

# Animal Research Act 1985 No 123

[1985-123]



New South Wales

## Status Information

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### Authorisation

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# Animal Research Act 1985 No 123



New South Wales

An Act to protect the welfare of animals used in connection with animal research.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Animal Research Act 1985*.

### 2 Commencement

- (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.
- (2) Parts 2-6 shall each commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

### 2A Object of Act

- (1) The object of this Act is to protect the welfare of animals used in connection with research by requiring persons or organisations carrying out animal research or supplying animals for research to be authorised under this Act and by regulating the carrying out of animal research and the supply of animals for research by those persons or organisations.
- (2) Authorisations under this Act may be granted only for recognised research purposes. Recognised research purposes include purposes involving the use of animals for research, teaching, testing and the production of biological products.

### 3 Definitions

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

**accredited research establishment** means a corporation which is accredited as a research establishment under section 20.

**advisory committee** means a committee appointed under section 8.

**animal** means a vertebrate animal, and includes a mammal, bird, reptile, amphibian and fish, but does not include a human being.

**animal care and ethics committee** means a committee appointed under section 13.

**animal research** means any procedure, test, experiment, inquiry, investigation or study in connection with which an animal is used and, without limiting the generality of the foregoing, includes any procedure, test, experiment, inquiry, investigation or study in the course of which—

(a) an animal is subjected to—

- (i) surgical, medical, psychological, biological, chemical or physical treatment,
- (ii) abnormal conditions of heat, cold, light, dark, confinement, noise, isolation or overcrowding,
- (iii) abnormal dietary conditions, or
- (iv) electric shock or radiation treatment, or

(b) any material or substance is extracted or derived from the body of an animal,

but does not include any procedure, test, experiment, inquiry, investigation or study which is carried out in the course of—

(c) the administration of veterinary treatment to an animal for the purpose of protecting the welfare of the animal, or

(d) the conduct of normal animal husbandry operations.

**animal research authority** means an authority issued under section 25.

**animal supplier's licence** means a licence issued under section 39.

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

**certificate of accreditation** means a certificate of accreditation issued under section 20.

**certificate of identification** means a certificate of identification issued under section 49.

**Chairperson** means the Chairperson of the Panel.

**Code of Practice** means the Code of Practice referred to in section 4.

**corporation** includes—

- (a) a Public Service agency, and
- (b) any prescribed body of persons or body of persons of a prescribed class.

**Department** means Regional NSW.

**designated land** means—

- (a) in relation to an accredited research establishment—the land designated in the establishment’s certificate of accreditation as the land in or on which it is intended that the business of animal research will be carried on by the establishment,
- (b) in relation to an animal research authority—the land designated in the authority as the land in or on which it is intended that the business of animal research will be carried on by the holder of the authority, or
- (c) in relation to an animal supplier’s licence—the land designated in the licence as the land in or on which it is intended that the supply of animals for use in connection with animal research will be conducted by the holder of the licence.

**director**, in relation to a corporation, means—

- (a) any person who holds office or acts as a director of the corporation (by whatever name called), or
- (b) any person who is concerned in the management of the corporation.

**Draize test** means the animal research procedure involving the application of any material or substance to the eye of an animal for the purpose of determining the irritancy of that material or substance to the eye.

**exempt animal** means—

- (a) any animal (including any animal that is in the wild) that belongs to the class of animals comprising cattle, horses, sheep, goats, pigs and poultry or that belongs to any other class of animals prescribed for the purposes of this paragraph, or
- (b) any other animal (including any native animal and any exotic animal) that is in the wild.

**fish** has the same meaning as in the [Fisheries Management Act 1994](#).

**forced smoke inhalation experiment** means animal research in which an animal is forced to inhale smoke by—

- (a) the placement of the animal in an instrument of restraint, and
- (b) the administration of smoke directly to the animal’s nose or head.

**forced swim test**—



- (a) means animal research in which an animal, other than a fish, is—
- (i) placed in water, and
  - (ii) forced to swim, as the animal is unable to escape or stand, and
- (b) does not include animal research that has the effect, or likely effect, of protecting or promoting the welfare of the animal on which the research is carried out.

**Example for paragraph (b)—**

Animal research involving hydrotherapy.

**inspector** means an inspector appointed under section 49.

**land** includes premises.

**LD50 test** means the animal research procedure in which any material or substance is administered to animals for the purpose of determining the concentration or dose of the material or substance which will achieve any predetermined death rate.

**licensed animal supplier** means the holder of an animal supplier's licence.

**Panel** means the Animal Research Review Panel constituted by this Act.

**premises** includes any structure, building, aircraft, vehicle, vessel or place (whether built upon or not) and any part thereof.

**product testing** means the testing of a product intended to be used for therapeutic, cosmetic, agricultural, veterinary, industrial or household purposes, or such other purposes as may be prescribed by the regulations, and includes the testing of a constituent of the product.

**recognised research purpose** means—

- (a) the purpose of acquiring, demonstrating or developing knowledge in the field of medical, veterinary, agricultural, behavioural or biological science,
- (b) the purpose of acquiring, demonstrating, exercising or developing techniques used in the practice of medical, veterinary, agricultural, behavioural or biological science,
- (c) the purpose of developing or testing substances intended for therapeutic use (within the meaning of the [Therapeutic Goods Act 1989](#) of the Commonwealth), or
- (d) any purpose prescribed for the purposes of this paragraph.

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

**Secretary** means the Secretary of the Department.

**smoke** includes—

- (a) aerosol or vapour produced by an e-cigarette, and
  - (b) smoke produced by a cigarette or cigar.
- (2) In this Act, a reference to the carrying on of the business of animal research is a reference to the carrying on of any business or activity (whether or not for gain) in the course of which animal research is carried out.
- (3) In this Act, a reference to the supply of animals for use in connection with animal research includes a reference to the obtaining, breeding, nurturing or keeping of animals for the purpose of their being supplied for use in connection with animal research.
- (4) In this Act—
- (a) a reference to a function includes a reference to a power, authority and duty, and
  - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

#### **4 Code of Practice**

- (1) The regulations may prescribe a Code of Practice with respect to the conduct of animal research and the supply of animals for use in connection with animal research.
- (2) For the purposes of prescribing such a Code, the regulations may apply, adopt or incorporate by reference, wholly or in part and with or without modification, any standards, rules, codes, specifications or methods as in force at a particular time or as in force from time to time, prescribed or published by any authority or body, whether or not it is a New South Wales authority or body.

#### **5 Act binds Crown**

This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, in all its other capacities.

## **Part 2 The Animal Research Review Panel**

#### **6 The Panel**

- (1) There is by this Act constituted the Animal Research Review Panel.
- (2) The Panel shall consist of 12 members appointed by the Minister, of whom—
  - (a) 3 shall be persons (each having such qualifications as may be prescribed) nominated by the New South Wales Vice-Chancellors' Committee,
  - (b) one shall be a person selected by the Minister from a panel of 3 persons (each

having such qualifications as may be prescribed) nominated by Medicines Australia,

- (c) 2 shall be persons selected by the Minister from a panel of 5 persons (each having such qualifications as may be prescribed) nominated by the Royal Society for the Prevention of Cruelty to Animals, New South Wales,
- (d) 2 shall be persons selected by the Minister from a panel of 5 persons (each having such qualifications as may be prescribed) nominated by the Animal Societies' Federation (N.S.W.),
- (e) one shall be a person nominated by the Minister for Health,
- (f) one shall be a person nominated by the Minister for Education and Training,
- (g) one shall be a person nominated by the Minister administering the *Biosecurity Act 2015*, and
- (h) one shall be an officer of the Department of Climate Change, Energy, the Environment and Water nominated by the Minister administering the *National Parks and Wildlife Act 1974*.

(3) Where, but for this subsection, the Minister would be unable to appoint a member of the Panel because of the failure of the relevant nominating body to nominate a person or panel of persons in accordance with the relevant paragraph of subsection (2)—

- (a) the Minister may appoint any duly qualified person to hold office as that member, and
- (b) the person so appointed shall be a member of the Panel and shall be deemed to have been appointed in accordance with that paragraph.

(4) Where—

- (a) a body referred to in subsection (2) changes its name, and
- (b) the Minister is satisfied that the change of name is not accompanied by any change in the nature of the body,

the Minister may, by order published in the Gazette, certify to that effect and, on and from the day on which the order is so published, a reference in subsection (2) to that body shall be read as a reference to that body under its changed name.

- (5) The Panel shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.
- (6) Schedule 1 has effect with respect to the members of the Panel.
- (7) Schedule 2 has effect with respect to the procedure of the Panel.

## **7 Staff**

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Panel to exercise its functions.

### **Note—**

Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Panel makes use of) may be referred to as officers or employees, or members of staff, of the Panel. Section 47A of the *Constitution Act 1902* precludes the Panel from employing staff.

## **8 Advisory committees**

- (1) The Panel may, with the consent of the Minister, appoint such advisory committees as may be necessary to enable it to exercise its functions.
- (2) Subject to subsection (3), the constitution and procedure of an advisory committee shall be as prescribed.
- (3) At least one of the members of an advisory committee shall be a member of the Panel.

## **9 Functions of the Panel**

The Panel has the following functions—

- (a) the investigation of matters relating to the conduct of animal research and the supply of animals for use in connection with animal research,
- (b) the investigation and evaluation of the efficacy of the Code of Practice in regulating the conduct of animal research and the supply of animals for use in connection with animal research,
- (c) the investigation of applications and complaints referred to it under this Act, and
- (d) such other functions as the Minister may from time to time confer or impose on it.

## **10 Inspections**

- (1) The Panel may at any time request the Secretary to cause an inspection to be made of the designated land of an accredited research establishment or of the designated land in relation to an animal research authority or animal supplier's licence.
- (2) The Panel may, by instrument in writing, authorise a member of the Panel to accompany an inspector during the conduct of an inspection referred to in subsection (1).

## **11 Annual reports**

- (1) As soon as practicable after 30 June, but on or before 31 December, in each year, the Panel shall prepare and forward to the Minister a report of its work and activities for

the 12 months ending on 30 June in that year.

- (1A) Without limiting subsection (1), the report must include the following information about applications made to the Panel under section 54C(4)(a)—
- (a) the number of applications made,
  - (b) the number of applications approved,
  - (c) the number of applications refused,
  - (d) for each application approved—
    - (i) the number of animals subject to the approval, and
    - (ii) the length of the animal research project, and
    - (iii) the reasons the relevant animal care and ethics committee was satisfied the project was justified to run for longer than 3 years, and
    - (iv) the nature of the research.
- (2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

## **12 Delegation**

- (1) The Panel may delegate to a person the exercise of any of its functions, other than this power of delegation.
- (2) A delegation under this section—
- (a) shall be in writing,
  - (b) may be general or limited, and
  - (c) may be revoked, wholly or partly, by the Panel.
- (3) A delegate is, in the exercise of a function delegated under this section, subject to such conditions as are specified in the instrument of delegation.
- (4) A function delegated under this section, when exercised by the delegate, shall be deemed to have been exercised by the Panel.
- (5) A delegation under this section does not prevent the exercise of a function by the Panel.
- (6) A function purporting to have been exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

## **Part 3 Animal care and ethics committees**

### **13 Constitution of animal care and ethics committees**

- (1) A person may appoint an animal care and ethics committee.
- (2) If a corporation is accredited as a research establishment or a person is granted an animal supplier's licence, the animal care and ethics committee appointed by the person under subsection (1) becomes the animal care and ethics committee for the accredited research establishment or licensed animal supplier.
- (3) The Secretary may, on the recommendation of the Panel, appoint animal care and ethics committees for the purpose of supervising the animal research carried out by holders of animal research authorities.
- (4) Subject to subsection (5), the constitution and procedure of an animal care and ethics committee shall be as prescribed.
- (5) At least one of the members of an animal care and ethics committee shall be a person who—
  - (a) is not involved in the conduct of animal research or the supply of animals for use in connection with animal research, and
  - (b) is not associated with any accredited research establishment otherwise than in the person's capacity as a member of such a committee.

### **14 Functions of animal care and ethics committees**

- (1) The animal care and ethics committee for an accredited research establishment has the following functions—
  - (a) the making of recommendations concerning the granting of animal research authorities by the establishment,
  - (b) the supervision of the carrying out of animal research by holders of animal research authorities granted by the establishment, and
  - (c) such other functions as may be conferred or imposed on it by the Code of Practice.
- (1A) The animal care and ethics committee for a licensed animal supplier has the following functions—
  - (a) the supervision of the supply of animals for use in connection with animal research by the animal supplier, and
  - (b) such other functions as may be conferred or imposed on it by the Code of Practice.

- (1B) If a corporation is both an accredited research establishment and a licensed animal supplier, the animal care and ethics committee for the corporation has both the functions set out in subsection (1) and (1A).
- (2) An animal care and ethics committee appointed by the Secretary has the following functions—
  - (a) the making of recommendations concerning the granting of animal research authorities by the Secretary,
  - (b) the supervision of the carrying out of animal research by holders of animal research authorities granted by the Secretary,
  - (c) such other functions as may be conferred or imposed on it by the Code of Practice.

### **15 Appointment of animal care and ethics subcommittees**

- (1) An accredited research establishment or licensed animal supplier may, on the recommendation of the animal care and ethics committee for the establishment or supplier, appoint animal care and ethics subcommittees to assist the animal care and ethics committee in the exercise of its functions.
- (2) The constitution and procedure of an animal care and ethics subcommittee shall be as prescribed.

### **16 Functions of animal care and ethics subcommittees**

- (1) The Code of Practice may empower an animal care and ethics committee to delegate specified functions to its animal care and ethics subcommittees.
- (2) An animal care and ethics subcommittee has such functions as may be delegated to it pursuant to subsection (1).

## **Part 4 Accreditation and licensing**

### **Division 1 Interpretation**

#### **17 Definitions**

- (1) In this Part—

***approved*** means approved for the time being by the Secretary.

***disqualified corporation*** means a corporation that—

- (a) has, within the previous 3 years, been convicted of an offence arising under Part 5 of this Act or Part 2 of the [Prevention of Cruelty to Animals Act 1979](#), or
- (b) has a disqualified individual as one of its directors.

***disqualified individual*** means an individual who—

- (a) has, within the previous 3 years, been convicted of an offence arising under Part 5 of this Act or Part 2 of the *Prevention of Cruelty to Animals Act 1979*, or
  - (a1) was the holder of an animal research authority or animal supplier's licence that was cancelled by the Secretary within the previous 12 months, or
  - (b) is a director of a disqualified corporation.
- (2) In this Part, a reference to an animal care and ethics committee in relation to an animal research authority is a reference to the animal care and ethics committee specified in the authority.

## **Division 2 Accreditation of research establishments**

### **18 Applications for accreditation**

- (1) A corporation may apply to the Secretary for accreditation as a research establishment.
- (2) An application shall—
  - (a) be in or to the effect of the approved form,
  - (b) include the prescribed particulars,
  - (c) identify the land in or on which the applicant intends to carry on the business of animal research,
  - (d) be accompanied by the prescribed fee, and
  - (e) be lodged at the office of the Secretary.

### **19 Investigation of applications**

- (1) The Secretary shall refer all applications to the Panel for investigation.
- (2) The Panel shall investigate each application referred to it and shall furnish the Secretary with a report on each such application.

### **20 Determination of applications**

- (1) After considering the Panel's report on an application, the Secretary shall determine the application—
  - (a) by accrediting the applicant as a research establishment, either unconditionally or subject to conditions, or
  - (b) by refusing to accredit the applicant as a research establishment.



- (2) Notwithstanding subsection (1), the Secretary shall not accredit an applicant as a research establishment—
  - (a) if the applicant does not have a duly constituted animal care and ethics committee, or
  - (b) if the applicant is a disqualified corporation.
- (3) Where the Secretary refuses to accredit an applicant as a research establishment, the Secretary shall, as soon as practicable after so refusing, cause notice of the refusal, and of the reasons for the refusal, to be served on the applicant.
- (4) If, at the expiration of 90 days after an application has been made, the Secretary has failed to determine the application, the Secretary is, for the purposes only of any application to the Civil and Administrative Tribunal for an administrative review, taken to have refused to accredit the applicant as a research establishment.
- (5) The Secretary shall issue a certificate of accreditation to each corporation that the Secretary accredits as a research establishment.
- (6) A certificate of accreditation in respect of an accredited research establishment shall—
  - (a) be in or to the effect of the approved form,
  - (b) designate the land in or on which it is intended that the business of animal research will be carried on by the establishment, as identified in the application pursuant to which the establishment has been accredited,
  - (c) specify any condition to which the accreditation is subject, and
  - (d) specify the date on which the accreditation was granted.

## **21 Duration of accreditation**

- (1) Unless sooner cancelled, an accreditation remains in force as follows—
  - (a) if the research establishment has not been accredited before—12 months from the date on which the accreditation is granted,
  - (b) if the research establishment has been accredited before and during the last period of accreditation the accreditation was cancelled or suspended—12 months from the date on which the accreditation is granted or such lesser period as the Secretary determines,
  - (c) if the research establishment has been accredited before and paragraph (b) does not apply—36 months from the date on which the accreditation is granted.
- (2) Notwithstanding subsection (1), the accreditation of a research establishment has no

force or effect during any period for which it is suspended.

## **22 Complaints**

- (1) A complaint in respect of an accredited research establishment may be made to the Secretary—
  - (a) that the establishment does not have a duly constituted animal care and ethics committee,
  - (b) that animal research is being or has been carried out on behalf of the establishment—
    - (i) by an individual who is not the holder of an animal research authority issued by the establishment,
    - (ii) otherwise than with the approval, or in contravention of the directions, of the animal care and ethics committee for the establishment,
    - (iii) in contravention of the Code of Practice,
    - (iv) otherwise than for a recognised research purpose, or
    - (v) in connection with animals (other than exempt animals) that have not been obtained from the holder of an animal supplier's licence,
  - (c) that the establishment is a disqualified corporation, or
  - (d) that the establishment has failed to comply with a condition to which its accreditation is subject, including a condition taken to be imposed under Part 6A.
- (2) A complaint shall—
  - (a) be in writing,
  - (b) specify the grounds on which it is made,
  - (c) be signed by the complainant, and
  - (d) be lodged at the office of the Secretary.

## **23 Investigation of complaints**

- (1) The Secretary shall refer all complaints to the Panel for investigation.
- (2) The Panel shall investigate each complaint referred to it and shall furnish the Secretary with a report on each such complaint.

## **24 Determination of complaints**

- (1) After considering the Panel's report on a complaint, the Secretary shall determine the

complaint—

- (a) by cancelling the accreditation of the research establishment the subject of the complaint,
  - (b) by suspending the accreditation of the research establishment the subject of the complaint for such period as the Secretary thinks fit,
  - (c) by cautioning or reprimanding the research establishment the subject of the complaint, or
  - (d) by dismissing the complaint.
- (2) The Secretary shall not cancel or suspend the accreditation of a research establishment unless—
- (a) notice has been served on the establishment—
    - (i) of the Secretary's intention to cancel or suspend the accreditation, and
    - (ii) of the reasons for which the Secretary intends to cancel or suspend the accreditation,
  - (b) the establishment has had a reasonable opportunity to make submissions to the Secretary in relation to the intended cancellation or suspension of the accreditation, and
  - (c) the Secretary has considered any such submission.
- (3) As soon as practicable after determining a complaint, the Secretary shall cause written notice of the determination to be served on—
- (a) the research establishment the subject of the complaint, and
  - (b) the complainant.
- (4) The cancellation or suspension of accreditation of a research establishment takes effect at the expiration of 14 days after written notice of the cancellation or suspension is served on the establishment, subject to any order made by the Civil and Administrative Tribunal under Division 2 of Part 3 of Chapter 3 of the [Administrative Decisions Review Act 1997](#).

## **Division 3 Animal research authorities**

### **25 Authorities may be issued by Secretary and accredited research establishments**

- (1) The Secretary or an accredited research establishment may issue an authority to any individual to carry out animal research for the purpose of a particular research project.
- (2) The Secretary may issue an animal research authority only on the recommendation of

an animal care and ethics committee.

- (3) An accredited research establishment may issue an animal research authority only on the recommendation of its animal care and ethics committee.
- (4) An animal research authority is not to be issued to a disqualified individual.

#### **25A Application to Secretary**

- (1) An individual may apply to the Secretary for an animal research authority.
- (2) The application must—
  - (a) be in or to the effect of the approved form, and
  - (b) include such particulars of the research project in connection with which the animal research is to be carried out as may be prescribed by the regulations, and
  - (c) include particulars of any application made to an accredited research establishment for an animal research authority in respect of the same project and of any refusal of such an application, and
  - (d) identify the land in or on which the applicant intends to carry out the animal research, and
  - (e) include particulars of any cancellation of any animal research authority or animal supplier's licence previously held by the applicant, and
  - (f) be accompanied by the fee prescribed by the regulations, and
  - (g) be lodged at the office of the Secretary.
- (3) Subject to section 25, the Secretary is to determine an application—
  - (a) by issuing the authority to the applicant, or
  - (b) by refusing to issue an authority to the applicant.
- (4) If the Secretary refuses to issue an authority, the Secretary is, as soon as practicable after so refusing, to cause notice of the refusal, and of the reasons for the refusal, to be served on the applicant for the authority.
- (5) If, at the expiration of 90 days after an application has been made, the Secretary has failed to determine the application, the Secretary is, for the purposes only of any application to the Civil and Administrative Tribunal for an administrative review, taken to have refused to grant an authority to the applicant.

#### **25B Applications to accredited research establishments**

- (1) An individual may apply to an accredited research establishment for an animal

research authority.

(2) The application must—

- (a) include such particulars of the research project in connection with which the animal research is to be carried out as may be prescribed by the regulations, and
- (b) include particulars of any application made to the Secretary or another accredited research establishment for an animal research authority in respect of substantially the same project and any refusal of such an application, and
- (c) identify the land in or on which the applicant intends to carry out the animal research, and
- (d) include particulars of any cancellation of any animal research authority or animal supplier's licence previously held by the applicant, and
- (e) otherwise be made in the form and manner approved by the accredited research establishment.

(3) Subject to section 25, an accredited research establishment may determine an application by issuing an animal research authority or refusing to issue an animal research authority.

### **25C Applications by independent researchers**

- (1) An accredited research establishment may charge a fee in respect of an application for an animal research authority (including an application for renewal of an animal research authority) that is made by an independent researcher.
- (2) The maximum fee that may be charged is the amount prescribed by the regulations as the maximum application fee.
- (3) An accredited research establishment must ensure that a record is kept for the period prescribed by the regulations that includes the particulars prescribed by the regulations of all applications for animal research authorities that are made to it by independent researchers during each reporting period.

Maximum penalty—30 penalty units.

(4) An accredited research establishment that makes a record under this section must give a copy of the record to the Secretary within one month after the end of the reporting period to which the record relates.

Maximum penalty—30 penalty units.

(5) In this section—

***independent researcher***, in relation to an accredited research establishment,

means a person who carries out animal research, or applies for an authority to carry out animal research, otherwise than on behalf of the accredited research establishment.

**reporting period** means the period commencing on the commencement of this section and ending on 31 December in the same year and each subsequent period of 12 months.

## 26 Form of authorities

- (1) An animal research authority shall—
  - (a) be in or to the effect of the approved form,
  - (b) identify the person who issued the authority,
  - (c) identify the person to whom the authority is issued,
  - (c1) designate the land in or on which it is intended that the business of animal research will be carried on by the person,
  - (d) describe the kind of animal research which the authority authorises the person to carry out and the research project in connection with which the person is authorised to carry out animal research,
  - (d1) specify the animal care and ethics committee under whose supervision the individual is authorised to carry out animal research,
  - (d2) specify any conditions to which the authority is subject, and
  - (e) specify the date on which the authority is issued.
- (2) An animal research authority shall not authorise, or purport to authorise, the carrying out of animal research otherwise than—
  - (a) with the approval, and in accordance with the directions, of the animal care and ethics committee specified in the authority,
  - (b) in accordance with the Code of Practice,
  - (c) for a recognised research purpose, and
  - (d) in connection with animals (other than exempt animals) that have been obtained from the holder of an animal supplier's licence.
- (2A) An animal research authority must not authorise, or purport to authorise, the carrying out of—
  - (a) a forced smoke inhalation experiment, or

- (b) a forced swim test.
- (3) Without limiting subsection (2), an animal research authority shall not authorise, or purport to authorise, the carrying out of the LD50 test for the purpose of product testing, or the carrying out of the Draize test, except with the approval, and in accordance with the directions, of the animal care and ethics committee specified in the authority, given in accordance with subsection (4).
- (4) An animal care and ethics committee shall not approve the carrying out, by the holder of an animal research authority, of—
  - (a) the LD50 test for the purpose of product testing, except with the concurrence of the Minister, given on a recommendation for concurrence by the Panel, to the carrying out of the test for that purpose, or
  - (b) the Draize test, unless the test is to be carried out for the sole purpose of establishing that prophylactic or therapeutic materials or substances ordinarily intended for use by application to the eye are not irritants to the eye.
- (5) An application for the concurrence of the Minister under this section shall be made by the holder of the animal research authority in the form and manner determined by the Secretary.
- (6) The Minister shall refer the application to the Panel which shall, as soon as practicable, recommend to the Minister whether concurrence should be granted, unconditionally or subject to conditions, or refused.
- (7) In considering the application, the Minister and the Panel shall have regard to the Code of Practice.
- (8) The Minister may grant concurrence under subsection (4) unconditionally or subject to conditions and may impose conditions in addition to any recommended by the Panel.

## **27 Duration of authorities**

Unless sooner cancelled, an animal research authority remains in force for the period of 12 months from the date on which it was issued or, where a shorter period is specified in the authority in that regard, for the shorter period so specified.

## **28 Complaints**

- (1) The following complaints about the holder of an animal research authority may be made to the Secretary—
  - (a) that the holder of the authority is carrying out or has carried out animal research—
    - (i) otherwise than as authorised by the authority, or

- (ii) otherwise than with the approval, or in contravention of the directions, of the animal care and ethics committee specified in the authority, or
  - (iii) in contravention of the Code of Practice, or
  - (iv) otherwise than for a recognised research purpose, or
  - (v) in connection with animals (other than exempt animals) that have not been obtained from a licensed animal supplier,
- (b) that the holder of the authority is a disqualified individual,
- (c) that the holder of the authority has failed to comply with a condition to which the authority is subject, including a condition taken to be imposed under Part 6A.
- (2) A complaint must—
- (a) be in writing, and
  - (b) specify the grounds on which it is made, and
  - (c) be signed by the complainant, and
  - (d) be lodged at the office of the Secretary.

### **28A Investigation of complaints**

- (1) The Secretary is to refer all complaints to the Panel for investigation.
- (2) The Panel is to investigate each complaint referred to it and furnish a report to the Secretary on each such complaint.

### **28B Determination of complaints**

- (1) After considering a report furnished in respect of a complaint, the Secretary is to determine the complaint—
  - (a) by cancelling the authority the subject of the complaint, or
  - (b) by suspending the authority the subject of the complaint for such period as the Secretary thinks fit, or
  - (c) by cautioning or reprimanding the holder of the authority the subject of the complaint, or
  - (d) by dismissing the complaint.
- (2) The Secretary is not to cancel or suspend an authority unless—
  - (a) notice has been served on the holder of the authority—



- (i) of the Secretary's intention to cancel or suspend the authority, and
  - (ii) of the reasons for which the Secretary intends to cancel or suspend the authority, and
  - (b) the holder of the authority has had a reasonable opportunity to make submissions to the Secretary in relation to the intended cancellation or suspension of the authority, and
  - (c) the Secretary has considered any such submission.
- (3) As soon as practicable after determining a complaint, the Secretary is to cause written notice of the determination to be served on—
- (a) the holder of the authority the subject of the complaint, and
  - (b) the complainant.
- (4) The cancellation or suspension of accreditation of an authority takes effect at the expiration of 14 days after written notice of the cancellation or suspension is served on the holder of the authority, subject to any order made by the Civil and Administrative Tribunal under Division 2 of Part 3 of Chapter 3 of the [Administrative Decisions Review Act 1997](#).
- (5) For avoidance of doubt, an authority may be cancelled or suspended by the Secretary under this section whether or not the Secretary issued the authority.
- (6) As soon as practicable after cancelling an authority, the Secretary is to cause notice of the cancellation to be given to each accredited research establishment.

### **28C Cancellation of authority by research establishment**

An animal research authority that was issued by an accredited research establishment may be cancelled at any time by the accredited research establishment.

## **Division 4**

### **29-36 (Repealed)**

## **Division 5 Animal suppliers' licences**

### **37 Applications for licences**

- (1) A person may apply to the Secretary for an animal supplier's licence.
- (2) An application shall—
  - (a) be in or to the effect of the approved form,
  - (b) include the prescribed particulars,

- (c) identify the land (being land occupied or to be occupied by the applicant) in or on which the applicant intends to conduct the supply of animals for use in connection with animal research,
- (d) be accompanied by the prescribed fee, and
- (e) be lodged at the office of the Secretary.

### **38 Investigation of applications**

- (1) The Secretary shall refer all applications to the Panel for investigation.
- (2) The Panel shall investigate each application referred to it and shall furnish the Secretary with a report on each such application.

### **39 Determination of applications**

- (1) After considering the Panel's report on an application, the Secretary shall determine the application—
  - (a) by granting a licence to the applicant, either unconditionally or subject to conditions, or
  - (b) by refusing to grant a licence to the applicant.
- (2) Despite subsection (1), the Secretary is not to grant an animal supplier's licence to an applicant—
  - (a) if the applicant does not have a duly constituted animal care and ethics committee, or
  - (b) if the applicant is a disqualified individual or a disqualified corporation.
- (3) Where the Secretary refuses to grant a licence, the Secretary shall, as soon as practicable after so refusing, cause notice of the refusal, and of the reasons for the refusal, to be served on the applicant for the licence.
- (4) If, at the expiration of 90 days after an application has been made, the Secretary has failed to determine the application, the Secretary is, for the purposes only of any application to the Civil and Administrative Tribunal for an administrative review, taken to have refused to grant a licence to the applicant.

### **40 Form of licences**

- (1) An animal supplier's licence shall—
  - (a) be in or to the effect of the approved form,
  - (b) identify the person to whom the licence is granted,

- (c) designate the land in or on which it is intended that the supply of animals for use in connection with animal research will be conducted by the person, as identified in the application pursuant to which the person has been granted the licence,
  - (d) describe the kind of animals which the licence authorises the person to supply,
  - (e) specify any condition to which the licence is subject, and
  - (f) specify the date on which the licence is granted.
- (2) An animal supplier's licence is not to authorise, or purport to authorise, the supply of animals otherwise than—
- (a) with the approval, and in accordance with the directions, of the animal care and ethics committee for the animal supplier, and
  - (b) in accordance with the Code of Practice.

#### **41 Duration of licences**

- (1) Unless sooner cancelled, an animal supplier's licence remains in force for the period of 36 months from the date on which it was granted or, where a shorter period is specified in the licence in that regard, for the shorter period so specified.
- (2) Notwithstanding subsection (1), an animal supplier's licence has no force or effect during any period for which it is suspended.

#### **42 Complaints**

- (1) A complaint in respect of an animal supplier's licence may be made to the Secretary—
- (aa) that the holder of the licence does not have a duly constituted animal care and ethics committee,
  - (a) that the holder of the licence is supplying or has supplied animals for use in connection with animal research—
    - (i) otherwise than as authorised by the licence, or
    - (ia) otherwise than with the approval, or in contravention of the directions, of the animal care and ethics committee for the animal supplier, or
    - (ii) in contravention of the Code of Practice,
  - (b) that the holder of the licence is a disqualified individual or a disqualified corporation, or
  - (c) that the holder of the licence has failed to comply with a condition to which the licence is subject.

- (2) A complaint shall—
  - (a) be in writing,
  - (b) specify the grounds on which it is made,
  - (c) be signed by the complainant, and
  - (d) be lodged at the office of the Secretary.

#### **43 Investigation of complaints**

- (1) The Secretary shall refer all complaints to the Panel for investigation.
- (2) The Panel shall investigate each complaint referred to it and shall furnish a report to the Secretary on each such complaint.

#### **44 Determination of complaints**

- (1) After considering a report furnished in respect of a complaint, the Secretary shall determine the complaint—
  - (a) by cancelling the licence the subject of the complaint,
  - (b) by suspending the licence the subject of the complaint for such period as the Secretary thinks fit,
  - (c) by cautioning or reprimanding the holder of the licence the subject of the complaint, or
  - (d) by dismissing the complaint.
- (2) The Secretary shall not cancel or suspend a licence unless—
  - (a) notice has been served on the holder of the licence—
    - (i) of the Secretary's intention to cancel or suspend the licence, and
    - (ii) of the reasons for which the Secretary intends to cancel or suspend the licence,
  - (b) the holder of the licence has had a reasonable opportunity to make submissions to the Secretary in relation to the intended cancellation or suspension of the licence, and
  - (c) the Secretary has considered any such submission.
- (3) As soon as practicable after determining a complaint, the Secretary shall cause written notice of the determination to be served on—
  - (a) the holder of the licence the subject of the complaint, and

(b) the complainant.

(4) The cancellation or suspension of a licence takes effect—

(a) except as provided by paragraph (b)—at the expiration of 14 days after written notice of the cancellation or suspension is served on the holder of the licence, or

(b) where an appeal is made before the expiration of the period referred to in paragraph (a)—when the appeal is withdrawn or otherwise finally disposed of.

## **Division 6 Administrative reviews by Civil and Administrative Tribunal**

### **45 Applications to Civil and Administrative Tribunal for administrative review of determination**

(1) Any person who is dissatisfied with a determination of the Secretary under this Part that affects the person may apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of the determination.

(2) An application to the Tribunal is to be made within 28 days after written notice of the determination of the Secretary is served on the person or, if the application relates to a failure to determine an application under this Part within 90 days after the application was made, within 28 days after the expiration of that 90 day period.

## **Part 5 Offences**

### **46 Unlawfully carrying on the business of animal research**

(1) A corporation shall not carry on the business of animal research unless the corporation is an accredited research establishment.

Maximum penalty—160 penalty units.

#### **Note—**

An offence against subsection (1) committed by a corporation is an executive liability offence attracting executive liability for a director or other person involved in the management of the corporation—see section 58.

(2) An individual shall not carry on the business of animal research unless the individual is the holder of an animal research authority.

Maximum penalty—30 penalty units or imprisonment for 12 months, or both.

(3) An individual does not contravene subsection (2) by reason only that the individual carries on the business of animal research as an employee of an accredited research establishment.

#### **47 Unlawfully carrying out animal research**

- (1) An individual shall not carry out animal research unless the individual is the holder of an animal research authority.

Maximum penalty—20 penalty units or imprisonment for 12 months, or both.

- (2) The holder of an animal research authority shall not carry out animal research—

(a) otherwise than as authorised by the authority, or

(b) otherwise than with the approval, and in accordance with the directions, of the animal care and ethics committee specified in the authority.

Maximum penalty—30 penalty units or imprisonment for 12 months, or both.

- (3) Without limiting subsection (2), a person must not carry out either of the following—

(a) a forced swim test,

(b) a forced smoke inhalation experiment.

Maximum penalty—30 penalty units or imprisonment for 12 months, or both.

- (3) (Repealed)

#### **47A Keeping animals with intention of using them for animal research**

- (1) A person must not keep any animals with the intention of using them in connection with animal research unless the person is an authorised person.

Maximum penalty—30 penalty units.

##### **Note—**

An offence against subsection (1) committed by a corporation is an executive liability offence attracting executive liability for a director or other person involved in the management of the corporation—see section 58.

- (2) In proceedings for an offence against this section, evidence that a person who kept animals (other than exempt animals)—

(a) kept the animals on premises containing any equipment, material or substance used in relation to the conduct of animal research, or

(b) was receiving or was about to receive any fee or reward for animal research conducted or to be conducted by or on behalf of the person,

is evidence that the person kept the animals with the intention of using them in relation to the conduct of animal research.

- (3) In this section, **authorised person** means an accredited research establishment, the

holder of an animal research authority or a licensed animal supplier.

#### **48 Unlawfully supplying animals for use in connection with animal research**

- (1) A person shall not supply animals (other than exempt animals) for use in connection with animal research unless the person is the holder of an animal supplier's licence.

Maximum penalty—160 penalty units in the case of a corporation and 30 penalty units or imprisonment for 12 months, or both, in the case of an individual.

- (2) The holder of an animal supplier's licence shall not supply animals for use in connection with animal research otherwise than as authorised by the licence.

Maximum penalty—160 penalty units in the case of a corporation and 30 penalty units or imprisonment for 12 months, or both, in the case of an individual.

- (3) In proceedings for an offence against this section, it is to be presumed, in the absence of evidence to the contrary adduced by the person charged with the offence, that a person who obtained, bred, nurtured or kept animals (other than exempt animals) did so for the purpose of their being supplied for use in connection with animal research if it is proved that the person was receiving or was about to receive any fee or reward for the supply of animals for use in connection with animal research.

#### **Note—**

An offence against subsection (1) or (2) committed by a corporation is an executive liability offence attracting executive liability for a director or other person involved in the management of the corporation—see section 58.

## **Part 6 Inspectors**

### **49 Appointment etc of inspectors**

- (1) The Secretary may appoint a Public Service employee to be an inspector for the purposes of this Act.
- (2) An inspector shall be a person who is a veterinary practitioner (within the meaning of the [Veterinary Practice Act 2003](#)) and who has such other qualifications as may be prescribed.
- (3) An inspector shall have and may exercise the functions conferred or imposed on inspectors by or under this Act.
- (4) The Secretary shall cause each inspector to be issued with a certificate of identification.
- (5) An inspector's certificate of identification shall be in or to the effect of the prescribed form.

## 50 Powers of inspectors

- (1) An inspector may exercise any one or more of the following powers—
- (a) the inspector may enter the designated land of an accredited research establishment or the designated land in relation to an animal research authority or animal supplier's licence,
  - (b) the inspector may search and inspect that land for the presence of—
    - (i) any animal used in relation to the conduct of animal research or supplied or to be supplied for use in connection with animal research,
    - (ii) any equipment, material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research, or
    - (iii) any document relating to the conduct of animal research or the supply of animals for use in connection with animal research,
  - (c) the inspector may examine—
    - (i) any animal used in relation to the conduct of animal research or supplied or to be supplied for use in connection with animal research,
    - (ii) any equipment, material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research, or
    - (iii) any document relating to the conduct of animal research or the supply of animals for use in connection with animal research, found in or on that land,
  - (d) the inspector may take (without payment) a quantity not exceeding—
    - (i) one kilogram, or
    - (ii) such greater quantity as is reasonable in the circumstances (the onus of establishing which lies on the inspector),of any material or substance found in or on that land, being a material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research,
  - (e) the inspector may take copies of, or extracts or notes from, any document found in or on that land, being a document relating to the conduct of animal research or the supply of animals for use in connection with animal research,
  - (f) the inspector may require any person found in or on that land to produce—
    - (i) any animal used in relation to the conduct of animal research or supplied or to



be supplied for use in connection with animal research,

- (ii) any equipment, material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research, or
- (iii) any document relating to the conduct of animal research or the supply of animals for use in connection with animal research,

which is in the possession or under the control of that person.

- (2) A person shall not fail to comply with a requirement made by an inspector under subsection (1) (f).

Maximum penalty—30 penalty units.

- (3) An inspector may exercise any power conferred by subsection (1)—

- (a) at any time (whether by day or by night), and
- (b) whether or not accompanied by a member of the Panel who is authorised in that behalf under section 10 (2).

- (4) Subsection (1) does not authorise the exercise of any power conferred by that subsection in or on any part of land used for residential purposes or in relation to any person found in or on any such part of land.

- (5) In exercising in or on any land any power conferred by subsection (1), an inspector—

- (a) shall, if required to do so by a person apparently occupying the land, produce to that person the inspector's certificate of identification, and
- (b) shall, as far as practicable, avoid doing any act which is likely to impede the conduct of animal research or the supply of animals for use in connection with animal research being lawfully carried out in or on the land.

## **51 Search warrants**

- (1) An inspector may apply to an authorised officer for a search warrant if the inspector has reasonable grounds for believing that a provision of this Act or the regulations is being or has been contravened in or on any premises.

- (2) An authorised officer to whom an application is made under subsection (1) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant—

- (a) to enter the premises, and
- (b) to search the premises for, and to seize, anything which may constitute evidence

of a contravention of this Act or the regulations.

- (3) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.
- (4) Without limiting the generality of section 71 of the *Law Enforcement (Powers and Responsibilities) Act 2002*, a member of the police force may accompany an inspector executing a search warrant under this section and take all reasonable steps to assist the inspector in the exercise of the inspector's functions under this Act.

#### **51A Seizure of animals**

- (1) An inspector, who is of the opinion that an offence against this Act or the regulations has been or is about to be committed in respect of one or more animals, may—
  - (a) take possession of the animal or animals, and
  - (b) remove the animal or animals to such place as the inspector thinks fit, and
  - (c) retain possession of the animal or animals—
    - (i) for a period not exceeding 30 days from the date on which the inspector takes possession of the animal or animals, or
    - (ii) if proceedings are commenced during that 30-day period in respect of the offence, until the proceedings are finally determined unless the court before which the proceedings are being heard otherwise directs.
- (2) If an inspector has taken possession of an animal or animals under this section, the inspector may apply to the court before which the proceedings for the offence are commenced for an order for the disposal of the animal or animals concerned before the proceedings are finally determined.
- (3) The court to which the application is made may—
  - (a) order that the animal or animals 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.
- (4) The reasonable expenses incurred by an inspector in the exercise of powers under this section in respect of an animal or animals may be recovered from the owner of the animal or animals as a debt in a court of competent jurisdiction by the inspector or any other person acting on behalf of the Crown.

- (5) Compensation is not recoverable against any person in respect of the retention or disposal of an animal under this section.

## **52 Inspectors may demand name and address**

- (1) An inspector who finds a person—

- (a) who is committing an offence against this Act or the regulations, or
- (b) whom the inspector suspects, on reasonable grounds, of having committed or attempted to commit such an offence,

may require that person to inform the inspector forthwith of that person's full name and residential address.

- (2) A person shall not fail to comply with a requirement made by an inspector under subsection (1).

Maximum penalty—20 penalty units.

- (3) A person is not guilty of an offence under this section unless it is established that the inspector—

- (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 inspector.

## **53 Obstruction of inspectors**

A person shall not assault, delay, obstruct, hinder or impede an inspector in the exercise of the inspector's functions under this Act.

Maximum penalty—30 penalty units.

## **54 Impersonation of inspectors**

A person shall not—

- (a) forge or counterfeit any certificate of identification,
- (b) make use of any forged or counterfeited certificate of identification, or
- (c) impersonate, or pretend to be, an inspector.

Maximum penalty—30 penalty units.

# **Part 6A Rehoming**

## **54A Definitions**

In this Part—

**animal rescue organisation** includes an animal shelter, foster carer or foster care network that provides temporary care for an animal for the purpose of finding a new home for the animal.

**authorised person** means the following—

- (a) an accredited research establishment,
- (b) the holder of an animal research authority.

**rehome** means giving an animal to—

- (a) a suitable individual, or
- (b) an animal rescue organisation.

**relevant animal** means a dog or a cat.

**suitable individual** means an individual who—

- (a) agrees to provide an animal with a home and appropriate care, and
- (b) agrees to not keep the animal for animal research, and
- (c) meets criteria prescribed by the regulations for the purpose of this definition.

#### **54B Preparing animals for rehoming**

An authorised person must, over the period a relevant animal is kept by the person for animal research, take reasonable steps to ensure that the animal is prepared for rehoming, including by providing the following as appropriate for an animal of the species, breed and age of the animal—

- (a) exercise,
- (b) environmental enrichment,
- (c) socialisation, handling and basic training.

#### **54C Rehoming animals after research**

- (1) An authorised person who keeps a relevant animal for animal research must take all reasonable steps to rehome the animal on the occurrence of the first of the following—
  - (a) the animal ceases to be used by the authorised person for animal research,
  - (b) the animal has been kept by 1 or more authorised persons for animal research for a total of 3 years.

Maximum penalty—30 penalty units.

- (2) For the purpose of subsection (1), reasonable steps include giving the following information about the relevant animal to a suitable individual or an animal rescue organisation who may be able to rehome the animal—
  - (a) the animal's species, breed, age, weight and gender,
  - (b) a description of the animal's general health, physical condition and temperament,
  - (c) whether or not the animal is desexed,
  - (d) whether or not the animal is microchipped and, if so, the microchip number,
  - (e) the date the animal was last vaccinated and wormed,
  - (f) the medications the animal is currently taking,
  - (g) other information prescribed by the regulations.
- (3) The information may be given under subsection (2) by a database maintained by the Department for the purposes of rehoming animals kept for animal research.
- (4) Subsection (1)(b) does not apply to an authorised person who keeps an animal for animal research if—
  - (a) on application from the authorised person, the Panel approves the keeping of the animal for research for longer than 3 years, and
  - (b) the authorised person complies with any conditions of the approval.
- (5) An application for approval under subsection (4)(a) must not be made without the approval of the animal care and ethics committee supervising the research project.
- (6) The animal care and ethics committee must not give approval unless—
  - (a) the committee is satisfied the animal research project is justified to run for longer than 3 years, and
  - (b) at least 1 Category A member of the committee is satisfied animal welfare will not be compromised.
- (7) An application under subsection (4)(a) must include—
  - (a) proof of the animal care and ethics committee's approval, and
  - (b) the reasons the committee is satisfied the project is justified to run for more than 3 years.
- (8) The regulations may make provision about applications for the Panel's approval under subsection (4).

- (9) This section does not apply to an animal seized under section 51A that is in the possession of an inspector.
- (10) The regulations may prescribe requirements for a database maintained under this section.
- (11) In this section—

**Australian Code** means the document published by the Australian Government entitled *Australian code for the care and use of animals for scientific purposes* as in force from time to time.

**Category A member**, of a committee, means a member of the committee referred to in the Australian Code, section 2.2.4(i).

**Note—**

An authorised person is not required to rehome a companion animal owned by an individual and primarily kept by the individual for purposes other than animal research.

#### **54D Confidentiality**

- (1) A suitable individual or an animal rescue organisation with whom a relevant animal is rehomed under section 54C must not disclose identifying information about an authorised person who kept the animal for animal research.
- (2) Subsection (1) does not apply if the disclosure is made—
  - (a) with the consent of the authorised person, or
  - (b) in connection with the administration or execution of this Act, or
  - (c) for the purposes of any legal proceedings arising out of this Act, or
  - (d) with other lawful excuse.

#### **54E Animals unsuitable for rehoming**

- (1) If a relevant animal is certified by a veterinary practitioner registered under the [Veterinary Practice Act 2003](#) to be unsuitable for rehoming, the authorised person is not required to comply with section 54C.
- (2) A certificate given under subsection (1) must include the reasons the animal is unsuitable for rehoming.
- (3) A veterinary practitioner who gives a certificate under subsection (1) must—
  - (a) be independent of the authorised person to whom the certificate is given, and
  - (b) have expertise in the welfare of animals of the species of the relevant animal.

#### **54F Record keeping**

An authorised person must keep the following for each relevant animal kept by the person for animal research—

- (a) records of the reasonable steps taken under section 54B and 54C,
- (b) records of all communications with suitable individuals and animal rescue organisations about rehoming the animal,
- (c) details of a suitable individual or an animal rescue organisation with whom the animal has been rehomed,
- (d) a certificate issued under section 54E,
- (e) a copy of—
  - (i) each application made under section 54C(4)(a), and
  - (ii) the Panel's approval or refusal of each application.

Maximum penalty—20 penalty units

#### **54G Condition of authority or accreditation**

- (1) It is a condition of the accreditation of an animal research establishment or of an animal research authority that the accredited establishment or the authority holder comply with this Part.
- (2) Subsection (1) extends to an accreditation or authority in force immediately before the commencement of this section.

### **Part 7 Supplementary**

#### **55 False or misleading information**

A person shall not, in or in relation to any application under this Act or in purported compliance with any requirement under this Act, make any statement or furnish any information that is false or misleading in a material particular.

Maximum penalty—30 penalty units.

#### **56 Disclosure of information**

A person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

- (a) with the consent of the person from whom the information was obtained,
- (b) in connection with the administration or execution of this Act,

- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings,
- (d) in accordance with a requirement imposed under the *Ombudsman Act 1974*, or
- (e) with other lawful excuse.

Maximum penalty—30 penalty units.

#### **56A Approval of lethality tests**

- (1) An accredited research establishment must ensure that a record is kept for the period prescribed by the regulations, being a record that includes the particulars prescribed by the regulations, of all lethality tests that are approved by its animal care and ethics committee, or by a subcommittee of the committee, during each reporting period.

Maximum penalty—30 penalty units.

- (2) An accredited research establishment that makes a record under this section must give a copy of the record to the Panel within one month after the end of the reporting period to which the record relates.

Maximum penalty—30 penalty units.

- (3) The Panel may cause any information contained in a record provided to it under this section (other than the name of the accredited research establishment that provided it) to be made available to the public.

- (4) In this section—

***lethality test*** means 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.

***reporting period*** means the period commencing on the commencement of this section and ending on 31 December in the same year and each period of 12 months thereafter.

#### **57 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations shall be dealt with summarily before the Local Court.
- (2) Proceedings of the kind referred to in subsection (1) shall not be instituted except by the Secretary or a person duly authorised by the Secretary in that behalf, either generally or in a particular case.

#### **58 Liability of directors etc for offences by corporation—offences attracting executive**



## **liability**

- (1) For the purposes of this section, an **executive liability offence** is an offence against any of the following provisions of this Act that is committed by a corporation—
    - (a) section 46 (1),
    - (b) section 47A (1),
    - (c) section 48 (1) or (2).
  - (2) A person commits an offence against this section if—
    - (a) a corporation commits an executive liability offence, and
    - (b) the person is—
      - (i) a director of the corporation, or
      - (ii) an individual who is involved in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the executive liability offence, and
    - (c) the person—
      - (i) knows or ought reasonably to know that the executive liability offence (or an offence of the same type) would be or is being committed, and
      - (ii) fails to take all reasonable steps to prevent or stop the commission of that offence.
- Maximum penalty—The maximum penalty for the executive liability offence if committed by an individual.
- (3) The prosecution bears the legal burden of proving the elements of the offence against this section.
  - (4) The offence against this section can only be prosecuted by a person who can bring a prosecution for the executive liability offence.
  - (5) This section does not affect the liability of the corporation for the executive liability offence, and applies whether or not the corporation is prosecuted for, or convicted of, the executive liability offence.
  - (6) This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are accessories to the commission of the executive liability offence or are otherwise concerned in, or party to, the commission of the executive liability offence.
  - (7) In this section—

**director** has the same meaning it has in the *Corporations Act 2001* of the Commonwealth.

**reasonable steps**, in relation to the commission of an executive liability offence, includes, but is not limited to, such action (if any) of the following kinds as is reasonable in all the circumstances—

- (a) action towards—
  - (i) assessing the corporation's compliance with the provision creating the executive liability offence, and
  - (ii) ensuring that the corporation arranged regular professional assessments of its compliance with the provision,
- (b) action towards ensuring that the corporation's employees, agents and contractors are provided with information, training, instruction and supervision appropriate to them to enable them to comply with the provision creating the executive liability offence so far as the provision is relevant to them,
- (c) action towards ensuring that—
  - (i) the plant, equipment and other resources, and
  - (ii) the structures, work systems and other processes,relevant to compliance with the provision creating the executive liability offence are appropriate in all the circumstances,
- (d) action towards creating and maintaining a corporate culture that does not direct, encourage, tolerate or lead to non-compliance with the provision creating the executive liability offence.

**58A Liability of directors etc for offences by corporation—accessory to the commission of the offences**

- (1) For the purposes of this section, a **corporate offence** is an offence against this Act or the regulations that is capable of being committed by a corporation, whether or not it is an executive liability offence referred to in section 58.
- (2) A person commits an offence against this section if—
  - (a) a corporation commits a corporate offence, and
  - (b) the person is—
    - (i) a director of the corporation, or
    - (ii) an individual who is involved in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the

commission of the corporate offence, and

(c) the person—

- (i) aids, abets, counsels or procures the commission of the corporate offence, or
- (ii) induces, whether by threats or promises or otherwise, the commission of the corporate offence, or
- (iii) conspires with others to effect the commission of the corporate offence, or
- (iv) is in any other way, whether by act or omission, knowingly concerned in, or party to, the commission of the corporate offence.

Maximum penalty—The maximum penalty for the corporate offence if committed by an individual.

- (3) The prosecution bears the legal burden of proving the elements of the offence against this section.
- (4) The offence against this section can only be prosecuted by a person who can bring a prosecution for the corporate offence.
- (5) This section does not affect the liability of the corporation for the corporate offence, and applies whether or not the corporation is prosecuted for, or convicted of, the corporate offence.
- (6) This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are concerned in, or party to, the commission of the corporate offence.

## **59 Evidentiary certificates**

A certificate that is signed by the Secretary and that certifies that on a specified date or during a specified period—

- (a) a specified person was or was not an inspector,
- (b) a specified corporation was or was not an accredited research establishment,
- (c) a specified person was or was not the holder of a specified licence, or
- (d) the provisions of a specified licence were or were not in specified terms,

is admissible in any proceedings under this Act and is evidence of the fact or facts so certified.

## **59A Delegation**

The Secretary may delegate the exercise of any function of the Secretary under this Act

(other than this power of delegation) to any member of staff of the Department.

## **60 Liability**

A person is not personally liable for any act or omission done or omitted to be done by the person in good faith in the exercise of the functions conferred or imposed on the person by or under this Act.

## **61 Service of notices**

A notice that the Secretary is required or permitted by or under this Act to cause to be served on a person may be served in the following ways—

- (a) personally,
- (b) by means of a letter addressed to the person at the person's address last known to the Secretary,
- (c) by electronic transmission to an address or location specified by the person for the service of notices of that kind.

## **62 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 qualifications and functions of inspectors,
- (b) the procedures to be followed by the Panel in relation to the investigation of applications and complaints referred to it under this Act,
- (c) the records to be kept, and the reports to be made, for the purposes of this Act,
- (d) the forms to be used for the purposes of this Act, and
- (e) the fees and charges which may be imposed for the purposes of this Act, including the waiver or refund of the whole or part of a fee or charge.

(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 from the operation of any specified provision of this Act any specified person or body or specified class of persons or bodies, either unconditionally or subject to conditions,

or may do any combination of those things.

(3) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units.

### **63 Savings, transitional and other provisions**

Schedule 3 has effect.

## **Schedule 1 Provisions relating to the members of the Panel**

(Section 6 (6))

### **1 (Repealed)**

### **2 Chairperson of the Panel**

(1) Of the members of the Panel one shall, in and by the relevant instrument of appointment as such a member or by another instrument executed by the Minister, be appointed as Chairperson of the Panel.

(2) The Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.

(3) A person who is the Chairperson shall be deemed to have vacated office as Chairperson if the person—

(a) resigns that office by instrument in writing addressed to the Minister,

(b) ceases to be a member of the Panel, or

(c) is removed from that office by the Minister under subclause (4).

(4) The Minister may remove a member of the Panel from the office of Chairperson.

### **2A Deputy Chairperson**

(1) Of the members of the Panel, one is, in and by the relevant instrument of appointment as such a member or in and by another instrument executed by the Minister, to be appointed as Deputy Chairperson of the Panel.

(2) A person who is the Deputy Chairperson vacates office if the person—

(a) resigns that office by instrument in writing addressed to the Minister, or

(b) ceases to be a member of the Panel, or

(c) is removed from office by the Minister under subclause (3).

(3) The Minister may remove a member of the Panel from the office of Deputy Chairperson.

### **3 Acting members and acting Chairperson**

(1) The Minister may, from time to time, appoint a person to act in the office of a member of the Panel during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member and shall be deemed to be a member of the Panel.

(2) The Minister may, from time to time, appoint a member of the Panel to act in the office of Chairperson during the illness or absence of the Chairperson, and the member, while so acting, shall have and may exercise all the functions of the Chairperson and shall be deemed to be the Chairperson.

(3) The Minister may remove any person from any office to which the person was appointed under this clause.

(4) A person while acting in the office of a member of the Panel is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(5) For the purposes of this clause, a vacancy in the office of a member of the Panel or in the office of Chairperson shall be deemed to be an absence from office of the member or Chairperson, as the case may be.

### **4 Term of office**

Subject to this Schedule, a member of the Panel shall hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

### **5 Remuneration**

A member of the Panel is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

### **6 Filling of vacancy in office of member**

If the office of any member of the Panel becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

### **7 Casual vacancies**

(1) A member of the Panel shall be deemed to have vacated office if the member—

- (a) dies,
- (b) absents himself or herself from 4 consecutive meetings of the Panel of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings,
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,
- (d) becomes a mentally incapacitated person,
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable,
- (f) resigns the office by instrument in writing addressed to the Minister, or
- (g) (Repealed)
- (h) is removed from office by the Minister under subclause (2) or (3).

(2) The Minister may remove a member of the Panel from office.

(3) Without limiting the generality of subclause (2), the Minister may remove a member of the Panel from office if the member contravenes the provisions of clause 8.

## **8 Disclosure of pecuniary interests**

(1) A member of the Panel who has a direct or indirect pecuniary interest—

(a) in a matter that is being considered, or is about to be considered, at a meeting of the Panel, or

(b) in a thing being done or about to be done by the Panel,

shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Panel.

(2) A disclosure by a member of the Panel at a meeting of the Panel that the member—

(a) is a member, or is in the employment, of a specified company or other body,

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

- (3) The Panel shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person.
- (4) After a member of the Panel has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines—
  - (a) be present during any deliberation of the Panel, or take part in any decision of the Panel, with respect to that matter, or
  - (b) exercise any functions under this Act with respect to that thing,as the case requires.
- (5) Notwithstanding that a member of the Panel contravenes the provisions of this clause, that contravention does not invalidate any decision of the Panel or the exercise of any function under this Act.
- (6) Nothing in this clause applies to or in respect of an interest of a member of the Panel in a matter or thing which arises by reason only that the member—
  - (a) is associated with an accredited research establishment, or
  - (b) is entitled to a share of any profits of an accredited research establishment,other than a research establishment which is, or which belongs to a class of research establishments which are, the subject of that matter or thing.
- (7) A reference in this clause to a meeting of the Panel includes a reference to a meeting of a committee of the Panel.

## **9 Effect of certain other Acts**

- (1) The [Government Sector Employment Act 2013](#) does not apply to or in respect of the appointment of a member of the Panel and a member of the Panel is not, as such a member, subject to that Act.
- (2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member of the Panel or from accepting and retaining any remuneration payable to the person under this Act as such a member.



- (3) The office of a member of the Panel shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

## **Schedule 2 Provisions relating to the procedure of the Panel**

(Section 6 (7))

### **1 General procedure**

The procedure for the calling of meetings of the Panel and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Panel.

### **2 Quorum**

The quorum for a meeting of the Panel is 7 members of the Panel, of whom—

- (a) at least one shall be a member appointed in accordance with section 6 (2) (a) or (b),
- (b) at least one shall be a member appointed in accordance with section 6 (2) (c) or (d),  
and
- (c) at least one shall be a member appointed in accordance with section 6 (2) (e), (f), (g) or (h).

### **3 Presiding member**

- (1) The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson) shall preside at a meeting of the Panel.
- (1A) In the absence of the Chairperson and Deputy Chairperson, another member of the Panel elected as chairperson for the meeting by the members of the Panel present is to preside at the meeting of the Panel.
- (2) The person presiding at any meeting of the Panel shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

### **4 Voting**

A decision supported by a majority of the votes at a meeting of the Panel at which a quorum is present shall be the decision of the Panel.

### **5 Minutes**

The Panel shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Panel.

### **6 Authentication of documents**

Any document requiring authentication by the Panel is sufficiently authenticated if it is signed by the Chairperson or by any member of the Panel who is authorised by the

Chairperson in that behalf.

## **7 First meeting of the Panel**

The Minister shall call the first meeting of the Panel in such manner as the Minister thinks fit.

## **Schedule 3 Savings, transitional and other provisions**

(Section 63)

### **Part 1 Preliminary**

#### **1 Regulations**

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

*Animal Research Amendment Act 1997*

(2) Any such provision 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 any such provision 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 [Animal Research Amendment Act 1997](#)**

#### **2 Animal research licences**

A reference to an animal research authority in paragraph (a1) of the definition of disqualified individual in section 17 and in sections 25A (2) (e) and 25B (2) (d) is taken to include a reference to an animal research licence granted under Division 4 of Part 4 before its repeal by the [Animal Research Amendment Act 1997](#).

#### **3 Animal research authorities**

An amendment made to section 26 by the [Animal Research Amendment Act 1997](#) does not apply to an animal research authority in force at the commencement of the amendment.

## **Part 3 Provisions consequent on enactment of [Animal Research Amendment \(Right to Release\) Act 2022](#)**

### **4 Animals kept for research before commencement**

- (1) Part 6A does not apply to an animal that was being kept for research by an accredited research establishment or the holder of an animal research authority immediately before the Part's commencement.
- (2) This clause ceases to have effect 3 years after the commencement of this Act, Part 6A.

## **Part 4 Provisions consequent on enactment of [Animal Research Amendment \(Prohibition of Forced Swim Tests and Forced Smoke Inhalation Experiments\) Act 2024](#)**

### **5 Definitions**

In this part—

**commencement day** means the day on which the [Animal Research Amendment \(Prohibition of Forced Swim Tests and Forced Smoke Inhalation Experiments\) Act 2024](#) commenced.

**existing authority** means an animal research authority, in force immediately before the commencement day, that authorises either of the following—

- (a) a forced swim test,
- (b) a forced smoke inhalation experiment.

### **6 Reissue of existing animal research authorities—forced swim tests and forced smoke inhalation experiments**

- (1) The holder of an existing authority may apply to the Secretary or an accredited research establishment to have the authority reissued.
- (2) The application must be made before the expiry of the applicant's existing authority.
- (3) Despite section 26(2A), the Secretary or an accredited research establishment may reissue an animal research authority in the same terms as the applicant's existing authority.

**Note—**

The holder of an existing authority may have the authority reissued under this clause once only.

### **7 Offences involving forced swim tests and forced smoke inhalation experiments**

A person does not commit an offence under section 47(3)(a) or (b) for carrying out animal

research referred to in that paragraph if the animal research is carried out in accordance with—

- (a) an existing authority, or
- (b) an animal research authority reissued under clause 6.