

# NORTHERN TERRITORY OF AUSTRALIA

## ANIMAL WELFARE REGULATIONS

As in force at 28 January 2004

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 28 January 2004

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## ANIMAL WELFARE REGULATIONS

### Regulations under the *Animal Welfare Act*

#### Part 1 Preliminary

##### 1 Citation

These Regulations may be cited as the *Animal Welfare Regulations*.

##### 2 Definitions

In these Regulations, unless the contrary intention appears:

***alleged offender*** means a person believed to have committed an offence referred to in regulation 14.

***member*** means a member of the Animal Welfare Advisory Committee constituted under regulation 6 and includes the Chairperson and an alternate member.

#### Part 2 Animal welfare

##### 3 Prescribed conditions relating to tail docking

- (1) A person who docks the tail of a dog under section 9(1)(a) of the Act must perform the docking in appropriate hygienic conditions and in a manner that minimises suffering to the dog.
- (2) In a proceeding for an offence against subregulation (1), the onus of establishing that the docking was performed in appropriate hygienic conditions and in a manner that minimises suffering to the dog is on the person accused of the offence.

#### **4 Authorised use etc. of electrical devices**

- (1) For the purposes of section 19(2)(a) or (b) of the Act, a person is authorised to sell an electrical device or have an electrical device in his or her possession if the device is specified in column 1 of Schedule 1 and is made or adapted for the purpose specified opposite in column 2.
- (2) For the purposes of section 19(2)(c) of the Act, a person is authorised to use an electrical device specified in column 1 of Schedule 1 only if the device is made or adapted and used for the purpose specified opposite in column 2 and is used on an animal specified opposite in column 3 in accordance with the condition (if any) specified opposite in column 4.
- (3) Despite subregulation (2), a person must not use an electrical device on an animal by applying it to the face, udders or genitals of the animal.

### **Part 3 Teaching or research involving animals**

#### **5 Animal ethics committees**

For the purposes of section 41 of the Act, an animal ethics committee:

- (a) is to be established, constituted and maintained in accordance with; and
- (b) has the powers and functions specified in,

the publication entitled ***Australian code of practice for the care and use of animals for scientific purposes***, 6th edition 1997, published by the National Health and Medical Research Council.

### **Part 4 Animal Welfare Advisory Committee**

#### **6 Members**

- (1) The Animal Welfare Advisory Committee established under section 69 of the Act is to be constituted by at least 8 members appointed in writing by the Minister in accordance with this regulation.

- (2) Each of 8 members appointed to the Advisory Committee must be a person who, in the Minister's opinion, is capable of representing the interests of one of the following bodies:
- (a) an animal welfare organisation incorporated in the Territory or taken to be registered in the Territory by virtue of section 119A of the Corporations Act 2001;
  - (b) the Australian Veterinary Association Limited;
  - (c) the Local Government Association of the Northern Territory;
  - (d) the Agency having the responsibility for the administration of the Act;
  - (e) the Department of Primary Industry and Fisheries;
  - (f) the Northern Territory Cattlemen's Association Incorporated;
  - (g) the Northern Territory University;
  - (h) the Parks and Wildlife Commission of the Northern Territory;
  - (j) any other body the Minister considers should be represented on the Advisory Committee.
- (3) Before appointing a person to be a member of the Advisory Committee representing the interests of a body referred to in subregulation (2), the Minister:
- (a) must request the body to nominate 3 persons who are qualified for appointment; and
  - (b) may appoint one of those persons to be a member.
- (4) The Minister may appoint other persons to be members of the Advisory Committee as the Minister thinks fit.
- (5) A member holds office for the period (not exceeding 3 years) specified in the instrument of appointment and is eligible for reappointment.

## **7 Chairperson**

- (1) The Minister must appoint a member of the Advisory Committee to be the Chairperson of the Committee.
- (2) The Chairperson holds office for the period (not exceeding 3 years) specified in the instrument of appointment and is eligible for reappointment.

- (3) The Chairperson must preside at all meetings of the Advisory Committee but if the Chairperson is absent from a meeting the members present at the meeting must elect one of their number to act as the Chairperson for the purposes of that meeting.
- (4) A member has the same powers as the Chairperson when acting as the Chairperson.

## **8 Alternate members**

- (1) The Minister may appoint a person to be an alternate member of the Advisory Committee to act for a member (other than the Chairperson) while that member is prevented by illness, absence or other reason considered sufficient by the Chairperson, from performing the duties of office.
- (2) Before appointing a person to be an alternate member to act for a member referred to in regulation 6(2), the Minister must be of the opinion that the person is capable of representing the interests of the body represented by the member for whom he or she is to act, and for that purpose:
  - (a) may appoint a person who was most recently nominated by that body under regulation 6(3) as qualified, but who was not appointed, to be a member; or
  - (b) may request that body to nominate a person who is qualified to be appointed as an alternate member and may appoint that person.
- (3) An alternate member holds office for the same period as that held by the member for whom he or she is appointed to act, or for a shorter period as specified in the instrument of appointment.
- (4) An alternate member has the same powers as a member when acting as a member.

## **9 Termination of appointment**

- (1) The Minister may terminate the appointment of the Chairperson or a member for inability, inefficiency, misbehaviour or physical or mental incapacity.
- (2) The Minister must terminate the appointment of a member who:
  - (a) is absent from 3 consecutive meetings of the Advisory Committee without the leave of the Committee; or
  - (b) becomes bankrupt.

**10 Resignation**

A member or the Chairperson may resign from office by written notice given to the Minister.

**11 Meetings**

- (1) The Advisory Committee must hold at least 2 meetings each year.
- (2) The Chairperson:
  - (a) may convene a meeting of the Advisory Committee at any time; and
  - (b) must convene a meeting of the Advisory Committee, as soon as practicable, if requested in writing to do so by the Minister or 4 other members.
- (3) The quorum at a meeting of the Advisory Committee is 4 members.
- (4) Subject to subregulation (5), the Advisory Committee may from time to time determine the procedures to be followed at or in connection with its meetings.
- (5) A question arising at a meeting of the Advisory Committee is to be decided by a majority of the members present and voting and the Chairperson has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

**12 Validity of actions**

The exercise of a power or performance of a function by the Advisory Committee is not affected by reason only that:

- (a) there is a vacancy in the membership of the Committee;
- (b) there is a defect in the appointment of a member or the election of an acting Chairperson; or
- (c) a person has acted in office after the termination of his or her appointment as a member.

**13 Annual report**

- (1) The Advisory Committee must submit an annual report to the Minister on or before 30 September each year in relation to the financial year ending on the preceding 30 June.
- (2) The annual report is to be in a form approved by the Minister.

## **Part 5                    Infringement notices**

### **14                    When infringement notice may be served**

If an inspector or officer believes that a person has committed an offence against a provision of the Act or these Regulations that is specified in column 1 of Schedule 2, he or she may serve an infringement notice on the person.

### **15                    Prescribed amount**

The prescribed amount that may be paid, instead of the penalty that may otherwise be imposed, in respect of an offence specified in column 1 of Schedule 2 is the amount specified opposite in column 2.

### **16                    Particulars to be included in infringement notice**

An infringement notice is to include the following particulars:

- (a) the name and address of the alleged offender, if known;
- (b) the date, time and place of the offence;
- (c) the nature of the offence and the prescribed amount payable in respect of that offence;
- (d) the person to whom the alleged offender may pay the prescribed amount and the address of the person;
- (e) the date of the infringement notice and a statement that the prescribed amount may be paid within 28 days after that date;
- (f) a statement to the effect that if the alleged offender wishes to pay the prescribed amount, he or she should complete the relevant part of the infringement notice and return the notice with the prescribed amount to the person specified in the notice;
- (g) a statement to the effect that if the alleged offender wishes to be dealt with by a court in relation to the offence, he or she should not pay the prescribed amount but should complete the relevant part of the infringement notice and return the notice to the person specified in the notice;
- (h) a statement that if the alleged offender does nothing in response to the infringement notice, a summons may be issued requiring the alleged offender to appear before the Court of Summary Jurisdiction to be dealt with in relation to



the offence; and

- (j) any other approved particulars.

## **17 Expiation of offence**

- (1) If an alleged offender pays the total prescribed amount specified in an infringement notice in accordance with the notice, the alleged offender is to be taken to have expiated the offence and no further proceedings are to be taken in respect of the offence.
- (2) If an alleged offender tenders a cheque in payment of a prescribed amount, the amount is not to be taken to have been paid unless the cheque is cleared on presentation.

## **18 Withdrawal of infringement notice**

An infringement notice may be withdrawn at any time within 28 days after it is served, but before payment of the prescribed amount specified in the infringement notice, by serving on the alleged offender a notice:

- (a) signed by the Authority or a person authorised by the Authority; and
- (b) stating that the infringement notice is withdrawn.

## **19 How service effected**

Service of an infringement notice, or a notice of withdrawal of an infringement notice, is effected:

- (a) by serving it personally on the alleged offender;
- (b) by posting it to the alleged offender at his or her last known address; or
- (c) by leaving it for the alleged offender at his or her last known place of residence or business with a person apparently resident or employed there and apparently not less than 16 years of age.

## **20 General**

Nothing in these Regulations:

- (a) prevents more than one infringement notice in relation to the same offence being served on an alleged offender, but it is sufficient for the application of regulation 17 to an alleged offender on whom more than one infringement notice has

been served for the alleged offender to pay the prescribed amount in accordance with any one of those notices;

- (b) prejudices or affects (except as provided by regulation 17) the institution or prosecution of proceedings, or limits the penalty that may be imposed by a court, in relation to an offence; or
- (c) is to be construed as requiring an infringement notice to be served or as affecting the liability of a person to be prosecuted in a court in relation to an offence in respect of which an infringement notice has not been served.

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**Schedule 1**

regulation 4

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Column 1 Electrical device	Column 2 Purpose	Column 3 Animal	Column 4 Condition
Electric stock prod	Driving, herding, mustering or controlling animals	Cattle, buffalo, camels and swine	
	Controlling animals at a rodeo	Horses	
Electric stunning device	Electrical stunning of animals in abattoirs	Cattle, buffalo, sheep, goats and swine	
Electric training collar (excluding a collar operated by a remote control device)	Training of animals	Dogs	Only to be used strictly in accordance with the manufacturer's instructions in respect of the use of the collar
Electro-ejaculator	Collecting semen from conscious animals	Cattle, buffalo and sheep	
	Collecting semen from tranquillised or anaesthetised animals	All species of animal including cattle, buffalo and sheep	
Electro-immobiliser	Restraining animals	Cattle, buffalo and crocodiles	Not to be used as an alternative to analgesia or anaesthesia if one of those options is the preferred procedure under appropriate animal husbandry practices

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Fence known as an invisible fence	Containment of animals	Dogs	Only to be used strictly in accordance with the manufacturer's instructions in respect of the use of the fence
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**Schedule 2**

regulations 14 and 15

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Column 1 Provision of Act or Regulations creating offence	Column 2 Prescribed amount
Section 14 Transporting unrestrained dog in or on moving vehicle	One penalty unit

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**ENDNOTES**
**1****KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2****LIST OF LEGISLATION*****Animal Welfare Regulations (SL No. 14, 2000)***

Notified	27 March 2000
Commenced	27 March 2000

***Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)***

Notified	29 June 2001
Commenced	15 July 2001 (s 2, s 2 Corporations Act 2001 (Cth Act No. 50, 2001) and Cth Gaz S285, 13 July 2001)

***Amendments of Animal Welfare Regulations (SL No. 1, 2004)***

Notified	28 January 2004
Commenced	28 January 2004

***Animal Welfare Amendment Act 2004 (Act No. 24, 2004)***

Notified	28 April 2004
Commenced	28 April 2004

***Statute Law Revision Act (No. 2) 2004 (Act No. 54, 2004)***

Notified	15 September 2004
Commenced	27 October 2004 ( <i>Gaz</i> G34, 27 October 2004, p 3)

**3****LIST OF AMENDMENTS**

r 3	rep Act No. 24, 2004, s 5
r 6	amd Act No. 17, 2001, s 22; Act No 54, 2004, s 8
sch 1	amd No. 1, 2004