

NORTHERN TERRITORY OF AUSTRALIA

ANIMAL PROTECTION REGULATIONS 2022

Subordinate Legislation No. 14 of 2022

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 14 of 2022*

Animal Protection Regulations 2022

I, Vicki Susan O'Halloran, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Animal Protection Act 2018*.

Responsible Minister:

P. A. KIRBY
Minister for Agribusiness and Fisheries

V. S. O'HALLORAN
Administrator

Date of making: 13 October 2022

Part 1 Preliminary matters

1 Title

These Regulations may be cited as the *Animal Protection Regulations 2022*.

2 Commencement

These Regulations commence on the commencement of section 122 of the *Animal Protection Act 2018*.

3 Definitions

In these Regulations:

chairperson means the chairperson of the Advisory Committee elected under regulation 11.

excluded electrical device, see regulation 9.

infringement amount, for an infringement notice offence, see regulation 21(1).

infringement notice means an infringement notice given under regulation 22.

infringement notice offence, see regulation 21(2).

Part 2 Care and protection of animals

4 Adoption of codes of practice

For section 20 of the Act, the documents specified in Schedule 1, existing on the day this regulation commences, are adopted as codes of practice relating to animal welfare.

5 Cruelty – electrical device

For section 24(5)(b) of the Act, the following conduct is prescribed as constituting cruelty:

- (a) using an electrical device, including an excluded electrical device, against the face, udders or genitals of an animal;
- (b) using an excluded electrical device contrary to the restrictions on the purposes, animals and conditions specified in Schedule 2.

6 Cruelty – other conduct

(1) For section 24(5)(b) of the Act, the following conduct is prescribed as constituting cruelty:

- (a) conduct of a sexual nature;
- (b) conduct involving feeding or applying a foul or noxious substance.

(2) Subregulation (1) does not include conduct in the normal course of veterinary or agricultural practice.

Examples for subregulation (2)

- 1 *Recognised breeding practices and artificial reproduction techniques.*
- 2 *Oral or topical treatments for worms or lice.*

7 Laying poison

For section 28(7) of the Act, the following conduct and circumstances are excluded from the offences against section 28(1), (2), (3) and (4) of the Act:

- (a) the laying of poison by a person authorised to use the poison, by permit, employment or otherwise under:
 - (i) the *Agricultural and Veterinary Chemicals (Control of Use) Act 2004*; or
 - (ii) the *Medicines, Poisons and Therapeutic Goods Act 2012*; or
 - (iii) any other law of the Territory or the Commonwealth;
- (b) the laying of rat poison within residential premises by the occupier, if the premises:
 - (i) are enclosed by walls, floors and ceilings; and
 - (ii) are not accessible to the outside except by doors or windows.

8 Prohibited trap

For section 29(6) of the Act, definition ***prohibited trap***, paragraph (b), a trap, whether or not commercially manufactured, consisting of an adhesive glue layer on a base material and intended to capture and hold live rodents is prescribed to be a prohibited trap.

9 Excluded electrical devices

For section 30(6)(b) of the Act, an electrical device specified in Schedule 2, column 1, is an excluded device if the device is:

- (a) made or adapted for and used for the purpose specified in the corresponding entry in column 2; and
- (b) used on an animal specified in the corresponding entry in column 3; and
- (c) used in accordance with any conditions specified in the corresponding entry in column 4.

Part 3 Administrative matters

Division 1 Advisory Committee

10 Membership

- (1) For section 19(2) of the Act, the Advisory Committee consists of the following members:
 - (a) one person appointed by RSPCA Darwin Regional Branch Incorporated;
 - (b) one person appointed by the Australian Veterinary Association;
 - (c) one person appointed by the Local Government Association of the Northern Territory;
 - (d) one person appointed by the Agency responsible for administering the Act;
 - (e) if the Agency referred to in paragraph (d) is not the Agency primarily responsible for primary industry – one person appointed by that Agency;
 - (f) one person appointed by the Northern Territory Cattlemen's Association;
 - (g) one person appointed by Charles Darwin University;
 - (h) one person appointed by the Parks and Wildlife Commission of the Northern Territory;
 - (i) any other person appointed by the Minister.

- (2) The appointment must be made in writing.
- (3) A person or body, other than the Minister, appointing a member under subregulation (1) must give a copy of the appointment to the Minister.
- (4) A member of the Advisory Committee is eligible for reappointment.

Note for regulation 10

The terms and conditions of a member's appointment are determined by the Minister, see section 19(4) of the Act.

11 Chairperson

The Advisory Committee must elect one of its members to be the chairperson of the Committee.

12 Term of office

A member of the Advisory Committee holds office for the period, not exceeding 3 years, determined by the Minister.

13 Termination of appointment

- (1) A person ceases to be a member of the Advisory Committee if:
 - (a) the person resigns by giving notice to:
 - (i) the Minister; and
 - (ii) if the person was not appointed by the Minister – the person or body that appointed the person; or
 - (b) the person's appointment is terminated by the person or body that appointed the person; or
 - (c) the Minister terminates the person's appointment under regulation 14.
- (2) If there is a vacancy in the office of a member of the Advisory Committee, the person or body that appoints the member must appoint a successor within a reasonable period of time.
- (3) A resignation or termination of appointment must be made in writing.
- (4) A person or body, other than the Minister, terminating a member under subregulation (1)(b) must give a copy of the termination to the Minister.

14 Ministerial termination of appointment

- (1) The Minister may terminate the appointment of any member of the Advisory Committee appointed under regulation 10(1)(a) to (h) for any of the following reasons:
 - (a) the member's inability or incapacity to perform the functions of membership;
 - (b) the member's ineffectiveness in performing the functions of membership;
 - (c) the member's misbehaviour in performing the functions of membership.
- (2) The Minister must terminate the appointment of any member who:
 - (a) is absent from 3 consecutive meetings of the Advisory Committee without the leave of the Committee; or
 - (b) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors.

15 Meetings

- (1) The chairperson of the Advisory Committee must convene at least 2 meetings of the Advisory Committee each financial year.
- (2) The chairperson must convene a meeting of the Advisory Committee, as soon as practicable, if requested in writing to do so by:
 - (a) 4 other members; or
 - (b) the Minister.
- (3) The quorum at a meeting of the Advisory Committee is 4 members.
- (4) If a member is unable to attend a meeting of the Advisory Committee, the member may, in writing, appoint a person to attend the meeting as the member's proxy.
- (5) A meeting of the Advisory Committee is presided over by:
 - (a) the chairperson; or
 - (b) in the absence of the chairperson – another member elected by the members present.

16 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; or
- (b) there is a defect in:
 - (i) the appointment of a member; or
 - (ii) the election of the chairperson; or
 - (iii) the election of a member to preside over a meeting; or
- (c) a person acted in office after the termination of the member's appointment.

17 Annual report

The Advisory Committee must submit an annual report on the activities of the Advisory Committee to the Minister on or before 30 September each year in relation to the financial year ending on the preceding 30 June.

Division 2 Scientific use of animals

18 Registration fee

- (1) For section 41(2)(f) of the Act, the prescribed fee to apply for registration is 83 revenue units.
- (2) For section 45(3)(c) of the Act, the prescribed fee to renew registration is 83 revenue units.

19 Annual report – registered person

- (1) For section 72(3)(b) of the Act, this regulation prescribes the information to be included in an annual report prepared by a registered person.
- (2) The following information about the activities performed in connection with the registration must be included in the report:
 - (a) the name of the project;
 - (b) the purpose of the project;
 - (c) the duration of the project;

- (d) a brief description of the activities and research conducted during the project;
 - (e) each place at which an activity or research was conducted.
- (3) The following information about the animals used, or allowed to be used, for scientific purposes must be included in the report:
 - (a) the number of animals used in the project;
 - (b) a description of the animals, including the class and species of the animals;
 - (c) the source of the animals;
 - (d) each place at which an activity or research was conducted on the animals;
 - (e) each place at which the animals were housed.
- (4) The following information about complaints received by the registered person must be included in the report:
 - (a) the particulars of each complaint, if any, received by the registered person during the reporting period;
 - (b) the action taken in response to each complaint;
 - (c) the outcome of the action taken.

20 Annual report – accredited animal ethics committee

- (1) For section 73(2)(c) of the Act, this regulation prescribes the information to be included in an annual report prepared by an accredited animal ethics committee.
- (2) The following information about the animal ethics committee must be included in the report:
 - (a) the name and contact details of the animal ethics committee;
 - (b) the name of each member of the animal ethics committee;
 - (c) how each member of the animal ethics committee is qualified, under the scientific use code, for membership.

- (3) The following information about project approvals granted by the animal ethics committee during the reporting period must be included in the report:
 - (a) the number of applications made to the animal ethics committee;
 - (b) the number of applications approved or refused by the animal ethics committee;
 - (c) a brief description of the areas of activities and research in the applications approved or refused by the animal ethics committee.
- (4) The following information about complaints received by the animal ethics committee must be included in the report:
 - (a) the particulars of each complaint, if any, received by the animal ethics committee during the reporting period;
 - (b) the action taken in response to each complaint;
 - (c) the outcome of the action taken.
- (5) The following information about other compliance activity conducted during the reporting period by the animal ethics committee must be included in the report:
 - (a) the number of inspections conducted;
 - (b) each problem identified during an inspection;
 - (c) the action taken to rectify each problem;
 - (d) the outcome of the action taken;
 - (e) the number of any breaches of a code of practice, adopted under regulation 4, or the scientific use code of which the animal ethics committee is aware.

Part 4 Compliance and enforcement

Division 1 Infringement notice offences

21 Infringement amounts

- (1) The ***infringement amount*** for an infringement notice offence is the monetary value of the penalty units specified in Schedule 3 for the offence for which the notice is given.

- (2) An ***infringement notice offence*** is an offence against a provision of the Act specified in Schedule 3.

22 When infringement notice may be given

An authorised officer may give an infringement notice to a person whom the officer believes on reasonable grounds committed an infringement offence.

23 Contents of infringement notice

- (1) The infringement notice must specify the following:
- (a) the name and address of the person to whom it is issued, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date and time of the infringement notice offence and the place at which the infringement notice offence occurred;
 - (d) a description of the offence;
 - (e) the infringement amount payable for the offence;
 - (f) the enforcement agency to which the infringement amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
- (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the infringement amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect to have the matter dealt with by a court by:
 - (i) completing a statement of election and giving it to the specified enforcement agency; and
 - (ii) not paying the infringement amount;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001*.
- (3) The infringement notice must include an appropriate form for making the statement of election referred to in subregulation (2)(b).

24 Effective date of payment methods

- (1) Payment of the infringement amount by electronic means takes effect when the amount is credited to the payee's bank account.
- (2) Payment of the infringement amount by cheque takes effect when the cheque is cleared on first presentation.

25 Expiation of offence

If the infringement amount for the infringement notice offence is paid in accordance with the infringement notice, the alleged offence is expiated and no further proceedings can be taken in relation to the offence.

26 Withdrawal of infringement notice

- (1) An authorised officer may withdraw an infringement notice by written notice given to the person.
- (2) The notice must be given:
 - (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the infringement amount.

27 Effect of Division

- (1) This Division does not:
 - (a) prejudice or affect the start or continuation of a proceeding for an infringement offence unless the offence is expiated; or
 - (b) limit the penalty that may be imposed by a court for the offence; or
 - (c) prevent more than one infringement notice for the same infringement offence being given to a person; or
 - (d) require an infringement notice to be given for an infringement offence; or
 - (e) affect the liability of a person to be prosecuted in a court for an infringement notice offence for which an infringement notice was not given.
- (2) If more than one infringement notice for the same offence is given to a person, the person may expiate the offence by paying the infringement amount in accordance with any of the notices.

Division 2 Other matters

28 Contents of improvement notice

For section 75(4) of the Act, an improvement notice must contain the following information:

- (a) the name of the person to whom it is issued;
- (b) the specific provision that the authorised officer believes was, is being or is likely to be contravened by the person and the grounds for that belief;
- (c) the action or activity that the person is required to take or refrain from taking to remedy the contravention and to comply with the provision;
- (d) the dates or times associated with any requirement in the notice;
- (e) the person's right to apply to the NTCAT for review of the notice.

Part 5 Transitional matters

29 Definition

In this Part:

commencement means the commencement of section 123 of the Act.

30 Authority for Part

The regulations in this Part are made under section 129 of the Act.

Note for regulation 30

Under section 129(5) of the Act, the regulations under this Part expire 1 year after the commencement of the Act.

31 Licence applications not determined before commencement

- (1) An application for a licence to use premises for teaching or research under section 30 of the repealed Act that is not determined before the commencement is taken to be an application for registration and is to be determined in accordance with the considerations applicable under section 42 of the Act.

- (2) An application for variation of a licence to use premises for teaching or research under section 36 of the repealed Act that is not determined before the commencement is taken to be an application for variation of a registration and is to be determined under section 46 of the Act.

32 Permit applications not determined before commencement

- (1) An application for a permit to conduct a teaching or research program under section 44 of the repealed Act that is not determined before the commencement is taken to be an application for project approval under section 59 of the Act and is to be determined under section 61 of the Act.
- (2) An application for variation of a permit to conduct a teaching or research program under section 50 of the repealed Act that is not determined before the commencement is taken to be an application for variation of project approval and is to be determined under section 64 of the Act.

33 Animal Welfare Advisory Committee

- (1) The persons holding office immediately before the commencement as members of the Animal Welfare Advisory Committee under the repealed Act continue to:
 - (a) hold office as members of the Advisory Committee immediately after the commencement in accordance with the terms and conditions of their appointment; and
 - (b) represent the interests of the bodies referred to in regulation 10 for which they were appointed.
- (2) The person holding office immediately before the commencement as chairperson of the Animal Welfare Advisory Committee under the repealed Act continues to hold office as chairperson of the Advisory Committee immediately after the commencement in accordance with the terms and conditions of the person's appointment.

34 Codes of practice

- (1) The adoption of any code of practice by the Minister under section 24 of the repealed Act is revoked.

- (2) Despite subregulation (1), any licence issued under the repealed Act that is subject to a code of practice revoked under subregulation (1) remains subject to that code until the earlier of the following:
- (a) the day the licence is amended to remove the code as a condition;
 - (b) 1 year after the commencement.

Schedule 1 Codes of practice

regulation 4

Item	Code of Practice
1	<i>Australian Animal Welfare Standards and Guidelines – Land Transport of Livestock</i> (Edition 1, Version:1.1), Animal Health Australia, 21 September 2012
2	<i>Australian Animal Welfare Standards and Guidelines – Livestock at Saleyards and Depots</i> (Edition 1, Version: 1.0), Department of Economic Development, Jobs, Transport and Resources, The Victorian Government, 23 February 2018
3	<i>Australian Animal Welfare Standards and Guidelines for Cattle</i> (Edition 1, Version 1.0), Animal Health Australia, January 2016
4	<i>Bowhunting Code of Ethics</i> , Australian Bowhunters Association Inc., 12 July 2017
5	<i>Code of Conduct</i> , Australian Pig Doggers and Hunters Association Inc., April 2005
6	<i>Code of Practice for the Humane Hunting of Animals in the Northern Territory when using Firearms</i> , Northern Territory Firearms Council, April 2020
7	<i>Code of Practice on the Humane Treatment of Wild and Farmed Australian Crocodiles</i> , Natural Resource Management Ministerial Council (NRMMC), 2009
8	<i>Guidelines for the Care and Welfare of Animals in Retail Pet Shops</i> , Northern Territory Animal Welfare Advisory Committee, 2008
9	<i>Guidelines for the Care and Welfare of Caged Birds</i> , Northern Territory Animal Welfare Advisory Committee, 2008
10	<i>Model Code of Practice for the Welfare of Animals – Land Transport of Poultry</i> (2nd Edition), Primary Industries Standing Committee, PISC Report 91, CSIRO Publishing, 2006
11	<i>Model Code of Practice for the Welfare of Animals – Feral Livestock Animals – Destruction or Capture, Handling and Marketing</i> , SCARM Report 34, CSIRO Publishing, 2002
12	<i>Model Code of Practice for the Welfare of Animals – Pigs</i> (3rd Edition), CSIRO Publishing, May 2008

Item	Code of Practice
13	<i>National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Commercial Purposes</i> (2nd Edition), AgriFutures Australia Publication No. 20-126, 18 November 2020
14	<i>National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-Commercial Purposes</i> (1st Edition), endorsed by the Natural Resource Management Ministerial Council (NRMMC), 7 November 2008
15	<i>Standards for the Care and Treatment of Rodeo Livestock</i> , National Consultative Committee on Animal Welfare (NCCAW), Position Statement, 10 June 2006

Schedule 2 Excluded electrical devices

regulation 9

Item	Column 1 Electrical device	Column 2 Purpose	Column 3 Animal	Column 4 Conditions
1	Electric stock prod	Driving, herding, mustering or controlling animals	Cattle, crocodiles, buffalo, camels and swine	None
		Controlling animals at a rodeo	Horses	None
2	Electric stunning device	Stunning of animals in abattoirs	Cattle, buffalo, sheep, goats and swine	None
3	Electric training collar (excluding a collar operated by a remote control device)	Training of animals	Dogs	Must be used in accordance with the manufacturer's instructions
4	Electro-ejaculator	Collecting semen from conscious animals	Cattle, buffalo and sheep	None
		Collecting semen from tranquillised or anaesthetised animals	All species of animal including cattle, buffalo and sheep	None
5	Electro-immobiliser	Restraining animals	Cattle and buffalo	Must not be used as an alternative to analgesia or anaesthesia if one of those options is the preferred procedure under appropriate animal husbandry practices

Item	Column 1 Electrical device	Column 2 Purpose	Column 3 Animal	Column 4 Conditions
6	Electro-stunner	Restraining animals	Crocodiles	Must not be used as an alternative to analgesia or anaesthesia if one of those options is the preferred procedure under appropriate animal husbandry practices
7	Electronic fencing systems using collars and transmitters	Containment of animals	Dogs and cats	Must be used in accordance with the manufacturer's instructions
8	Virtual fencing systems using collars and GPS systems	Containment of animals	Livestock	Must be used in accordance with the manufacturer's instructions

Schedule 3 Infringement notice offences and infringement amounts

regulation 21

Provision of the Act	Infringement amount
section 12(3)	3 penalty units
section 17(1)	1 penalty unit
section 26(1)	2 penalty units
section 28(4)	2 penalty units
section 29(1)	4 penalty units
section 29(2)	3 penalty units
section 29(3)	1 penalty unit
section 30(1)	4 penalty units
section 30(2)	3 penalty units
section 30(4)	1 penalty unit
section 31(1) or (2)	4 penalty units
section 31(3)	3 penalty units
section 31(5)	1 penalty unit
section 32(5)	4 penalty units
section 33(1)	4 penalty units
section 34(1)	3 penalty units
section 72(1)	4 penalty units
section 74(3)	5 penalty units
section 75(7)	5 penalty units
section 81(2)	1 penalty unit
section 88(3)	5 penalty units

Provision of the Act	Infringement amount
section 90(7)	5 penalty units
section 92(7)	3 penalty units
