

South Australia

# **Animal Welfare Bill 2024**

A BILL FOR

An Act to provide for the protection of animal welfare and the prevention of harm to animals, to make related amendments to the *Criminal Law Consolidation Act 1935*, the *Dog and Cat Management Act 1995* and the *Sentencing Act 2017*, to repeal the *Animal Welfare Act 1985* and for other purposes.

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The Parliament of South Australia enacts as follows:

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Animal Welfare Act 2024*.

### 2—Commencement

5 This Act comes into operation on a day to be fixed by proclamation.

### 3—Interpretation

In this Act—

***animal*** means—

- 10 (a) a member of any species of the subphylum *vertebrata* other than a human being; or
- (b) a member of the class *cephalopoda* if it is being supplied, kept or used for scientific purposes; or
- (c) a prescribed animal or a prescribed animal kept or used in prescribed circumstances,

15 but does not include an embryo, foetus, larva or other early developmental stage of an animal except as prescribed by the regulations or set out in a prescribed code of practice;

***animal ethics committee***—see Part 4 Division 3;

***animal welfare notice*** means a notice given by an authorised officer under section 37;

20 ***animal welfare order*** means an order of a court under Part 5 Division 4;

***authorised officer*** means—

- (a) a police officer; or
- (b) a person holding an appointment as an authorised officer under Part 5;

25 ***Code*** means the *Australian code for the care and use of animals for scientific purposes* published by the National Health and Medical Research Council, as amended from time to time;

***enforceable undertaking***—see Part 5 Division 2;

***harm*** means any form of damage, pain, suffering or distress (including unconsciousness), whether arising from injury, disease or any other condition;

30 ***notice to comply*** means a notice given by an authorised officer under section 38;

***owner*** includes—

- (a) in relation to an animal—a person who has the custody, care, control or management of the animal; and
- 35 (b) in relation to real or personal property—a person entitled to possession of the property;

**premises** means any land, building or structure (including a moveable building or structure);

**registered activity** means an activity registered under Part 4 Division 3;

**scientific purposes**, in relation to an animal—

- (a) means all activities conducted with the aim of acquiring, developing or demonstrating knowledge or techniques in all areas of science, including teaching, field trials, environmental studies, research (including the creation and breeding of a new animal line where the impact on animal wellbeing is unknown or uncertain), diagnosis, product testing and the production of biological products; or
- (b) if there is an inconsistency between paragraph (a) and the definition of **scientific purposes** in the Code—has the same meaning as in the Code;

**serious harm** means—

- (a) harm that endangers an animal's life; or
- (b) harm that results in an animal being so severely injured, so diseased or in such physical condition that it would be cruel not to destroy the animal; or
- (c) harm that consists of, or results in, serious and protracted impairment of a physical or mental function;

**vehicle** includes an aircraft, a vessel, a caravan, a trailer and anything attached to a vehicle;

**veterinarian** has the same meaning as in the *Veterinary Services Act 2023*.

#### 4—Principles and objects of Act

- (1) Animals are recognised as living beings that can feel, perceive, and experience positive and negative states.
- (2) The owners of animals have a duty of care in respect of those animals.
- (3) The objects of this Act are—
  - (a) to protect the welfare of animals; and
  - (b) to take a proactive approach in preventing harm to, and the ill treatment of, animals; and
  - (c) to improve the level of community awareness about the responsibilities of animal ownership; and
  - (d) to ensure the Minister receives appropriate advice in relation to animal welfare matters.

### Part 2—Animal welfare offences

#### 5—General duty of care

- (1) The owner of an animal must provide the animal with appropriate and adequate food, water, living conditions (whether temporary or permanent) and care and must take all reasonable and practicable measures to prevent or minimise harm to the animal.

Maximum penalty:

- 
- (a) in the case of a body corporate—\$250 000;
    - (b) in the case of an individual—\$50 000.
  - (2) The regulations may prescribe specific care requirements for particular animals, particular classes of animals or animals in particular circumstances and, in such a case, breach of the prescribed care requirements will be taken to constitute an offence against this section.
  - (3) It is a defence to a charge of an offence against this section for the owner to prove that they were acting in accordance with a prescribed code of practice.

## 6—Ill treatment of animals etc

- (1) If—
  - (a) a person ill treats an animal; and
  - (b) the ill treatment causes the death of, or serious harm to, the animal; and
  - (c) the person intends to cause, or is reckless about causing, the death of, or serious harm to, the animal,the person is guilty of an offence.  
Maximum penalty:
  - (a) in the case of a body corporate—\$1 000 000;
  - (b) in the case of an individual—\$250 000 or imprisonment for 10 years.
- (2) A person who ill treats an animal is guilty of an offence.  
Maximum penalty:
  - (a) in the case of a body corporate—\$500 000;
  - (b) in the case of an individual—\$100 000 or imprisonment for 5 years.
- (3) Without limiting the generality of subsection (1) or (2), a person ill treats an animal if the person—
  - (a) intentionally, unreasonably or recklessly causes the animal unnecessary harm; or
  - (b) being the owner of the animal—
    - (i) fails to take reasonable steps to mitigate harm suffered by the animal; or
    - (ii) abandons the animal; or
    - (iii) causes the animal harm by neglecting the animal (including, for example, by failing to provide the animal with appropriate, and adequate, food, water, living conditions (whether temporary or permanent) or exercise); or
  - (c) having caused the animal harm (not being an animal of which that person is the owner), fails to take reasonable steps to mitigate the harm; or
  - (d) causes the animal to be killed or injured by another animal; or
  - (e) kills the animal in a manner that causes the animal unnecessary pain; or

- (f) unless the animal is unconscious, kills the animal by a method that does not cause death to occur as rapidly as possible; or
- (g) carries out a medical or surgical procedure on the animal in contravention of the regulations; or
- 5 (h) ill treats the animal in any other manner prescribed by the regulations for the purposes of this section.
- (4) A person charged with an offence against subsection (1) (the ***aggravated offence***) may be convicted of an offence against subsection (2) or against section 5 (a ***lesser offence***) if the court is not satisfied that the aggravated offence has been established beyond reasonable doubt but is satisfied that a lesser offence has been so established.
- 10 (5) It is a defence to a charge of an offence against subsection (2) if the defendant proves that the offence did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.
- (6) For the purposes of this section, a person ***abandons an animal*** if the person
- 15 relinquishes care or charge of the animal without ensuring that another person has, or will immediately take, care or charge of the animal, including by—
- (a) deliberately abandoning the animal at a place; or
- (b) intentionally allowing the animal to escape; or
- (c) inappropriately releasing the animal into the wild.
- 20 (7) In this section—
- cause***—a person's act or omission causes the death of, or harm to, an animal if the act or omission substantially contributes to the death or harm.

## 7—Prohibited activities

- (1) A person must not take part in a prohibited activity.
- 25 Maximum penalty:
- (a) in the case of a body corporate—\$1 000 000;
- (b) in the case of an individual—\$250 000 or imprisonment for 10 years.
- (2) A person must not be present in a place at which a prohibited activity is occurring.
- Maximum penalty:
- 30 (a) in the case of a body corporate—\$500 000;
- (b) in the case of an individual—\$100 000 or imprisonment for 5 years.
- (3) For the purposes of subsection (2), if a person is present in a place at which a prohibited activity has occurred within the preceding 2 hours, the person will, in the absence of proof to the contrary, be taken to have been at the place at the time the
- 35 prohibited activity occurred.
- (4) In proceedings for an offence against subsection (2), it is a defence for the defendant to prove that they did not know, and could not reasonably have been expected to have known, that a prohibited activity was occurring in the place.
- (5) For the purposes of this section, the following are ***prohibited activities***:
- 40 (a) organised animal fights;

- (b) live baiting;
- (c) releasing an animal from captivity for the purpose of it then being hunted or killed (whether by a person or otherwise);
- (d) selling or supplying an animal to a person for the purpose of the animal being used in an activity referred to in a preceding paragraph;
- (e) keeping or preparing an animal for the purpose of using the animal in an activity referred to in a preceding paragraph;
- (f) any other act or activity of a kind prescribed by the regulations to be a prohibited activity.

(6) For the purposes of this section, a person ***takes part in a prohibited activity*** if the person does 1 or more of the following:

- (a) organises the prohibited activity;
- (b) promotes the prohibited activity;
- (c) allows the prohibited activity to occur on premises, or in a place, owned or occupied by him or her;
- (d) knowingly provides an animal or other thing used, or intended for use, in relation to the prohibited activity;
- (e) undertakes, without lawful excuse, any other activity relating to the prohibited activity.

(7) For the purposes of this section, a reference to a part of an animal does not include a reference to a part of an animal that has been processed such that it no longer resembles a part of the relevant kind.

**Note—**

For example, the skin of an animal which has been processed into a leather product.

(8) In this section—

***live baiting*** means an activity in which—

- (a) a live animal is introduced into an area for the purpose of being chased by 1 or more dogs or training a dog to chase real or simulated animals; or
- (b) the carcass or any part of an animal is introduced into an area or moved around an area (or both) for the purpose of being chased by 1 or more dogs or training a dog to chase real or simulated animals,

but does not include an activity declared by the regulations to be excluded from the ambit of this definition;

***organised animal fight*** means an event in which an animal is encouraged to fight with another animal.

## 8—Possession of certain items prohibited

(1) A person must not, without the approval of the Minister, have in their possession or control a prohibited item.

Maximum penalty:

- (a) in the case of a body corporate—\$1 000 000;



(b) in the case of an individual—\$250 000 or imprisonment for 10 years.

(2) For the purposes of this section, the following are *prohibited items*:

(a) a cock-fighting spur;

(b) an implement, article or other thing made or adapted for attachment to an animal—

(i) for the purpose of training the animal to fight another animal; or

(ii) for the purpose of inciting or assisting the animal to fight another animal or to inflict injury on another animal during a fight; or

(iii) for the purpose of protecting the animal in a fight with another animal;

(c) a drug (not being a drug supplied on the prescription of, and given to an animal in accordance with the directions of, a veterinarian) to be administered to an animal for the purpose of inciting or assisting the animal to fight another animal, or to inflict injury on another animal during a fight;

(d) a lure or bait (however described) consisting of or including the carcass or any part of an animal and used, or intended to be used, for the purpose of live baiting (within the meaning of section 7);

(e) any other implement, article or thing prescribed by the regulations to be a prohibited item.

(3) For the purposes of subsection (2)(d), a reference to a part of an animal does not include a reference to a part of an animal that has been processed such that it no longer resembles a part of the relevant kind.

**Note—**

For example, the skin of an animal which has been processed into a leather product.

## 9—Electrical devices not to be used in contravention of regulations

(1) A person must not, for the purpose of confining or controlling an animal, place on the animal or use an electrical device in contravention of the regulations.

Maximum penalty:

(a) in the case of a body corporate—\$100 000;

(b) in the case of an individual—\$20 000.

Expiation fee: \$1 000.

(2) In this section—

*electrical device* means any of the following devices designed for the purpose of confining or controlling an animal:

(a) an electrical prod or goad;

(b) a collar designed to impart an electric shock;

(c) an electroimmobiliser;

(d) any other electrical device prescribed by the regulations;

*electroimmobiliser* means an electrical device designed to temporarily immobilise an animal.

## 10—Jumps racing prohibited

- (1) A person must not organise, promote or participate in, or participate in organising or promoting, jumps racing.

Maximum penalty:

- (a) in the case of a body corporate—\$500 000;  
(b) in the case of an individual—\$100 000 or imprisonment for 5 years.

- (2) However, nothing in subsection (1) prevents a person from—

- (a) organising, promoting or participating in, or participating in organising or promoting, equestrian eventing, show jumping or a cross-country event; or  
(b) jumping a horse, or requiring a person to jump a horse, over an obstacle other than in the course of a horse race; or

**Example—**

Training or preparation of a horse that includes jumping an obstacle.

- (c) publishing the field of horses competing in jumps racing held in another State or Territory, or overseas; or  
(d) advertising jumps racing held in another State or Territory, or allowing images or audio of such racing to be shown or heard.

- (3) In this section—

*jumps racing* means a steeplechase or hurdle race involving the racing of horses.

## 11—Special requirements for greyhound racing entities

- (1) A person must, if—

- (a) the person suspects on reasonable grounds that an offence against this Part is being committed; and  
(b) that suspicion is formed in the course of the person's employment with a prescribed greyhound racing entity,

report that suspicion to the Minister in a manner prescribed by the regulations.

Maximum penalty:

- (a) in the case of a body corporate—\$250 000;  
(b) in the case of an individual—\$50 000.

Expiation fee: \$1 500.

- (2) However, a person need not report a suspicion under subsection (1)—

- (a) if the person believes on reasonable grounds that another person has reported the matter in accordance with that subsection; or  
(b) if the person's suspicion was due solely to having been informed of the circumstances that gave rise to the suspicion by an authorised officer acting in the course of their official duties; or  
(c) in any other circumstances prescribed by the regulations for the purposes of this subsection.

- (3) The duty under subsection (1) is in addition to, and does not derogate from, any other duties of a person under this or any other Act or law.

- (4) In this section—

*prescribed greyhound racing entity means—*

- (a) Greyhound Racing SA; or
- (b) any entity prescribed by the regulations that is involved in, or that otherwise supports or operates in connection with, greyhound racing activities (whether those activities are conducted in this State or elsewhere).

## 12—Exemption for fishing activities etc

- (1) Aquaculture and fishing activities (whether recreational, traditional or commercial) will not constitute an offence against this Part provided that such activities are done in compliance with the relevant legislation and do not involve any acts that are prescribed as ill treatment of an animal for the purposes of section 6(3)(h).

- (2) In this section—

*relevant legislation* means—

- (a) in relation to aquaculture—the *Aquaculture Act 2001*; and
- (b) in relation to fishing—the *Fisheries Management Act 2007*.

## Part 3—Advisory committees etc

### 13—Establishment of committees by Minister

- (1) The Minister may establish—

- (a) an Animal Welfare Advisory Committee; and
- (b) such other committees as the Minister thinks fit.

- (2) Subject to subsection (3), the Minister—

- (a) may appoint such members of a committee as the Minister thinks fit; and
- (b) must not appoint a person as a member of a committee unless the Minister is of the opinion that the person has experience, skills or qualifications relevant to the functions of the committee, including qualifications, knowledge or experience of a kind prescribed by the regulations.

- (3) The Animal Welfare Advisory Committee established by the Minister under this Part must consist of members appointed by the Minister with experience, skills or qualifications in any of the following areas:

- (a) animal welfare;
- (b) enforcement of any relevant legislation;
- (c) livestock production and management;
- (d) fishing or aquaculture;
- (e) wildlife management;
- (f) veterinary science;

- 
- (g) scientific use of animals;
- (h) government administration;
- (i) other experience, skills or qualifications as determined suitable by the Minister,
- 5 and at least 1 member must be a person from the Royal Society for the Prevention of Cruelty to Animals (South Australia).
- (4) The Minister may suspend or remove a member of a committee from office for any reason the Minister thinks fit.
- (5) The Minister will determine who will be the presiding member of a committee.
- 10 (6) A member of a committee holds office on terms and conditions determined by the Minister.
- (7) A member of a committee is entitled to receive such allowances and expenses as the Minister may from time to time determine.
- 15 (8) The procedures to be observed in relation to the conduct of the business of a committee will be—
- (a) as prescribed by the regulations; or
- (b) insofar as the procedure is not prescribed by the regulations—as approved by the Minister.
- (9) The Minister may confer on a committee 1 or more of the following functions:
- 20 (a) to provide advice to the Minister in relation to any matters referred to the committee by the Minister;
- (b) to review any matters referred to the committee by the Minister;
- (c) to arbitrate or otherwise deal with complaints referred to the committee by the Minister;
- 25 (d) to carry out assessments, in particular where systemic animal welfare issues are suspected, and provide advice on enforcement and compliance actions;
- (e) to perform such other functions as may be prescribed by the regulations.
- (10) If the *Public Sector (Honesty and Accountability) Act 1995* would not, apart from this section, apply to a member of a committee, that Act applies to the member in the same way as to an advisory body member within the meaning of that Act.
- 30 (11) In this section—
- relevant legislation** means this Act, the former *Animal Welfare Act 1985*, the *Livestock Act 1997*, the *Fisheries Management Act 2007* or any other Act determined by the Minister to be relevant to the functions of the Animal Welfare Advisory
- 35 Committee.

## 14—Conflict of interest

A member of a committee will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with primary production generally, animal welfare organisations generally, veterinary practice generally or medical or biological research generally, or a substantial section of those engaged in or associated with any of those fields.

## Part 4—Licences, permits and registered activities

### Division 1—Licences for prescribed activities

#### 15—Requirement to hold licence

- (1) Subject to subsection (2), a person must not undertake a prescribed activity unless the person holds a licence under this Division authorising the activity.

Maximum penalty:

- (a) in the case of a body corporate—\$250 000;  
(b) in the case of an individual—\$50 000.

Expiation fee: \$1 500.

- (2) An employee is not required to hold a licence under this Division in respect of anything done in the course of employment by a person who holds a licence under this Division.

- (3) In this section—

***prescribed activity*** means any of the following:

- (a) breeding and supplying an animal for scientific purposes;  
(b) keeping or using an animal for scientific purposes;  
(c) an activity of a kind prescribed by the regulations.

#### 16—Classes of licence

- (1) For the purposes of this Act (but subject to subsection (2)), licences are divided into the following classes:

- (a) animal supplier's licence—a licence authorising the breeding and supplying of animals for scientific purposes;  
(b) animal use licence—a licence authorising the keeping and use of animals for scientific purposes.

- (2) The regulations may—

- (a) prescribe additional classes of licence; and  
(b) divide a class of licence into subclasses; and  
(c) prescribe the persons or organisations, or classes or groups of persons or organisations, to which licences, or any classes or subclasses of licences, may be granted.

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## Part 4—Licences, permits and registered activities

Division 1—Licences for prescribed activities

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**17—Application for and grant of licence**

- (1) The Minister may, on an application under this section and by written notice, taking into account any criteria prescribed by the regulations, grant or refuse to grant a licence under this Division.
- 5 (2) An application for a licence must—
- (a) be made in a manner and form determined by the Minister; and
  - (b) identify the activity for which the licence is being sought in a manner determined by the Minister; and
  - 10 (c) be accompanied by such information or documents as may be required by the Minister; and
  - (d) be accompanied by the prescribed fee or fees.

**18—Nomination of responsible person for compliance**

- (1) If an application for a licence is made by an applicant who is not an individual, the application must nominate to the Minister an individual (the *responsible person*) who
- 15 will be responsible for complying with all conditions of, and any obligations under, the licence.
- (2) If the licensee or any other person commits an offence against this Act in relation to the licence or the prescribed activity under the licence, the responsible person is also
- 20 guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless the responsible person proves that they could not, by the exercise of reasonable diligence, have prevented the commission of that offence.

**19—Conditions of licence**

- (1) A licence under this Division is subject to such conditions as the Minister thinks fit and specifies in the licence.
- 25 (2) Without limiting the matters with respect to which conditions may be imposed, the Minister may impose conditions requiring the licensee—
- (a) to establish an animal ethics committee, or undertake another registered activity, in accordance with Division 3; and
  - (b) to consult with an animal ethics committee in relation to specified matters; and
  - 30 (c) to obtain the approval of an animal ethics committee before—
    - (i) acquiring animals for scientific purposes; or
    - (ii) using animals for scientific purposes; and
  - (d) to provide an animal ethics committee with such information in relation to
  - 35 scientific purposes involving animals as the animal ethics committee may request; and
  - (e) to answer such questions in relation to scientific purposes involving animals as may be put by an animal ethics committee; and
  - 40 (f) to comply with such provisions of the Code as may be specified in the conditions; and

- (g) to submit annual reports containing specified details within specified timeframes; and
  - (h) to provide information required by the Minister.
- (3) The Minister may, on the Minister's own initiative or on the application of a licensee and payment of the prescribed fee, by written notice to the licensee, amend or revoke a condition of a licence or impose a further condition.
- (4) A person who contravenes a designated condition of a licence is guilty of an offence.  
Maximum penalty:
  - (a) in the case of a body corporate—\$50 000;
  - (b) in the case of an individual—\$10 000.Expiation fee: \$500.
- (5) A person who contravenes a condition of a licence, other than a designated condition, is guilty of an offence.  
Maximum penalty:
  - (a) in the case of a body corporate—\$100 000;
  - (b) in the case of an individual—\$20 000.Expiation fee: \$1 000.
- (6) In this section—  
***designated condition***—a condition of a licence is a designated condition for the purposes of this section if—
  - (a) the condition is of a kind prescribed by the regulations as designated conditions; or
  - (b) the licence specifies that the condition is a designated condition for the purposes of this section.

## 20—Term and renewal of licence

- (1) Subject to this Act, a licence remains in force—
  - (a) in the case of a licence granted other than by way of renewal of a licence—for a period of 12 months commencing on the day on which the licence is granted; or
  - (b) in the case of a licence granted by way of renewal of a licence—for such period (not exceeding 5 years) as is stated in the licence commencing on the day on which the previous licence is due to expire.
- (2) The Minister may, on an application under this section and by written notice, taking into account any criteria prescribed by the regulations, renew or refuse to renew a licence.
- (3) An application for the renewal of a licence must—
  - (a) be made in a manner and form determined by the Minister; and
  - (b) be delivered to the Minister not less than 1 month before the licence is due to expire; and

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## Division 1—Licences for prescribed activities

(c) be accompanied by such information or documents as may be required by the Minister; and

(d) be accompanied by the prescribed application fee.

(4) The Minister may, if the Minister thinks fit and on payment of the prescribed late application fee, renew a licence despite the fact that the application for renewal was delivered out of time.

(5) If an application for the renewal of a licence is not decided before the day on which the licence is due to expire, the licence continues in operation until the application is decided and, if the licence is renewed, the renewal is taken to have commenced on the day on which the licence would, but for this subsection, have expired.

**21—Notification of change in circumstances**

(1) If there is any change in the name or address of a licensee, the licensee must, within 14 days, give the Minister written notice of the change.

Maximum penalty:

(a) in the case of a body corporate—\$50 000;

(b) in the case of an individual—\$10 000.

Expiation fee: \$500.

(2) If there is any change in the name or address of, or in who is, the responsible person for a licence nominated in accordance with section 18, the licensee must, within 14 days, give the Minister written notice of the change.

Maximum penalty:

(a) in the case of a body corporate—\$100 000;

(b) in the case of an individual—\$20 000.

Expiation fee: \$1 000.

**22—Cancellation, suspension or surrender of licence**

(1) The Minister may, by written notice to the licensee, cancel a licence or suspend a licence for a specified period—

(a) if the licensee contravenes this Act or a condition of the licence; or

(b) in prescribed circumstances.

(2) A licensee may, with the approval of the Minister, surrender the licence.

(3) The Minister may approve surrender of a licence either unconditionally or subject to such conditions as the Minister thinks fit.

(4) If a licence is cancelled, suspended or surrendered under this section, the licensee is not entitled to any refund in respect of fees paid by the licensee for the licence.

**Division 2—Permits****23—Permits for prescribed activities and items**

(1) A person must not organise, conduct, promote or participate in a prescribed activity without a permit under this section.

Maximum penalty:



(a) in the case of a body corporate—\$250 000;

(b) in the case of an individual—\$50 000.

Expiation fee: \$1 500.

- (2) A person must not have in their possession or control a prescribed item without a permit under this section.

Maximum penalty:

(a) in the case of a body corporate—\$250 000;

(b) in the case of an individual—\$50 000.

Expiation fee: \$1 500.

- (3) An application for a permit must—

(a) be made to the Minister; and

(b) be made in the prescribed manner and in a form approved by the Minister; and

(c) be accompanied by such information or documents as may be required by the Minister; and

(d) be accompanied by the prescribed fee.

- (4) The Minister may, on an application under this section and by written notice, taking into account any criteria prescribed by the regulations, grant or refuse to grant a permit under this section.

- (5) The term for which a permit is issued under this section and the conditions (if any) on which the permit is granted must be specified in the permit.

- (6) The Minister may, by written notice to the holder of the permit, amend or revoke a condition of a permit or impose a further condition.

- (7) A person who contravenes a condition of a permit under this section is guilty of an offence.

Maximum penalty:

(a) in the case of a body corporate—\$100 000;

(b) in the case of an individual—\$20 000.

Expiation fee: \$1 000.

- (8) The Minister may cancel, or suspend for a specified period, a permit issued under this section by written notice to the holder of the permit.

## Division 3—Registered activities

### 24—Interpretation

In this Division—

*applicant*—see section 27(1).

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Part 4—Licences, permits and registered activities

Division 3—Registered activities

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**25—Activities that must be registered**

- (1) A person must not conduct an activity to which this Division applies unless registered in accordance with this Division.

Maximum penalty:

- (a) in the case of a body corporate—\$250 000;  
(b) in the case of an individual—\$50 000.

Expiation fee: \$1 500.

- (2) This Division applies to the following activities:

- (a) the establishment and operation of an animal ethics committee for the purposes of approving any activities of a licensee;  
(b) an activity of a kind prescribed by regulation.

**26—Minister may maintain registers**

- (1) The Minister may maintain 1 or more registers for the purposes of this Division.

- (2) A register—

- (a) may be maintained in a manner determined by the Minister; and  
(b) may be made wholly or partly available for public inspection on a website determined by the Minister.

**27—Registration**

- (1) A person (the *applicant*) may apply to the Minister for registration in accordance with this section.

- (2) An application for registration must—

- (a) be made in a manner and form determined by the Minister; and  
(b) identify the activity for which registration is being sought in a manner determined by the Minister; and  
(c) be accompanied by such information or documents as may be required by the Minister; and  
(d) be accompanied by the prescribed application fee.

**28—Nomination of responsible person for compliance**

- (1) If the applicant is not an individual, the application must nominate to the Minister an individual (the *responsible person*) who will be responsible for complying with all conditions of the registration and any legal requirements applicable to the registered activity.
- (2) If the applicant or any other person commits an offence against this Act in relation to the registration or the registered activity, the responsible person is also guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless the responsible person proves that they could not, by the exercise of reasonable diligence, have prevented the commission of that offence.

**29—Conditions of registration**

- (1) The Minister may register an activity subject to such conditions as the Minister thinks fit and specifies in the register maintained under section 26.
- 5 (2) Without limiting the matters with respect to which conditions may be imposed, the Minister may impose conditions requiring the applicant —
- (a) to conduct an independent external review within a specified timeframe; and
  - (b) to submit annual reports containing specified details within specified timeframes; and
  - (c) to provide information required by the Minister.
- 10 (3) The Minister may, on the Minister's own initiative or on the application of a person and payment of the prescribed fee, by written notice to the applicant, amend or revoke a condition of a registration or impose a further condition.
- (4) It is taken to be a condition of registration of the establishment of an animal ethics committee that the applicant must notify the Minister—
- 15 (a) within 14 days of a change in the presiding member of the committee; and
- (b) within 30 days of any other change in the membership of the committee.
- (5) An applicant who contravenes a condition of a registration is guilty of an offence.
- Maximum penalty:
- (a) in the case of a body corporate—\$100 000;
- 20 (b) in the case of an individual—\$20 000.
- Expiation fee: \$1 000.

**30—Term and renewal of registration**

- (1) Registration of an activity remains in force for a period determined by the Minister (but not exceeding of 5 years) and may be renewed in accordance with this section.
- 25 (2) The Minister may, on an application under this section and by written notice, taking into account any criteria prescribed by the regulations, renew or refuse to renew the registration of an activity.
- (3) An application for the renewal of registration must—
- (a) be made in a manner and form determined by the Minister; and
  - 30 (b) be delivered to the Minister not less than 1 month before the registration is due to expire; and
  - (c) be accompanied by such information or documents as may be required by the Minister; and
  - (d) be accompanied by the prescribed application fee.
- 35 (4) The Minister may, if the Minister thinks fit and on payment of the prescribed late application fee, renew a registration despite the fact that the application for renewal was delivered out of time.

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Division 3—Registered activities

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- (5) If an application for renewal of registration is not decided before the day on which the renewal is due to expire, the applicant may continue the registered activity until the application is decided and, if the registration is renewed, the renewal is taken to have commenced on the day on which the registration would, but for this subsection, have expired.

**31—Animal ethics committees**

- (1) An animal ethics committee will consist of at least 4 members appointed in compliance with the Code.
- (2) The applicant who applied for registration in relation to the animal ethics committee must—
- (a) ensure that the Minister is advised of the name of and contact details for the presiding member of the animal ethics committee; and
  - (b) if there is a change in the presiding member of the animal ethics committee—ensure that the Minister is advised of the name of and contact details for the new presiding member within 14 days of that change.

Maximum penalty:

- (a) in the case of a body corporate—\$100 000;
- (b) in the case of an individual—\$20 000.

Expiation fee: \$1 000.

- (3) Subject to this section, the functions of an animal ethics committee are—
- (a) to ensure that animals used for scientific purposes are treated humanely, and that the regulations relating to such purposes are complied with; and
  - (b) to furnish annual reports in accordance with the regulations; and
  - (c) such other functions as are prescribed by the Code or the regulations.
- (4) An animal ethics committee must perform its functions, and conduct its business, in compliance with the Code.
- (5) An animal ethics committee may not approve the use of an animal for scientific purposes, or the acquisition of an animal for such purposes, unless it is satisfied that—
- (a) the use of the animal is essential for the particular purpose; and
  - (b) the person who proposes to use the animal has appropriate experience and qualifications.
- (6) If an animal ethics committee contravenes a requirement applying under subsection (4) or (5), the presiding member of the committee is guilty of an offence.

Maximum penalty:

- (a) in the case of a body corporate—\$250 000;
- (b) in the case of an individual—\$50 000.

Expiation fee: \$1 500.

- (7) It is a defence to a charge of an offence against subsection (6) if the presiding member proves that they could not, by the exercise of reasonable diligence, have prevented the commission of that offence.

## **Part 5—Enforcement**

### **Division 1—Authorised officers**

#### **Subdivision 1—Appointment and identification of authorised officers**

##### **32—Appointment of authorised officers**

- 5       (1) The Minister may, by instrument in writing, appoint a person to be an authorised officer for the purposes of this Act.
- (2) An appointment may be made subject to conditions specified in the instrument of appointment.
- 10       (3) Without limiting the conditions that may be imposed under subsection (2), the conditions may include the following:
- (a) a condition restricting the powers of the authorised officer;
- (b) a condition requiring the authorised officer to undertake suitable training;
- (c) a condition requiring compliance with prescribed protocols and operational procedures;
- 15       (d) any other condition that the Minister thinks fit.
- (4) The Minister may, at any time, revoke an appointment or vary, revoke or add a condition of an appointment.

##### **33—Identification of authorised officers**

- 20       (1) An authorised officer appointed under this Part must be issued with an identity card—
- (a) containing the person's name and a photograph of the person; and
- (b) stating that the person is an authorised officer for the purposes of this Act.
- (2) If the powers of an authorised officer have been limited by conditions, the identity card issued to the authorised officer must contain a statement of the conditions imposed on the authorised officer's powers.
- 25       (3) An authorised officer appointed under this Part must, at the request of a person in relation to whom the authorised officer intends to exercise powers under this or any other Act, produce for the inspection of the person their identity card.
- (4) If an authorised officer who is a police officer is not in uniform, the officer must, at the request of a person in relation to whom the officer intends to exercise powers
- 30       under this Act, produce for the inspection of the person their warrant card.
- (5) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must return the identity card to the Minister within 14 days.

- (6) If a person who was appointed as an authorised officer in their capacity as an officer or employee of a particular entity, ceases to be an employee or officer of that entity, the entity must—

- (a) inform the Minister, as soon as reasonably practicable, that the person has ceased to be an officer or employee; and
- (b) ensure that the person complies with subsection (5).

Maximum penalty:

- (a) in the case of a body corporate—\$100 000;
- (b) in the case of an individual—\$20 000.

Expiation fee: \$1 000.

## Subdivision 2—Powers of authorised officers

### 34—General powers

- (1) An authorised officer may—

- (a) enter and search and, if necessary, use reasonable force to break into or open—
- (i) premises or a vehicle to which this section applies; or
- (ii) part of, or anything in or on, premises or a vehicle to which this section applies; and
- (b) give directions with respect to the stopping or movement of a vehicle to which this section applies; and
- (c) require a person to produce a document, including a written record that reproduces in an understandable form information stored by computer or other process; and
- (d) examine, copy or take extracts from a document or information so produced or require a person to provide a copy of any such document or information; and
- (e) take photographs, films or audio, video or other recordings; and
- (f) seize and retain any animal or other thing that the authorised officer reasonably suspects has been used in, or may constitute evidence of, a contravention of this Act; and
- (g) identify, by marking, tagging or otherwise, an animal or other property in respect of which powers have been exercised under this Act; and
- (h) require a person who the authorised officer reasonably suspects has committed, is committing, or is about to commit, a contravention of this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity; and
- (i) if the authorised officer requires information about the ownership of any vehicle for purposes related to the administration or enforcement of this Act—

- 5
- (i) request the provision of such information from the Registrar of Motor Vehicles (who is, by force of this section, authorised to provide such information); or
  - (ii) require a person who the authorised officer reasonably suspects has knowledge of those matters to answer questions in relation to those matters; and
- 10
- (j) require a person who the authorised officer reasonably suspects has knowledge of matters in respect of which information is required for the administration or enforcement of this Act—
    - (i) to answer questions in relation to those matters; or
    - (ii) to attend at a specified place at a specified time and answer questions in relation to those matters; and
- 15
- (k) require a person holding or required to hold a licence, permit or approval under this Act to produce it for inspection; and
  - (l) give a direction required in connection with the exercise of a power conferred by this Act or otherwise in connection with the administration or enforcement of this Act.
- (2) An authorised officer—
- 20
- (a) may only exercise the powers conferred by subsection (1) as reasonably required for the administration and enforcement of this Act; and
  - (b) may only exercise the power to use force under subsection (1)(a) on the authority of a warrant issued by the Magistrates Court or in circumstances in which the authorised officer reasonably believes that urgent action is required in order to prevent or mitigate serious harm occurring to an animal.
- 25
- (3) An authorised officer may be assisted in the exercise of powers under this Act by such persons as the authorised officer considers necessary in the circumstances.
- (4) An authorised officer may require an occupier of premises or a person apparently in charge of a vehicle, animal or other thing to give to the authorised officer or a person assisting the authorised officer such assistance as is reasonably required by the
- 30
- authorised officer for the effective exercise of powers under this Act.
- (5) This section applies to the following premises and vehicles:
- 35
- (a) premises or a vehicle in or on which an authorised officer reasonably suspects that an offence against this Act has been, is being or is about to be, committed;
  - (b) premises or a vehicle in or on which an authorised officer reasonably suspects there is an animal that is being, or has been, harmed unnecessarily or that will, if urgent action is not taken, be harmed unnecessarily;
  - (c) premises or a vehicle subject to, or being used for the purposes of an activity that is the subject of, a licence, permit or approval under this Act;
- 40
- (d) premises or a vehicle in or on which an authorised officer reasonably suspects there is an animal in respect of which an animal welfare notice, notice to comply, enforceable undertaking or animal welfare order is in force;

- (e) premises or a vehicle that an authorised officer reasonably suspects is being used for or in connection with a business, or organised event or activity, involving animals;
- (f) premises or a vehicle in which an authorised officer reasonably suspects there may be records relating to a business or organised event or activity involving animals or an animal or other thing that has been used in, or may constitute evidence of, a contravention of this Act.

### 35—Provisions relating to seizure of things other than animals

- (1) This section applies to things seized other than animals.

**Note—**

For animals, see Division 3.

- (2) If a thing has been seized under section 34(1)(f), the following provisions apply:

- (a) the thing must be held pending a decision on whether to institute proceedings for an offence related to the thing seized, unless the Minister, on application, authorises its release to the person from whom it was seized, or to any person who had legal title to it at the time of its seizure, subject to such conditions as the Minister thinks fit (including as to the giving of security for satisfaction of an order under paragraph (b)(ii));

- (b) if proceedings for an offence relating to the thing are instituted within the prescribed period after its seizure and the defendant is convicted or found guilty of an offence, the court may—

- (i) order that it be forfeited to the Crown; or
- (ii) where it has been released pursuant to paragraph (a)—order that it be forfeited to the Crown or that the person to whom it was released or the defendant pay to the Crown an amount equal to its market value at the time of its seizure, as the court thinks fit;

- (c) if—

- (i) proceedings are not instituted for an offence relating to the thing within the prescribed period after its seizure; or

- (ii) proceedings have been so instituted and—

(A) the defendant is found not guilty of the offence; or

(B) the defendant is convicted or found guilty of an offence but no order for forfeiture is made under paragraph (b),

then the person from whom the thing was seized, or any person with legal title to it, is entitled to recover from the Crown (if necessary, by action in a court of competent jurisdiction) the thing itself, or if it has been damaged or destroyed, compensation of an amount equal to its market value at the time of its seizure, unless possession of the thing is (or would be) contrary to another provision of this or any other Act;

- (d) if—

- (i) possession of the thing by the person from whom the thing was seized is (or would be) contrary to another provision of this Act; or



- (ii) a thing is not liable for forfeiture under a preceding paragraph and the Minister has, after taking reasonable steps in the circumstances, been unable to return the thing to the person from whom it was seized,

5 the Minister may deal with, destroy or dispose of the thing in such manner as the Minister thinks fit.

- (3) In subsection (2)—

*prescribed period* means 12 months or such longer period as may be prescribed by the regulations.

### 10 36—Routine inspections

- (1) Subject to this section, if, for the purposes of administering this Act, an authorised officer proposes to exercise powers under this Act to conduct a routine inspection of premises or a vehicle in circumstances where there is no suspicion of an offence, the authorised officer must—

- 15 (a) give the occupier of the premises or the owner of the vehicle at least 24 hours notice of the proposed inspection; and
- (b) give the following persons (as required) a reasonable opportunity to accompany the authorised officer throughout the inspection:
  - (i) the occupier of the premises or the owner of the vehicle;
  - 20 (ii) a nominee of the occupier of the premises or the owner of the vehicle;
  - (iii) the occupier of the premises or the owner of the vehicle and a nominee of the occupier or owner; and
- 25 (c) take such steps as are necessary in the circumstances to minimise any adverse effect of the inspection on the business or activities of the occupier of the premises or the owner of the vehicle.

- (2) No notice is required to be given of a routine inspection of premises or a vehicle in or on which an authorised officer reasonably suspects there is an animal in respect of which an animal welfare notice or animal welfare order is in force.

- 30 (3) Non-compliance with this section does not affect the validity of the exercise of powers by the authorised officer under this Act.

### 37—Animal welfare notices

- (1) If an authorised officer believes on reasonable grounds that the exercise of powers under this section is warranted because the welfare of an animal is being adversely
- 35 affected, the authorised officer may, by written notice (an *animal welfare notice*) given to the owner of the animal—
- (a) direct the owner to provide the animal with such food, water, shelter, rest or treatment as the authorised officer thinks necessary;
  - (b) require the owner to ensure the animal is not worked or used for any purpose
  - 40 specified in the notice for such period as is specified in the notice;
  - (c) require the owner to ensure the animal is exercised in accordance with the stipulations of the notice;

- (d) direct or require the owner to take any other action specified in the notice, within the time specified in the notice, that the authorised officer considers necessary for the improvement of the animal's welfare.
- (2) A person to whom an animal welfare notice has been given must not refuse or fail to comply with the direction or requirement set out in the notice.
- Maximum penalty:
- (a) in the case of a body corporate—\$250 000;
- (b) in the case of an individual—\$50 000.
- Expiation fee: \$1 500.
- (3) A notice under this section may specify that refusal or failure to comply may result in an animal or animals owned by the person being seized by an authorised officer and forfeited to the Minister in accordance with section 43.

### 38—Notice to comply

- (1) If an authorised officer believes on reasonable grounds that a person is contravening a requirement of this Act, the authorised officer may issue the person a notice (**a notice to comply**) directing the person to take, or cease, specified action within a specified period.
- (2) A person to whom a notice to comply has been given must not refuse or fail to comply with the direction set out in the notice.
- Maximum penalty:
- (a) in the case of a body corporate—\$250 000;
- (b) in the case of an individual—\$50 000.
- Expiation fee: \$1 500.
- (3) A notice under this section may specify that refusal or failure to comply may result in an animal or animals owned by the person being seized by an authorised officer and forfeited to the Minister in accordance with section 43.

### 39—Offence to hinder etc authorised officers

- (1) A person who—
- (a) hinders or obstructs an authorised officer, or a person assisting an authorised officer, in the exercise of powers under this Act; or
- (b) falsely represents, by words or conduct, that they are an authorised officer,
- is guilty of an offence.
- Maximum penalty:
- (a) in the case of a body corporate—\$250 000;
- (b) in the case of an individual—\$50 000.
- (2) A person who—
- (a) refuses or fails to comply with a requirement or direction of an authorised officer under this Act; or

- (b) when required by an authorised officer under this Act to answer a question, refuses or fails to answer the question to the best of the person's knowledge, information and belief,

is guilty of an offence.

Maximum penalty:

- (a) in the case of a body corporate—\$250 000;
- (b) in the case of an individual—\$50 000.

Expiation fee: \$1 500.

## Division 2—Enforceable undertakings

### 40—Enforceable undertakings

- (1) If the Minister is satisfied that a person is contravening a requirement of this Act, the Minister may ask the person to consent to an enforceable undertaking setting out actions the person agrees to take, or to cease, within a specified time, any costs or expenses the person agrees to pay in respect of action taken or to be taken by an authorised officer or the Minister and any other matters that may be agreed between the Minister and the person.

- (2) A person who consents to an enforceable undertaking must not refuse or fail to comply with the terms of the undertaking.

Maximum penalty:

- (a) in the case of a body corporate—\$250 000;
- (b) in the case of an individual—\$50 000.

Expiation fee: \$1 500.

- (3) A notice under this section may specify that refusal or failure to comply may result in an animal or animals owned by the person being seized by an authorised officer and forfeited to the Minister in accordance with section 43.

## Division 3—Special powers relating to animals

### 41—Powers are additional

This Division is in addition to, and does not derogate from, any other powers conferred on an authorised officer, or the Minister, under this Act.

**Note—**

For example, an animal may also be seized under section 34(1)(f) as evidence of an offence.

### 42—Special powers to protect animal welfare

- (1) An authorised officer may examine an animal and its living conditions and if the authorised officer suspects on reasonable grounds that the animal is experiencing or will imminently experience unnecessary harm, pain or distress—

- (a) the officer may do 1 or more of the following:
  - (i) provide treatment and care for the animal;
  - (ii) cause the living conditions of the animal to be modified; or

- (b) if the authorised officer suspects on reasonable grounds that no action can reasonably be taken under paragraph (a) or that any such action will not be effective to alleviate the animal's harm, pain or distress, the officer may seize the animal; or
  - (c) if the authorised officer suspects on reasonable grounds that no action can reasonably be taken under paragraph (a) or (b) or that any such action will not be effective to alleviate the animal's harm, pain or distress, the officer may destroy or arrange for the destruction of the animal (in accordance with any directions of the Minister).
- (2) An authorised officer who takes action under this section in good faith does not incur any civil or criminal liability for taking that action.

### 43—Seizure and forfeiture following non-compliance with notice or undertaking

- (1) This section applies to an animal if the owner of the animal has refused or failed to comply with—
- (a) a notice under section 37 or 38; or
  - (b) an enforceable undertaking under section 40,
- and that notice or undertaking specified that refusal or failure to comply may result in the animal being seized by an authorised officer and forfeited to the Minister in accordance with this section.
- (2) If an authorised officer reasonably believes that—
- (a) this section applies to an animal; and
  - (b) it is in the best interests of the animal to take action under this section,
- an authorised officer may seize the animal.
- (3) The Minister may, by written notice to the owner of an animal that has been seized under this section (the ***forfeiture notice***), declare that the animal is forfeited to the Minister—
- (a) if the Minister is satisfied on reasonable grounds it is in the best interests of the seized animal; and
  - (b) if—
    - (i) after 30 days, no application has been made under section 49 for a review of the decision of the authorised officer to seize the animal; or
    - (ii) such an application for review has been made and the Minister has confirmed the decision of the authorised officer.
- (4) The Minister may only sell, rehome or destroy (or arrange for the destruction of) an animal that has been forfeited under this section if the owner of the animal—
- (a) has not, within 14 days after the day the forfeiture notice is given (the ***application period***), applied to SACAT under section 50 for review of the decision to issue the forfeiture notice; or

- (b) has applied to SACAT under section 50 for review of the decision to issue the forfeiture notice within the application period and the Minister's decision has been confirmed.

- (5) For the avoidance of doubt—

- (a) action may be taken in relation to an animal under this section whether or not the owner of the animal has been charged with, or prosecuted for, or has expiated an alleged offence under this Act in respect of the refusal or failure to comply with a notice or undertaking; and

- (b) nothing in this section affects the ability of an authorised officer to exercise powers under section 42 or the Minister's powers under section 44.

#### 44—Dealing with seized animals

- (1) This section applies to an animal seized under any provision of this Act.

**Note—**

This section applies whether or not the seized animal may be liable to forfeiture.

This section ceases to apply to a seized animal if the owner of the animal surrenders the animal to the Minister or the animal is forfeited to the Minister.

- (2) The Minister may—

- (a) sell an animal seized under this Act; or
- (b) give an animal seized under this Act to an animal welfare entity for selling or rehoming; or
- (c) if satisfied that no action can reasonably be taken under paragraph (a) or (b) or that it is otherwise in the best interests of the seized animal—destroy (or arrange for the destruction of) the animal.

- (3) Before selling, rehoming or destroying a seized animal, the Minister must—

- (a) if the identity of the owner of the animal is not known—make reasonable enquires to find out who the owner is; or
- (b) if the identity of the owner of the animal is known—give the person written notice of the Minister's intention to sell, rehome or destroy (or arrange for the destruction of) the animal.

- (4) The Minister may only sell, rehome or destroy (or arrange for the destruction of) a seized animal if the Minister—

- (a) is satisfied on reasonable grounds it is in the best interests of the seized animal; and
- (b) has complied with subsection (3); and
- (c) where the identity of the owner of the animal is known, if—
  - (i) the Minister has given notice to the owner under subsection (3)(b); and
  - (ii) the person—

- (A) has not, within 14 days after the day the notice is given (the *application period*), applied to SACAT under section 50 for review of the decision; or

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Division 3—Special powers relating to animals

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(B) has applied to SACAT under section 50 for review of the decision within the application period and the Minister's decision has been confirmed.

(5) If an animal that has been seized is disposed of by sale under this section—

(a) if the animal was seized as evidence of an offence—the proceeds of the sale must be held by the Minister until the conclusion or termination of the proceedings for the offence when they must be disbursed in accordance with a further order of the court; or

(b) in any other case—the costs incurred by the Minister in relation to the seizure and sale of the animal must be deducted from the proceeds of sale and the remainder (if any)—

(i) if the identity of the owner of the animal is not known—must be paid into the Animal Welfare Fund maintained under Part 7; or

(ii) if the identity of the owner of the animal is known—must be paid to the owner of the animal.

(6) For the avoidance of doubt, nothing in this section affects the ability of an authorised officer to exercise powers under section 42.

(7) In this section—

*animal welfare entity* means an entity that, in the opinion of the Minister, carries out appropriate functions relating to animal welfare.

**45—Costs**

The costs and expenses reasonably incurred by a person or the Crown in taking action under this Subdivision may be recovered as a debt from the owner of the animal.

**Division 4—Court orders****46—Interim orders**

(1) A court may, in proceedings for an offence against this Act, make such interim orders as the court considers appropriate.

(2) Without limiting the generality of subsection (1), a court may make 1 or more of the following orders:

(a) an order requiring a specified person to care for any animal owned by the person (whether or not the subject of the alleged offence) in accordance with the conditions of the order (which may include a condition that the care of any such animal be supervised or monitored by an authorised officer);

(b) an order directing a specified person to surrender a specified animal that is owned by the person (whether or not the subject of the alleged offence) to an authorised officer;

(c) an order forbidding the person to acquire, or have custody of, any other animal or any other animal of a specified class, either until further order, or for the period specified in the order;

- (d) an order directing a specified person to surrender to the Crown an object that is the property of the person and is the subject of the alleged offence or was allegedly used by the person in the commission of the alleged offence.
- (3) A person in relation to whom an interim order under this section is in force must  
5 comply with the order.
- Maximum penalty:
- (a) in the case of a body corporate—\$100 000;
- (b) in the case of an individual—\$20 000.

#### 47—Court orders on finding of guilt etc

- (1) A court may, on finding a person guilty of an offence against this Act or on declaring  
10 a person charged with an offence against this Act liable to supervision under Part 8A  
of the *Criminal Law Consolidation Act 1935*, make 1 or more of the following orders:
- (a) an order requiring the person to care for any animal owned by the person  
15 (whether or not the subject of the offence) in accordance with the conditions  
of the order (which may include a condition that the care of any such animal  
be supervised or monitored by an authorised officer), either until further  
order, or for the period specified in the order;
- (b) an order directing the person to surrender an animal that is owned by the  
person and is the subject of the offence to an authorised officer;
- 20 (c) an order directing the person to surrender any other specified animal owned  
by the person to an authorised officer;
- (d) an order directing that any animal owned by the person that has been  
surrendered or seized under this Act be forfeited to the Crown;
- 25 (e) an order forbidding the person to acquire, or have custody of, any other  
animal or any other animal of a specified class, either until further order, or  
for the period specified in the order;
- (f) an order forfeiting to the Crown an object that is the property of the person  
and is the subject of the offence or used by the person in the commission of  
the offence;
- 30 **Note—**
- See also section 35(2)(b)
- (g) an order requiring the person to pay the Minister the amount of any costs  
incurred in taking action under this Act.
- (2) A person in relation to whom an order under subsection (1) is in force must comply  
35 with the order.
- Maximum penalty:
- (a) in the case of a body corporate—\$100 000;
- (b) in the case of an individual—\$20 000.
- (3) The Minister may sell, destroy or otherwise dispose of an animal or object that has  
40 been forfeited to the Crown.

## Division 5—Miscellaneous

### 48—Warrant procedures

- (1) The Magistrates Court must not issue a warrant for the purposes of this Part unless satisfied that the warrant is reasonably required in the circumstances.
- 5 (2) An application for a warrant may be made personally or, if, in the opinion of the applicant, the warrant is urgently required and there is not enough time to lodge a written application and appear before the Court, electronically or by telephone.
- (3) The grounds of an application for a warrant must be verified by affidavit.
- 10 (4) If an application for the issue of a warrant is made electronically, the following provisions apply:
  - (a) the application must be in a form approved by the Chief Magistrate;
  - (b) the application must be accompanied by an affidavit made by the applicant verifying the facts referred to in the application;
  - 15 (c) the applicant must be available to address the Court by telephone or electronic means determined by the Court;
  - (d) the Court is entitled to assume, without further inquiry, that a person who identifies themselves as the applicant acting in the capacity of an authorised officer during a conversation with the Court by telephone or electronic means is indeed the applicant acting in that capacity;
  - 20 (e) the Court may, on being satisfied as to the circumstances of urgency and the grounds for the issue of a warrant, make out and sign a warrant;
  - (f) the warrant is to be taken to have been issued, and comes into force, when signed on behalf of the Court;
  - (g) the Court must forward the warrant to the applicant by electronic means.
- 25 (5) If an application for a warrant is made by telephone, the following provisions apply:
  - (a) the applicant must inform the Court of the applicant's name and identify themselves as an authorised officer and the Court, on receiving that information, is entitled to assume its accuracy without further inquiry;
  - 30 (b) the applicant must inform the Court of the purpose for which the warrant is required, the grounds on which it is sought and the circumstances giving rise to the urgency of the application;
  - (c) the Court may, on being satisfied as to the circumstances of urgency and the grounds for the issue of the warrant, inform the applicant of the facts on which the Court relies as grounds for the issue of the warrant, and must not  
35 proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts;
  - (d) if the applicant gives such an undertaking, the Court may then issue a warrant;
  - 40 (e) the warrant is to be taken to have been issued, and comes into force, when signed on behalf of the Court;



- (f) the Court must inform the applicant of the terms of the warrant;
  - (g) the applicant must fill out and sign a warrant form (the *duplicate warrant*) that—
    - (i) sets out who issued the warrant and the terms of the warrant; and
    - (ii) complies with any other prescribed requirements;
  - (h) the applicant must, as soon as practicable after the issue of the warrant, forward to the Court an affidavit verifying the facts referred to in paragraph (c) and a copy of the duplicate warrant.
- (6) A warrant, if not executed at the expiration of 1 month from the date of its issue, then expires.

## Part 6—Reviews

### 49—Reviews by Minister

- (1) Subject to regulations under subsection (5), a person who is aggrieved by a decision of an authorised officer under Part 5 is entitled to apply to the Minister for a review of the decision.
- (2) An application for review of a decision—
  - (a) must be in writing and made in the manner specified by the Minister on a website determined by the Minister; and
  - (b) must specify an email address or other address in Australia to which notices under this Act should be sent; and
  - (c) must be made within 30 days after the day on which notice of the decision was given to the applicant or within such further time as the Minister may allow.
- (3) On an application for review under this section, the Minister may confirm, vary or reverse the decision under review.
- (4) The making of an application for review of a decision under this section does not affect the operation of the decision or prevent the taking of action to implement the decision.
- (5) The regulations may prescribe classes of decisions that this section does not apply to.

### 50—Reviews by SACAT

- (1) Subject to subsection (5), SACAT is, by force of this section, conferred with jurisdiction to deal with matters consisting of the review of a decision of the Minister under this Act.
- (2) Subject to subsection (4) and to sections 43(4) and 44(4)(c), an application for review may be made to SACAT within 1 month after the making of the relevant decision (or such longer period as SACAT may allow).
- (3) The Minister must, if so required by any person affected by a decision, state in writing the reasons for that decision.

- (4) If the reasons of the Minister were not given in writing at the time of making a decision or order and the applicant for review then requests the Minister to state the reasons in writing, the time for making the application for review to SACAT runs from the time when the applicant receives the written statement of those reasons.

- (5) The regulations may prescribe classes of decisions that this section does not apply to.

## 51—Reviews of decisions of animal ethics committees

- (1) Subject to this section, SACAT is, by force of this section, conferred with jurisdiction to deal with matters consisting of the review of a decision of an animal ethics committee under Part 4.
- (2) An application for review may be made to SACAT within 1 month after the making of the relevant decision (or such longer period as SACAT may allow).
- (3) Before SACAT makes a decision on the review, a prescribed committee (if any) must investigate the decision under review and furnish SACAT with a report on its investigations for consideration by SACAT.

## Part 7—Animal Welfare Fund

### 52—Animal Welfare Fund

- (1) The *Animal Welfare Fund* is established.
- (2) The Fund will consist of—
- (a) fees paid for licences, permits and registrations under Part 4; and
  - (b) penalties paid in respect of offences against this Act; and
  - (c) expiation fees paid under this Act; and
  - (d) any costs recovered under section 47; and
  - (e) income and accretions from investment of money from the Fund; and
  - (f) any other money required to be paid into the Fund under this or any other Act.
- (3) Any money in the Fund that is not for the time being required for the purposes of the Fund may be invested by the Minister in any manner that the Minister thinks fit.
- (4) The Minister may apply any portion of the Fund towards—
- (a) paying any costs or expenses incurred in the administration or enforcement of this Act; and
  - (b) the promotion of research into the welfare of animals (including wildlife); and
  - (c) funding education programs relating to the protection of animal welfare and the prevention of harm to animals; and
  - (d) funding other programs, or achieving other outcomes, prescribed by the regulations; and
  - (e) providing for any matter that, in the opinion of the Minister, advances the objects of this Act.

## Part 8—Miscellaneous

### 53—Registration of interstate orders

- (1) The Minister may register an interstate order.
- (2) 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).
- (3) 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.
- (4) 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 South Australia is an offence.
- (5) The registration of an interstate order registered under this section takes effect 14 days after notice is served in accordance with subsection (4) on the person who is the subject of the order.
- (6) A person who is the subject of an interstate order, that is registered under this section, must comply with the order.
- Maximum penalty:
- (a) in the case of a body corporate—\$100 000;
  - (b) in the case of an individual—\$20 000.
- (7) Subsection (6) applies even if the order is varied after it is registered.
- (8) 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.
- (9) In proceedings for an alleged offence against subsection (6)—
- (a) production of a certificate apparently signed by the Minister stating that an interstate order was registered on a specified date is proof in the absence of proof to the contrary of the registration under this section of the order; and
  - (b) production of a certificate apparently signed by the interstate minister setting out the terms of the interstate order at a particular date is proof in the absence of proof to the contrary of the terms of the order on that date.
- (10) In this section—

***corresponding law*** means a provision of a law of another State or Territory prescribed by the regulations as a corresponding law for the purposes of this section;

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

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

#### 54—Delegation

- (1) The Minister may delegate to a body or person (including a person for the time being holding or acting in a specified office or position) a function or power of the Minister under this Act (except a prescribed function or power).
- (2) A delegation under this section—
- (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the delegator to act in any matter; and
  - (d) is revocable at will.

#### 55—Ministerial exemption

- (1) The Minister may, by instrument in writing, grant or declare that a person or class of persons is exempt from this Act, or specified provisions of this Act, or in specified circumstances.
- (2) An exemption—
- (a) may be granted or declared on application to the Minister (in a manner and form determined by the Minister) or on the Minister's own initiative; and
  - (b) may be subject to such conditions as the Minister thinks fit.
- (3) A person who contravenes a condition of an exemption is guilty of an offence.
- Maximum penalty:
- (a) in the case of a body corporate—\$100 000;
  - (b) in the case of an individual—\$20 000.
- Expiation fee: \$1 000.

#### 56—Waiver, reduction or refund of fees

The Minister may waive, reduce or refund a fee (or part of a fee) prescribed for the purposes of this Act if satisfied that it is appropriate to do so in a particular case.

#### 57—False or misleading statements

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in an application made, or information provided, under this Act.

Maximum penalty:

- (a) in the case of a body corporate—\$250 000;
- (b) in the case of an individual—\$50 000.

#### 58—Power of veterinarians to destroy animals

A veterinarian may destroy an animal if of the opinion that the condition of the animal is such that the animal is so weak or disabled (whether physically or mentally), or in such pain or distress, that it should be destroyed.

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**59—Power to provide food to neglected animals**

Where a person believes on reasonable grounds that over a period of 24 hours or more an animal has not been provided with adequate food or water, the person may, with the authority of an authorised officer, enter the premises for the purpose of providing the animal with food and water.

**60—Service of notices**

- (1) A notice or document required or authorised to be given to, or served on, a person under this Act may be given or served—
- (a) personally; or
  - (b) by leaving it at, or posting it to—
    - (i) the physical address designated by the person for the service of notices or documents of that kind; or
    - (ii) if such an address is not so designated, the last known place of residence or a place of business of the person; or
  - (c) by sending the notice or document to an email address known to be used by the person (in which case the notice or document will be taken to have been given or served at the time of transmission); or
  - (d) if the whereabouts of the person to whom the notice is to be given or served are unknown—
    - (i) by affixing the notice or document in a prominent position on premises to which it relates; or
    - (ii) by publishing the notice or document in a newspaper circulating generally throughout the State; or
  - (e) in such other manner as may be prescribed by the regulations.
- (2) The provisions of this section are in addition to, and do not limit or exclude, the provision of any other law with respect to the service of notices or documents.

**61—Proceedings for offences**

Proceedings for an offence against this Act must be commenced—

- (a) in the case of an expiable offence—within 2 years after the day on which the offence is alleged to have been committed; or
- (b) in any other case—within 5 years after the day on which the offence is alleged to have been committed.

**62—Offences by bodies corporate**

- (1) If a body corporate is guilty of an offence against Part 2 (or an offence against section 64 that relates to such an offence), each member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless the member proves that they could not by the exercise of due diligence have prevented the commission of the offence.

- (2) If a body corporate is guilty of any other offence against this Act (other than an offence against the regulations), each member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence if the prosecution proves that—

- (a) the member knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and
- (b) the member was in a position to influence the conduct of the body corporate in relation to the commission of such an offence; and
- (c) the member failed to exercise due diligence to prevent the commission of the offence.

- (3) The regulations may make provision in relation to the criminal liability of members of the governing body of a body corporate that is guilty of an offence against the regulations.

### 63—Continuing offences

- (1) A person convicted of an offence against any provision of this Act in respect of a continuing act or omission—
- (a) is liable, in addition to the penalty otherwise applicable to that offence, to a penalty for each day during which the act or omission continued of not more than one-tenth of the maximum penalty prescribed for that offence; and
- (b) is, if the act or omission continues after conviction, guilty of a further offence against that provision and liable, in addition to the penalty otherwise applicable to that further offence, to a penalty for each day during which the act or omission continued after that conviction of not more than the amount equal to one-tenth of the maximum penalty prescribed for that offence.
- (2) Where an offence against a provision of this Act consists of an omission to do something that is required to be done, the omission will, for the purposes of subsection (1), be taken to continue for so long as the thing required or directed to be done remains undone after the expiration of the period for compliance with the requirement.

### 64—Vicarious liability of employers in certain circumstances

If a person commits an offence against this Act in the course of employment by another, the employer is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the employer could not by the exercise of reasonable diligence have prevented the commission of that offence.

### 65—Evidence

- (1) In proceedings, a certificate apparently executed by the Minister certifying as to a matter relating to—
- (a) a licence, permit, approval, certificate or other authorisation under this Act; or
- (b) the appointment of an authorised officer; or
- (c) a delegation; or
- (d) an application; or

(e) the receipt or non-receipt of information,  
under this Act constitutes proof, in the absence of proof to the contrary, of the matters  
so certified.

(2) An allegation in a complaint or an information that—

(a) an animal was an animal of a specified species; or

(b) a person was the owner of a specified animal,

will be accepted as proved in the absence of proof to the contrary.

## 66—Codes

(1) A copy of the Code must be available for inspection on or through a website  
determined by the Minister.

(2) Evidence of the contents of any code incorporated into or referred to by this Act may  
be given in any legal proceedings by production of a copy of a document apparently  
certified by or on behalf of the Minister to be a true copy of the code.

## 67—Act does not render unlawful practices that are in accordance with prescribed code of animal husbandry practice

Nothing in this Act renders unlawful anything done in accordance with a prescribed  
code of practice relating to animals.

## 68—Reports in respect of alleged contraventions

(1) If a person reports to an authorised officer an alleged contravention of this Act, the  
authorised officer must, at the request of the person, inform the person if practicable  
of any action proposed to be taken under the Act in respect of the allegation.

(2) This section does not apply to a report made under section 11.

## 69—Victimisation

(1) A person commits an act of victimisation against another person (the *victim*) if the  
person causes detriment to the victim on the ground, or substantially on the ground,  
that the victim—

(a) has disclosed or intends to disclose information; or

(b) has made or intends to make an allegation,

that has given rise, or could give rise, to proceedings against the person under this Act.

(2) An act of victimisation under this Act may be dealt with—

(a) as a tort; or

(b) as if it were an act of victimisation under the *Equal Opportunity Act 1984*,

but, if the victim commences proceedings in a court seeking a remedy in tort, the  
victim cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984*  
and, conversely, if the victim lodges a complaint under that Act, the victim cannot  
subsequently commence proceedings in a court seeking a remedy in tort.

- (3) Where a complaint alleging an act of victimisation under this Act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.

- (4) In this section—

*detriment* includes—

- (a) injury, damage or loss; or
- (b) intimidation or harassment; or
- (c) discrimination, disadvantage or adverse treatment in relation to the victim's employment or business; or
- (d) threats of reprisal.

## 70—Regulations and fee notices

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may provide for—
- (a) the exemption of a person, or a class of persons, from the operation of a specified provision or provisions of this Act; and
  - (b) fees in respect of any matter under this Act and their payment, recovery or waiver; and
  - (c) fines, not exceeding \$10 000, for offences against the regulations; and
  - (d) facilitation of proof of the commission of offences against the regulations.
- (3) The regulations may—
- (a) be of general or limited application; and
  - (b) make different provision according to the matters or circumstances to which they are expressed to apply; and
  - (c) make provisions of a saving or transitional nature consequent on the enactment of this Act or on the commencement of specified provisions of this Act or on the making of regulations under this Act; and
  - (d) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of a specified entity; and
  - (e) apply or incorporate, wholly or partially and with or without modification, a code, standard, policy or other document prepared or published by the Minister or another specified entity.
- (4) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.



- (5) If a code, standard or other document is referred to or incorporated in the regulations—
- (a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and
  - (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

## Schedule 1—Related amendments and repeals

### Part 1—Amendment of *Criminal Law Consolidation Act 1935*

#### 1—Amendment of section 20AA—Causing harm to, or assaulting, certain emergency workers etc

Section 20AA(9), definition of *prescribed emergency worker*, (k)—delete "inspector within the meaning of the *Animal Welfare Act 1985*" and substitute:

authorised officer within the meaning of the *Animal Welfare Act 2024*

#### 2—Amendment of section 83I—Causing death or serious harm etc to working animals

- (1) Section 83I(2)(d)—delete "section 34B of the *Animal Welfare Act 1985*" and substitute:

section 58 of the *Animal Welfare Act 2024*

- (2) Section 83I(6)—delete "*Animal Welfare Act 1985*" and substitute:

*Animal Welfare Act 2024*

### Part 2—Amendment of *Dog and Cat Management Act 1995*

#### 3—Amendment of section 59D—Power to destroy dogs

Section 59D(3)—delete "section 34B of the *Animal Welfare Act 1985*" and substitute:

section 58 of the *Animal Welfare Act 2024*

#### 4—Amendment of section 60—Power to seize and detain dogs

Section 60(4)—delete "inspector under the *Animal Welfare Act 1985*" and substitute:

authorised officer under the *Animal Welfare Act 2024*

#### 5—Amendment of section 63—Power to destroy cats

- (1) Section 63(1)(d)(iii)—delete "inspector under the *Animal Welfare Act 1985*" and substitute:

authorised officer under the *Animal Welfare Act 2024*

- (2) Section 63(3)—delete "section 34B of the *Animal Welfare Act 1985*" and substitute:

section 58 of the *Animal Welfare Act 2024*

**6—Amendment of section 64D—Notification to owner of dog or cat destroyed etc under Part**

Section 64D(3), definition of *prescribed person*, (e)—delete "inspector under the *Animal Welfare Act 1985*" and substitute:

authorised officer under the *Animal Welfare Act 2024*

**Part 3—Amendment of *Sentencing Act 2017*****7—Insertion of section 26A**

After section 26 insert:

**26A—Additional orders for offences involving animals**

A court may, on finding a person guilty of an offence involving animals or on sentencing a person for an offence involving animals, make any order it thinks fit under section 47 of the *Animal Welfare Act 2024*.

**Part 4—Repeal of *Animal Welfare Act 1985*****8—Repeal of Act and regulations**

The *Animal Welfare Act 1985*, and all regulations under that Act, are repealed.