

Serial 168
Animal Welfare Act 1999
Ms Braham

**A BILL
for
AN ACT**

to provide for the welfare of animals, prevent cruelty to animals
and for related purposes



NORTHERN TERRITORY OF AUSTRALIA

ANIMAL WELFARE ACT 1999

No. of 1999

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NORTHERN TERRITORY OF AUSTRALIA

No. of 1999

AN ACT

to provide for the welfare of animals, prevent cruelty to animals
and for related purposes

[Assented to 1999]
[Second reading 1999]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Animal Welfare Act 1999*.

2. Commencement

This Act comes into operation on the date or dates fixed by the Administrator by notice in the *Gazette*.

3. Objectives

The objectives of this Act are –

- (a) to ensure that animals are treated humanely;
- (b) to prevent cruelty to animals; and
- (c) to promote community awareness about the welfare of animals.

4. Definitions

In this Act, unless the contrary intention appears –

"adopted code of practice" means a code of practice adopted under section 24(1)(a) or an adopted code of practice as varied from time to time under section 24(1)(b);

"Advisory Committee" means the Animal Welfare Advisory Committee established under Part 7;

"animal" means –

- (a) a live member of a vertebrate species including an amphibian, bird, mammal (other than a human being) and reptile; or
- (b) a live fish or crustacean in captivity or dependent on a person for food;

"approved" means approved by the Authority;

"Authority" means the Animal Welfare Authority established under Part 4;

"cage" includes a pen, kennel, hutch and other similar receptacle;

"confine", in relation to an animal, means to restrict its freedom of movement, including –

- (a) by enclosure in a cage, pit, yard, field or paddock; and
- (b) by pinioning, mutilation, tethering or other manner of restraint;

"ethics committee" means an animal welfare ethics committee established under Division 2 of Part 5;

"inspector" means a person who is an animal welfare inspector under section 57 and includes a member of the Police Force when exercising the powers of an inspector under this Act;

"licence" means a licence to use premises for teaching or research;

"licensed premises" means premises in respect of which a licence is in force;

"officer" means an animal welfare officer appointed under section 58;

"permit" means a permit to conduct a teaching or research program;

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"person in charge", in relation to an animal, includes —

- (a) an owner of the animal; and
- (b) a person who has the animal in his or her possession;

"pinioning" means disabling a bird's wing or removing part of a bird's wing but does not include trimming the feathers at the wing tip;

"possession" includes custody, care, control or supervision;

"premises" includes —

- (a) land (including water on land);
- (b) a permanent or temporary structure on land; and
- (c) a vehicle;

"reasonable action", in relation to the treatment of an animal that is suffering, includes —

- (a) obtaining veterinary treatment; and
- (b) destroying the animal in a manner that causes it to die quickly and without unnecessary suffering;

"research" means an experiment, procedure, test or study in which an animal is used and includes subjecting an animal to surgical, medical, psychological, biological, chemical or physical treatment;

"sell" includes —

- (a) barter or exchange;
- (b) agree or attempt to sell;
- (c) offer, expose, supply or receive for sale;
- (d) send, forward or deliver for sale; and
- (e) cause or permit to be sold;

"stock animals" includes cattle, horses (including mules, donkeys and asses), sheep, deer, goats, camels, swine and poultry;

"suffering" includes pain and distress;

"teaching or research" means teaching or research involving the use or breeding of animals;

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"vehicle" means –

- (a) a conveyance or other device designed to be propelled or drawn by any means; or
- (b) a device that runs on wheels or tracks (with or without motive power), including a caravan and trailer,

and includes –

- (c) an aircraft as defined in the *Aerodromes Act*; and
- (d) a vessel as defined in the *Marine Act*;

"veterinarian" means a registered veterinarian or registered veterinary specialist as defined in the *Veterinarians Act*;

"veterinary treatment" means veterinary services as defined in the *Veterinarians Act*;

"welfare" means health, safety and well-being.

5. Act to bind Crown

This Act binds the Crown in right of the Territory and, to the extent that the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

PART 2 – ANIMAL WELFARE

Division 1 – Obligations and offences

6. Neglect, cruelty etc.

- (1) A person must not neglect or commit an act of cruelty on an animal.
- (2) A person in charge of an animal must –
 - (a) exercise reasonable care, control or supervision of the animal to maintain the animal's welfare and prevent the neglect of the animal or the commission of an act of cruelty on it;
 - (b) if it is necessary for the animal's welfare – obtain veterinary treatment for it; and
 - (c) if the animal is suffering – take reasonable action to alleviate the suffering.

7. Abandonment

A person must not abandon an animal.

8. Provision of food, drink and shelter

(1) A person in charge of an animal must provide the animal with food, drink and shelter –

- (a) that is appropriate and sufficient; and
- (b) that it is reasonably practicable for the person to provide.

(2) In proceedings for an offence against subsection (1), if there is evidence that an animal was not provided with clean water during 24 consecutive hours the court may presume, in the absence of evidence to the contrary, that the person accused of the offence failed to provide the animal with appropriate and sufficient drink during that period.

(3) If an animal has been confined for a period exceeding 24 hours without appropriate and sufficient food or drink, any person may enter the premises where it is confined to supply the animal with food or drink and the person incurs no liability for entering the premises.

(4) A person who supplies an animal with food or drink under subsection (3) is entitled to be paid by the person in charge of the animal the reasonable costs of the food or drink and may recover those costs in a court of competent jurisdiction as a debt owed to him or her.

- (5) Subsections (3) and (4) do not apply to or in relation to –
 - (a) an animal confined in a railway truck; or
 - (b) stock animals being transported in accordance with an adopted code of practice.

9. Proscribed procedures

(1) Subject to subsection (2), a person must not –

- (a) dock the tail of an animal unless the animal is –
 - (i) a calf less than 6 months old; or
 - (ii) a dog less than 5 days old,

and the docking is performed in accordance with prescribed conditions;

- (b) crop the ears of an animal;
- (c) remove the claws of an animal; or
- (d) remove the voice of an animal.

(2) Subject to the *Veterinarians Act* and the *Veterinarians Regulations*, a veterinarian may perform a procedure referred to in subsection (1) if he or she is of the opinion that it is reasonable and necessary to do so.

10. Unfit animals not to be ridden etc.

A person must not –

- (a) ride, drive, use or transport an animal; or
- (b) if the person is in charge of an animal – authorise the riding, driving, using or transporting of the animal,

if the animal is unfit for that purpose.

11. Confinement

(1) A person in charge of a confined animal must provide the animal with adequate exercise, or a reasonable opportunity for adequate exercise, unless it would be unreasonable in the circumstances for the animal to exercise.

(2) In a proceeding for an offence against subsection (1), evidence that an animal remained confined for a period exceeding 24 hours is evidence that the person accused of the offence failed to provide the animal with adequate exercise during that period.

(3) A person in charge of an animal (other than a stock animal) must not confine the animal in a cage that is too small to allow the animal a reasonable opportunity for adequate exercise.

(4) In a proceeding for an offence against subsection (3), the person accused of the offence is not guilty of the offence if the person satisfies the court that he or she confined the animal –

- (a) for a period not exceeding 24 hours; and
- (b) in a manner that inflicted no unnecessary suffering on the animal,

for the purpose of –

- (c) transporting the animal; or
- (d) displaying the animal in a public exhibition or competition.

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- (5) A person must not confine a bird by means of –
 - (a) a ring, chain, string, cord or wire attached to its leg;
 - (b) a restraint around its neck or body; or
 - (c) pinioning.

12. Tethering

A person must not tether an animal for an unreasonable length of time or by an unreasonably heavy or short tether.

13. Transportation

A person transporting an animal must do so in a manner that does not unreasonably or unnecessarily inflict suffering on the animal.

14. Transporting dog on open back of vehicle

(1) A person transporting a dog in or on a moving vehicle on a public street must restrain or enclose the dog in a way that prevents the dog falling from the vehicle.

(2) Restraining a dog referred to in subsection (1) solely by a choker collar or choker chain does not satisfy the requirements of that subsection.

(3) Subsection (1) does not apply to a dog being used to work stock animals.

15. Action in respect of injury

(1) A person who injures an animal not in his or her charge must take reasonable action to alleviate the animal's suffering.

(2) If a person injures an animal not in his or her charge, and the person believes or ought reasonably to believe that the animal is domesticated or is a stock animal, he or she must –

- (a) as soon as practicable, inform a person in charge of the animal about the injury; or
- (b) if he or she is unable to inform a person in accordance with paragraph (a) – as soon as practicable, inform an inspector about the injury.

16. Severely injured animals not to be kept, sold etc.

A person must not purchase, acquire, keep or sell an animal that is so severely injured or diseased or in such a condition that it is cruel to keep it alive.

17. Poison not to be administered

- (1) In this section, "poison" includes –
- (a) poison as defined in the *Poisons and Dangerous Goods Act*; and
 - (b) a substance containing poison, glass or any other thing likely to cause an animal suffering.
- (2) Unless authorised by a law in force in the Territory, a person must not –
- (a) administer poison to an animal; or
 - (b) lay poison in a place with the intention of killing or causing suffering to an animal.

18. Traps

(1) In this section, "trap" means a trap that is made, adapted or used for the purpose of trapping an animal.

(2) Unless authorised by a law in force in the Territory, or in writing by the Authority, a person must not sell, have in his or her possession or set a metal-jawed trap.

Penalty: 10 penalty units.

19. Electrical devices

(1) In this section, "electrical device" means a device or object that is made, adapted or used for the purpose of administering an electric shock to an animal but does not include an electric fence.

- (2) Unless authorised by a law in force in the Territory, a person must not –
- (a) sell an electrical device;
 - (b) have an electrical device in his or her possession; or
 - (c) use an electrical device on an animal.

20. Spurs

(1) A person must not sell, have in his or her possession or use spurs with sharpened or fixed rowels.

(2) A person must not sell, have in his or her possession or attach to an animal a device made or adapted, or intended by the person to be used, for attaching to an animal for the purpose of –

- (a) training the animal to fight another animal; or
- (b) increasing the ability of the animal to inflict injury on another animal during fighting.

Penalty: 10 penalty units.

21. Competitions, hunting and baiting etc.

(1) A person must not advertise, promote, take part in or be present at a match, competition or other activity in which an animal is to be released from confinement for the purpose of being –

- (a) hunted, caught, confined, killed or caused suffering by another animal; or
- (b) used to train or exercise another animal.

(2) A person must not –

- (a) keep or use premises;
- (b) authorise premises to be used;
- (c) manage or control, or assist in the management or control, of premises that are used; or
- (d) receive money for the admission of another person to premises that are used,

for the purpose of causing an animal to fight or for the baiting of an animal.

(3) A person must not –

- (a) cause, procure, permit, encourage, promote, organise or incite a fight in which an animal is pitted against another animal;
- (b) advertise the intention to conduct such a fight; or
- (c) attend such a fight.

- (4) A person must not have possession of an animal –
 - (a) for use as a lure to be killed or for the purpose of bleeding greyhounds; or
 - (b) for any other use in connection with the training or racing of coursing dogs.
- (5) Nothing in this section applies to –
 - (a) the rehabilitation of native animals for release into the wild;
 - (b) the keeping and displaying of animals the normal diets of which include live food; or
 - (c) the mustering and working of stock animals.

Division 2 – Power of veterinarians to alleviate suffering etc.

22. Power to alleviate suffering

- (1) If a veterinarian is of the opinion that –
 - (a) an animal is so severely injured, diseased or in such a poor physical condition that it is cruel to keep it alive; and
 - (b) the animal –
 - (i) is not about to be destroyed; or
 - (ii) is about to be destroyed in a manner that will inflict unnecessary suffering on it,

the veterinarian may destroy the animal, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary suffering.

(2) In exercising a power under subsection (1), a veterinarian may first remove the animal to a place he or she considers appropriate for the purpose.

(3) A veterinarian who exercises a power under this section is entitled to receive from a person in charge of the animal the reasonable costs incurred in exercising the power and may recover those costs in a court of competent jurisdiction as a debt owed to the veterinarian.

23. Power to conduct post-mortem examination

A veterinarian may conduct a post-mortem examination of a deceased animal and take samples from the body if he or she considers it to be necessary or desirable for the purposes of this Act.

PART 3 – CODES OF PRACTICE

24. Adoption etc. of code of practice

(1) The Minister may, on the recommendation of the Advisory Committee, by notice in the *Gazette* –

- (a) adopt a code of practice relating to animal welfare; or
- (b) vary or revoke an adopted code of practice.

(2) A notice under subsection (1) is to state the place at which the adopted code of practice and any documents it applies, incorporates or refers to may be purchased or inspected.

(3) The Authority is to make an adopted code of practice and all documents it applies, incorporates or refers to available for purchase or inspection in accordance with the relevant notice.

25. Contents of adopted code of practice

(1) An adopted code of practice may specify requirements –

- (a) for the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching, trapping, netting, marking, care, use, husbandry or management of an animal or a class of animal; or
- (b) in relation to licensed premises or facilities, equipment or conditions at licensed premises.

(2) An adopted code of practice may apply, incorporate or refer to a document formulated or published by a body or authority.

PART 4 – ANIMAL WELFARE AUTHORITY

26. Establishment of Authority

(1) The Minister must appoint a Chief Executive Officer or an employee, as defined in the *Public Sector Employment and Management Act*, to be the Animal Welfare Authority.

(2) The Minister may appoint an employee, as defined in the *Public Sector Employment and Management Act*, to act from time to time as the Authority during the absence from the Territory or from duty of the person appointed to be the Authority.

(3) An appointment under this section is to be by instrument in writing.

27. Delegation

(1) The Authority may delegate any of the Authority's powers or functions under this Act (other than this power of delegation) to an employee, as defined in the *Public Sector Employment and Management Act*.

(2) A delegation by the Authority is to be in writing to –

(a) a named person; or

(b) a person from time to time holding, acting in or performing the duties of a named office, designation or position.

(3) A power or function delegated under this section, when exercised or performed by the delegate, is to be taken as having been exercised or performed by the Authority.

(4) A delegation of a power or function under this section does not prevent the exercise of the power or performance of the function by the Authority.

28. Approval of fees

(1) The Authority may, by notice in the *Gazette*, approve a fee payable under this Act.

(2) The Authority may waive an approved fee payable by a person or class of persons.

PART 5 – TEACHING OR RESEARCH INVOLVING ANIMALS

Division 1 – Licence to use premises for teaching or research

29. When licence required

(1) A person may use premises for teaching or research only if the person holds a licence.

Penalty: 10 penalty units or imprisonment for 12 months.

(2) A person holding a permit, or a person assisting a permit holder to conduct a teaching or research program, does not require a licence.

(3) A person in charge of animals in a child-care establishment, pre-school or educational institution does not require a licence unless the animals are used or intended to be used for scientific teaching purposes.

30. Application for licence

(1) An applicant for a licence must lodge with the Authority an application in the approved form accompanied by the approved fee.

(2) The Authority may request the applicant to provide the additional information that the Authority considers necessary to enable the Authority to determine whether or not to grant a licence.

31. Consideration of application

(1) In determining whether or not to grant a licence, the Authority must consider—

- (a) the nature and purpose of the teaching or research to be conducted on the premises;
- (b) whether the applicant is a fit and proper person to hold a licence, including whether the applicant has been found guilty of an offence under animal welfare legislation in Australia;
- (c) the experience and competency of the applicant in the care and handling of animals;
- (d) the adequacy of the premises, equipment and other facilities to be used in connection with the breeding, care, use or handling of animals;
- (e) the adequacy of the applicant's arrangements for the provision of veterinary treatment to the animals to be kept, used or bred in or on the premises;
- (f) whether the applicant complied with a request for additional information; and
- (g) any other matter the Authority considers relevant.

(2) A reference in this section to an applicant includes a reference to the following:

- (a) if the applicant is a body corporate — an officer of the body corporate;
- (b) if the applicant is a partnership — each of the partners, whether or not the partner's name appears on the application form.

32. Refusal to grant licence

(1) If the Authority is not satisfied in respect of the matters referred to in section 31, the Authority may refuse to grant a licence.

(2) The Authority must inform the applicant in writing of the refusal, stating—

- (a) the reasons for the refusal;
- (b) the findings on the facts and circumstances underlying those reasons and the material on which those findings were based; and
- (c) the right of appeal under this Act.

33. Grant of licence

(1) If the Authority is satisfied in respect of the matters referred to in section 31, the Authority may grant a licence.

(2) A licence is to be issued in the approved form and is to specify the conditions to which the licence is subject.

34. Conditions of licence

(1) A licence is subject to the conditions that the licensee must—

- (a) establish and maintain an ethics committee in accordance with the Regulations or enter into an arrangement with an established ethics committee that has agreed to exercise its powers and perform its functions in relation to the licensee; and
- (b) comply with directions given to the licensee by the ethics committee.

(2) A licence may be subject to the additional conditions that the Authority considers are desirable for the welfare of the animals to be used or bred in or on the licensed premises, including that the licensee must—

- (a) make specified provisions for the breeding, care, use or handling of the animals;
- (b) provide specified facilities or equipment for use in connection with the animals;
- (c) consult with or seek the approval of the ethics committee about specified matters;
- (d) provide the ethics committee with the information it requests relating to the teaching or research under the licence; and

- (e) comply with a specified adopted code of practice.

35. Duration and renewal of licence

(1) A licence takes effect on the date it is issued and continues in force for 3 years, subject to its suspension, cancellation or surrender.

(2) Before the date of expiry, the licensee may apply to the Authority for a renewal of the licence.

(3) An application for renewal is to be in the approved form and accompanied by the approved fee.

(4) The Authority may renew a licence for a further 3 years if it is satisfied in respect of the matters referred to in section 31.

36. Application for variation of licence

(1) A licensee may apply for the variation of a licence by lodging with the Authority an application in the approved form accompanied by the approved fee.

(2) The Authority may request the licensee to provide the additional information that the Authority considers necessary to enable the Authority to determine whether or not to vary the licence.

(3) After considering an application for a variation and any further information provided by the licensee, the Authority may –

- (a) vary the licence; or
- (b) refuse to vary the licence,

if the Authority believes on reasonable grounds that it is desirable in the interests of animal welfare to do so.

37. Variation of licence without application

(1) If the Authority believes on reasonable grounds that it is desirable in the interests of animal welfare to vary a licence, it may give the licensee a notice in the approved form –

- (a) specifying the proposed variation and the reason it is believed to be desirable; and
- (b) inviting the licensee to show cause, in writing and within a specified period, why the licence should not be varied as proposed.

(2) On the expiry of the period specified in the notice, and after considering any representations made by the licensee, the Authority may vary the licence if satisfied on reasonable grounds that it is desirable in the interests of animal welfare to do so.

(3) If the Authority varies a licence—

- (a) the Authority must request the licensee, by written notice, to lodge the licence with the Authority within the period specified in the notice;
- (b) the licensee must comply with the notice without delay; and
- (c) the Authority must enter the variation on the licence and return it to the licensee as soon as practicable.

38. Cancellation or suspension of licence

(1) If the Authority believes on reasonable grounds that it is desirable in the interests of animal welfare to cancel or suspend a licence, it may do so in accordance with this section.

(2) The reasonable grounds on which a licence may be cancelled or suspended include the following:

- (a) that the licensee has been found guilty of an offence under this Act;
- (b) that the Authority believes on reasonable grounds that the licensee—
 - (i) obtained the licence improperly;
 - (ii) has failed to comply with a condition of the licence; or
 - (iii) is not a fit and proper person to continue holding the licence.
- (3) The Authority must give the licensee a written notice stating—
 - (a) that the Authority proposes to cancel or suspend the licence;
 - (b) in the case of a proposed cancellation — the date on which the cancellation will come into effect;
 - (c) in the case of a proposed suspension — the period of the suspension and the conditions the licensee must comply with to avoid cancellation of the licence;
 - (d) the interests of animal welfare to be protected by the cancellation or suspension;

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(e) the facts and circumstances on which the Authority's reasonable grounds of belief are based; and

(f) that the licensee may show cause in writing, within the period specified in the notice, why the licence should not be cancelled or suspended.

(4) If, after the expiry of the period specified in the notice and consideration of the licensee's representations, the Authority is of the opinion that in the interests of animal welfare it is desirable to do so, the Authority may –

(a) in the case of a proposed cancellation – cancel the licence or suspend the licence for the period and on the conditions that the Authority considers appropriate; or

(b) in the case of a proposed suspension – suspend the licence for the period and on the conditions it considers appropriate.

(5) The Authority must give the licensee written notice of a cancellation or suspension.

(6) A reference in this section to a licensee includes a reference to the following:

(a) if the licensee is a body corporate – an officer of the body;

(b) if the licence is held for the purposes of a partnership – each partner.

39. Surrender of licence

A licensee may surrender a licence at any time before its expiry by lodging with the Authority a written notice of the surrender accompanied by the licence.

40. Appeals

(1) A person aggrieved by a decision of the Authority –

(a) to vary, cancel or suspend a licence; or

(b) refusing to grant, renew or vary a licence,

may appeal to the Local Court against the decision.

(2) An appeal under this section is to be conducted as a hearing *de novo*.

(3) In determining an appeal, the Local Court may make the orders it considers appropriate, including any of the following:

(a) affirming, varying or setting aside the decision of the Authority;

- (b) substituting its own decision for that of the Authority;
- (c) relating to costs.

Division 2 – Animal welfare ethics committees

41. Animal welfare ethics committee

(1) A licensee required by the Authority to establish and maintain an animal welfare ethics committee must do so in accordance with the Regulations.

(2) An ethics committee is to be constituted in accordance with the Regulations and has the powers and functions prescribed by the Regulations.

Division 3 – Permits to conduct teaching or research program

42. Definition

In this Division, "relevant ethics committee" means the ethics committee that is exercising its powers and performing its functions in respect of the licensee who employs or has engaged a person –

- (a) making an application for a permit; or
- (b) who holds a permit.

43. When permit required

(1) A person employed or engaged by a licensee may conduct a teaching or research program only if the person holds a permit.

(2) Subsection (1) does not apply to a person providing teaching or research assistance to a person who holds a permit.

44. Application for permit

(1) An applicant for a permit must lodge with the relevant ethics committee an application in the approved form accompanied by the approved fee.

(2) The ethics committee may request the applicant to provide the additional information that it considers necessary to enable it to determine whether or not to grant a permit.

45. Consideration of application

(1) In determining whether or not to grant a permit, an ethics committee must consider –

- (a) whether the applicant is a fit and proper person to hold a permit, including whether the applicant has been found guilty of an offence under animal welfare legislation in Australia;
- (b) the experience and competency of the applicant in the care and handling of animals;
- (c) whether the applicant complied with a request for additional information; and
- (d) any other matter the ethics committee considers relevant.

46. Refusal to grant permit

(1) If an ethics committee is not satisfied in respect of the matters referred to in section 45, it may refuse to grant a permit.

(2) If an ethics committee refuses to grant a permit, it must inform the applicant in writing of –

- (a) the reasons for the refusal;
- (b) the findings on the facts and circumstances underlying those reasons and the material on which those findings were based; and
- (c) the right of appeal under this Act and the procedure to be followed to exercise that right.

47. Grant of permit

(1) If an ethics committee is satisfied in respect of the matters referred to in section 45, it may grant a permit.

(2) A permit is to be issued in the approved form and is to specify the conditions to which the permit is subject.

48. Conditions of permit

(1) A permit is subject to the condition that the permit holder must comply with directions of the ethics committee.

(2) A permit may be subject to additional conditions that the ethics committee considers are necessary in the interests of animal welfare, including conditions in relation to –

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- (a) the use of animals in the teaching or research program to which the permit relates;
- (b) the welfare of the animals used in or bred for the teaching or research program;
- (c) particular facilities and equipment relevant to the use or breeding of animals in the course of the teaching or research program; and
- (d) compliance with a specified adopted code of practice.

49. Duration and renewal of permit

(1) A permit takes effect on the date it is issued and continues in force for the period (not exceeding 2 years) specified in the permit, subject to its suspension, cancellation or surrender.

(2) Before the date of expiry, the permit holder may apply to the relevant ethics committee for a renewal of the permit.

(3) An application for renewal is to be in the approved form and accompanied by the approved fee.

(4) An ethics committee may renew a permit for the period (not exceeding 2 years) specified in the permit if it is satisfied about the matters referred to in section 45.

50. Application for variation of permit

(1) A permit holder may apply for a variation of the permit by lodging with the relevant ethics committee an application in the approved form accompanied by the approved fee.

(2) The ethics committee may request the permit holder to provide the additional information that it considers necessary to enable it to determine whether or not to vary the permit.

(3) After considering an application for a variation and any further information provided by the permit holder, the ethics committee may –

- (a) vary the permit; or
- (b) refuse to vary the permit,

if it believes on reasonable grounds that it is desirable in the interests of animal welfare to do so.

51. Variation of permit without application

(1) If an ethics committee believes on reasonable grounds that it is desirable in the interests of animal welfare to vary a permit, it may give the permit holder a notice in the approved form –

- (a) specifying the proposed variations and the reason it is believed to be desirable; and
- (b) inviting the permit holder to show cause, in writing and within a specified period, why the permit should not be varied as proposed.

(2) On the expiry of the period specified in the notice, and after considering any representations made by the permit holder, the ethics committee may vary the permit if satisfied on reasonable grounds that it is desirable in the interests of animal welfare to do so.

- (3) If an ethics committee varies a permit –
 - (a) it must request the permit holder by written notice to lodge the permit with the ethics committee within the period specified in the notice;
 - (b) the permit holder must comply with the notice without delay; and
 - (c) the ethics committee must enter the variation on the permit and return it to the permit holder as soon as practicable.

52. Cancellation or suspension of permit

(1) If an ethics committee believes on reasonable grounds that it is desirable in the interests of animal welfare to cancel or suspend a permit, it may do so in accordance with this section.

(2) The reasonable grounds on which a permit may be cancelled or suspended include the following:

- (a) that the permit holder has been found guilty of an offence under this Act;
- (b) that the ethics committee believes on reasonable grounds that the permit holder –
 - (i) obtained the permit improperly;
 - (ii) has failed to comply with a condition of the permit; or
 - (iii) is not a fit and proper person to continue holding the permit.

(3) The ethics committee must give the permit holder a written notice stating—

- (a) that the ethics committee proposes to cancel or suspend the permit;
- (b) in the case of a proposed cancellation — the date on which the cancellation will come into effect;
- (c) in the case of a proposed suspension — the period of the suspension and the conditions the permit holder must comply with to avoid cancellation of the permit;
- (d) the interests of animal welfare to be protected by the cancellation or suspension;
- (e) the facts and circumstances on which the ethics committee's reasonable grounds of belief are based; and
- (f) that the permit holder may show cause in writing, within the period specified in the notice, why the permit should not be cancelled or suspended.

(4) If, after the expiry of the period specified in the notice and consideration of the permit holder's representations, the ethics committee is of the opinion that in the interests of animal welfare it is desirable to do so, it may —

- (a) in the case of a proposed cancellation — cancel the permit or suspend the permit for the period and on the conditions it considers appropriate; or
- (b) in the case of a proposed suspension — suspend the permit for the period and on the conditions it considers appropriate.

(5) The ethics committee must give the permit holder a written notice of a cancellation or suspension.

53. Surrender of permit

A permit holder may surrender a permit at any time before its expiry by lodging with the relevant ethics committee a written notice of the surrender accompanied by the permit.

54. Cessation of permit

(1) A permit ceases to have effect during a period when the relevant licence is of no effect due to expiry, suspension, cancellation or surrender.

(2) In subsection (1), "relevant licence" means the licence issued in respect of the licensed premises where the permit holder is permitted to conduct a teaching or research program.

55. Appeals

(1) A person aggrieved by a decision of an ethics committee –

- (a) to vary, cancel or suspend a permit; or
- (b) refusing to grant, renew or vary a permit,

may appeal to the Authority against the decision.

(2) In determining the appeal, the Authority may make the determination it considers appropriate, including any of the following:

- (a) affirming, varying or setting aside the decision of the ethics committee;
- (b) substituting its own decision for that of the ethics committee.

PART 6 – ENFORCEMENT

Division 1 – Preliminary

56. Interpretation

(1) In this Part, unless the contrary intention appears –

"authorised person" means an inspector or officer;

"occupier" means the occupier of premises or the person in charge of premises.

(2) A reference in this Part to occupier includes a reference to a person who is believed by an authorised person, on reasonable grounds, to be the occupier of premises or the person in charge of premises.

(3) For the purposes of this Part, an animal or thing is connected with an offence if –

- (a) it is an animal or thing in respect of which an offence is being or has been committed;

- (b) it will provide evidence of the commission of an offence; or
- (c) it was used or is intended to be used for the purpose of committing an offence.

Division 2 – Animal welfare inspectors and animal welfare officers

57. Appointment of inspectors

(1) The Authority may appoint, in writing, persons to be animal welfare inspectors.

(2) An appointment under subsection (1) may be for a specified period and may be subject to conditions specified in the instrument of appointment.

(3) Each member of the Police Force has the powers and functions of an inspector under this Act.

58. Appointment of officers

(1) The Authority may appoint, in writing, persons who are veterinarians to be animal welfare officers.

(2) An appointment under subsection (1) may be for a specified period and may be subject to conditions specified in the instrument of appointment.

59. Identity cards

(1) The Authority must issue to each person appointed to be an inspector or officer an identity card containing—

- (a) the person's name and photograph;
- (b) the person's signature verified by the signature of the Authority; and
- (c) the date on which the identity card was issued and on which it is due to expire (if applicable).

(2) An authorised person issued with an identity card is not entitled to remain in or on premises if, when requested to do so, he or she does not show the identity card to the occupier.

(3) An authorised person must return his or her identity card to the Authority as soon as practicable after he or she ceases to be an authorised person.

Penalty: 10 penalty units.

60. General powers and functions of authorised person

(1) An authorised person may exercise a power conferred or perform a function imposed on the authorised person by or under this Act if he or she believes on reasonable grounds that it is necessary or desirable for the purposes of this Act to do so.

(2) An authorised person (other than a member of the Police Force) is subject to the directions of the Authority when exercising a power or performing a function under this Act.

61. Power to require name and address

An authorised person may require a person to provide his or her name and address for the purposes of this Act.

62. Power of entry

(1) In this section, "premises" means –

(a) in relation to the exercise of a power by an inspector –

(i) any premises (other than a vehicle) that the inspector believes on reasonable grounds are not licensed premises; or

(ii) if the power is exercised in relation to a vehicle – a vehicle that is not connected with licensed premises; or

(b) in relation to the exercise of a power by an officer –

(i) any premises (other than a vehicle) that the officer believes on reasonable grounds are licensed premises; or

(ii) if the power is exercised in relation to a vehicle – a vehicle that is connected with licensed premises.

(2) An authorised person may enter premises in accordance with this section for the purpose of –

(a) exercising the power of inspection under section 66; or

(b) exercising a power to alleviate an animal's suffering under section 67.

(3) An authorised person must give an occupier 7 days notice of the authorised person's intention to enter the occupier's premises for the purpose of an inspection unless the authorised person believes on reasonable grounds there is in or on the premises an animal or thing connected with an offence.

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- (4) An authorised person may enter premises –
 - (a) with the consent of the occupier obtained in accordance with section 63;
 - (b) in pursuance of a search warrant issued in accordance with section 64; or
 - (c) if the authorised person believes on reasonable grounds that the circumstances are so serious and urgent as to require the immediate exercise of a power under section 66 or 67 – without the occupier's consent or the authority of a search warrant, and with the assistance and using the force that is reasonable.
- (5) An inspector is not entitled to enter –
 - (a) licensed premises unless accompanied by an officer; or
 - (b) an abattoir unless he or she is a veterinarian or is accompanied by an officer or veterinarian.
- (6) An officer is not entitled to enter premises that are not licensed premises unless he or she is accompanied by an inspector.
- (7) If an authorised person exercises a power under subsection (2) in respect of a vehicle, he or she may stop and detain the vehicle for that purpose.
- (8) In subsection (5), "abattoir" means an establishment within the meaning of the *Meat Industries Act* to which a licence under that Act permitting the slaughter of an animal relates.

63. Consent to entry

- (1) An authorised person seeking an occupier's consent to the authorised person's entry into or onto the occupier's premises must –
 - (a) show the authorised person's identity card to the occupier;
 - (b) give the occupier the reasons why entry is sought; and
 - (c) inform the occupier that he or she may refuse to give that consent.
- (2) If an authorised person obtains consent from an occupier to enter premises, the authorised person must ask the occupier to sign a notice of consent in an approved form.

(3) If it is material in a proceeding for a court to be satisfied that an occupier consented to an entry under this Division, and a notice of consent is not produced in evidence, the court may presume, in the absence of evidence to the contrary, that the occupier did not give consent.

(4) This section does not apply to members of the Police Force.

64. Search warrants

(1) An authorised person may apply to a Justice, by information on oath, for a search warrant if the authorised person believes on reasonable grounds that—

- (a) an offence against this Act or the Regulations is about to be, is being or has been committed in or on premises;
- (b) there is in or on premises, an animal or thing connected with an offence; or
- (c) there is in or on premises an animal referred to in section 67.

(2) An inspector is entitled to apply for a search warrant only in respect of premises that are not licensed premises.

(3) An officer is entitled to apply for a search warrant only in respect of licensed premises.

(4) A Justice may issue a search warrant if satisfied about the matters set out in the information.

(5) A search warrant authorises the authorised person named in the warrant and any other person assisting the authorised person, with force if necessary, to enter the premises and do anything referred to in section 66 or 67.

(6) A search warrant is to—

- (a) state the purpose for which it is issued;
- (b) state the nature of the offence or contravention in respect of which the entry is authorised;
- (c) specify the hours during which entry to the premises is authorised, or state that the entry is authorised at any time of the day or night;
- (d) include a description of the kinds of things or animals in relation to which the powers of the officer may be exercised; and
- (e) specify the date on which the warrant ceases to have effect, which is to be not later than 30 days after the date on which it is issued.

65. Entry onto Aboriginal land

If it is necessary or convenient for an authorised person to go onto land for the purpose of exercising a power under this Act, he or she may do so for that purpose despite –

- (a) the land being Aboriginal land within the meaning of the *Aboriginal Land Act*; and
- (b) the authorised person not holding a permit under that Act to enter or remain on the land.

66. Power of inspection etc.

An authorised person who enters premises under this Division may take any of the following actions:

- (a) examine any animal in or on the premises;
- (b) inspect the premises and any thing in or on the premises;
- (c) take copies of, or extracts from, documents in or on the premises;
- (d) take photographs or make films or videotapes of the premises or animals or things in or on the premises;
- (e) seize animals or things that the authorised person believes on reasonable grounds to be connected with an offence;
- (f) require a person in or on the premises to give the authorised person all reasonable assistance to enable the authorised person to exercise his or her powers under this section;
- (g) ask questions of persons in or on the premises if the authorised person considers it reasonable to enable him or her to exercise powers under this section.

67. Power to alleviate suffering

- (1) If an authorised person believes on reasonable grounds that –
 - (a) an animal has not been provided with appropriate or sufficient food or drink during the previous 24 hours; or
 - (b) an animal is so severely injured, overworked, diseased or in such a physical condition that it is necessary for the animal to be provided with veterinary treatment,

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the authorised person may take the action he or she believes is necessary to alleviate the animal's suffering.

(2) The action that may be taken under subsection (1) includes any of the following:

- (a) providing the animal with food or drink;
- (b) seizing the animal and removing it to a place the authorised person considers appropriate;
- (c) giving a person in charge of the animal a written notice requiring the person –
 - (i) to provide the animal with the specified rest, food, drink, shelter or treatment that is necessary in the interests of the animal's welfare; and
 - (ii) if necessary – to obtain veterinarian treatment for the animal within the specified period that is reasonable in the circumstances.

(3) A person must comply with a requirement in a notice given under subsection (2)(c).

Penalty: 50 penalty units or imprisonment for 6 months.

(4) Subject to subsection (6), if an authorised person is of the opinion that –

- (a) an animal is so severely injured, diseased or in such a poor physical condition that it is cruel to keep it alive; and
- (b) the animal –
 - (i) is not about to be destroyed; or
 - (ii) is about to be destroyed in a manner that will inflict unnecessary suffering on it,

the authorised person may destroy the animal, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary suffering.

(5) In exercising a power under subsection (4), an authorised person may first remove the animal to a place he or she thinks is suitable for the purpose.

(6) An inspector may exercise a power under subsection (4) only with the consent of a person in charge of the animal unless –

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- (a) after making reasonable enquiries the inspector is unable to locate the person; or
- (b) the inspector is a veterinarian.

(7) An authorised person who exercises a power under this section is entitled to be paid by the person in charge of the animal the reasonable costs incurred in exercising the power and may recover those costs in a court of competent jurisdiction as a debt owed to the authorised person.

68. Reports

(1) In this section, "commercial premises" means premises used for or in connection with the sale or transportation of animals or other commercial purposes in relation to animals.

(2) If, after giving 7 days notice and with the occupier's consent, an authorised person enters commercial premises or licensed premises for the purpose of inspecting the premises under section 66, the authorised person must provide the occupier with a written report of the inspection.

(3) The report is to be provided not later than 30 days after the date of the inspection and is to contain –

- (a) a description of the inspection and the action taken by the authorised person or the Authority as a result of the inspection;
- (b) comments about other matters connected with the welfare of animals kept in or on the premises that are reasonably requested by the occupier; and
- (c) other comments connected with the welfare of the animals kept in or on the premises that the authorised person considers appropriate.

PART 7 – ANIMAL WELFARE ADVISORY COMMITTEE

69. Establishment

(1) The Minister must, in writing, establish the Animal Welfare Advisory Committee.

(2) The Advisory Committee is to be constituted in accordance with the Regulations.

70. Functions

The functions of the Advisory Committee include the following:

- (a) advising the Minister about animal welfare legislation and other matters relevant to animal welfare;
- (b) investigating and reporting on matters relevant to animal welfare referred to it by the Minister;
- (c) participating in the development of codes of practice and the review of adopted codes of practice;
- (d) providing advice to bodies, organisations or the general community on programs for the improvement of community awareness about animal welfare;
- (e) any other functions prescribed by the Regulations.

PART 8 – MISCELLANEOUS

Division 1 – Offences etc.

71. Time for commencing proceeding

Despite anything to the contrary in another law in force in the Territory, proceedings in respect of an offence under this Act are to be commenced not later than 12 months after the date on which it is alleged the offence occurred.

72. Obstruction

A person must not hinder or obstruct the Authority, an inspector, officer or veterinarian in the exercise of powers or performance of functions under this Act.

Penalty: 50 penalty units or imprisonment for 6 months.

73. False information

A person must not knowingly provide to the Authority, an inspector, officer or veterinarian false information in relation to an offence under this Act.

Penalty: 50 penalty units or imprisonment for 6 months.

74. Aiding and abetting

A person who aids, abets, counsels or procures, or by act or omission is in any way directly or indirectly concerned in or a party to, the commission of an offence under this Act or the Regulations is taken to have committed that offence and is liable to the penalty for the offence.

75. Penalties

(1) A person who contravenes or fails to comply with this Act or a direction, restriction, requirement or condition given, made or imposed under this Act is guilty of an offence.

(2) A person guilty of an offence under this Act for which no other penalty is prescribed is, on a finding of guilt, liable to a penalty not exceeding 100 penalty units or imprisonment for 12 months.

(3) A person found guilty of an offence under this Act is liable to an additional penalty not exceeding 5 penalty units for each day after the first day on which the offence continues.

76. Orders in addition to penalty

(1) This section applies if—

- (a) a court has found a person in charge of an animal guilty of an offence in respect of the animal; and
- (b) the court is satisfied that, unless an order is made under this section, the person would be likely to commit a further offence in respect of the animal or any other animal.

(2) If this section applies, the court may, in addition to the penalty it may otherwise impose, make the orders it considers appropriate in respect of the disposal of—

- (a) the animal in relation to which the offence was committed; or
- (b) any other animal of which the person is in charge.

(3) If a court makes an order under subsection (2), it may make a further order that the person must not, within the period specified in the order—

- (a) purchase, acquire or take possession of an animal; or
- (b) have an animal in or on the person's premises.

(4) A person must comply with and not contravene an order made under subsection (2) or (3).

Penalty: 50 penalty units or imprisonment for 6 months.

(5) If a court makes an order under subsection (2), it may make a further order—

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- (a) that the person found guilty of the offence must pay to a specified person the costs incurred in disposing of the animal; or
- (b) providing for the distribution of the proceeds from the disposal of the animal.

(6) The costs or proceeds referred to in subsection (5) may be recovered in a court of competent jurisdiction as a debt owed to the person entitled to the costs or proceeds.

77. Appropriation of penalties

(1) In this section, "approved body" means an incorporated body formed and carried on for purposes relating to animal welfare and approved by the Minister, by notice in the *Gazette*, for the purposes of this section.

(2) If on the prosecution of an offence against this Act by an approved body, the defendant pays to the court an amount of money that the court ordered to be paid, the amount must be paid by the court to the approved body.

(3) If in accordance with Division 2A of Part III of the *Justices Act*, an amount of money is paid to the court in respect of an infringement notice issued by a person who is an employee or a member of an approved body, the court must pay to the approved association the infringement penalty and the prescribed costs, if any, of issuing a courtesy letter under section 60C of the *Justices Act* in respect of the infringement notice.

78. Infringement notices

The Regulations may provide for the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against this Act or regulations made under this Act and for the service of a notice relating to the payment of the amount on a person alleged to have committed the offence and the particulars to be included in the notice.

79. Defences

(1) It is a defence to a prosecution for an offence under this Act if the defendant establishes that the act or omission constituting the offence, or an element of the offence, was —

- (a) in accordance with an adopted code of practice; or
- (b) for the purpose of alleviating the suffering of an animal and was reasonable in the circumstances.

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(2) It is not a defence to a prosecution for an offence under this Act that the act or omission constituting the offence, or an element of the offence, was in accordance with cultural, religious or traditional practices.

80. Indemnity

The Authority, an inspector, officer or veterinarian is not personally liable for or in relation to a matter or thing done in good faith in pursuance of and for the purposes of this Act.

Division 2 – General

81. Exemptions

(1) The Minister may, by notice in the *Gazette* –

- (a) exempt a person or class of persons from complying with this Act or the Regulations or a specified provision of this Act or the Regulations; or
- (b) provide that this Act or the Regulations or a specified provision of this Act or the Regulations does not apply to or in relation to an animal or class of animals.

(2) The notice may specify the circumstances, whether generally or in a particular case, in which an exemption made under subsection (1) is to apply.

82. Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters –

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

83. Repeal

The *Prevention of Cruelty to Animals Act* (No. 18 of 1935, No. 14 of 1963 and No. 1 of 1967) is repealed.
