of using it to trap an animal.

Maximum penalty: 250 penalty units in the case of a corporation and 50 penalty units or imprisonment for 6 months, or both, in the case of an individual.

- (3) In this section:

**steel-jawed trap** means a trap that has jaws that are made of steel, iron or other metal and that are designed to spring together and trap an animal when a leg or other part of the animal's body comes into contact with, or is placed between, the jaws, but does not include a soft-jawed trap (that is, a trap with steel jaws that are offset and padded).

### 24 Certain defences

- (1) In any proceedings for an offence against this Part or the regulations in respect of an animal, the person accused of the offence is not guilty of the offence if the person satisfies the court before which the proceedings are being taken that the act or omission in respect of which the proceedings are being taken was done, authorised to be done or omitted to be done by that person:

- (a) where, at the time when the offence is alleged to have been committed, the animal was:
  - (i) a stock animal—in the course of, and for the purpose of, ear-marking or ear-tagging the animal or branding, other than firing or hot iron branding of the face of, the animal,
  - (ii) a pig of less than 2 months of age or a stock animal of less than 6 months of age which belongs to a class of animals comprising cattle, sheep or goats—in the course of, and for the purpose of, castrating the animal,
  - (iii) a goat of less than 1 month of age or a stock animal of less than 12 months of age which belongs to the class of animal comprising cattle—in the course of, and for the purpose of, dehorning the animal,
  - (iv) a sheep of less than 6 months of age—in the course of, and for the purpose

of, tailing the animal, or

(v) a sheep of less than 12 months of age—in the course of, and for the purpose of, performing the Mules operation upon the animal,

in a manner that inflicted no unnecessary pain upon the animal,

(b) in the course of, and for the purpose of:

(i) hunting, shooting, snaring, trapping, catching or capturing the animal, or

(ii) destroying the animal, or preparing the animal for destruction, for the purpose of producing food for human consumption,

in a manner that inflicted no unnecessary pain upon the animal,

(c) in the course of, and for the purpose of, destroying the animal, or preparing the animal for destruction:

(i) in accordance with the precepts of the Jewish religion or of any other religion prescribed for the purposes of this subparagraph, or

(ii) in compliance with any duty imposed upon that person by or under this or any other Act,

(d) (Repealed)

(e) in the course of, and for the purpose of:

(i) carrying out animal research, or

(ii) supplying animals for use in connection with animal research,

in accordance with the provisions of the *Animal Research Act 1985*, or

(f) for the purpose of feeding a predatory animal lawfully kept by the person if:

(i) the act concerned was the release of live prey for the predatory animal, and

(ii) the diet of the predatory animal included animals of the kind released, and

(iii) the person believed on reasonable grounds that the feeding of live prey to the predatory animal was necessary for the predatory animal's survival because the predatory animal would not eat a dead animal or meat from a dead animal.

(2) Subsection (1) (b) does not apply to a person accused of an offence against section 19A.

(3) (Repealed)

## **Part 2A Powers of officers**

### **Division 1 Powers of officers generally**

#### **24A Officers may demand name and address**

(1) An officer who finds a person:

- (a) who is committing an offence against this Act or the regulations, or
- (b) whom the officer suspects, on reasonable grounds, of having committed or attempted to commit such an offence, or
- (c) who is in charge of a vehicle or vessel that the officer suspects, on reasonable grounds, to have been instrumental in the commission of an offence against this Act or the regulations,

may require that person to inform the officer immediately of that person's full name and home address.

(2) A person must not fail to comply with a requirement made by an officer under subsection (1).

Maximum penalty: 25 penalty units.

(3) A person is not guilty of an offence under this section unless the officer:

- (a) warned the person that failure to comply with the requirement is an offence, and
- (b) identified himself or herself to the person as an officer.

#### **24B Officer may require responsible person for vehicle to disclose identity of driver who commits offence**

(1) If the driver of a motor vehicle is alleged to have committed an offence against this Act or the regulations in the course of driving the vehicle:

- (a) the responsible person for the vehicle, or the person having the custody of the vehicle, must, when required to do so by an officer, immediately give information (which must, if so required, be given in the form of a written statement signed by that person) as to the name and home address of the driver, and
- (b) any other person must, if required to do so by an officer, give any information that it is in the person's power to give and that may lead to the identification of the driver.

Maximum penalty: 20 penalty units.

(2) It is a defence to a prosecution for an offence under subsection (1) (a) if the defendant proves to the satisfaction of the court that he or she did not know and could



not with reasonable diligence have ascertained the driver's name and home address.

(3) A written statement:

- (a) purporting to be given under subsection (1) (a) and to contain particulars of the name and home address of the driver of a motor vehicle at the time of commission of an alleged offence against this Act or the regulations, and
- (b) produced in any court in proceedings against the person named in the statement as the driver for such an offence,

is evidence without proof of signature that the person was the driver of the vehicle at the time of the alleged offence if the person does not appear before the court.

(4) Expressions used in this section (other than **officer**), have the same meanings as in the [Road Transport \(General\) Act 1999](#).

#### **24C Supplying officer's details and giving warnings**

- (1) An officer is required, in relation to the exercise of a power conferred on the officer by this Part, to provide the person who is subject to the exercise of the power with the following:
  - (a) evidence that the officer is an officer,
  - (b) the name of the officer,
  - (c) the reason for the exercise of the power,
  - (d) a warning that failure or refusal to comply with a request of the officer, in the exercise of the power, may be an offence.
- (2) An officer is to take the action required by subsection (1) before or at the time of exercising the power concerned or, if to take the action at that time is not reasonably practicable, as soon as is reasonably practicable after exercising the power.
- (3) If 2 or more officers are exercising a power to enter land, only one officer present is required to comply with this section.
- (4) However, if a person asks another officer present for information as to the name of the officer, the officer must give to the person the information requested.

#### **24CA Extension of certain powers of officers**

The powers of an officer or inspector under this Part may be exercised in relation to an offence, or suspected offence, against section 9 (1) of the [Veterinary Practice Act 2003](#).

### **Division 2 Powers of inspectors**

#### **24D Interpretation and application of Division**

(1) In this Division:

**inspector** means an officer (other than a police officer) who is the holder of an authority issued under subsection (2) that is in force, or a police officer.

**land** includes premises or a vehicle, vessel or aircraft.

- (2) The Minister, or the Director-General or a Deputy Director-General of the Department of Primary Industries, may issue an officer with an authority for the purposes of this Division and may revoke any such authority.
- (3) An inspector may not exercise powers under this Division in relation to animal research carried out in accordance with the [Animal Research Act 1985](#) on designated land within the meaning of that Act unless the inspector is also an inspector within the meaning of that Act.

#### **24E Power to enter land**

- (1) An inspector may enter land for the purpose of exercising any function under this Division.
- (2) Despite subsection (1), an inspector may exercise a power under this Division to enter a dwelling only with the consent of the occupier of the dwelling, the authority of a search warrant or if the inspector believes on reasonable grounds that:
- (a) an animal has suffered significant physical injury, is in imminent danger of suffering significant physical injury or has a life threatening condition that requires immediate veterinary treatment, and
  - (b) it is necessary to exercise the power to prevent further physical injury or to prevent significant physical injury to the animal or to ensure that it is provided with veterinary treatment.

#### **24F Search warrant**

(1) In this section:

**authorised officer** has the same meaning as it has in the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#).

- (2) An inspector may apply to an authorised officer for a search warrant if the inspector has reasonable grounds for believing that there is, in or on any land:
- (a) an animal in respect of which an offence against this Act or the regulations is being or has been committed or is about to be committed, or
  - (b) evidence of an offence against this Act or the regulations that has been

committed.

- (3) An authorised officer to whom an application is made under subsection (2) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant, together with any person so named:
  - (a) to enter and search the land, and
  - (b) to exercise any functions of an inspector under this Division in or on the land.
- (4) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.

#### **24G Powers of inspectors in relation to land used for certain commercial purposes**

- (1) This section applies to the following land:
  - (a) land used for the purpose of a sale-yard or an animal trade,
  - (b) land in or on which an animal is being used, or kept for use, in connection with any other trade, or any business or profession (including a place used by a veterinary practitioner for the purpose of carrying on his or her profession).
- (2) For the purposes of ensuring that the provisions of this Act or the regulations are not being contravened, an inspector may, in relation to land to which this section applies, do any or all of the following:
  - (a) inspect and examine the land, any animal that is in or on the land and any accommodation or shelter that is provided in or on the land for any animal,
  - (b) inspect and examine any register that is kept under this Act or the regulations and that is in or on the land,
  - (c) require any person found in or on the land to produce any such register,
  - (d) take copies of, or extracts or notes from, any such register.
- (3) A person must not fail to comply with a requirement made by an inspector under subsection (2) (c).

Maximum penalty (subsection (3)): 25 penalty units.

#### **24H Powers of police officers to detain vehicle or vessel**

- (1) If a police officer suspects on reasonable grounds that a vehicle or vessel contains an animal in respect of which an offence against section 5, 6, 7 or 8 has been or is being committed and that the animal is in distress the police officer may:
  - (a) stop the vehicle or vessel, and

- (b) enter the vehicle or vessel, and
  - (c) enter any land for the purpose of entering the vehicle or vessel, and
  - (d) examine the animal.
- (2) For the purpose of entering the vehicle or vessel or examining the animal concerned, the police officer may direct the person operating the vehicle or vessel to do any or all of the following:
- (a) to manoeuvre the vehicle or vessel in a specified manner or to a specified place (including a place that is appropriate for examining the animal concerned),
  - (b) to park or secure the vehicle or vessel in a specified manner,
  - (c) to remain in control of the vehicle or vessel while the police officer is exercising his or her functions.
- (3) A person must not fail to comply with a direction given to the person under this section.
- Maximum penalty: 25 penalty units.
- (4) A direction under this section to stop a vehicle or vessel must be made in a manner prescribed by the regulations by a police officer who is identified in a manner so prescribed.
- (5) For the purposes of subsection (1), an animal is in distress if it is suffering from exposure to the elements, debility, exhaustion or significant physical injury.

#### **241 Powers of inspectors generally to examine animals**

An inspector may examine an animal if the inspector suspects, on reasonable grounds, that:

- (a) an offence against this Act or the regulations is being, has been or is about to be committed in respect of the animal, or
- (b) the animal has not been provided with proper and sufficient food or drink during the previous 24 hours (or, in the case of the provision of food to an animal of a class prescribed by the regulations, during the period prescribed for that class of animal) and is still not being provided with that food or drink, or
- (c) the animal is so severely injured, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment and the animal is not being provided with that treatment, or
- (d) the animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive, and the animal is not about to be destroyed, or is about to be

destroyed in a manner that will inflict unnecessary pain on the animal.

#### **24J Powers of inspectors in relation to care of animals**

- (1) If, after examining an animal in accordance with this Division, an inspector suspects, on reasonable grounds, that the animal is in distress (as referred to in section 24H (5)) or any of the circumstances referred to in section 24I exist in relation to the animal, the inspector may do any or all of the following:
  - (a) take possession of the animal (or, if the animal is dead, the animal's carcass),
  - (b) if appropriate, remove the animal (or carcass) to such place as the inspector thinks fit,
  - (c) retain possession of the animal (or carcass),
  - (d) provide the animal with necessary food, drink or veterinary treatment,
  - (e) destroy the animal in a manner that causes it to die quickly and without unnecessary pain.
- (2) An animal (or carcass) to which section 24I (a) applies may be retained by an inspector for a period not exceeding 60 days or where, within that 60-day period proceedings are commenced in respect of the offence concerned, until the proceedings are finally determined (unless the court before which the proceedings are being taken otherwise directs).
- (3) Despite subsection (2), an animal retained under this section that is in distress or to which section 24I (b), (c) or (d) applies may be retained for such period of time as is sufficient for the animal to be provided with necessary food, drink or veterinary treatment, or to be destroyed in a manner that causes it to die quickly and without unnecessary pain, as the case requires.
- (4) The reasonable expenses incurred by:
  - (a) an inspector who is a police officer or another person on behalf of the NSW Police Force, or
  - (b) an inspector who is an officer of a charitable organisation or another person on behalf of the organisation, or
  - (c) an inspector who is a member of staff of a Department (within the meaning of the *Public Sector Employment and Management Act 2002*) or another person on behalf of the Crown,

in the exercise of the powers conferred by this section in respect of an animal, or in complying with the related duties imposed by this Act or the regulations, may be recovered from the owner of the animal as a debt in a court of competent jurisdiction

by the inspector or any other person acting on behalf of the NSW Police Force, a charitable organisation or the Crown.

#### **24K Power of seizure of evidence of offences**

- (1) An inspector who is lawfully on any land investigating a suspected commission of an offence against this Act or the regulations may seize any thing that will afford evidence of the commission of the offence.
- (2) An inspector who seizes a thing under this section must provide the occupier of the land with a receipt acknowledging the seizure of the thing if the occupier is present and it is reasonably practical to do so.
- (3) If an inspector seizes a thing under this section, it may be retained by the inspector until the completion of any proceedings (including proceedings on appeal) in which it may be tendered in evidence.
- (4) However, an inspector may retain seized documents under subsection (3) only if the person from whom the documents were seized is provided, within a reasonable time after the seizure, with a copy of the documents certified by an inspector to be a true copy.
- (5) Subsection (3) ceases to have effect in relation to any thing seized if, on the application of the person aggrieved by the seizure, the court in which the proceedings referred to in that subsection are instituted orders the inspector to return the thing seized.

#### **24L Period for search limited**

- (1) An inspector who enters land under this Division must not remain on the land any longer than is reasonably necessary to achieve the purpose for which the land was entered.
- (2) A police officer who detains a vehicle or vessel under this Division must not detain the vehicle or vessel any longer than is reasonably necessary to achieve the purpose for which it is detained.

#### **24M Inspectors may be assisted in exercising powers**

An inspector may exercise a power conferred by this Division:

- (a) in a place other than residential premises—in the company and with the aid of such assistants as the inspector considers necessary, or
- (b) in residential premises—in the company and with the aid of such assistants, being persons of a class prescribed by the regulations, as the inspector considers necessary.

## **24N Notices in relation to care of animals**

- (1) If an inspector is satisfied on reasonable grounds that a person is contravening a provision of this Act or the regulations in relation to the care of an animal, the inspector may give the person a notice in writing specifying the action that the inspector considers is required to be taken for the care of the animal in order to avoid any further contravention.
- (2) The notice (and any evidence of the taking or failure to take the action specified in the notice) is admissible in any proceedings against the person for an offence against this Act or the regulations relating to:
  - (a) the alleged contravention in respect of which the notice was given, or
  - (b) an alleged contravention of a similar kind occurring after the notice was given.

## **Part 3 Miscellaneous**

### **25-26A (Repealed)**

### **26AA Powers of veterinary practitioners to destroy animals**

- (1) Where, in the opinion of a veterinary practitioner:
  - (a) an animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive, and
  - (b) the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain upon the animal,the veterinary practitioner may:
  - (c) take possession of the animal,
  - (d) remove the animal to such place as the veterinary practitioner thinks fit, and
  - (e) destroy the animal, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.
- (2) The reasonable costs incurred by a veterinary practitioner in the exercise of the powers conferred upon the veterinary practitioner by subsection (1) in respect of an animal may be recovered from the owner of the animal as a debt in a court of competent jurisdiction by the veterinary practitioner.

### **26B Power of sale-yard or abattoir managers to destroy animals**

- (1) This section applies in respect of an animal in a sale-yard or abattoir that, in the opinion of the manager of the sale-yard or abattoir:
  - (a) is so severely injured, so diseased or in such a physical condition that it is cruel to

keep it alive, and

(b) is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain on the animal.

(2) The manager of the sale-yard or abattoir may destroy, or cause to be destroyed, an animal to which this section applies in a manner that causes it to die quickly and without unnecessary pain.

(3) The manager of the sale-yard or abattoir, when destroying an animal in accordance with this section, is taken to have the same powers as an officer has to destroy an animal under this Act.

### **27-27B (Repealed)**

### **28 Obstruction of persons exercising powers etc**

A person shall not obstruct, hinder or interfere with any other person while that other person is exercising or performing any power, authority, duty or function conferred upon that other person by or under this Act.

Maximum penalty: 50 penalty units.

### **28A Offence of impersonating an authorised officer**

A person must not impersonate, or falsely represent that the person is, an officer.

Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.

### **29 Court may order production of animal**

(1) Upon complaint made on oath by an officer that the officer suspects, on reasonable grounds, that an offence against this Act or the regulations is being, or has been, committed in respect of an animal, a Magistrate may issue a summons against a person in charge of the animal requiring the person to produce the animal, or cause the animal to be produced, before a court specified in the summons, and at a time and date so specified, for the inspection of the court.

(2) A person upon whom a summons issued under subsection (1) is served shall not, without reasonable cause, fail to comply with the summons.

Maximum penalty: 25 penalty units.

### **29A False or misleading entries in registers**

A person shall not knowingly make, or authorise the making of, a false or misleading entry in a register that the person is required to keep or cause to be kept under this Act or the regulations.

Maximum penalty: 50 penalty units.



### **29B False information**

- (1) This section applies to the provision of information to an officer in the exercise of a power conferred on the officer by this Part to require the provision of the information.
- (2) A person who provides information to which this section applies that the person knows is false or misleading in a material particular is guilty of an offence.

Maximum penalty: 50 penalty units.

- (3) A person is not guilty of an offence against this section unless the officer:
  - (a) warned the person of the requirement to provide information that is not false or misleading, and
  - (b) identified himself or herself to the person as an officer.

### **29C Court may make order regarding care of animals**

- (1) This section applies if:
  - (a) an officer has located an animal or animals that require urgent maintenance and care, and
  - (b) the owner of the animal or animals has died or cannot, after reasonable inquiries by the officer, be located, and
  - (c) so far as the officer can ascertain, after the making of reasonable inquiries, no other person is responsible for the maintenance and care of the animal or animals.
- (2) An officer may apply to a court and the court may order, in circumstances to which this section applies, that the officer be permitted to enter and use the facilities of the place on which the animal or animals are located for their immediate maintenance and care, subject to such conditions (if any) that the court may specify.
- (3) Before applying for an order under this section, the officer must obtain, or cause to be obtained, advice as to the appropriate care of the animal or animals:
  - (a) in the case of livestock—from a rural lands protection board or the Department of Agriculture, or
  - (b) in the case of other animals—from an appropriate body or person.
- (4) An order under this section has effect for such period (not exceeding 30 days) that the court orders.
- (5) An officer may, before the expiration of an order made under this section, apply to the court for a further order. However, the maximum duration of all orders made by a court in respect of the same animal or animals must not exceed 90 days.

- (6) In this section, **facilities** includes stock-yards and other fixed improvements used for the keeping of livestock or other animals, water and watering equipment and any stock or other feed growing or stored on the place on which the animal or animals are located that is necessary and appropriate for their maintenance and care.

### **30 Court may order destruction of animal**

- (1) Where:

- (a) a court has convicted a person of an offence against this Act or the regulations in respect of an animal, and
- (b) the court is satisfied that the animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive,

the court may:

- (c) make an order that the animal be destroyed by such person as is specified in the order, and
  - (d) where it has made an order under paragraph (c)—make a further order that the person referred to in paragraph (a) pay to the person specified in the order made under paragraph (c) such costs in respect of the destruction of the animal as are specified in that further order.
- (2) A person specified in an order made under subsection (1) (c) shall, as soon after that person has been served with the order as is practicable, destroy the animal to which the order relates, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.
- (3) Where a court has made an order under subsection (1) (d), the person to whom the costs specified in the order are required by the order to be paid may recover those costs from the person who is required by the order to pay those costs as a debt in a court of competent jurisdiction.

### **30A Court may order payment of certain costs**

- (1) Where a court has convicted a person of an offence against this Act or the regulations in respect of an animal, the court may order that the person convicted pay to a person, a charitable organisation, the police force or a government department specified in the order such amount as is specified in the order for expenses incurred with respect to any one or more of the following:
- (a) taking possession of the animal,
  - (b) transporting the animal,
  - (c) providing the animal with food and drink,

- (d) providing the animal with shelter, or
- (e) providing the animal with veterinary treatment.

- (2) Where a court has made an order under subsection (1), the person or organisation to whom or which the specified amount is required by the order to be paid, or a person acting on behalf of any such organisation, may recover the amount as a debt in a court of competent jurisdiction from the person who is required by the order to pay that amount.
- (3) Nothing in this section limits the operation of section 24J (4), 26AA or 30.

### **31 Court may make further orders relating to convicted persons**

- (1) If a court has convicted a person of an offence against Part 2, or an offence against the regulations involving the way in which an animal was treated, and the court is satisfied that, were the person to be in charge of an animal, the person would be likely to commit another such offence, the court may make either or both of the following orders:
  - (a) such order as the court thinks fit for the disposal of any animal in respect of which the person is a person in charge,
  - (b) an order that the person is not to purchase or acquire, or take possession or custody of, any animal within such period as is specified in the order.
- (2) An order under subsection (1) may be made by the court in addition to any penalty that it may otherwise impose in relation to the person concerned.
- (3) A person upon whom an order made under subsection (1) is served shall not fail to comply with the order.

Maximum penalty: 25 penalty units.

- (4) If an officer has taken possession of an animal under section 24J (1) in relation to the alleged commission of an offence against this Act or the regulations, the officer may apply to the court before which the proceedings for the offence are commenced for an order for the disposal of the animal before the proceedings are finally determined.
- (5) The court to which an application under subsection (4) is made may:
  - (a) order that the animal in respect of which the application is made 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.

### **31A Sale of certain animals by charitable organisations**

(1) This section applies in respect of the following:

- (a) an animal retained by an officer of a charitable organisation in accordance with this Act,
- (b) a stray or abandoned animal delivered to or otherwise coming into the possession of a charitable organisation,
- (c) an animal surrendered to a charitable organisation.

(1A) A charitable organisation may sell or rehouse, either permanently or temporarily, an animal to which this section applies (other than an animal that was surrendered by its owner to the charitable organisation), or cause any such animal to be humanely killed and its body disposed of, if:

- (a) the animal has been kept by the charitable organisation for a period of not less than 21 days, and
- (b) the charitable organisation has made reasonable inquiries to find the owner or person in charge of the animal, and
- (c) within that 21-day period, the owner or person in charge of the animal has not been found or come forward to claim the animal or has refused to take care of the animal.

(1B) A charitable organisation may at any time sell or rehouse, either permanently or temporarily, an animal to which this section applies that was surrendered by its owner to the charitable organisation, or cause any such animal to be humanely killed and its body disposed of.

(2) When an animal is sold in accordance with this section:

- (a) the purchaser acquires a good title to the animal, and
- (b) the interest of the former owner or any other person who had an interest in the animal is extinguished.

(3) Compensation is not recoverable against any person or organisation in respect of the sale or other disposal of an animal in accordance with this section.

(4) An animal may not be sold or otherwise disposed of under this section if:

- (a) any proceedings in respect of the animal for an offence against this Act or the regulations have been commenced but have not been finally determined, or

(b) an order has been made by a court under section 30 or 31 in respect of the destruction or other disposal of the animal.

(5) Nothing in this section authorises a charitable organisation to sell or rehouse a dog that is a restricted dog within the meaning of the *Companion Animals Act 1998*.

### **32 Sale-yard owner may recoup expenses**

The reasonable costs incurred by the owner or lessee of a sale-yard in complying with the duties imposed upon that owner or lessee by this Act or the regulations in respect of a stock animal which is confined in the sale-yard may be recovered by that owner or lessee from the owner of the animal as a debt in a court of competent jurisdiction.

#### **32A Compensation not recoverable**

- (1) Compensation is not recoverable against any person in respect of the destruction of an animal in accordance with section 26AA (1), 24J or 30 (2).
- (2) Compensation is not recoverable against any person in respect of:
  - (a) the disposal of an animal in accordance with a court order made under section 31 (5), or
  - (b) the use of the facilities of a place in accordance with a court order made under section 29C.

### **33 Alternative summons**

- (1) Where, at any time during proceedings for an offence against this Act or the regulations in respect of an animal, the person accused of the offence satisfies the court before which those proceedings are being taken that the act or omission in respect of which those proceedings are being taken was done, authorised to be done or omitted to be done by that person in compliance with an express direction given by:
  - (a) the owner of the animal, or
  - (b) where that person was bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal—the servant or agent,that court:
  - (c) may:
    - (i) make an order that that person be discharged, or
    - (ii) adjourn those proceedings until the proceedings referred to in subsection (2) have been determined, and
  - (d) may issue a summons against that owner, servant or agent, as the case may be, in respect of the offence:

- (i) within a period of 6 months after that time, or
- (ii) within a period of 2 years after the date on which it is alleged that the offence occurred,

whichever period expires earlier.

- (2) In any proceedings against a person for an offence in respect of which a summons has been issued against that person under subsection (1), the court before which the proceedings are being taken may, where it convicts that person of the offence, make an order that that person pay such costs in respect of the proceedings firstmentioned in that subsection as it thinks fit.

### **33A Offences by corporations**

- (1) If a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.
- (2) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or convicted under the provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

### **33B Permitting or failing to prevent commission or continuance of offence**

- (1) A person who owns or has the charge of an animal and who:
  - (a) knowingly permits an offence against this Act or the regulations to be committed in respect of the animal, or
  - (b) fails, without reasonable excuse, to prevent the commission or continuance of such an offence,is guilty of an offence against this Act.
- (2) A person who owns or occupies land on which an animal is located and who:
  - (a) knowingly permits an offence against this Act or the regulations to be committed on the land in respect of the animal, or
  - (b) fails, without reasonable excuse, to prevent the commission or continuance of such an offence,is guilty of an offence against this Act.

- (3) The maximum penalty for an offence against this section is the maximum penalty under this Act for the offence permitted under subsection (1) (a) or (2) (a) or not prevented under subsection (1) (b) or (2) (b).

### **33C Complicity and common purpose**

- (1) A person who aids, abets, counsels or procures the commission of an offence against this Act or the regulations by another person is taken to have committed that offence and is punishable accordingly.
- (2) For the person to be found guilty:
  - (a) the person's conduct must have in fact aided, abetted, counselled or procured the commission of the offence by the other person, and
  - (b) the offence must have been committed by the other person.
- (3) A person cannot be found guilty of aiding, abetting, counselling or procuring the commission of an offence if, before the offence was committed, the person:
  - (a) terminated his or her involvement, and
  - (b) took all reasonable steps to prevent the commission of the offence.
- (4) A person may be found guilty of aiding, abetting, counselling or procuring the commission of an offence even if the principal offender has not been proceeded against or convicted for the offence.

### **33D Attempts**

A person who attempts to commit an offence for which a penalty is provided under this Act or the regulations is guilty of an offence and liable to that penalty.

### **33E Penalty notices**

- (1) An inspector (within the meaning of Division 2 of Part 2A) may serve a penalty notice on a person if it appears to the inspector that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

### **33F Offences in respect of more than one animal**

- (1) In proceedings for an offence against section 5, 6, 7 or 8, an allegation may be made that the act or omission that constituted the alleged offence related to more than one animal.
- (2) In sentencing a person for an offence against section 5, 6, 7 or 8, a court may take into account whether the act or omission that constituted the offence related to more than one animal. However, if the person has already been prosecuted in respect of that act or omission, the court is to take into account any penalty that was imposed on the person as a result of that prosecution.

### **34 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations may be dealt with:
  - (a) summarily before a Local Court constituted by a Magistrate sitting alone, or
  - (b) by the Supreme Court in its summary jurisdiction.
- (2) If proceedings are brought before a Local Court, the maximum pecuniary penalty that a magistrate may impose for the offence is, despite any other provision of this Act, 200 penalty units.
- (3) A court shall not convict a person of an offence against this Act or the regulations in respect of an act or omission where that, or any other, court has convicted the person of that, or any other, offence against this Act or the regulations in respect of that act or omission.



- (4) Despite the *Criminal Procedure Act 1986* or any other Act, proceedings for an offence against this Act or the regulations may be commenced not later than 12 months after the date alleged to be the date on which the offence was committed.

**34AA Authority to prosecute**

- (1) Proceedings for an offence against this Act or the regulations may be instituted only by:
- (a) an approved charitable organisation, or
  - (b) an inspector within the meaning of Division 2 of Part 2A, other than a police officer, or
  - (c) a police officer, or
  - (d) the Minister or the Director-General of the Department of Primary Industries, or
  - (e) a person with the written consent of the Minister or that Director-General, or
  - (f) any other person or body prescribed by the regulations for the purpose of this section.
- (2) In proceedings for an offence against this Act or the regulations, a consent to institute the proceedings, purporting to have been signed by the Minister or the Director-General of the Department of Primary Industries, is evidence of that consent without proof of the signature of the Minister or Director-General.

**34A Guidelines relating to welfare of farm or companion animals**

- (1) The regulations may prescribe guidelines, or may adopt a document in the nature of guidelines or a code of practice as guidelines, relating to the welfare of species of farm or companion animals.
- (2) Before any regulations are made as referred to in subsection (1), the Animal Welfare Advisory Council, and representatives of any relevant livestock industry, are to be given an opportunity to review and comment on the provisions of the proposed regulation relating to the welfare of species of farm or companion animals.
- (3) Compliance, or failure to comply, with any guidelines prescribed or adopted by the regulations for the purposes of subsection (1) is admissible in evidence in proceedings under this Act of compliance, or failure to comply, with this Act or the regulations.
- (4) A document adopted as referred to in subsection (1) may be adopted wholly or in part, with or without modification and as in force at a particular time or as in force from time to time.

### **34B Approved charitable organisations**

- (1) The Minister may, by order published in the Gazette, approve of a charitable organisation for the purposes of the exercise by its officers of law enforcement powers under this Act.
- (2) The Minister may, by order published in the Gazette, withdraw an approval given under this section if the Minister considers that it is in the public interest to do so.
- (3) A charitable organisation that has been approved in accordance with this section must, within 3 months after 30 June in each year, provide the Minister with a report addressing such matters in relation to the exercise by itself or its officers of functions under this Act as may be prescribed by the regulations.
- (4) In addition, a charitable organisation that has been approved in accordance with this section must, if requested by the Minister to do so, provide the Minister with a report on any matter specified by the Minister that relates to the enforcement of this Act by the organisation.

### **35 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
  - (a) the conditions under which any animal or species of animal may be:
    - (i) confined,
    - (ii) carried or conveyed,
    - (iii) kept or used in connection with a circus, or
    - (iv) kept or used in connection with the production of films, television programmes or film, television or photographic advertisements or theatrical performances,
  - (b) the accommodation or shelter to be provided for any animal or species of animal,
  - (c) the manner in which, and the conditions under which, any animal or species of animal may be destroyed,
  - (d) the licensing, prohibition, regulation and control of animal trades,
  - (e) the fees to be paid in connection with the issue of a licence under this Act,
  - (f) the keeping of records or log books by persons who carry or convey animals, and

(g) the keeping of registers by veterinary practitioners and persons carrying on animal trades.

(2) A provision of a regulation may:

(a) apply generally or be limited in its application by reference to specified exceptions or factors,

(b) apply differently according to different factors of a specified kind,

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body, or

(d) exempt any person, or any specified class of persons, either absolutely or subject to conditions, from the operation of any specified provision of this Act,

or may do any combination of those things.

(3) A regulation may impose a penalty not exceeding 25 penalty units for an offence against the regulation.

(4) A regulation made under subsection (1) (d) may:

(a) with respect to the licensing of an animal trade, provide for the issue of a licence subject to such conditions as the regulation may impose, or

(b) with respect to the regulation or control of an animal trade, provide that a person shall not conduct an animal trade unless the person is the holder of a licence issued in respect of the animal trade.

(5) Without limiting the generality of subsection (1), a regulation made for the purposes of section 23 may:

(a) prescribe, as a part of New South Wales, the whole of New South Wales except such part thereof as may be specified in the regulation, and

(b) prescribe a type of trap:

(i) by words,

(ii) by reference to a photographic representation which is depicted in, and forms part of, the regulation, or

(iii) by reference to a diagram which is depicted in, and forms part of, the regulation,

or by any combination of those methods.

**35A Act binds Crown**

- (1) This Act binds the Crown in right of New South Wales and, so far as the legislative power of Parliament permits, the Crown in all its other capacities, except as provided in subsection (2).
- (2) This Act does not apply:
- (a) to the use and handling of police dogs and police horses by police officers, or drug detection dogs by officers of the Department of Corrective Services, in the course of their duties, or
- (b) to other cases prescribed by the regulations.

**36 Repeals and savings and transitional provisions**

- (1) Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.
- (2) Schedule 2 has effect.

**Schedule 1 Repeals**

(Section 36 (1))

<b>Column 1</b>		<b>Column 2</b>
<b>Year and number of Act</b>	<b>Short title of Act</b>	<b>Extent of repeal</b>
1901, No 64	<a href="#">Prevention of Cruelty to Animals Act 1901.</a>	The whole Act.
1928, No 54	<a href="#">Prevention of Cruelty to Animals (Amendment) Act 1928.</a>	The whole Act.
1937, No 35	<a href="#">Statute Law Revision Act 1937.</a>	So much of the Second Schedule as amended Act No 64, 1901.
1943, No 44	<a href="#">Prevention of Cruelty to Animals (Amendment) Act 1943.</a>	Sections 1 (2) and (3) and 2 (1) and (3).
1951, No 17	<a href="#">Prevention of Cruelty to Animals (Amendment) Act 1951.</a>	The whole Act.
1952, No 1	<a href="#">Prevention of Cruelty to Animals (Amendment) Act 1952.</a>	The whole Act.
1953, No 35	<a href="#">Prevention of Cruelty to Animals (Amendment) Act 1953.</a>	Sections 1 (2) and (3) and 2.
1967, No 91	<a href="#">Prevention of Cruelty to Animals (Amendment) Act 1967.</a>	Sections 1 (2), 2, 3, 4 and 5 (2).

1973, No 45	<a href="#">Prevention of Cruelty to Animals (Amendment) Act 1973.</a>	The whole Act.
1977, No 19	<a href="#">Notice of Action and Other Privileges Abolition Act 1977.</a>	So much of Schedule 1 as amended Act No 64, 1901.

## Schedule 2 Savings and transitional provisions

(Section 36 (2))

### Part 1 General

#### 1 Regulations

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

*[Prevention of Cruelty to Animals Amendment Act 1997](#)*

*[Prevention of Cruelty to Animals Amendment \(Tail Docking\) Act 2004](#)*

*[Prevention of Cruelty to Animals Amendment Act 2005](#)*

*[Prevention of Cruelty to Animals Amendment \(Prosecutions\) Act 2007](#)*

- (2) A provision referred to in subclause (1) 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 a provision referred to in subclause (1) 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 this Act

#### 1A Definition

In this Part, **commencement day** means the day appointed and notified under section 2 (2).

## **2 (Repealed)**

## **3 References in other Acts**

On and from the commencement day, a reference in any other Act to the *Prevention of Cruelty to Animals Act 1901* shall be read and construed as a reference to the *Prevention of Cruelty to Animals Act 1979*.

## **Part 3 Provisions consequent on enactment of *Prevention of Cruelty to Animals Amendment Act 1997***

### **4 Certain charitable organisations taken to be approved for interim period**

- (1) A charitable organisation (including the Royal Society for the Prevention of Cruelty to Animals, New South Wales and the Animal Welfare League) whose officers were authorised under this Act immediately before the commencement of section 34B is taken to be an approved charitable organisation for a period of 3 months after that commencement.
- (2) Nothing in this clause prevents:
  - (a) a charitable organisation from applying to the Minister for approval under section 34B at any time after its commencement, or
  - (b) the Minister from making an order under section 34B (2) in relation to a charitable organisation referred to in subclause (1) at any time.

### **5 Transitional arrangement—reports of approved charitable organisations**

A charitable organisation that is approved, or taken to be approved, under section 34B is not required, despite that section, to provide the Minister with a report of the exercise by its officers of law enforcement powers under this Act for the period ended 30 June 1997.

## **Part 4 Provisions consequent on enactment of *Prevention of Cruelty to Animals Amendment Act 2005***

### **6 Inspectors**

An officer who, immediately before the repeal of section 25, 26 or 26A, was the holder of a prescribed authority issued for the purposes of that section is taken on and from that repeal to have been issued with an authority by the Minister as referred to in the definition of *inspector* in section 24D (1).

### **7 Proceedings for offences**

- (1) The repeal of section 24 (1) (d) does not affect any proceedings for an offence committed before the repeal.

- (2) Section 34 (4) applies to offences whether committed before, on or after the commencement of that subsection.

## **Part 5 Provision consequent on enactment of [Prevention of Cruelty to Animals Amendment \(Prosecutions\) Act 2007](#)**

### **8 Proceedings for offences**

Section 34AA does not apply to offences committed before the commencement of that section.