

**Version No. 071**  
**Prevention of Cruelty to Animals Act 1986**  
**Act No. 46/1986**

Version incorporating amendments as at 1 July 2006

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**Version 071**  
**Prevention of Cruelty to Animals Act 1986**  
**Act No. 46/1986**

Version incorporating amendments as at 1 July 2006

**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1. Purpose**

The purpose of this Act is to—

- (a) prevent cruelty to animals; and
- (b) to encourage the considerate treatment of animals; and
- (c) to improve the level of community awareness about the prevention of cruelty to animals.

**2. Commencement**

This Act comes into operation on a day or days to be proclaimed.

**3. Definitions**

(1) In this Act—

**S. 3**  
**amended by**  
**No. 77/1995**  
**s. 4(1)(a).**

**"animal"** means—

- (a) a live member of a vertebrate species including any—
  - (i) fish; and
  - (ii) amphibian; and
  - (iii) reptile; and

**S. 3(1) def. of**  
**"animal"**  
**substituted by**  
**No. 77/1995**  
**s. 4(1)(b).**

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(iv) bird; and

(v) mammal (other than a human being); or

(b) a live crustacean;

S. 3(1) def. of "animal ethics committee" inserted by No. 103/2003 s. 31.

**"animal ethics committee"** means a committee, the principal function of which is to determine the ethical practices that are to apply to the carrying out of scientific procedures;

S. 3(1) def. of "Code of Practice" amended by No. 11/2000 s. 4(1).

**"Code of Practice"** means a Code of Practice made and published and as varied from time to time under section 7;

S. 3(1) def. of "Chief General Manager" repealed by No. 77/1995 s. 4(1)(c).

\* \* \* \* \*

S. 3(1) def. of "Department" inserted by No. 77/1995 s. 4(1)(e), amended by Nos 46/1998 s. 7(Sch. 1), 56/2003 s. 11(Sch. item 17.1).

**"Department"** means the Department of Primary Industries;

S. 3(1) def. of "Department Head" inserted by No. 76/1998 s. 27(a)(ii), amended by No. 108/2004 s. 117(1) (Sch. 3 item 160.1).

**"Department Head"** means the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department;

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**"farm animal"** means—

- (a) if kept for or used in connexion with primary production—cattle, sheep, pigs, poultry, goats and deer; and
- (b) horses other than horses kept for or used in connexion with sporting events, equestrian competitions, pony clubs, riding schools, circuses or rodeos;

\* \* \* \* \*

S. 3(1) def. of "municipality" repealed by No. 77/1995 s. 4(1)(c).

**"person in charge of"** in relation to an animal or thing, includes—

- (a) a person who has the animal or thing in the person's possession or custody, or under the person's care, control or supervision; and
- (b) any employee or agent of the owner of the animal or thing if a person referred to in paragraph (a) is bound to comply with the directions of that employee or agent in respect of the animal or thing;

S. 3(1) def. of "person in charge of" inserted by No. 76/2005 s. 26.

**"premises"** includes—

- (a) a building or part of a building; and
- (b) a tent, stall or other structure, whether permanent or temporary; and
- (c) land, whether or not appurtenant to a building; and
- (ca) a vehicle, vessel or aircraft; and
- (d) any other place;

S. 3(1) def. of "premises" amended by No. 77/1995 s. 4(1)(d).

**"prescribed"** means prescribed by the regulations;

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S. 3(1) def. of  
"scientific  
premises"  
inserted by  
No. 103/2003  
s. 31.

S. 3(1) def. of  
"scientific  
procedure"  
inserted by  
No. 103/2003  
s. 31.

**"regulations"** means regulations made under this Act;

**"scientific premises"** means a premises ordinarily used for scientific research, teaching or testing;

**"scientific procedure"** means any procedure, test, experiment, inquiry, investigation or study which is carried out on or in connection with an animal in the course of which—

- (a) an animal is subjected to—
  - (i) surgical, medical, psychological, biological, chemical or physical treatment; or
  - (ii) conditions of heat, cold, light, dark, confinement, noise, isolation or overcrowding to which an animal of that species is not accustomed; or
  - (iii) abnormal dietary conditions; or
  - (iv) electric shock or radiation treatment; or
- (b) any tissue, material or substance is extracted or derived from the body of an animal—

and which is for—

- (c) the purpose of acquiring, demonstrating or developing knowledge in the field of medical, dental, veterinary, agricultural, behavioural or biological science or in any other field of science; or

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- (d) the purpose of acquiring, demonstrating, exercising or developing techniques used in the practice of medical, dental, veterinary, agricultural, behavioural or biological science or in any other field of science; or
  - (e) the purpose of developing or testing the use, hazards, safety or efficiency of vaccines, substances, drugs, materials or appliances intended for use in, on or in connexion with human beings or animals; or
  - (f) any other purpose prescribed for the purposes of this paragraph—

but does not include—

- (g) the treatment of an animal for the purpose of promoting its health or welfare by or in accordance with the instructions of a veterinary practitioner; or
  - (h) the conduct of animal husbandry carried out in accordance with a Code of Practice; or
  - (i) the collection, taking, banding and marking of wildlife within the meaning of and in accordance with the **Wildlife Act 1975**; or
  - (j) any or any type of procedure, test, experiment, inquiry, investigation or study prescribed for the purposes of this paragraph;
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S. 3(1) def. of  
"scientific  
procedures  
field work  
licence"  
inserted by  
No. 103/2003  
s. 31.

**"scientific procedures field work licence"**  
means a licence issued under section 32A;

S. 3(1) def. of  
"scientific  
procedures  
premises  
licence"  
inserted by  
No. 103/2003  
s. 31.

**"scientific procedures premises licence"** means  
a licence issued under section 29;

S. 3(1) def. of  
"Secretary"  
inserted by  
No. 77/1995  
s. 4(1)(e),  
repealed by  
No. 76/1998  
s. 27(a)(i).

\* \* \* \* \*

S. 3(1) def. of  
"specified  
animals  
breeding  
licence"  
inserted by  
No. 103/2003  
s. 31.

**"specified animals breeding licence"** means a  
licence issued under section 32E;

S. 3(1) def. of  
"veterinary  
practitioner"  
inserted by  
No. 58/1997  
s. 96(Sch.  
item 7.1).

**"veterinary practitioner"** means a veterinary  
practitioner registered under the **Veterinary  
Practice Act 1997**;

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S. 3(1) def. of "veterinary surgeon" repealed by No. 58/1997 s. 96(Sch. item 7.1).

- (2) If under the **Public Administration Act 2004** the name of the Department of Primary Industries is changed, a reference to that Department in the definition of "Department" in sub-section (1) must, from the date when the name is changed, be taken to be a reference to the Department by its new name.

S. 3(2) inserted by No. 77/1995 s. 4(2), amended by Nos 46/1998 s. 7(Sch. 1), 56/2003 s. 11(Sch. item 17.2), 108/2004 s. 117(1) (Sch. 3 item 160.2).

#### **4. Binding of Crown**

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

#### **5. Repeal of Acts in Schedule and transitional provisions**

- (1) The Acts or provisions of Acts referred to in the Schedule are repealed to the extent set out in the Schedule.
- (2) All Codes of Accepted Farming Practice prepared, approved and published and as in force immediately before the commencement of this sub-section under section 21A of the **Protection of Animals Act 1966** continue in force and are deemed to be Codes of Practice.

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- (3) All permits to conduct a rodeo issued and as in force immediately before the commencement of this sub-section under section 11A of the **Protection of Animals Act 1966** continue in force and are deemed to have force and effect as if they are permits to conduct a rodeo issued under Division 2 of Part 2.
- (4) All registrations of persons to perform experiments upon animals under the regulations made under section 12 of the **Protection of Animals Act 1966** and as in force immediately before the commencement of this sub-section continue in force until 30 September 1986 and until that date are deemed to have force and effect as if they are registrations of an experimenter (as defined in section 25) under Part 3.
- (5) Notwithstanding the repeal by this Act of any Act or any provision of an Act, all regulations—
- (a) made under any Act or provision of an Act repealed by this Act or continued in operation by any such Act or provision; and
  - (b) in force immediately before that repeal—  
may, so far as they are not inconsistent with or repugnant to this Act, be revoked or amended as if they were regulations made under this Act and until so revoked or until 1 January 1988 (whichever first occurs)—
  - (c) continue in force; and
  - (d) have force and effect and must be dealt with and enforced as if they were regulations made under this Act—
- with such alterations, modifications and substitutions as are necessary.
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**6. Application of Act**

(1) This Act does not apply to—

**S. 6**  
amended by  
No. 77/1995  
s. 5(1).

(a) the slaughter of animals in accordance with the **Meat Industry Act 1993** or any Commonwealth Act<sup>1</sup>; or

**S. 6(1)(a)**  
amended by  
No. 77/1995  
s. 5(2)(3).

(b) except to the extent that it is necessary to rely upon a Code of Practice as a defence to an offence under this Act the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching, trapping, netting, marking, care, use, husbandry or management of any animal or class of animals (other than a farm animal or class of farm animals) which is carried out in accordance with a Code of Practice; or

(c) any act or practice with respect to the farming, transport, sale or killing of any farm animal which is carried out in accordance with a Code of Practice; or

(d) anything done in accordance with the **Catchment and Land Protection Act 1994**; or

**S. 6(1)(d)**  
amended by  
Nos 52/1994  
s. 97(Sch. 3  
item 23.1),  
69/2004  
s. 48(1).

(e) the treatment of any animal for the purpose of promoting its health or welfare by or in accordance with the instructions of a veterinary practitioner; or

**S. 6(1)(e)**  
amended by  
Nos 77/1995  
s. 5(4),  
58/1997  
s. 96(Sch.  
item 7.2).

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S. 6(1)(f)  
inserted by  
No. 77/1995  
s. 5(4),  
amended by  
No. 77/1995  
s. 5(5).

- (f) the slaughter of a farm animal on a farm if—
- (i) it is slaughtered for consumption on that farm; and
  - (ii) it is slaughtered in a humane manner; and
  - (iii) it is not slaughtered for sale; and
  - (iv) it is not slaughtered for use in the preparation of food for sale; and
  - (v) it is not removed from that farm; or

S. 6(1)(g)  
inserted by  
No. 77/1995  
s. 5(5),  
substituted by  
No. 26/1998  
s. 8.

- (g) any fishing activities authorised by and conducted in accordance with the **Fisheries Act 1995**<sup>2</sup>.

S. 6(1)(h)  
inserted by  
No. 77/1995  
s. 5(5),  
repealed by  
No. 26/1998  
s. 8.<sup>3</sup>

\* \* \* \* \*

S. 6(1A)  
inserted by  
No. 103/2003  
s. 32.

- (1A) For the purpose of determining whether or not sub-section (1) applies to a particular case, a specialist inspector (within the meaning of Part 2) may exercise a power set out in section 21A or 22A.

S. 6(1B)  
inserted by  
No. 69/2004  
s. 48(2).

- (1B) This Act, except Part 3, does not apply to anything done in accordance with the **Wildlife Act 1975**.

S. 6(2)  
inserted by  
No. 77/1995  
s. 5(7).

- (2) In sub-section 6(1)(f) "**farm**" has the same meaning as in the **Meat Industry Act 1993**.

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s. 7

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**7. Codes of Practice**

- (1) The Governor in Council, on the recommendation of the Minister, may make, vary or revoke Codes of Practice—
- (a) specifying procedures for the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching, trapping, netting, marking, care, use, husbandry or management of any animal or class of animals; or
  - (b) about the premises, facilities, equipment or conditions at any premises to which licences granted under Part 3 apply; or
  - (c) the constitution, procedures and processes of animal ethics committees.
- (2) A Code of Practice may apply, adopt or incorporate (with or without modification) any matter contained in any document, code, standard, rule, specification or method issued, formulated, prescribed, adopted or published by any authority or body as issued, formulated, prescribed, adopted or published at the time the Code is made or at any time before then.
- (3) Subject to sub-section (4), a Code of Practice or a variation or revocation of a Code of Practice must as soon as possible after it has been made be published in the Government Gazette.

S. 7(1)  
amended by  
No. 11/2000  
s. 4(2).

S. 7(1)(b)  
substituted by  
No. 103/2003  
s. 33.

S. 7(1)(c)  
inserted by  
No. 103/2003  
s. 33.

S. 7(3)  
amended by  
No. 11/2000  
s. 4(3).

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- (4) Before—
- (a) any Code of Practice; or
  - (b) any variation or revocation of a Code of Practice—
- which deals with any animal is published in the Government Gazette—
- (c) the Minister must ensure that a copy of that Code, variation or revocation has lain on the table of both the Legislative Assembly and the Legislative Council for fourteen sitting days, during which time the Code may be disallowed by resolution of the Legislative Assembly or of the Legislative Council; and
  - (d) the Code, variation or revocation must not have been so disallowed.
- (5) A Code of Practice or a variation or revocation of a Code of Practice takes effect on the date of its publication in the Government Gazette or such later date as is specified in the Code, variation or revocation.
- (6) If any Code of Practice applies, adopts or incorporates matter under sub-section (2) or a variation of a Code of Practice varies a Code so as to apply, adopt or incorporate such matter in the Code—
- (a) that Code or variation must specify a place at which copies of that matter may be obtained; and
  - (b) the Minister must lay or cause to be laid a copy of that matter before the Legislative Council and the Legislative Assembly as soon as is practicable after the Code or variation is published in the Government Gazette.
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**PART 2—PROTECTION OF ANIMALS**

**Division 1—Cruelty**

**8. Definitions**

(1) In this Part—

**"baiting"** means encouraging an animal to fight another animal;

**"inspector"** means—

- (a) a member of the police force; or
- (b) a person approved as an inspector under section 18;

**"permit"** means a permit to operate a rodeo or a rodeo school issued under Division 2;

**"rodeo"** means an event which includes any exhibition of or competition in buck-jumping, rough-riding, animal dogging, roping or tying;

**"rodeo school"** means any premises used for the training or schooling of persons in buck-jumping, rough-riding, animal dogging, roping or tying;

**"specialist inspector"** means a person appointed as a specialist inspector under section 18A;

**"trap-shooting"** means shooting at a bird—

- (a) which is released or projected from a box, trap, cage or other contrivance used for holding the bird; or

S. 8  
amended by  
No. 103/2003  
s. 34 (ILA  
s. 39B(1)).

S. 8(1) def. of  
"permit"  
amended by  
No. 69/2004  
s. 49(1).

S. 8(1) def. of  
"specialist  
inspector"  
inserted by  
No. 77/1995  
s. 6.

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(b) which is released or projected after being held in captivity whether held by mechanical means or by hand.

S. 8(2)  
inserted by  
No. 103/2003  
s. 34.

(2) In this Part a reference to "animal" is a reference to an animal that is—

(a) in the case of a mammal, bird or reptile, at or above the normal mid-point of the gestational cycle for the particular class of animal; or

(b) in any other case, capable of independent feeding.

S. 9  
amended by  
No. 77/1995  
s. 7(1)(a)(f).

## 9. Cruelty

(1) A person who—

(a) wounds, mutilates, tortures, overrides, overdrives, overworks, abuses, beats, worries, torments or terrifies an animal; or

S. 9(1)(b)  
amended by  
No. 77/1995  
s. 7(1)(b),  
substituted by  
No. 76/2005  
s. 27(a).

(b) loads, crowds or confines an animal where the loading, crowding or confinement of the animal causes, or is likely to cause, unreasonable pain or suffering to the animal; or

S. 9(1)(c)  
substituted by  
No. 76/2005  
s. 27(b).

(c) does or omits to do an act with the result that unreasonable pain or suffering is caused, or is likely to be caused, to an animal; or

S. 9(1)(d)  
amended by  
No. 77/1995  
s. 7(1)(c).

(d) drives, conveys, carries or packs an animal in a manner or position or in circumstances which subjects or subject, or is likely to subject, it to unnecessary pain or suffering; or

S. 9(1)(e)  
substituted by  
No. 76/2005  
s. 27(c).

(e) works, rides, drives or uses an animal when it is unfit for the purpose with the result that unreasonable pain or suffering is caused to an animal; or

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- (f) is the owner or the person in charge of an animal which is confined or otherwise unable to provide for itself and fails to provide the animal with proper and sufficient food, drink or shelter; or
- (g) sells, offers for sale, purchases, drives or conveys a calf, which appears to be unfit because of weakness, to be sold or purchased or to be driven or conveyed to its intended destination; or
- (h) abandons an animal of a species usually kept in a state of confinement or for a domestic purpose; or
- (i) is the owner or the person in charge of a sick or injured animal and unreasonably fails to provide veterinary or other appropriate attention or treatment for the animal; or
- (j) other than in accordance with the **Catchment and Land Protection Act 1994**, the **Wildlife Act 1975** or the **Drugs, Poisons and Controlled Substances Act 1981**, intentionally administers to an animal or lays a bait for the animal containing—
- (i) a poison; or
- (ii) any other substance which, when administered to that type of animal, has a harmful effect on the animal; or
- (k) uses spurs with sharpened rowels on an animal; or
- S. 9(1)(f) amended by No. 77/1995 s. 7(1)(d), substituted by No. 76/2005 s. 27(d).
- S. 9(1)(i) amended by No. 77/1995 s. 7(1)(e), substituted by No. 76/2005 s. 27(e).
- S. 9(1)(j) amended by No. 52/1994 s. 97(Sch. 3 item 23.2).

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S. 9(1)(l)  
amended by  
Nos 68/1987  
s. 26(a),  
74/2000  
s. 3(Sch. 1  
item 101).

(l) crops the ears of a dog, except if that operation is done on the advice of a veterinary practitioner and for the purpose of having a therapeutic or prophylactic effect on the dog; or

S. 9(1)(la)  
inserted by  
No. 68/1987  
s. 26(b),  
amended by  
No. 11/2002  
s. 3(Sch. 1  
item 54).

(la) debarks a dog, unless the operation is done on the advice of a veterinary practitioner and in accordance with a Code of Practice; or

S. 9(1)(m)  
amended by  
No. 74/2000  
s. 3(Sch. 1  
item 101).

(m) docks the tail of a horse, except if that operation is done on the advice of a veterinary practitioner and for the purpose—

(i) of having a therapeutic or prophylactic effect on the horse; or

(ii) of providing for the safety of the horse if it is a working horse—

commits an act of cruelty upon that animal and is guilty of an offence.

Penalty: 60 penalty units or imprisonment for 6 months.

S. 9(2)  
inserted by  
No. 77/1995  
s. 7(2).

(2) It is a defence to a charge under sub-section (1) against an owner of an animal to prove that, at the time of the alleged offence, the owner had entered into an agreement with another person by which the other person agreed to care for the animal.

### 10. Aggravated cruelty

S. 10(1)  
amended by  
No. 77/1995  
s. 8.

(1) A person who commits an act of cruelty upon any animal which results in the death or serious disablement of the animal commits an act of aggravated cruelty upon that animal and is guilty of an offence.

Penalty: 120 penalty units or imprisonment for twelve months.

- 
- (2) A person who is guilty of an offence under subsection (1) may be liable to the penalty for that offence in addition to or instead of any other penalty to which the person is liable under section 9.

**11. Defence to cruelty or aggravated cruelty**

In any proceedings against a person in relation to an act of cruelty under section 9, or an act of aggravated cruelty under section 10, it is a defence if the person—

- (a) acted reasonably; or
- (b) reasonably omitted to do an act—

in defending himself or herself or any other person against an animal or against any threat of attack by an animal.

**12. Serious offences**

- (1) If a person has been convicted of one or more offences under this Act and a court considers that the offence or offences is or are of a serious nature, the court may, in addition to or instead of any other penalty, order—
  - (a) that the person be disqualified, for such period as the court orders not exceeding five years, from having custody of any animal of a kind or of a class specified in the order; or
  - (b) that certain conditions specified in the order, shall apply, for such period as the court orders, to the person's custody of any animal.
- (2) A court must not make an order under subsection (1) in relation to a person who is not the owner of the animal or animals concerned in proceedings for the offence or offences referred to in that sub-section if the person proves—

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S. 12(2)(a)(i)  
amended by  
No. 76/2005  
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- 
- (a) that the offence or one of the offences was committed both on the instructions and in the presence or under the supervision of—
- (i) the owner or the person in charge of the animal or animals; or
  - (ii) a person who at the time the offence was committed was the employer of or had engaged the person who committed the offence to do work which the person was then doing; and
- (b) if the offence was a continuing one, that the person had no reasonable opportunity in the circumstances of preventing the offence from continuing.
- (3) A court which has made an order under sub-section (1) may suspend the order—
- (a) for any period which the court considers necessary to make arrangements for the custody of any animal of a kind or class specified in the order; or
  - (b) pending the determination of an appeal against the order.
- (4) A person in relation to whom an order under sub-section (1) is made may, after 12 months after the date of the order, apply to the court which made the order for the variation, suspension or cancellation of the order.
- (5) A court to which application is made under sub-section (4) may, having regard to the applicant's character, the applicant's conduct since the date of the order, the nature of the offence or offences referred to in sub-section (1) and any other relevant circumstances—
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- (a) direct that from a specified date—
- (i) the order be varied, suspended or cancelled as specified in the direction; or
  - (ii) the order be varied to apply only to animals of a specified kind or class; or
- (b) refuse the application.

(6) If a court under sub-section (5)(a)(ii) or (b) directs that an order be varied or refuses an application, the applicant must not make another application until 12 months after the direction or refusal.

(6A) If a person is disqualified under sub-section (1)(a) and, during the period of disqualification, a court makes a further order under sub-section (1)(a) in respect of the person, the further order takes effect immediately after the end of the period of disqualification fixed by the initial order.

S. 12(6A) inserted by No. 77/1995 s. 9(1).

(7) A person who has custody of an animal in contravention of an order under sub-section (1) is guilty of an offence.

S. 12(7) amended by No. 77/1995 s. 9(2)(a)(b).

Penalty: 60 penalty units or imprisonment for 6 months or both.

**12A. Registration of interstate orders**

S. 12A inserted by No. 50/2005 s. 3.

(1) In this section—

**"corresponding law"** means a provision of a law of another State or Territory declared by an Order of the Governor in Council under section 12B to be a corresponding law for the purposes of this section;

**"interstate minister"** means the minister responsible for administering a corresponding law;

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**"interstate order"** means a court order made under a corresponding law;

**"register"** means a register kept for the purposes of this section.

- (2) On the written request of an interstate minister, the Minister may register an interstate order.
- (3) The Minister must not register an interstate order under this section unless the interstate minister has provided the Minister with a copy, or an extract of the operative provisions, of the order.
- (4) On registering an interstate order under this section, the Minister must ensure that any details specified in the regulations relating to the registration of interstate orders under this section are recorded on the copy or extract of the order and in the register (as the case requires).
- (5) As soon as possible after registering an interstate order, the Minister must ensure that a notice is served on the person who is the subject of the order either personally or by registered post at the last known address of that person.
- (6) The notice must inform the person—
  - (a) that the relevant interstate order has been registered under this section; and
  - (b) that the registration of the order does not take effect until 14 days after the notice is served on the person; and
  - (c) that from the time the registration takes effect, a contravention of the order in Victoria is an offence under sub-section (8).
- (7) The registration of an interstate order registered under this section takes effect 14 days after notice is served in accordance with sub-section (5) on the person who is the subject of the order.

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(8) A person who is the subject of an interstate order, the registration of which is in effect in Victoria, must not have custody of an animal in contravention of that order.

Penalty: 60 penalty units or imprisonment for 6 months or both.

(9) Sub-section (8) applies even if the order is varied after it is registered.

(10) However, if an interstate order is varied after it is registered to create a new obligation on the person to whom the order relates, proceedings against the person in respect of a contravention of that obligation must not be started unless the person had notice of the obligation before the contravention occurred.

(11) In proceedings for an alleged offence against sub-section (8)—

(a) production of a certificate signed by the Minister stating that an interstate order was registered on a specified date is *prima facie* evidence of the registration under this section of the order; and

(b) production of a certificate signed by the interstate minister setting out the terms of the interstate order at a particular date is *prima facie* evidence of the terms of the order on that date.

(12) All courts and tribunals, and any person acting judicially, must take judicial notice of—

(a) the signature of the person who is or was the Minister, and of the fact that the person is or was the Minister; and

(b) the signature of the person who is or was the interstate minister, and of the fact that the person is or was the interstate minister.

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s. 12B

S. 12B  
inserted by  
No. 50/2005  
s. 3.

**12B. Governor in Council may declare corresponding law**

- (1) The Governor in Council may, by Order published in the Government Gazette, declare a provision of a law of another State or a Territory to be a corresponding law for the purposes of section 12A if that provision substantially corresponds with section 12.
- (2) An Order under sub-section (1) has effect as from the date the Order is published or from any later date specified in the Order.

**13. Baiting and luring**

S. 13(1)  
amended by  
No. 77/1995  
s. 10(1).

- (1) A person who—
  - (a) keeps, uses or assists in the management of premises for the purpose of causing an animal to fight, or for the baiting or maltreating of an animal; or
  - (b) causes or procures the release of an animal in circumstances where it will or is likely to be pursued, injured or killed by a dog; or
  - (c) causes, procures or permits an animal in captivity to be injured or killed by a dog; or
  - (d) uses an animal as a lure or kill for the purpose of blooding greyhounds or in connexion with the training and racing of any coursing dog; or
  - (e) keeps or has the custody, care or control of an animal for use as a lure or kill for the purpose of blooding greyhounds or in connexion with the training and racing of any coursing dog—

is guilty of an offence.

Penalty: 120 penalty units or imprisonment for 12 months.

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(2) In any prosecution under sub-section (1), evidence in writing by a veterinary practitioner who is employed, or who practises on his or her own behalf, as a veterinary pathologist 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.

**S. 13(2)**  
amended by  
Nos 77/1995  
s. 10(2),  
74/2000  
s. 3(Sch. 1  
item 101),  
103/2003 s. 35.

(3) In any prosecution under sub-section (1)(d)—

(a) evidence that the defendant had the custody, care or control of an animal which appeared to have been used as a lure or kill in the manner referred to in sub-section (1)(d) is prima facie evidence that the defendant used the animal as a lure or kill in that manner; and

(b) it is a defence if the person charged proves that—

(i) the animal was used as a lure or kill in the manner referred to in sub-section (1)(d) without that person's knowledge or consent; or

(ii) that person took all reasonable steps to prevent the animal being used as a lure or kill in the manner referred to in sub-section (1)(d).

(4) A person must not attend an event at which an animal is encouraged to fight another animal.

**S. 13(4)**  
inserted by  
No. 83/2001  
s. 3.

Penalty: 60 penalty units.

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s. 14

S. 14  
amended by  
No. 77/1995  
s. 11.

#### 14. Trap-shooting

A person who—

- (a) engages in; or
- (b) keeps or uses any premises for the purposes of—

the trap-shooting of birds is guilty of an offence.

Penalty: 120 penalty units or imprisonment for 12 months.

#### 15. Leghold traps

(1) In this section—

- (a) "**large leghold trap**" means a spring-operated steel-jawed leghold trap of a kind prescribed as a large leghold trap; and
- (b) "**small leghold trap**" means a spring-operated steel-jawed leghold trap of a kind prescribed as a small leghold trap; and
- (c) "**Crown land**" does not include land that is subject to a lease or licence of agricultural or grazing lands granted within the meaning of and under Division 4 of Part I of the **Land Act 1958**; and
- (d) "**Urban area**" means an area of land that is predominantly—
  - (i) sub-divided into allotments that, in the case of land used or to be used for residential purposes, are not larger than 0.4 hectares; and
  - (ii) able to be used or developed under a planning scheme or interim development order for residential, industrial or commercial purposes; and
  - (iii) provided with constructed streets and public utility services.

S. 15(1)(c)  
amended by  
No. 35/1988  
s. 24(1).

S. 15(1)(d)  
inserted by  
No. 35/1988  
s. 24(1).

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(2) A person—

- (a) who sets or uses a large leghold trap; or
- (b) who is in possession of a large leghold trap for or in connexion with the purpose of trapping an animal—

except in the Counties of Tambo, Croajingalong, Delatite, Tanjil, Anglesey, Benambra, Dargo, Wonnangatta, Bogong, Lowan or Weeah or in the Parishes of Ellinging, Noojee, Noojee East, Toorongo, Fumina North, Fumina, Neerim East, Neerim, Yarragon, Nayook, Nayook West, or Jindivick in the County of Buln Buln, is guilty of an offence.

Penalty: 120 penalty units or imprisonment for 12 months.

**S. 15(2)**  
**amended by**  
**No. 77/1995**  
**s. 12(1).**

(3) A person must not—

- (a) set, use or possess a small leghold trap on Crown land; or
- (b) set or use a small leghold trap on land in an urban area that is not predominantly used for agriculture; or
- (c) on any other land set or use a small leghold trap except—
  - (i) in accordance with a Code of Practice; and
  - (ii) with the consent of the owner or occupier of the land (if the person is not himself or herself the owner or occupier).

Penalty: 120 penalty units or imprisonment for 12 months.

**S. 15(3)**  
**substituted by**  
**No. 35/1988**  
**s. 24(2),**  
**amended by**  
**No. 77/1995**  
**s. 12(2).**

\* \* \* \* \*

**S. 15(4)**  
**repealed by**  
**No. 35/1988**  
**s. 24(2).**

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**15A. Dogs on moving vehicles**

S. 15A  
inserted by  
No. 77/1995  
s. 13.

(1) In this section—

**"highway"** has the same meaning as in the **Road Safety Act 1986**;

S. 15A(1) def.  
of "motor  
vehicle"  
inserted by  
No. 11/2000  
s. 5(1).

**"motor vehicle"** has the same meaning as in the **Road Safety Act 1986**;

**"trailer"** has the same meaning as in the **Road Safety Act 1986**;

S. 15A(1) def.  
of "tray"  
inserted by  
No. 11/2000  
s. 5(1).

**"tray"** means a part of a motor vehicle behind the cabin that is an open compartment and is principally constructed to carry a load.

S. 15A(2)  
amended by  
No. 11/2000  
s. 5(2)(b).

(2) Subject to sub-section (3), a person must not drive on a highway—

S. 15A(2)(a)  
substituted by  
No. 11/2000  
s. 5(2)(a).

(a) a motor vehicle with a tray; or

(b) a motor vehicle to which a trailer is attached—

if a dog is in or on the tray or trailer (as the case requires) and the dog is not secured in such a way as to prevent it from—

S. 15A(2)(c)  
substituted by  
No. 11/2000  
s. 5(2)(c).

(c) falling off or out of, or from, or moving off, the tray or trailer (as the case requires); or

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- (d) being injured from the movement of the motor vehicle or trailer.

S. 15A(2)(d)  
amended by  
No. 11/2000  
s. 5(2)(d).

Penalty: 5 penalty units.

- (3) Sub-section (2) does not apply to a dog which is being used to assist in the movement of livestock.

**Division 2—Rodeos**

**16. Permits to operate rodeos or rodeo schools**

S. 16  
(Heading)  
inserted by  
No. 69/2004  
s. 49(2).

- (1) The Department Head may, on receipt of an application in the prescribed form for that type of permit accompanied by the prescribed fee for that type of permit, issue a permit to a person authorizing the person either—

S. 16(1)  
amended by  
Nos 77/1995  
s. 14, 76/1998  
s. 27(b).

- (a) to operate a rodeo; or

S. 16(1)(a)  
amended by  
No. 69/2004  
s. 49(3)(a).

- (b) to operate a rodeo school.

- (2) A permit issued by the Department Head—

S. 16(2)  
amended by  
Nos 77/1995  
s. 14, 76/1998  
s. 27(b),  
substituted by  
No. 76/2005  
s. 29(1).

- (a) must be in the prescribed form for that type of permit; and

- (b) is subject to the prescribed conditions for that type of permit; and

- (c) is subject to any conditions imposed by the Department Head in the permit; and

- (d) in the case of a permit to operate a rodeo school, remains in force for a period specified in the permit of not more than 12 months.

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**S. 16(3)**  
amended by  
Nos 77/1995  
s. 14, 76/1998  
s. 27(b).

(3) The Department Head may refuse to issue a permit if—

**S. 16(3)(aa)**  
inserted by  
No. 69/2004  
s. 49(3)(b).

(aa) he or she is not satisfied that the applicant is the person who intends to supply the stock to be used at the rodeo or the rodeo school (as the case may be); or

**S. 16(3)(ab)**  
inserted by  
No. 76/2005  
s. 29(2)(a).

(ab) the application is not lodged at least 28 days before the day that the rodeo or rodeo school to which the permit relates is to be held; or

(a) the prescribed particulars to be included in the application for that type of permit are not supplied; or

**S. 16(3)(b)**  
amended by  
No. 69/2004  
s. 49(3)(c),  
substituted by  
No. 76/2005  
s. 29(2)(b).

(b) the applicant has been convicted of—

(i) an offence against section 9 or 10; or

(ii) any other offence under this Act or the regulations in connection with the operation of a rodeo or a rodeo school;  
or

**S. 16(3)(c)**  
amended by  
Nos 69/2004  
s. 49(3)(d),  
76/2005  
s. 29(2)(c).

(c) the applicant does not agree to operate the rodeo or the rodeo school in accordance with the prescribed conditions for that type of permit or any condition imposed by the Department Head; or

(d) the facilities and conditions to be provided for animals at the rodeo or rodeo school do not conform to the prescribed minimum requirements.

**S. 16(3A)**  
inserted by  
No. 76/2005  
s. 29(3).

(3A) The Department Head may impose any condition in the permit.

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- (4) The Minister may by notice in writing signed by the Minister and served personally upon or sent by post to the holder of a permit vary or cancel that person's permit.
- (5) A permit may be cancelled if the holder of the permit has contravened this Act or the regulations or has contravened any of the conditions applying to the permit.

S. 16(5)  
amended by  
No. 76/2005  
s. 29(4).

**17. Offences**

S. 17  
amended by  
No. 77/1995  
s. 15.

A person who—

- (a) operates a rodeo or a rodeo school without holding a permit authorizing that person to do so; or
- (b) operates a rodeo or a rodeo school in contravention of any provision of this Act or the regulations—

S. 17(a)  
amended by  
No. 69/2004  
s. 49(4).

S. 17(b)  
amended by  
No. 69/2004  
s. 49(4).

is guilty of an offence.

Penalty: 60 penalty units.

**Division 3—Enforcement**

**18. Certain persons to be inspectors**

- (1) The following persons are inspectors—
- (a) any member of the police force; and
- (b) any person who is—

- (i) an inspector of livestock appointed under the **Livestock Disease Control Act 1994**; or

S. 18(1)(b)(i)  
amended by  
No. 68/1987  
s. 27,  
substituted by  
No. 115/1994  
s. 142(Sch. 2  
item 6).

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S. 18(1)(b)(ii)  
amended by  
No. 69/2004  
s. 50.

(ii) a full-time or part-time officer of the Royal Society for the Prevention of Cruelty to Animals—

and who is approved as an inspector by the Minister in writing; and

S. 18(1)(c)  
amended by  
Nos 77/1995  
s. 16, 22/1996  
s. 18(a)(b).

(c) Any person who is an authorised officer under section 72 of the **Domestic (Feral and Nuisance) Animals Act 1994** and who is approved as an inspector by the Minister in writing, but only in respect of an alleged offence committed or a circumstance occurring in the municipal district for which that person is an authorised officer.

(2) An approval as an inspector remains in force for a period—

(a) specified in the approval; and

(b) of not more than three years expiring on 30 June in the year that it ceases to have force.

(3) The Minister may cancel an approval as an inspector.

S. 18A  
inserted by  
No. 77/1995  
s. 17.

**18A. Specialist inspectors**

(1) The Minister may, by instrument in writing, appoint any person whom the Minister considers to have appropriate qualifications to be a specialist inspector for the purposes of this Part.

(2) The appointment of a specialist inspector remains in force for a period not exceeding 3 years specified in the instrument of appointment and expiring on 30 June.

(3) The Minister may cancel the appointment of a specialist inspector.

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**19. Identification certificates of inspectors and specialist inspectors**

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|---|---|
| (1) The Minister must issue every inspector (other than a member of the police force) and specialist inspector with an identification certificate in the prescribed form. | S. 19(1)<br>amended by<br>No. 77/1995<br>s. 18. |
| (2) When on duty an inspector (other than a member of the police force) and specialist inspector must on demand produce that certificate.                                 | S. 19(2)<br>amended by<br>No. 77/1995<br>s. 18. |

**20. Offence to impersonate or pretend to be inspector or specialist inspector**

S. 20  
amended by  
No. 77/1995  
s. 19.

A person who impersonates an inspector or specialist inspector named in an identification certificate or falsely pretends to be an inspector or specialist inspector is guilty of an offence.

Penalty: 20 penalty units.

**21. Powers of inspectors**

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|--|---|
| (1) An inspector has the following powers for the purposes of this Part and the regulations:   | S. 21(1)<br>amended by<br>No. 69/2004<br>s. 51.           |
| (a) Power to—  |   |
| (i) enter any premises other than a person's dwelling with such assistance as is necessary if the inspector suspects on reasonable grounds that baiting, trap-shooting or the use of an animal as a lure is occurring in or on the premises; and |   |
| (ii) inspect and examine any animals, plant, equipment or facility in or on those premises that the inspector believes is being used for the baiting, trap-shooting or luring referred to in subparagraph (i); and                               | S. 21(1)(a)(ii)<br>amended by<br>No. 77/1995<br>s. 20(1). |

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**S. 21(1)(a)(iii)**  
**amended by**  
**No. 77/1995**  
**s. 20(2).**

(iii) require any person in or on the premises to give such information as the inspector requests in relation to the suspected baiting, trap-shooting or luring and answer any questions put to that person by the inspector in relation to the suspected baiting, trap-shooting or luring;

(b) Power to enter any premises other than a person's dwelling with such assistance as is necessary to feed and water any animals without the inspector or assistant being liable to any action of trespass if the inspector believes on reasonable grounds that the animals—

(i) in the case of animals which are ruminants, have been confined without food or water for more than thirty-six hours; or

(ii) in the case of any other mammals or of any birds, have been confined without food or water for more than twenty-four hours;

**S. 21(1)(ba)**  
**inserted by**  
**No. 77/1995**  
**s. 20(3).**

(ba) Power to enter any premises other than a person's dwelling with such assistance as is necessary—

(i) to free an animal from an entanglement, tether or bog (without removing it from its housing or the premises on which it is located) if the animal is showing signs of pain or suffering from the entanglement, tether or bog; or

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|--|---|
| (ii) to inspect an animal showing signs of pain or suffering as a result of injury or disease in order to determine whether the animal requires treatment by a veterinary practitioner;          | S. 21(1)(ba)(ii) amended by No. 58/1997 s. 96(Sch. item 7.3).                               |
| (bb) Subject to sub-section (2A), power to arrange for treatment by a veterinary practitioner of an animal if—   | S. 21(1)(bb) inserted by No. 77/1995 s. 20(3), amended by No. 58/1997 s. 96(Sch. item 7.3). |
| (i) the inspector believes that such treatment is necessary for the welfare of the animal; and   |   |
| (ii) the owner or the person in charge of the animal has not engaged a veterinary practitioner to undertake the treatment or cannot be contacted after reasonable enquiry;                       | S. 21(1)(bb)(ii) amended by Nos 58/1997 s. 96(Sch. item 7.3), 76/2005 s. 30.                |
| (c) Power to—  | S. 21(1)(c) substituted by No. 77/1995 s. 20(4).  |
| (i) enter any premises other than a person's dwelling with such assistance as is necessary if the inspector suspects on reasonable grounds that in or on those premises there is an animal that— |   |
| (A) is behaving in such a manner and in such circumstances that it is likely to cause death or serious injury to any person or animal; or  |   |
| (B) is abandoned, distressed or disabled; and  |   |
| (ii) destroy any animal in or on those premises that—  |   |
| (A) is behaving in such a manner and in such circumstances that it is likely to cause death or serious injury to any person or animal; or  |   |
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S. 21(2A)  
inserted by  
No. 77/1995  
s. 20(5),  
amended by  
Nos 58/1997  
s. 96(Sch.  
item 7.3),  
76/2005 s. 30.

S. 21(2B)  
inserted by  
No. 77/1995  
s. 20(5),  
amended by  
No. 76/2005  
s. 30.

S. 21(2C)  
inserted by  
No. 77/1995  
s. 20(5).

- (B) is abandoned, distressed or disabled if its condition is such that it would continue to suffer if it remained alive;
- (d) Power to impound any animal for the purposes of feeding and watering it and providing any necessary veterinary attention or treatment if the animal is found apparently abandoned in a public place.
- (2) An inspector may, on behalf of a person who provided food or water given to an animal by or under the authority of an inspector under sub-section (1)(b), recover from the owner of the animal the reasonable costs of the food and water in any court of competent jurisdiction as a civil debt recoverable summarily.
- (2A) If the owner or the person in charge of the animal can be contacted after reasonable enquiry, an inspector must, before arranging veterinary treatment under sub-section (1)(bb), give the owner or person an opportunity to arrange for a veterinary practitioner of his or her choice to undertake the required treatment.
- (2B) An inspector may recover the costs of veterinary treatment arranged under sub-section (1)(bb) from the owner or the person in charge of the animal treated in a court of competent jurisdiction as a civil debt recoverable summarily.
- (2C) In exercising a power under sub-section (1)(a), (b), (ba) or (c), an inspector may—
- (a) inspect and take photographs (including video recordings), or make sketches of the premises or any animal or thing in or on the premises;

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- (b) in accordance with sub-section (2D), take and keep samples of or from any animal or thing in or on the premises;
- (c) open any container at the premises for the purpose of inspecting, or taking a sample of, its contents but must reseal the container after the inspection is made or the sample is taken.
- (2D) If an inspector proposes to take a sample from an animal or a thing, the inspector must—
- (a) advise the owner or person in charge of the animal or thing, if possible before taking the sample—
- (i) that the sample is to be taken for the purpose of examination or analysis; and
- (ii) that the owner or person in charge of the animal or thing, subject to sub-section (2E), has a right to be given a part of the sample in accordance with paragraph (b) if the owner or person so requests; and
- (b) if the sample is taken for the purpose of analysis and the owner or person in charge of the animal or thing requests to be given a part of the sample, divide the sample into 3 parts and give one part to the owner or person in charge, one part to the analyst and keep one part untouched for future comparison.
- (2E) Despite sub-section (2D)(b), a sample taken from an animal for analysis must not be divided up into parts if the inspector has been advised by a veterinary practitioner or a pathologist that division of the sample is not practicable or will adversely affect the analysis.

**S. 21(2D)**  
inserted by  
No. 77/1995  
s. 20(5),  
substituted by  
No. 76/2005  
s. 31(1).

**S. 21(2E)**  
inserted by  
No. 76/2005  
s. 31(1).

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(3) In this section—

S. 21(3) def. of  
"ruminant"  
amended by  
No. 76/2005  
s. 31(2)(a).

**"ruminant"** means any animal which is capable  
of chewing its cud;

S. 21(3) def. of  
"sample"  
inserted by  
No. 76/2005  
s. 31(2)(b).

**"sample"**, in relation to a dead animal, may  
include the whole of the carcass of the  
animal.

S. 21A  
(Heading)  
amended by  
No. 69/2004  
s. 52(1).

### 21A. Search warrants for premises

S. 21A  
inserted by  
No. 83/2001  
s. 4.

S. 21A(1)  
amended by  
Nos 69/2004  
s. 52(2)(b),  
50/2005 s. 4.

(1) An inspector may apply to a magistrate for the  
issue of a search warrant in relation to a person's  
premises, if the inspector believes on reasonable  
grounds that there is in or on the premises—

- (a) an abandoned, diseased, distressed or  
disabled animal; or
- (b) an animal, in respect of which a  
contravention of section 9 or the regulations  
is occurring or has occurred.

S. 21A(1)(b)  
amended by  
No. 69/2004  
s. 52(2)(a).

S. 21A(2)  
amended by  
Nos 69/2004  
s. 52(2)(b),  
50/2005 s. 4.

(2) If a magistrate is satisfied, by the evidence, on  
oath or by affidavit, of the inspector that there is  
reasonable grounds to believe that there is in or on  
the premises—

- (a) an abandoned, diseased, distressed or  
disabled animal; or

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- (b) an animal in respect of which a contravention of section 9 or the regulations is occurring or has occurred—

S. 21A(2)(b)  
amended by  
No. 69/2004  
s. 52(2)(a).

the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**.

- (3) A search warrant issued under this section may authorise an inspector named in the warrant, together with any member of the police force or any other person or persons named or otherwise identified in the warrant and with any necessary equipment—

- (a) to enter the premises specified in the warrant, if necessary by force; and

S. 21A(3)(a)  
amended by  
No. 69/2004  
s. 52(2)(b).

- (b) to search for an animal or an animal of a particular class of animals referred to in the warrant; and

- (c) to examine and inspect any such animal found in or on the premises to determine if the animal requires treatment by a veterinary practitioner; and

S. 21A(3)(c)  
amended by  
Nos 69/2004  
s. 52(2)(b),  
50/2005 s. 4.

- (d) to feed and water any such animal found in or on the premises; and

S. 21A(3)(d)  
amended by  
Nos 69/2004  
s. 52(2)(b),  
50/2005 s. 4.

- (e) to free any such animal from an entanglement or tether in or on the premises; and

S. 21A(3)(e)  
amended by  
Nos 69/2004  
s. 52(2)(b),  
50/2005 s. 4,  
76/2005  
s. 32(a).

- (f) to take photographs (including video recordings) or make sketches of any such animal or other thing on the premises; and

S. 21A(3)(f)  
inserted by  
No. 76/2005  
s. 32(b).

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S. 21A(3)(g)  
inserted by  
No. 76/2005  
s. 32(b).

(g) in the case of an abandoned animal, to search for and to seize any such animal specified in the warrant and to take that animal to any place that the inspector thinks appropriate; and

S. 21A(3)(h)  
inserted by  
No. 76/2005  
s. 32(b).

(h) to retain possession of that animal—

(i) until the animal is recovered by its owner or the person in charge of the animal; or

(ii) if the animal is not recovered before any relevant time limit specified in section 21CA(2) expires, until the animal is sold, destroyed or given away in accordance with section 21CA.

(4) A search warrant issued under this section must state—

(a) the purpose for which the search is required and the nature of any alleged contravention of section 9; and

(b) any conditions to which the warrant is subject; and

(c) whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and

(d) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.

(5) Except as provided by this Act, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

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**21B. Announcement before entry under search warrant**

- (1) Before executing a warrant under section 21A, the inspector named in the warrant or any other person authorised under section 21A(3)—
  - (a) must announce that he or she is authorised by the warrant to enter the premises; and
  - (b) must give any person at the premises an opportunity to allow entry to the premises.
- (2) An inspector or authorised person need not comply with sub-section (1) if he or she believes, on reasonable grounds, that immediate entry to the premises is required to ensure—
  - (a) the safety of any person; or
  - (b) that the effective execution of the warrant is not frustrated.

S. 21B  
inserted by  
No. 83/2001  
s. 4,  
amended by  
No. 69/2004  
s. 52(3),  
substituted by  
No. 50/2005  
s. 5.

**21C. Details of search warrant to be given to occupier**

- (1) If the occupier is present at the premises where a warrant under section 21A is being executed, the inspector must—
  - (a) identify himself or herself to the occupier; and
  - (b) give a copy of the warrant to the occupier.
- (2) If the occupier is not present at the premises where a warrant under section 21A is being executed, the inspector must—
  - (a) identify himself or herself to a person at the premises; and
  - (b) give a copy of the warrant to the person.

S. 21C  
inserted by  
No. 83/2001  
s. 4.

S. 21C(1)  
amended by  
No. 69/2004  
s. 52(3).

S. 21C(2)  
amended by  
No. 69/2004  
s. 52(3).

S. 21C(2)(a)  
amended by  
No. 69/2004  
s. 52(3).

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s. 21CA

S. 21CA  
inserted by  
No. 76/2005  
s. 33.

**21CA. Disposal of seized abandoned animal**

- (1) An inspector who has seized an animal under section 21A(3)(g) may, if the circumstances in sub-section (2) apply—
  - (a) sell or destroy the animal, or cause it to be sold or destroyed, in accordance with section 21CB; or
  - (b) give the animal to a domestic animal business operating from a premises which is registered for the purposes of that business under the **Domestic (Feral and Nuisance) Animals Act 1994**.
- (2) For the purposes of sub-section (1), the circumstances are—
  - (a) if the identity of the owner or the person in charge of the animal is known, the owner or person—
    - (i) has been served personally with a notice in writing that states that the animal may be recovered within 7 days after service of the notice; and
    - (ii) has not recovered the animal within 7 days after the notice was served; or
  - (b) if that identity is not known—
    - (i) reasonable steps to identify the owner or person in charge of the animal have been taken and the owner or that person has not been located within 7 days after the animal was seized; and
    - (ii) a notice in the form set out in paragraph (a) has been served in writing by leaving the notice or sending the notice by post to the premises from which the animal was seized; and

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(iii) no person entitled to possession of the animal has recovered the animal within 7 days after the notice was served.

(3) Ownership in any animal given to a domestic animal business under sub-section (1)(b) passes to that business when the business takes possession of the animal.

**21CB. Certain sale and destruction provisions to apply to animals seized under section 21A**

**S. 21CB**  
inserted by  
No. 76/2005  
s. 33.

Sections 24B, 24C and 24D apply in relation to an animal seized under section 21A—

- (a) as if a reference in those sections to an animal seized in accordance with an authority given under section 24A or to an animal seized under section 24A were a reference to an animal seized under a search warrant issued under section 21A; and
- (b) as if a reference in those sections to a "specialist inspector" were a reference to an "inspector".

**21D. Power to seize things**

**S. 21D**  
inserted by  
No. 50/2005  
s. 6.

- (1) An inspector may seize any thing (including an animal) that he or she reasonably believes has been used in connection with the commission of an offence against this Act or the regulations.
- (2) In exercising a power under sub-section (1), an inspector may do any one or more of the following—
  - (a) inspect and examine the thing;
  - (b) measure the thing;
  - (c) take photographs (including video recordings) of the thing.

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- (3) The powers of an inspector under this section are in addition to any other power given to an inspector by this Division.

S. 21E  
inserted by  
No. 50/2005  
s. 6.

**21E. Receipt must be given for any thing seized**

- (1) An inspector may not seize a thing under section 21D, apparently in the possession or custody of a person, unless he or she makes out and tenders to the person a receipt for the thing seized that—
- (a) identifies the thing; and
  - (b) states the name of the inspector and the reason why the thing is being seized.
- (2) If an inspector is unable to discover the identity of the owner or custodian of any thing seized, the inspector must leave the receipt with, or post it to, the owner of the premises from which the thing was seized.

S. 21F  
inserted by  
No. 50/2005  
s. 6.

**21F. Copies of certain seized things to be given**

- (1) If an inspector seizes under section 21D—
- (a) a document; or
  - (b) a thing that can be readily copied; or
  - (c) a storage device that contains information that can be readily copied—
- the inspector must give a copy of the thing or information to the owner or custodian of the document, thing or device as soon as is practicable after the seizure.
- (2) Sub-section (1) does not apply if the inspector is unable to discover the identity of the owner or custodian of the document, thing or device.
- (3) If it is not practicable to comply with sub-section (1) in respect of a thing before the inspector finishes the search, the inspector must

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give a receipt for the thing to the person from whom it is seized and removed.

- (4) In the case of a paper document, the inspector must certify on any copy of the document given to a person under this section that the copy is an accurate copy of the document.
- (5) A copy of a document certified under subsection (4) is to be received in all courts and tribunals as evidence of equal validity to the original.

**21G. Access to seized things**

**S. 21G**  
inserted by  
No. 50/2005  
s. 6.

- (1) If a thing is seized under section 21D, the inspector who seized the thing must, if practicable, allow the person who would normally be entitled to possession of the thing reasonable access to it while it remains in the possession, or under the control, of the inspector.
- (2) This section does not apply—
  - (a) if the inspector has given the person an accurate copy of the thing; or
  - (b) if the possession, use or setting of the thing is an offence against this Act or the regulations.

**21H. Return of seized thing before commencement of proceedings**

**S. 21H**  
inserted by  
No. 50/2005  
s. 6.

- (1) If a thing has been seized by an inspector under section 21D and proceedings have not been commenced against a person for the commission of an offence in relation to which the thing was seized, any person who claims to be entitled to possession of the thing may apply in writing to the Magistrates' Court for an order directing the inspector to return the thing to the person.

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- (2) If an application is made to the Magistrates' Court the applicant must, as soon as possible after filing the application at the Court, give a copy of the application to the inspector.
- (3) After hearing an application the Magistrates' Court may make an order directing the inspector to return the thing to the applicant—
  - (a) if the Court is satisfied that the thing is reasonably required by the applicant to carry on the applicant's business or occupation; and
  - (b) the Court has considered whether the thing is reasonably likely to be tendered as evidence in proceedings for an offence against this Act or the regulations.
- (4) The Court may include any conditions in the order that it considers appropriate including that the thing be returned for the purposes of proceedings for an offence against this Act or the regulations.
- (5) This section does not apply to a thing, the possession, use or setting of which is an offence against this Act or the regulations.

S. 21I  
inserted by  
No. 50/2005  
s. 6.

**21I. Return of seized things**

- (1) If an inspector seizes a thing under section 21D, he or she must take reasonable steps to return the thing to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the thing has not been returned before the end of 60 days after the seizure, the inspector must take reasonable steps to return it unless—
  - (a) if proceedings have commenced within that 60 days or any extended period under section 21J, those proceedings (including any appeal) have not been completed; or

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- (b) a court makes an order under section 21J extending the period during which the thing may be retained by the inspector; or
- (c) the possession, use or setting of the thing is an offence against this Act or the regulations; or
- (d) the thing is forfeited to the Crown under section 21M.

**21J. Magistrates' Court may extend retention period**

**S. 21J**  
**inserted by**  
**No. 50/2005**  
**s. 6.**

- (1) Subject to sub-section (2), an inspector may apply to the Magistrates' Court within 60 days after seizing a thing under section 21D, or within any period extended by the Court under this section, for an extension of the period during which the inspector may retain the thing.
- (2) The Court may order an extension if it is satisfied that retention of the thing is necessary for the purposes of the investigation in relation to which the thing was seized.
- (3) The Court may adjourn an application to enable notice of the application to be given to any person.
- (4) In ordering an extension the Court must ensure that the period during which a thing may be retained by an inspector does not exceed 12 months after the day that it was seized.

**21K. Dispute as to person entitled to return of seized thing**

**S. 21K**  
**inserted by**  
**No. 50/2005**  
**s. 6.**

- (1) If a dispute arises as to to whom a thing seized by an inspector under section 21D should be returned, any person seeking possession of the thing may apply to the Magistrates' Court for an order that the thing be given to that person.

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- (2) The person making the application must give notice of the application to the inspector and to every other person that the person should be aware claims, or may have a claim to, possession or ownership of the thing.
- (3) On receiving notice of an application relating to a thing, the inspector who seized the thing must retain possession of the thing until the application is determined, abandoned or withdrawn.
- (4) After hearing an application, the Magistrates' Court may order the inspector to give the thing to a particular person if it is satisfied—
  - (a) that at the time of making the order, the person has a better claim to the possession of the thing than any other person; and
  - (b) that every other person whom it is reasonable to suppose may have had a claim for possession or ownership of the thing was given notice of the application.
- (5) The inspector must comply with the order.
- (6) Sub-section (4) applies regardless of whether or not the particular person was the applicant.

**S. 21L**  
inserted by  
No. 50/2005  
s. 6.

**21L. Unclaimed seized thing may be sold or destroyed**

- (1) Any thing seized under section 21D that is not subject to forfeiture to the Crown may be destroyed or sold under the following circumstances—
  - (a) if the identity of the person from whom the thing was seized is known, that person—
    - (i) has been notified in writing after the end of the period during which the thing may be retained under this Division that the thing may be claimed; and

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- (ii) has not claimed the thing within 12 months after that notice is given; or
  - (b) if that identity is not known, reasonable steps to identify that person have been taken and no person entitled to possession of the thing has been located within 12 months after the end of the period during which the thing may be retained under this Division.
- (2) Despite sub-section (1), an inspector may destroy an animal seized under section 21D at any time after its seizure if—
- (a) a veterinary practitioner has certified that the animal should be immediately destroyed on humane grounds; or
  - (b) an inspector under the **Livestock Disease Control Act 1994** knows or reasonably suspects that the animal is diseased or infected with disease.
- (3) The proceeds from any sale of a thing under sub-section (1), less the costs associated with the storage, maintenance, care and sale of the thing, are to be paid into the Consolidated Fund.

**21M. Forfeiture of seized things**

- (1) If a person is found guilty by a court of an offence against this Act or the regulations, the court may, in addition to imposing any other penalty, order that any thing (including an animal) seized under section 21D that was used by the person in connection with the offence be forfeited to the Crown.
- (2) If a forfeited thing is sold, the costs associated with the storage, maintenance, care and sale of the thing must be deducted before any amount remaining is paid into the Consolidated Fund.

S. 21M  
inserted by  
No. 50/2005  
s. 6.

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**22. Powers of veterinary practitioners and  
superintendents of saleyards**

S. 22(1)  
amended by  
No. 58/1997  
s. 96(Sch.  
item 7.4).

- (1) A veterinary practitioner or superintendent of a saleyard has the same power as an inspector has under section 21(1)(c) to destroy an animal.

S. 22(2)  
amended by  
No. 77/1995  
s. 21.

- (2) The power of a superintendent of a saleyard to destroy an animal is to be exercised only in relation to an animal within the municipal district where the saleyard is located.
- (3) In this section, "**superintendent of a saleyard**" means the person in charge of any livestock saleyard.

S. 22A  
inserted by  
No. 77/1995  
s. 22.

**22A. Powers of specialist inspectors**

S. 22A(1)  
amended by  
No. 69/2004  
s. 53(a).

- (1) A specialist inspector has the following powers for the purposes of this Part and the regulations—

S. 22A(1)(a)  
amended by  
No. 50/2005  
s. 7(a).

- (a) all the powers of an inspector under sections 21, 21D, 24K, 24N and 24O;

- (b) with the prior written authority of the Minister, power—

S. 22A(1)(b)(i)  
substituted by  
No. 69/2004  
s. 53(b).

- (i) to enter premises, other than a person's dwelling, in or on which an animal or animals are housed or grouped for any purpose; and

- (ii) to inspect any animal, plant, equipment or structure on the premises; and

S. 22A(1)(b)(iii)  
amended by  
No. 69/2004  
s. 53(c).

- (iii) to observe any practice being conducted in connection with the management of an animal or animals on the premises.

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- (2) Sections 21, 21D, 24K, 24N and 24O apply to a specialist inspector as if a reference to an inspector were a reference to a specialist inspector.

S. 22A(2)  
amended by  
No. 50/2005  
s. 7(b).

**23. Offence to obstruct inspector or specialist inspector etc.**

S. 23  
amended by  
No. 77/1995  
s. 23(e).

A person who—

- (a) assaults, obstructs, hinders, threatens, abuses, insults, intimidates or attempts to obstruct or intimidate an inspector or specialist inspector in the discharge of the inspector's powers under this Division or a veterinary practitioner or superintendent of a saleyard in the discharge of that practitioner's or superintendent's powers under section 21(1)(c); or
- (b) gives to an inspector or specialist inspector exercising a power under section 21(1)(a)(iii) or 22A any information or answer which is false or misleading; or
- (c) refuses admission to an inspector or specialist inspector exercising a power under or a person assisting an inspector or specialist inspector under section 21(1)(a), (b) or (ba) or 22A; or
- (d) contravenes or fails to comply with any direction or requirement of an inspector or specialist inspector who is acting in the discharge of that inspector's powers under this Division or of a veterinary practitioner or superintendent of a saleyard who is acting in the discharge of that practitioner's or superintendent's powers under section 21(1)(c)—

S. 23(a)  
amended by  
Nos 77/1995  
s. 23(a)(i)(ii),  
58/1997  
s. 96(Sch.  
items 7.5, 7.6).

S. 23(b)  
amended by  
No. 77/1995  
s. 23(b)(i)(ii).

S. 23(c)  
amended by  
No. 77/1995  
s. 23(c)(i)(ii).

S. 23(d)  
amended by  
Nos 77/1995  
s. 23(d)(i)(ii),  
58/1997  
s. 96(Sch.  
items 7.5, 7.6).

is guilty of an offence.

Penalty: 60 penalty units.

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s. 23A

S. 23A  
inserted by  
No. 103/2003  
s. 36.

**23A. Offence to fail to provide name and address**

- (1) If an inspector believes, on reasonable grounds, that a person has committed an offence against this Part, the inspector may ask the person to state his or her name and ordinary place of residence or business.
- (2) In making a request under sub-section (1), the inspector must inform the person of the grounds for his or her belief that the person has not complied with the requirement.
- (3) A person must not—
  - (a) refuse or fail to comply with a request under sub-section (1) without a reasonable excuse for doing so; or
  - (b) in response to a request under sub-section (1)—
    - (i) state a name that is false in a material particular; or
    - (ii) state an address that is not the full and correct address of his or her ordinary place of residence or business.

Penalty: 10 penalty units.

- (4) If a person states a name and address in response to a request under sub-section (1) and the inspector suspects, on reasonable grounds, that the stated name and address may be false, the inspector may request the person to produce evidence of the correctness of the name and address.
- (5) A person to whom a request under sub-section (4) is made must comply with the request, unless he or she has a reasonable excuse for not doing so.

Penalty: 10 penalty units.

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s. 23B

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- (6) It is not an offence for a person to fail to comply with a request under sub-section (1) or (4)—
- (a) if the inspector did not inform the person, at the time the request was made, that it is an offence to fail to comply with the request; or
  - (b) if the authorised officer did not identify himself or herself in accordance with section 23B before making the request.

**23B. Inspectors must identify themselves**

S. 23B  
inserted by  
No. 103/2003  
s. 36.

An inspector must produce proof of his or her identity and official status—

- (a) before exercising a power under section 23A; and
- (b) at any time during the exercise of a power under section 23A, if asked to do so.

**24. Power to file charges under this Part**

- (1) A charge for an offence under this Part or an offence under the regulations relating to this Part may only be filed by—

S. 24(1)  
amended by  
No. 77/1995  
s. 24(a)(b).

- (a) a member of the police force; or
- (b) a person who is authorized for that purpose by the Minister in writing and who is—

- (i) an employee in the Public Service in the Department; or

S. 24(1)(b)(i)  
amended by  
Nos 77/1995  
s. 24(c),  
46/1998  
s. 7(Sch. 1).

- (ii) an officer of a council (but only in respect of an alleged offence committed in the municipal district of the council of which that person is an officer); or

S. 24(1)(b)(ii)  
amended by  
No. 77/1995  
s. 24(d).

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- (iii) a full-time officer of the Royal Society for the Prevention of Cruelty to Animals.
- (2) An authorization is to remain in force for a period—
  - (a) specified in the authorization; and
  - (b) of not more than three years expiring on 30 June in the year that it ceases to have force.
- (3) The Minister may cancel an authorization.

**24A. Minister may authorise seizure of animals**

- (1) If the Minister believes on reasonable grounds that an animal or animals are in such a condition, or, in such circumstances, that the animal or animals are likely to become distressed or disabled, the Minister may—
  - (a) serve a notice in writing by giving it personally to the owner of the animal or animals; or
  - (b) if the identity of the owner cannot be readily established or the owner cannot be readily contacted, serve a notice in writing by giving it personally to the person in charge of the animal or animals; or
  - (c) serve a notice in writing by leaving a notice or sending a notice by post to the last known residential or business address of the owner or the person in charge of the animal or animals.
- (1A) A notice served under sub-section (1) must state that, unless the Minister is satisfied that action has been or is being taken to remove the likelihood of the animal or animals becoming distressed or disabled, the Minister intends, not less than 7 days after the serving of the notice, to authorise a

S. 24A  
inserted by  
No. 77/1995  
s. 25,  
amended by  
No. 83/2001  
s. 5,  
substituted by  
No. 76/2005  
s. 34.

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**s. 24B**

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specialist inspector to seize and dispose of the animal or animals in accordance with this Division.

- (2) If, at the expiration of 7 days from the serving of the notice referred to in sub-section (1), the Minister is not satisfied that action has been, or is being, taken to remove the likelihood of the animal or animals becoming distressed or disabled, the Minister may authorise a specialist inspector named in the authority to seize the animal or animals and—
- (a) to sell the animal or animals or to cause them to be sold; or
  - (b) to destroy the animal or animals or to cause them to be destroyed at a place specified in the authority.

**24B. Sale of animal**

**S. 24B**  
**inserted by**  
**No. 77/1995**  
**s. 25.**

- (1) A specialist inspector may offer for sale by public auction or public tender an animal seized in accordance with an authority given under section 24A.
- (2) A specialist inspector must give public notice that he or she intends to sell a seized animal by public auction or public tender.
- (3) A public notice of a specialist inspector's intention to sell an animal by public auction must include—
  - (a) details of the location where the animal was seized;
  - (b) the number and kind of animal;
  - (c) if the animal is branded, where and how it is branded;
  - (d) the sex and colour of the animal and any other descriptive marks;
  - (e) the time and place of the auction.

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- (4) A public notice of a specialist inspector's intention to sell an animal by public tender must include—
- (a) details of the location where the animal was seized;
  - (b) the number and kind of animal;
  - (c) if the animal is branded, where and how it is branded;
  - (d) the sex and colour of the animal and any other descriptive marks;
  - (e) the date and time by which written tenders should be submitted to the inspector.

S. 24C  
inserted by  
No. 77/1995  
s. 25.

**24C. Application of proceeds of sale**

A specialist inspector must apply the proceeds of sale of a seized animal in the following order—

- (a) the costs incurred in the removal, transport and sale of the animal must be deducted;
- (b) any balance then remaining must be paid to the owner of the animal.

S. 24D  
inserted by  
No. 77/1995  
s. 25.

**24D. Destruction of animal**

- (1) A specialist inspector may destroy an animal seized under section 24A, or cause it to be destroyed, if so authorised in the authority given under that section.
- (2) Subject to sub-section (3), a specialist inspector may recover the costs of removal, transport and destruction of an animal destroyed in accordance with an authority given under section 24A from the owner of the animal in a court of competent jurisdiction as a civil debt recoverable summarily.

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- (3) A specialist inspector must apply any proceeds derived from the destruction of a seized animal in the following order—
- (a) the costs incurred in the removal, transport and destruction of the animal must be deducted;
  - (b) any balance then remaining must be paid to the owner of the animal.

**24E. Warrants to seize animals**

S. 24E  
inserted by  
No. 83/2001  
s. 6.

- (1) An inspector, with the written approval of the Department Head, may apply to a magistrate for the issue of a warrant allowing the inspector to seize an animal from a premises, including a person's dwelling, if the inspector believes on reasonable grounds that the welfare of the animal is at immediate risk
- (2) If a magistrate is satisfied, by the evidence, on oath or by affidavit, of the inspector that there is reasonable grounds to believe that the welfare of an animal believed to be in or on the premises specified in the warrant is at immediate risk, the magistrate may issue a warrant, in accordance with the **Magistrates' Court Act 1989**.
- (3) A warrant issued under this section may authorise an inspector named in the warrant, together with any member of the police force or any other person or persons named or otherwise identified in the warrant and with any necessary equipment—
  - (a) to seize any animal specified in the warrant and to take that animal to any place that the inspector thinks fit; and

S. 24E(1)  
amended by  
No. 50/2005  
s. 8.

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- (b) to retain possession of any such animal for the period of time necessary for the animal to be adequately cared for or treated, but for no longer than the period of time specified in the warrant.
- (4) A warrant issued under this section must state—
  - (a) the purpose for which the warrant is required; and
  - (b) any conditions to which the warrant is subject; and
  - (c) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.
- (5) Except as provided by this Act, the rules to be observed with respect to warrants to seize property under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

S. 24F  
inserted by  
No. 83/2001  
s. 6.

**24F. Details of seizure warrant to be given to occupier**

- (1) If the occupier is present at the dwelling or premises where a warrant under section 24E is being executed, the inspector must—
  - (a) identify himself or herself to the occupier; and
  - (b) give a copy of the warrant to the occupier.
- (2) If the occupier is not present at the dwelling or premises where a warrant under section 24E is being executed, the inspector must—
  - (a) identify himself or herself to a person at the dwelling or premises; and
  - (b) give a copy of the warrant to the person.

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**24G. Seizure of animal not mentioned in the warrant**

In addition to the seizure of any animal described in a warrant issued under section 24E or any animal of a class described in the warrant, the warrant authorises an inspector executing it to seize an animal that is not described in the warrant or that is not of a class described in the warrant, if the inspector believes, on reasonable grounds that the welfare of the animal is at immediate risk.

S. 24G  
inserted by  
No. 83/2001  
s. 6.

**24H. Retention, return and disposal of seized animal**

- (1) If an inspector seizes an animal under a warrant under section 24E, the inspector must take reasonable steps to return the animal to the owner or the person in charge of the animal within the time specified in the warrant, or if that time is extended under section 24I, the time as extended.
- (2) If the identity of the owner or the person in charge of the animal cannot be readily established, or the owner or person cannot be readily contacted, the inspector may—
  - (a) sell or destroy the animal, or cause it to be sold or destroyed, in accordance with section 24IA; or
  - (b) give the animal to a domestic animal business operating from a premises which is registered for the purposes of that business under the **Domestic (Feral and Nuisance) Animals Act 1994**.
- (3) Ownership in any animal given to a domestic animal business under sub-section (2)(b) passes to that business when the business takes possession of the animal.

S. 24H  
inserted by  
No. 83/2001  
s. 6,  
substituted by  
No. 76/2005  
s. 35.

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S. 24I  
inserted by  
No. 83/2001  
s. 6.

**24I. Magistrates' Court may extend period of warrant**

- (1) An inspector may apply to the Magistrates' Court, before the expiration of the time specified in a warrant under section 24E for the return of an animal, for an extension of the period for which the inspector may retain the animal.
- (2) The Magistrates' Court may order such an extension if it is satisfied that the retention of the animal is necessary for its welfare.
- (3) The Magistrates' Court may adjourn an application to enable notice of the application to be given to any person.

S. 24IA  
inserted by  
No. 76/2005  
s. 36.

**24IA. Certain sale and destruction provisions to apply to animals seized under section 24E**

Sections 24B, 24C and 24D apply in relation to an animal seized under a warrant under section 24E—

- (a) as if a reference in those sections to an animal seized in accordance with an authority given under section 24A or to an animal seized under section 24A were a reference to an animal seized under a warrant issued under section 24E; and
- (b) as if a reference in those sections to a "specialist inspector" were a reference to an "inspector".

S. 24J  
inserted by  
No. 83/2001  
s. 6.

**24J. Notice to comply**

- (1) If an inspector reasonably believes that an animal is in a situation where an offence under section 9 is being or is about to be committed the inspector may issue a notice to—
  - (a) the owner of the animal; or

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- (b) if the identity of the owner cannot be readily established or the owner cannot be readily contacted, the person in charge of the animal—

S. 24J(1)(b)  
amended by  
No. 76/2005  
s. 37.

requiring that person to ensure that the offence is not committed or that the commission of the offence ceases (as the case requires).

- (2) A person must comply with a notice issued to him or her under sub-section (1).

Penalty: 60 penalty units.

- (3) A notice issued under sub-section (1) must—

- (a) be in writing; and  
(b) state that it is an offence to not comply with the notice; and  
(c) set out the maximum penalty for the offence.

**24K. Warrant to seize animal held in contravention of section 12 or 12A**

S. 24K  
inserted by  
No. 50/2005  
s. 9.

- (1) An inspector, with the written approval of the Department Head, may apply to a magistrate for the issue of a warrant allowing the inspector to enter and to seize an animal from any premises, including a person's dwelling, if the inspector believes on reasonable grounds that the animal is being held in or on the premises in contravention of section 12(7) or 12A(8).
- (2) If a magistrate is satisfied by the evidence on oath or by affidavit of the inspector that there are reasonable grounds to believe that an animal is being held in or on the premises in contravention of section 12(7) or 12A(8), the magistrate may issue a warrant, in accordance with the **Magistrates' Court Act 1989**.

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- (3) A warrant issued under this section may authorise an inspector named in the warrant, together with any member of the police force or any other person, or people, named or otherwise identified in the warrant and with any necessary equipment—
- (a) to enter the premises, named or described in the warrant, if necessary by force; and
  - (b) to search for and seize any animal specified in the warrant and to take that animal to any place that the inspector thinks appropriate; and
  - (c) to retain possession of any such animal until the animal is sold or destroyed in accordance with this Act or returned to the person from whom the animal was seized.
- (4) A warrant issued under this section must state—
- (a) the purpose for which it is issued; and
  - (b) any conditions to which it is subject; and
  - (c) whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and
  - (d) a day, not later than 28 days after the issue of the warrant, on which it ceases to have effect.
- (5) Except as provided by this Act, the rules to be observed with respect to warrants to seize property under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

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**24L. Announcement before entry under warrant**

**S. 24L**  
inserted by  
No. 50/2005  
s. 9.

- (1) Before executing a warrant under section 24K, the inspector named in the warrant or any other person authorised under section 24K(3)—
  - (a) must announce that he or she is authorised by the warrant to enter the premises; and
  - (b) must give any person at the premises an opportunity to allow entry to the premises.
- (2) An inspector or authorised person need not comply with sub-section (1) if he or she believes, on reasonable grounds, that immediate entry to the premises is required to ensure—
  - (a) the safety of any person; or
  - (b) that the effective execution of the warrant is not frustrated.

**24M. Details of seizure warrant to be given to occupier**

**S. 24M**  
inserted by  
No. 50/2005  
s. 9.

- (1) If the occupier is present at the premises where a warrant under section 24K is being executed, the inspector must—
  - (a) identify himself or herself to the occupier; and
  - (b) give a copy of the warrant to the occupier.
- (2) If the occupier is not present at the premises where a warrant under section 24K is being executed but another person is present, the inspector must—
  - (a) identify himself or herself to that person; and
  - (b) give the person a copy of the warrant.

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**S. 24N**  
inserted by  
No. 50/2005  
s. 9.

**24N. Sale of seized animal**

- (1) If a person is found guilty by a court of an offence against section 12(7) or 12A(8) in respect of an animal seized under section 24K, the Department Head may authorise an inspector to offer that animal for sale by public auction or public tender.
- (2) An inspector must not sell a seized animal unless the inspector has given public notice that he or she intends to sell the animal by public auction or public tender at least 14 days before the sale.
- (3) The notice must include the following details—
  - (a) the number and kind of animal;
  - (b) if the animal is branded, where and how it is branded;
  - (c) the sex and colour of the animal and any other descriptive marks;
  - (d) in the case of an auction, the time and place of the auction;
  - (e) in the case of a tender, the date and time by which written tenders should be submitted to the inspector.
- (4) The inspector must apply the proceeds of sale of a seized animal under this section as follows—
  - (a) the costs incurred after the seizure of the animal in the maintenance, care, removal, transport and sale of the animal must be deducted;

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- (b) any balance then remaining must be paid—
- (i) if the owner of the animal is not the person found guilty of an offence against section 12(7) or 12A(8) with respect to that animal, to the owner; or
  - (ii) in any other case, into the Consolidated Fund.

**24O. Destruction of seized animal**

If a person is found guilty by a court of an offence against section 12(7) or 12A(8) in respect of an animal seized under section 24K, the Department Head may authorise an inspector to destroy, or cause to be destroyed, that animal.

**S. 24O**  
inserted by  
No. 50/2005  
s. 9.

**24P. Recovery of costs**

The balance of any costs incurred in the maintenance, care, removal, transport, sale or destruction of a seized animal after the seizure of the animal after the deduction of the proceeds (if any) of any sale conducted under section 24N may be recovered from the owner of the animal in a court of competent jurisdiction as a civil debt recoverable summarily.

**S. 24P**  
inserted by  
No. 50/2005  
s. 9.

**24Q. Certain provisions apply to animals seized under section 24K**

- (1) Sections 21E, 21G, 21I, 21J and 21K apply in relation to an animal seized under section 24K as if a reference in those sections to a thing seized under section 21D were a reference to an animal seized under section 24K.
- (2) Section 21L applies in relation to an animal seized under section 24K—
  - (a) as if a reference in that section to an animal or a thing seized under section 21D were a reference to an animal seized under section 24K; and

**S. 24Q**  
inserted by  
No. 50/2005  
s. 9.

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- (b) as if a reference in that section "to forfeiture to the Crown" were a reference "to being sold under section 24N or being destroyed under section 24O".
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**PART 3—SCIENTIFIC PROCEDURES**

**Division 1—Preliminary**

Pt 3 Div. 1  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

**25. Definitions**

In this Part—

**"authorised officer"** means a person appointed to be an authorised officer under section 35;

**"Peer Review Committee"** means a Peer Review Committee established under section 34;

**"program of scientific procedures"** means a series of scientific procedures each of which is being carried out in conjunction with the others;

**"specified animal"** means—

- (a) guinea pig; and
- (b) rat, mouse or rabbit, other than a rat, mouse or rabbit bred in its native habitat; and
- (c) non-human primate.

S. 25  
amended by  
Nos 65/1994  
s. 5(1),  
58/1997  
s. 96(Sch.  
item 7.7),  
83/2001 s. 7,  
substituted by  
No. 103/2003  
s. 37.

**Division 2—Offences**

Pt 3 Div. 2  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

**26. Offences relating to scientific procedures carried out at scientific premises**

- (1) A person who occupies a scientific premises must not cause or allow scientific procedures to be carried out on those premises unless that person holds a scientific procedures premises licence for

S. 26  
amended by  
Nos 68/1987  
s. 28, 65/1994  
s. 5(2)(3),  
77/1995 s. 26,  
76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 37.

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that premises that authorises the carrying out of those procedures.

Penalty: 60 penalty units or 6 months imprisonment, in the case of a natural person.

120 penalty units, in the case of a body corporate.

- (2) A person who occupies a premises at which scientific procedures are carried out or are proposed to be carried out must nominate a person to be responsible for any procedures carried out on those premises.

Penalty: 60 penalty units or 6 months imprisonment, in the case of a natural person.

120 penalty units, in the case of a body corporate.

- (3) A person nominated under sub-section (2) must not cause or allow scientific procedures to be carried out at the premises for which he or she has been nominated unless the nominated person reasonably believes that the occupier of the premises is the holder of a scientific procedures premises licence for that premises that authorises the carrying out of those procedures.

Penalty: 60 penalty units or 6 months imprisonment, in the case of a natural person.

120 penalty units, in the case of a body corporate.

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- (4) A person must not carry out a scientific procedure at a scientific premises unless the person carrying out the procedure reasonably believes that the occupier of the premises is the holder of a scientific procedures premises licence for that premises that authorises the carrying out of those procedures.

Penalty: 60 penalty units or 6 months imprisonment, in the case of a natural person.

120 penalty units, in the case of a body corporate.

**27. Offences relating to scientific procedures carried out outside scientific premises**

S. 27  
amended by  
No. 77/1995  
s. 27,  
substituted by  
No. 103/2003  
s. 37.

- (1) A person must not—
- (a) carry out a scientific procedure or a program of scientific procedures; or
  - (b) cause or allow a scientific procedure or program of scientific procedures to be carried out on that person's behalf—

at any place that is not a scientific premises unless the person is—

- (c) the holder of a scientific procedures field work licence; or
- (d) the holder of a scientific procedures premises licence that authorises the carrying out of that work.

Penalty: 60 penalty units or 6 months imprisonment, in the case of a natural person.

120 penalty units, in the case of a body corporate.

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- (2) A person must not—
- (a) carry out a scientific procedure or a program of scientific procedures; or
  - (b) allow a scientific procedure or program of scientific procedures to be carried out—  
on another person's behalf at any place that is not a scientific premises unless the person who so carries out or allows procedures to be carried out reasonably believes that the person on whose behalf the procedure or program is being carried out is—
  - (c) the holder of a scientific procedures field work licence; or
  - (d) the holder of a scientific procedures premises licence that authorises the carrying out of the procedure or program.

Penalty: 60 penalty units or 6 months imprisonment, in the case of a natural person.  
120 penalty units, in the case of a body corporate.

S. 28  
amended by  
Nos 77/1995  
s. 28, 76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 37.

**28. Offences relating to breeding of specified animals for use in scientific procedures**

- (1) A person who occupies premises must not cause or allow specified animals to be bred on the premises for the purposes of use in scientific procedures, unless the person is the holder of a specified animals breeding licence.

Penalty: 10 penalty units, in the case of a natural person.  
60 penalty units, in the case of a body corporate.

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- (2) A person must not breed specified animals on any premises for the purposes of use in scientific procedures unless the person who breeds the animals reasonably believes that the occupier of the premises is the holder of a specified animals breeding licence.

Penalty: 10 penalty units, in the case of a natural person.

60 penalty units, in the case of a body corporate.

- (3) This section does not apply to breeding of specified animals at any scientific premises if the breeding is being carried out for the purposes of scientific procedures being carried out at that premises under a scientific procedures premises licence.

**Division 3—Scientific Procedures Premises Licences**

Pt 3 Div. 3  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

**29. Grant of a scientific procedures premises licence**

The Department Head may licence a person who occupies a scientific premises to cause or allow scientific procedures to be carried out—

- (a) on those premises; or  
(b) on behalf of the holder of the licence, at any other place specified in the licence.

S. 29  
amended by  
Nos 77/1995  
s. 29, 76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 37.

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S. 30  
amended by  
No. 77/1995  
s. 30(1)(a)(b),  
substituted by  
No. 103/2003  
s. 37.

**30. Application for a scientific procedures licence**

- (1) A person who is the occupier of a scientific premises may apply to the Department Head for the grant of a scientific procedures premises licence.
- (2) An application under sub-section (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant must give the Department Head any further information relating to the application that the Department Head requests.

S. 31  
repealed by  
No. 65/1994  
s. 4, new s. 31  
inserted by  
No. 103/2003  
s. 37.

**31. Duration of scientific procedures premises licences**

- (1) A scientific procedures premises licence remains in force for the period that is specified in the licence, which must not be more than 3 years from the issue or renewal of the licence.
- (2) A scientific procedures premises licence expires on 30 June in the year that it ceases to have force.

S. 32  
amended by  
Nos 65/1994  
s. 5(4),  
77/1995  
s. 30(2),  
substituted by  
No. 103/2003  
s. 37.

**32. Conditions on scientific procedures premises licences**

- (1) A scientific procedures premises licence is subject to any conditions—
  - (a) that are prescribed; and
  - (b) that the Department Head imposes on the licence.
- (2) A licence holder must comply with the conditions to which the licence is subject.

Penalty: 60 penalty units or 6 months imprisonment, in the case of a natural person.  
120 penalty units, in the case of a body corporate.

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- (3) A person who is carrying out a scientific procedure under a scientific procedures premises licence must comply with the conditions to which the licence is subject.

Penalty: 60 penalty units or 6 months imprisonment, in the case of a natural person.

120 penalty units, in the case of a body corporate.

**Division 4—Scientific Procedures Field Work Licences**

Pt 3 Div. 4  
(Heading and  
ss 32A–32D)  
inserted by  
No. 103/2003  
s. 37.

**32A. Grant of a scientific procedures field work licence**

S. 32A  
inserted by  
No. 103/2003  
s. 37.

The Department Head may licence a person—

- (a) to carry out a scientific procedure or a program of scientific procedures; or  
(b) to cause or allow a scientific procedure or a program of scientific procedures to be carried out—

outside scientific premises.

**32B. Application for a scientific procedures field work licence**

S. 32B  
inserted by  
No. 103/2003  
s. 37.

- (1) A person may apply to the Department Head for the grant of a scientific procedures field work licence.
- (2) An application under sub-section (1)—
- (a) must include the prescribed particulars; and  
(b) must be accompanied by the prescribed fee.
- (3) An applicant must give the Department Head any further information relating to the application that the Department Head requests.

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Part 3—Scientific Procedures

s. 32C

S. 32C  
inserted by  
No. 103/2003  
s. 37.

**32C. Duration of scientific procedures field work licences**

- (1) A scientific procedures field work licence remains in force for the period that is specified in the licence, which must not be more than 3 years from the issue or renewal of the licence.
- (2) A scientific procedures field work licence expires on 30 June in the year that it ceases to have force.

S. 32D  
inserted by  
No. 103/2003  
s. 37.

**32D. Conditions on scientific procedures field work licences**

- (1) A scientific procedures field work licence is subject to any conditions—
  - (a) that are prescribed; and
  - (b) that the Department Head imposes on the licence.
- (2) A licence holder must comply with the conditions to which the licence is subject.

Penalty: 60 penalty units or 6 months imprisonment, in the case of a natural person.  
120 penalty units, in the case of a body corporate.

- (3) A person who is carrying out a scientific procedure under a scientific procedures field work licence must comply with the conditions to which the licence is subject.

Penalty: 60 penalty units or 6 months imprisonment, in the case of a natural person.  
120 penalty units, in the case of a body corporate.

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s. 32E

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**Division 5—Specified Animals Breeding Licences**

Pt 3 Div. 5  
(Heading and  
ss 32E–32H)  
inserted by  
No. 103/2003  
s. 37.

**32E. Grant of a specified animals breeding licence**

S. 32E  
inserted by  
No. 103/2003  
s. 37.

The Department Head may licence a person who occupies premises to cause or allow specified animals to be bred on the premises for the purposes of use in scientific procedures.

**32F. Application for a specified animals breeding licence**

S. 32F  
inserted by  
No. 103/2003  
s. 37.

- (1) A person who is the occupier of a premises may apply to the Department Head for the grant of a specified animals breeding licence.
- (2) An application under sub-section (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant must give the Department Head any further information relating to the application that the Department Head requests.

**32G. Duration of specified animals breeding licence**

S. 32G  
inserted by  
No. 103/2003  
s. 37.

- (1) A specified animals breeding licence remains in force for the period that is specified in the licence, which must not be more than 3 years from the issue or renewal of the licence.
- (2) A specified animals breeding licence expires on 30 June in the year that it ceases to have force.

**32H. Conditions on specified animals breeding licence**

S. 32H  
inserted by  
No. 103/2003  
s. 37.

- (1) A specified animals breeding licence is subject to any conditions—
  - (a) that are prescribed; and
  - (b) that the Department Head imposes on the licence.

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Part 3—Scientific Procedures

s. 32I

- (2) A licence holder must comply with the conditions to which the licence is subject.

Penalty: 10 penalty units, in the case of a natural person.

60 penalty units, in the case of a body corporate.

- (3) A person who is breeding specified animals under a specified animals breeding licence must comply with the conditions to which the licence is subject.

Penalty: 10 penalty units, in the case of a natural person.

60 penalty units, in the case of a body corporate.

Pt 3 Div. 6  
(Heading and  
ss 32I–32R)  
inserted by  
No. 103/2003  
s. 37.

**Division 6—General Licensing Provisions**

S. 32I  
inserted by  
No. 103/2003  
s. 37.

**32I. Power of Department Head to renew licences**

On the expiration of a licence granted under this Part, the Department Head may renew the licence.

S. 32J  
inserted by  
No. 103/2003  
s. 37.

**32J. Application to renew a licence**

- (1) Before a licence granted under this Part expires, the holder may apply to the Department Head for the renewal of the licence.
- (2) An application under sub-section (1)—
- (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant under this section must give to the Department Head any further information relating to the application that the Department Head requests.

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Part 3—Scientific Procedures

s. 32K

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**32K. Power of the Department Head to vary licences**

The Department Head may, either on the application of the holder of a licence issued under this Part, or on the Department Head's own motion—

- (a) vary such a licence; or
- (b) vary a condition on such a licence, other than a prescribed condition.

S. 32K  
inserted by  
No. 103/2003  
s. 37.

**32L. Variation of licence on the motion of the Department Head**

(1) Before—

- (a) varying a licence issued under this Part; or
- (b) varying a condition on such a licence—  
of his or her own motion under section 32K, the Department Head must—
- (c) notify the holder of the licence; and
- (d) allow the holder an opportunity to make written submissions.

(2) Submissions under sub-section (1) must be made within the time period specified in the notice.

(3) In making a decision as to whether or not to vary a licence under section 32K, the Department Head must—

- (a) have regard to submissions made within the period for making submissions; and
- (b) notify the holder of his or her decision.

(4) A variation to which sub-section (1) applies has effect from the time specified in the notice under sub-section (3).

S. 32L  
inserted by  
No. 103/2003  
s. 37.

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Part 3—Scientific Procedures

s. 32M

S. 32M  
inserted by  
No. 103/2003  
s. 37.

**32M. Application to vary a licence**

- (1) The holder of a licence issued under this Part may apply to the Department Head for—
  - (a) variation of the licence; or
  - (b) variation of a condition of the licence.
- (2) An application under sub-section (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant under sub-section (1) must give to the Department Head any further information relating to the application that the Department Head requests.

S. 32N  
inserted by  
No. 103/2003  
s. 37.

**32N. Suspension of licence and notice of proposal to cancel**

- (1) If the Department Head is satisfied that there may be grounds for cancelling a licence issued under this Part, the Department Head may suspend that licence.
- (2) The Department Head must serve notice of the suspension of the licence on the holder of the licence either personally or by post.
- (3) A notice under sub-section (2) must—
  - (a) state that the licence is suspended; and
  - (b) state that the Department Head is satisfied that there are grounds for the cancellation of the licence; and
  - (c) set out those grounds; and

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s. 32O

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- (d) set out the time within which written submissions on the proposed cancellation of the licence may be made to the Department Head.
- (4) A suspension under this section remains in force until—
- (a) if the Department Head decides to cancel the licence, the coming into effect of that cancellation; or
- (b) if the Department Head decides not to cancel the licence, the making of that decision.
- (5) The holder of a licence whose licence is suspended under this section is deemed not to be the holder of a licence for the period of the suspension.

**32O. Making of submissions on suspension**

S. 32O  
inserted by  
No. 103/2003  
s. 37.

- (1) The holder of a licence issued under this Part whose licence has been suspended under section 32N may make written submissions on the proposal to cancel the licence.
- (2) Submissions made under sub-section (1) must be made within the time fixed by the Department Head under section 32N(3)(d).

**32P. Power of the Department Head to cancel a licence**

S. 32P  
inserted by  
No. 103/2003  
s. 37.

If, after considering any submissions made within the time fixed for making submissions under section 32N(3)(d), the Department Head is satisfied that—

- (a) in the case of a licence holder who is a natural person, the licence holder is not a fit and proper person to hold the licence; or

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s. 32Q

- (b) in the case of a licence holder who is a body corporate, any director or officer of the body corporate who does or may exercise control over the service that is the subject of the licence is not a fit and proper person to be a director or officer of such a licence holder; or
- (c) the licence holder has failed to comply with a condition of the licence; or
- (d) the licence holder has been found guilty of an offence against this Act or the regulations—

the Department Head may cancel the licence.

S. 32Q  
inserted by  
No. 103/2003  
s. 37.

**32Q. Notice of Department Head's decision**

- (1) The Department Head must give notice to the holder of a licence that has been suspended under section 32N of the Department Head's decision under section 32P and set out reasons for that decision in the notice.
- (2) A notice under sub-section (1) must be served on the licence holder within 28 days after the expiry of the date for the making of submissions under section 32N(3)(d).

S. 32R  
inserted by  
No. 103/2003  
s. 37.

**32R. Coming into effect of cancellation**

Cancellation of a licence by the Department Head has effect from the time at which notice of the cancellation is served on the licence holder.

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s. 33

**Division 7—Miscellaneous**

Pt 3 Div. 7  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

**33. Review by Victorian Civil and Administrative Tribunal**

S. 33  
amended by  
Nos 65/1994  
s. 5(5)(a)(b),  
77/1995  
s. 31,  
substituted by  
No. 52/1998  
s. 311(Sch. 1  
item 75).

- (1) A person whose interests are affected by the relevant decision, may apply to the Victorian Civil and Administrative Tribunal for review of—
- (a) a decision refusing to grant or renew a scientific procedures premises licence, scientific procedures field work licence or a specified animals breeding licence; or
  - (b) a decision to impose conditions on such a licence; or
  - (c) a decision to cancel or suspend such a licence.
- (2) An application for review must be made within 28 days after the later of—
- (a) the day on which the decision is made;
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

S. 33(1)  
amended by  
No. 76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 38.

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s. 34

**34. Peer Review Committee**

S. 34(1)  
amended by  
No. 103/2003  
s. 39(a).

- (1) The Minister may establish Peer Review Committees and determine terms of reference for the Committees in relation to any aspect of scientific procedures or scientific research at any one or more or all scientific premises at which scientific procedures are carried out under a scientific procedures premises licence.
- (2) Every Peer Review Committee is to consist of not less than five persons appointed as members by the Minister of whom—
  - (a) one is a person with experience in the area of animal welfare; and
  - (b) the remainder of whom are persons each with expert skill or knowledge in an area which is relevant to scientific procedures or scientific research at scientific premises under a scientific procedures premises licence.
- (3) A person who obstructs or fails to give any reasonable assistance to a member of a Peer Review Committee or the Committee in the exercise of that member's or the Committee's duties is guilty of an offence.

S. 34(2)(b)  
amended by  
No. 103/2003  
s. 39(b).

Penalty: For a person who is a corporation—  
100 penalty units.

For a person other than a corporation—  
20 penalty units.

**35. Authorized officers**

- (1) The Minister may in writing appoint any person whom the Minister considers to have appropriate qualifications to be an authorized officer for the purposes of this Part generally or for any specific purpose under this Part specified in the instrument of appointment.

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- (2) The appointment of an authorized officer remains in force for a period—
    - (a) specified in the instrument of appointment; and
    - (b) of not more than three years expiring on 30 June in the year that it ceases to have force.
  - (3) The Minister may cancel the appointment of an authorized officer.
  - (4) The Minister must issue every authorized officer with an identification certificate in the prescribed form.
  - (5) When on duty an authorized officer must on demand produce that certificate.
  - (6) A person who impersonates an authorized officer named in an identification certificate or falsely pretends to be an authorized officer is guilty of an offence.

Penalty: 10 penalty units.

- (7) Subject to the purposes specified in the instrument of appointment of an authorized officer, the officer has the following powers:
  - (a) Power to enter with such assistance as is required—
    - (i) any premises in respect of which a licence has been issued under this Part at any reasonable time to inspect the animals, facilities and premises at the establishment; or

**S. 35(7)(a)(i)**  
**amended by**  
**No. 103/2003**  
**s. 40(a).**

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- (ii) any premises if the officer suspects on reasonable grounds that the premises are used for the carrying out of any scientific procedure or for the breeding of specified animals;
- (b) Power to issue an order in the prescribed form requiring—
- (i) the destruction or treatment of any animal found on the premises under paragraph (a) and in the case of a requirement for destruction, giving reasons for that requirement; or
- (ii) that any animal found on the premises under paragraph (a) be housed or fed in accordance with the regulations;
- (c) Power to file a charge for any offence under this Part or any offence under the regulations relating to this Part;
- (d) Power to require any person at the premises referred to in paragraph (a) to give such information as the officer directs and answer any questions put to that person by the officer.
- (8) Only an authorized officer may file a charge for any offence under this Part or any offence under the regulations relating to this Part.

S. 35(7)(c)  
amended by  
No. 57/1989  
s. 3(Sch.  
item 161.1).

S. 35(7)(d)  
amended by  
No. 103/2003  
s. 40(b).

S. 35(8)  
amended by  
No. 57/1989  
s. 3(Sch.  
item 161.2).

### **36. Offences**

S. 36(1)  
amended by  
Nos 77/1995  
s. 30(3),  
103/2003 s. 41.

- (1) A person who knowingly or negligently does or omits to do any act with the result that unnecessary, unreasonable or unjustifiable pain or suffering is caused to any animal kept at a premises in respect of which a licence has been issued under this Part or used for the purpose of

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carrying out a scientific procedure, is guilty of an offence.

Penalty: For a person who is a corporation—  
120 penalty units.

For a person other than a corporation—  
60 penalty units or imprisonment for  
6 months.

(2) A person who carries out any surgical operation on an animal unless—

**S. 36(2)**  
amended by  
No. 77/1995  
s. 30(3).

(a) during the entire length of the operation, the animal is under the influence of an anaesthetic so as to be insensible to any pain it might otherwise have suffered; and

(b) the operation is carried out in accordance with any relevant Code of Practice—

is guilty of an offence.

Penalty: For a person who is a corporation—  
120 penalty units.

For a person other than a corporation—  
60 penalty units or imprisonment for  
6 months.

(3) If an animal has been so injured in the course of a scientific procedure that it would seriously suffer if it remained alive, a person who fails to destroy the animal painlessly is guilty of an offence.

**S. 36(3)**  
amended by  
No. 77/1995  
s. 30(3).

Penalty: For a person who is a corporation—  
120 penalty units.

For a person other than a corporation—  
60 penalty units or imprisonment for  
6 months.

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**37. Time for filing charge under this Part**

- (1) Notwithstanding anything to the contrary in any Act, proceedings for any offence under this Part or any offence under the regulations relating to this Part may be commenced within the period of three years after the date on which the alleged offence was committed.
  - (2) Proceedings for any offence under this Part or any offence under the regulations relating to this Part are to be disposed of summarily.
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Part 3A—Infringement Notices

s. 37A

**PART 3A—INFRINGEMENT NOTICES**

Pt 3A  
(Heading and  
ss 37A–37H)  
inserted by  
No. 103/2003  
s. 42.

**37A. Power to serve a notice**

S. 37A  
inserted by  
No. 103/2003  
s. 42.

- (1) An authorised officer may serve an infringement notice on any person that he or she has reason to believe has committed—
  - (a) an offence against section 15A(2); or
  - (b) a prescribed offence against the regulations.
- (2) In this Part a reference to an "authorised officer" is a reference to—
  - (a) in the case of an offence relating to a scientific procedure (within the meaning of Part 3) an authorised officer, within the meaning of section 25; and
  - (b) in any other case, an inspector within the meaning of section 8, being in the case of an inspector who has been approved under section 18, any case for the purposes of which the inspector has been approved.
- (3) An offence referred to in sub-section (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006** and the penalty for that offence is the prescribed infringement penalty in respect of that offence.

S. 37A(3)  
substituted by  
No. 32/2006  
s. 94(Sch.  
item 39(1)).

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Part 3A—Infringement Notices

s. 37B

**37B. Form of notice**

S. 37B  
inserted by  
No. 103/2003  
s. 42,  
substituted by  
No. 32/2006  
s. 94(Sch.  
item 39(2)).

For the purposes of section 37A, an infringement notice must be in the form required by the **Infringements Act 2006** and may contain any additional information approved by the Department Head.

Ss 37C–37H  
inserted by  
No. 103/2003  
s. 42,  
repealed by  
No. 32/2006  
s. 94(Sch.  
item 39(3)).

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Part 4—Miscellaneous

s. 38

**PART 4—MISCELLANEOUS**

**38. Delegation**

- (1) The Minister may by instrument of delegation delegate to any person any power, duty or function of the Minister under this Act other than this power of delegation.
- (2) The Department Head may by instrument of delegation delegate to any person any power, duty or function of the Department Head under this Act other than this power of delegation.

S. 38(2)  
amended by  
Nos 77/1995  
s. 32, 76/1998  
s. 27(b).

**39. Evidence**

In any legal proceedings under this Act—

- (a) the production of a copy of the Government Gazette containing any matters required by or under this Act to be published in the Government Gazette is conclusive evidence of those matters; and
- (b) in the absence of evidence to the contrary, proof is not required of—
  - (i) the approval of a person as an inspector (as defined in section 8); or
  - (ii) the appointment of any other employee in the Department for the purposes of this Act; or
  - (iii) the authority of any authorized officer appointed under section 35 to take proceedings for an offence of a class referred to in that section; or
  - (iv) the authority of any person authorized under section 24 to take proceedings for an offence of a class referred to in that section.

S. 39(b)(ii)  
amended by  
Nos 77/1995  
s. 33, 46/1998  
s. 7(Sch. 1).

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Part 4—Miscellaneous

s. 40

S. 40  
amended by  
No. 57/1989  
s. 3(Sch. item  
161.3(a)(b)).

**40. Neglect to prosecute**

If a person who filed a charge for an alleged offence under this Act or the regulations does not appear at the hearing or in any other way fails to proceed with the prosecution, the court hearing the alleged offence may authorize another person to take or continue the proceedings for that offence, whether upon that charge or not.

**41. Liability for offences**

- (1) If two or more persons are guilty of an offence under this Act or the regulations each of those persons is liable to the penalty for that offence without affecting the liability of any other person.
- (2) Any person who aids or abets the commission of an offence under this Act or the regulations is guilty of the offence.
- (3) If a corporation is guilty of an offence under this Act or the regulations, any person who is concerned in or takes part in the management of the corporation is guilty of the offence.
- (4) It is a defence to a charge under sub-section (3) if the person charged proves that the offence was committed by the corporation without that person's consent or knowledge.
- (5) If this Act provides or the regulations provide that a person, being a partnership or an unincorporated body, is guilty of an offence, that reference to a person is to be construed as a reference to each member of the partnership or of the committee of management of the unincorporated body (as the case may be).

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Part 4—Miscellaneous

s. 41A

(6) If it appears to a court hearing an alleged offence under this Act or the regulations that a person committing the offence was acting only under the order or direction of that person's employer and that the employer committed the offence, the court may—

(a) order the employer to appear before the court to answer to the charge against the first-mentioned person as if it had been filed against the employer; and

S. 41(6)(a) amended by No. 57/1989 s. 3(Sch. item 161.4(a)(b)).

(b) may dismiss the charge against the first-mentioned person or hear and determine the information against both that person and the employer.

S. 41(6)(b) amended by No. 57/1989 s. 3(Sch. item 161.4(a)).

**41A. Council employees etc. not subject to offence for giving information**

S. 41A inserted by No. 103/2003 s. 43.

(1) If—

(a) an officer, employee or contractor of a Council gives the name and address of an owner of land or of an animal to an inspector for the purposes of enabling the inspector to exercise a power under this Act; and

(b) the officer, employee or contractor has obtained that information in the course of his or her employment with the Council or under his or her contract with the Council (as the case requires)—

the officer, employee or contractor does not commit any offence under the **Local Government Act 1989**, regulations or local laws made under that Act or any other law in so doing.

(2) In this section "**Council**" has the same meaning as in the **Local Government Act 1989**.

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*Act No. 46/1986*

Part 4—Miscellaneous

s. 42

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**42. Regulations**

(1) The Governor in Council may make regulations for or with respect to any of the following matters—

S. 42(1)(a)  
amended by  
No. 77/1995  
s. 34(a).

(a) prescribing forms (including the form of an identification certificate of an inspector or specialist inspector (as defined in section 8) or an authorized officer (as defined in section 25) and the form of orders to be issued by authorized officers requiring the destruction, treatment, housing or feeding of any animal) and fees;

(b) prescribing the nature, dimensions and features of traps for the purposes of—

(i) the definition of "large leghold trap"; or

(ii) the definition of "small leghold trap";

(c) the conditions under which animals may be kept in captivity, including the sizes of enclosures and cages;

S. 42(1)(d)  
amended by  
No. 69/2004  
s. 49(5)(b).

(d) the procedures for making application for and issuing, the prescribed particulars to be included in applications for, the minimum requirements for the facilities, and conditions for animals to be satisfied before the issue of and the conditions to be included in—

(i) a permit to operate a rodeo; or

S. 42(1)(d)(i)  
amended by  
No. 69/2004  
s. 49(5)(a).

(ii) a permit to operate a rodeo school—  
issued under Division 2 of Part 2 and the requirements for the operation of rodeos (as defined in section 8) or operation of rodeo schools (as defined in section 8);

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s. 42

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| (e) applications for and the grant of licences under Part 3, including requirements to be satisfied before the grant of such licences;  | S. 42(1)(e) substituted by No. 103/2003 s. 44(1)(a).           |
| (ea) standards for—<br>(i) facilities and equipment at; and<br>(ii) scientific procedures to be carried out at—<br><br>any premises to which a licence granted under Part 3 applies; and  | S. 42(1)(ea) inserted by No. 103/2003 s. 44(1)(a).             |
| (eb) conditions on licences granted under Part 3;   | S. 42(1)(eb) inserted by No. 103/2003 s. 44(1)(a).             |
| (f) the particulars to be contained in any records, reports or returns for the purposes of this Act and the intervals at which a copy of any such record, report or return must be sent to the Department Head;   | S. 42(1)(f) amended by Nos 77/1995 s. 34(b), 76/1998 s. 27(b). |
| (g) regulating the lighting, ventilation, air temperature, cleaning, drainage, water supply, maintenance and management of any premises to which a licence granted under Part 3 applies and the cleansing and maintenance of all fixtures, appliances, instruments and utensils at or any other things connected or used with those things at any premises to which a licence granted under Part 3 applies; | S. 42(1)(g) amended by No. 103/2003 s. 44(1)(b).               |
| (h) the minimum requirements for the training, experience and academic qualifications of a person in charge of any premises to which a licence granted under Part 3 applies;  | S. 42(1)(h) substituted by No. 103/2003 s. 44(1)(c).           |
| *                   *                   *                   *                   *   | S. 42(1)(i) repealed by No. 65/1994 s. 5(6).                   |
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Part 4—Miscellaneous

s. 42

S. 42(1)(j)  
substituted by  
No. 103/2003  
s. 44(1)(d).

(j) the periods for which permits issued under Division 2 of Part 2 remain in force;

S. 42(1)(k)  
substituted by  
No. 103/2003  
s. 44(1)(e).

(k) membership of animal ethics committees and the operation of such committees;

S. 42(1)(l)  
amended by  
No. 103/2003  
s. 44(1)(f).

(l) prohibiting absolutely or in part certain scientific procedures or imposing conditions on or regulating the carrying out of the whole or part of any such procedures;

S. 42(1)(m)  
amended by  
No. 103/2003  
s. 44(1)(g).

(m) prescribing—  
    (i) purposes for the purposes of paragraph (f); and  
    (ii) any or any type of procedure, test, experiment, inquiry, investigation or study for the purposes of paragraph (j)—

of the definition of "scientific procedure" in section 3;

S. 42(1)(n)  
repealed by  
No. 103/2003  
s. 44(1)(h).

\*            \*            \*            \*            \*

S. 42(1)(na)  
inserted by  
No. 83/2001  
s. 8,  
substituted by  
No. 103/2003  
s. 44(2).

(na) prohibiting or regulating—  
    (i) any medical or veterinary procedure conducted on animals; or  
    (ii) any method of capture of animals; or  
    (iii) any method or procedure of transport of animals—

that may cause injury, suffering or distress to animals;

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(nb) prohibiting or regulating the possession or use of any implement, device or thing that may cause injury, suffering or distress in an animal;

**S. 42(1)(nb)**  
inserted by  
**No. 83/2001**  
s. 8,  
substituted by  
**No. 103/2003**  
s. 44(2).

\* \* \* \* \*

**S. 42(1)(nc)**  
inserted by  
**No. 83/2001**  
s. 8,  
repealed by  
**No. 103/2003**  
s. 44(2).

(o) generally prescribing any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

(2) The regulations—

(a) may be of general or limited application; and

(b) may differ according to differences in time, place or circumstance; and

(c) may impose penalties not exceeding 10 penalty units for a contravention of or an offence under the regulations; and

**S. 42(2)(c)**  
amended by  
**No. 103/2003**  
s. 44(3).

(d) may apply, adopt or incorporate (with or without modification)—

(i) the provisions of any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether as formulated, issued, prescribed or published at the time the regulations are made, or at any time before then; or

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- (ii) the provisions of any Act of the Commonwealth or of another State or of a Territory or the provisions of any subordinate instrument under any such Act, whether as in force at a particular time or from time to time; and
  - (e) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by the Minister; and
  - (f) may confer powers or impose duties in connexion with the regulations on the Minister.
- (3) The regulations do not apply to any act or practice with respect to the farming, transport, sale or killing of any farm animal if that act or practice is carried out in accordance with a Code of Practice.
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Part 5—Transitionals

s. 43

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**PART 5—TRANSITIONALS**

Pt 5 (Heading  
and s. 43)  
inserted by  
No. 11/2000  
s. 6.

**43. Prevention of Cruelty to Animals (Amendment)  
Act 2000**

S. 43  
inserted by  
No. 11/2000  
s. 6.

A Code of Practice prepared by the Minister and published under section 7 as in force immediately before the date of commencement of section 4 of the **Prevention of Cruelty to Animals (Amendment) Act 2000** is, on that commencement, deemed to be a Code of Practice made by the Governor in Council and published under section 7 as amended by section 4 of that Act and may be varied or revoked accordingly.

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Sch.

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**SCHEDULE**

Section 5

**REPEALS**

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<i>Number of Act</i>	<i>Short Title of Act</i>	<i>Extent of Repeal</i>
7432	<b>Protection of Animals Act 1966</b>	The whole is repealed
8699	<b>Wildlife Act 1975</b>	Sections 2 and 76(5) are repealed
9019	<b>Statute Law Revision Act 1977</b>	Item 193 of the Schedule is repealed
9549	<b>Statute Law Revision Act 1981</b>	Item 184 of the Schedule is repealed

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Endnotes

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**ENDNOTES**

**1. General Information**

*Minister's second reading speech—*

*Legislative Council: 28 November 1985*

*Legislative Assembly: 8 May 1986*

The long title for the Bill for this Act was "A Bill to make changes to the law relating to the prevention of cruelty to animals, to repeal the **Protection of Animals Act 1966** and for other purposes."

The **Prevention of Cruelty to Animals Act 1986** was assented to on 20 May 1986 and came into operation as follows:

Sections 2, 3, 7 on 15 October 1986: Government Gazette 15 October 1986 page 3953; sections 1, 4–6, 8–25, 26 (*except* (2)(h)), 27–41, 42 (*except* (1)(n)) on 4 March 1987: Government Gazette 7 January 1987 page 5; sections 26(2)(h), 42(1)(n) on 7 December 1988: Government Gazette 7 December 1988 page 3659.

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Endnotes

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## 2. Table of Amendments

This Version incorporates amendments made to the **Prevention of Cruelty to Animals Act 1986** by Acts and subordinate instruments.

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### **Agricultural Acts (Further Amendment) Act 1987, No. 68/1987**

*Assent Date:* 24.11.87  
*Commencement Date:* S. 27 on 25.11.87: Government Gazette 25.11.87 p. 3215; s. 28 on 7.12.88: Government Gazette 7.12.88 p. 3659; s. 26 on 12.8.99: Government Gazette 29.7.99 p. 1738  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Agricultural Acts (Amendment) Act 1988, No. 35/1988**

*Assent Date:* 24.5.88  
*Commencement Date:* S. 24 on 1.6.88: Government Gazette 1.6.88 p. 1486  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217  
*Current State:* All of Act in operation

### **Meat Industry Act 1993, No. 40/1993**

*Assent Date:* 1.6.93  
*Commencement Date:* Sch. 2 item 9 on 30.6.93: Government Gazette 24.6.93 p. 1596  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Catchment and Land Protection Act 1994, No. 52/1994**

*Assent Date:* 15.6.94  
*Commencement Date:* S. 97(Sch. 3 items 23.1, 23.2) on 15.12.94: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Agriculture (Registered Occupations) Act 1994, No. 65/1994**

*Assent Date:* 18.10.94  
*Commencement Date:* Ss 1, 2 on 18.10.94: s. 2(1); rest of Act on 1.12.94: Government Gazette 24.11.94 p. 3095  
*Current State:* All of Act in operation

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**Livestock Disease Control Act 1994, No. 115/1994**

*Assent Date:* 20.12.94  
*Commencement Date:* S. 142(Sch. 2 item 6) on 20.12.95: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Prevention of Cruelty to Animals (Amendment) Act 1995, No. 77/1995**

(as amended by No. 26/1998)

*Assent Date:* 14.11.95  
*Commencement Date:* Ss 1, 2 on 14.11.95: s. 2(1); s. 5(2) on 1.6.93: s. 2(2); rest of Act on 14.5.96: s. 2(4)  
*Current State:* All of Act in operation

**Miscellaneous Acts (Omnibus Amendments) Act 1996, No. 22/1996**

*Assent Date:* 2.7.96  
*Commencement Date:* Pt 8 (s. 18) on 9.4.96: s. 2(2); s. 12 on 13.6.96: s. 2(3); s. 24 on 1.10.96: s. 2(4); rest of Act on 2.7.96: s. 2(1)  
*Current State:* All of Act in operation

**Veterinary Practice Act 1997, No. 58/1997**

*Assent Date:* 28.10.97  
*Commencement Date:* S. 96(Sch. item 7) on 17.3.98: Government Gazette 12.3.98 p. 520  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Agriculture Acts (Amendment) Act 1998, No. 26/1998**

*Assent Date:* 19.5.98  
*Commencement Date:* S. 8 on 1.4.98: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998**

*Assent Date:* 26.5.98  
*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998**

*Assent Date:* 2.6.98  
*Commencement Date:* S. 311(Sch. 1 item 75) on 1.7.98: Government Gazette 18.6.98 p. 1512  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

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**Conservation, Forests and Lands (Miscellaneous Amendments) Act 1998, No. 76/1998**

*Assent Date:* 10.11.98  
*Commencement Date:* S. 27 on 15.12.98: s. 2(5)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Prevention of Cruelty to Animals (Amendment) Act 2000, No. 11/2000**

*Assent Date:* 18.4.00  
*Commencement Date:* 19.4.00: s. 2  
*Current State:* All of Act in operation

**Statute Law Revision Act 2000, No. 74/2000**

*Assent Date:* 21.11.00  
*Commencement Date:* S. 3(Sch. 1 item 101) on 22.11.00: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Animals Legislation (Responsible Ownership) Act 2001, No. 83/2001**

*Assent Date:* 11.12.01  
*Commencement Date:* Ss 3–8 on 12.12.01: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Statute Law (Further Revision) Act 2002, No. 11/2002**

*Assent Date:* 23.4.02  
*Commencement Date:* S. 3(Sch. 1 item 54) on 24.4.02: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Fisheries (Amendment) Act 2003, No. 56/2003**

*Assent Date:* 16.6.03  
*Commencement Date:* S. 11(Sch. item 17) on 17.6.03: s. 2  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Animals Legislation (Animal Welfare) Act 2003, No. 103/2003**

*Assent Date:* 9.12.03  
*Commencement Date:* Ss 34–36, 42, 43, 44(2)(3) on 10.12.03: s. 2(1); s. 32 on 22.1.04: Government Gazette 22.1.04 p. 137; ss 31, 33, 37–41, 44(1) on 24.6.04: Government Gazette 24.6.04 p. 1742  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

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**Primary Industries Legislation (Further Miscellaneous Amendments) Act 2004, No. 69/2004**

*Assent Date:* 19.10.04  
*Commencement Date:* Ss 48, 50–53 on 20.10.04: s. 2(1); s. 49 on 29.9.05: Government Gazette 29.9.05 p. 2171  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Public Administration Act 2004, No. 108/2004**

*Assent Date:* 21.12.04  
*Commencement Date:* S. 117(1)(Sch. 3 item 160) on 5.4.05: Government Gazette 31.3.05 p. 602  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Primary Industries Acts (Amendment) Act 2005, No. 50/2005**

*Assent Date:* 24.8.05  
*Commencement Date:* Ss 3–9 on 25.8.05: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Primary Industries Acts (Further Amendment) Act 2005, No. 76/2005**

*Assent Date:* 2.11.05  
*Commencement Date:* Ss 26–28, 30–37 on 3.11.05: s. 2(1); s. 29 on 1.12.05: Government Gazette 17.11.05 p. 2610  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006**

*Assent Date:* 13.6.06  
*Commencement Date:* S. 94(Sch. item 39) on 1.7.06: Government Gazette 29.6.06 p. 1315  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

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Endnotes
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### 3. Explanatory Details

<sup>1</sup> S. 6(1)(a): The amendment proposed by Schedule 2 item 9 of the **Meat Industry Act 1993**, No. 40/1993 is not included in this publication due to an incorrect reference to the title of this Act.

<sup>2</sup> S. 6(1)(g): The amendment proposed by section 5(6) of the **Prevention of Cruelty to Animals (Amendment) Act 1995**, No. 77/1995 was repealed on 31 March 1998 by section 7 of the **Agriculture Acts (Amendment) Act 1998**, No. 26/1998.

<sup>3</sup> S. 6(1)(h) (*repealed*): See note 2.