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Dated 22 December 2022



TASMANIA

ANIMAL WELFARE ACT 1993

No. 63 of 1993

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
- 3A. Care or charge of animals
4. Non-application of Act
5. Act binds Crown

PART 2 – WELFARE OF ANIMALS

6. Duty of care to animals
7. Management of animals
8. Cruelty to animals
- 8A. Pest register
9. Aggravated cruelty

- 10. Baiting and shooting
- 11. Use of animals to train other animals
- 11A. Rodeos
- 11B. Functions of veterinary surgeon at rodeos
- 12. Traps

PART 3 – POWERS OF OFFICERS

- 13. Officers
- 13A. Functions of officer
- 14. Instructions by officers
- 15. Power to arrest without warrant
- 16. Power to enter, search and inspect premises
- 16A. Photographs and films
- 17. Power to take possession of animals
- 17A. Court may order seizure or disposal of animals
- 18. Possession of animals and conveyances
- 19. Application for return of animal or conveyance
- 20. Return of animal or conveyance
- 21. Detention of animals or conveyances
- 21A. Identification marks and devices
- 22. Order for sale of animals
- 23. Care of animals in need
- 24. Power to kill animals
- 25. Examination of animals
- 26. Power to require information
- 26A. Officer to provide written notice of seizure
- 26B. Decision of officer subject to review

PART 4 – ANIMAL RESEARCH

- 27. Animal research
- 28. Suppliers of animals for research
- 29. Applications for licences

- 30. Grant of licences
- 31. Duration of licences
- 32. Cancellation of licences
- 33. Reviews
- 34. Code of Practice for animal research
- 35. Annual reports

PART 5 – INSPECTORS

- 36. Appointment of inspectors
- 37. Functions of inspectors
- 38. Powers of inspectors

PART 6 – ANIMAL WELFARE ADVISORY COMMITTEE

- 39. Membership of Advisory Committee
- 40. Functions of Advisory Committee

PART 7 – OFFENCES

- 41. Obstruction
- 41A. Offences against officer
- 41B. Offences against inspector
- 42. Impersonation
- 43. Custody of animals
- 43AA. Forfeiture of animal for contravention of section 43 order
- 43AAB. Registering an interstate order

PART 7A – INFRINGEMENT NOTICES

- 43A. Service of infringement notices
- [43B - 43I. *Repealed*]

PART 8 – MISCELLANEOUS

- 44. Delegation by Minister
- 44A. Animal welfare standards
- 44B. Animal welfare guidelines
- 44C. Officers and inspectors to produce identification

- 45. Costs and expenses
- 46. Disbursement of proceeds of sale
- 47. Animal Welfare Trust Account
- 48. Immunity from action
- 48A. Liability of employer or body corporate
- 48B. Evidentiary matters
- 48C. Limitation period for offences
- 48D. Continuing offences
- 48E. Additional orders on conviction
- 49. Proclamation of society
- 50. Regulations
- 51. Repeal
- 52. Transitional provisions
- 53. Administration of Act

**SCHEDULE 1 – PROVISIONS WITH RESPECT TO MEMBERS OF
ADVISORY COMMITTEE**

**SCHEDULE 2 – PROVISIONS WITH RESPECT TO MEETINGS OF
ADVISORY COMMITTEE**



ANIMAL WELFARE ACT 1993

No. 63 of 1993

An Act to prevent neglect of, and cruelty to, animals, to ensure the welfare of animals, to repeal the *Cruelty to Animals Prevention Act 1925* and for related purposes

[Royal Assent 27 October 1993]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Animal Welfare Act 1993*.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 2

Part 1 – Preliminary

2. Commencement

- (1) This Act, except Part 4, commences on the day on which it receives the Royal Assent.
- (2) Part 4 commences on a day to be proclaimed.

3. Interpretation

In this Act –

Advisory Committee means the Animal Welfare Advisory Committee established under section 39;

animal means –

- (a) any live vertebrate animal other than a human being; or
- (b) any other creature prescribed for the purposes of any or all of the provisions of this Act;

Animal Experimentation Ethics Committee means a committee referred to in section 30;

animal research means a procedure, test, experiment, inquiry or study on an animal which –

- (a) is undertaken to develop, demonstrate or acquire knowledge, or techniques, in an area of science or teaching; and

Animal Welfare Act 1993
Act No. 63 of 1993

Part 1 – Preliminary

s. 3

- (b) is likely to have a significant adverse effect on the welfare of the animal;

animal welfare guidelines means the guidelines on animal welfare approved by the Minister under section 44B;

animal welfare standards means the standards for the care and management of animals prescribed in the regulations under section 44A;

care or charge, in relation to an animal, has the meaning given by section 3A;

Code of Practice means a code of practice approved by the Minister under section 34 or the Rodeo Code of Practice;

conveyance means any vehicle, vessel, aircraft or other contrivance intended to be, or being, used to carry animals, people or goods over land or water or in the air;

dispose, in relation to an animal, includes, but is not limited to –

- (a) the sale or rehoming of the animal; and
(b) euthanising the animal;

function includes duty;

inspector means a person –

- (a) appointed under section 36; or

Animal Welfare Act 1993
Act No. 63 of 1993

s. 3

Part 1 – Preliminary

- (b) carrying out the functions of an inspector under section 38(3);

licensed institution means an institution licensed under Part 4;

officer means –

- (a) a police officer; or
- (b) a person appointed as an officer under section 13;

premises includes a conveyance;

regulations means regulations made under this Act;

rodeo means a competition or public event that –

- (a) involves the use of cattle or horses, or both; and
- (b) may involve the use of other animals; and
- (c) involves the riding of bucking animals or the catching, wrestling, roping or tying of animals, or any combination of those activities;

Rodeo Code of Practice means the Code of Practice prescribed for the purposes of section 11A(1)(a);

Secretary means Secretary of the Department;

Animal Welfare Act 1993
Act No. 63 of 1993

Part 1 – Preliminary

s. 3A

snare means any noose, loop or similar instrument, implement or appliance, other than a lasso, which is capable of being used to catch any animal;

society means –

- (a) the Royal Society for the Prevention of Cruelty to Animals established in the State; or
- (b) any society proclaimed to be a society for the purposes of this Act in accordance with section 49;

veterinary surgeon means a person registered as a veterinary surgeon pursuant to Part IV of the *Veterinary Surgeons Act 1987*.

3A. Care or charge of animals

- (1) For the purposes of this Act, a person is taken to have the care or charge of an animal if the person –
 - (a) is the owner of the animal; or
 - (b) has control, possession or custody of the animal; or
 - (c) is the operator or manager of the premises where the animal is held for commercial purposes; or
 - (d) is the owner, operator or manager of the land where the animal is being agisted,

Animal Welfare Act 1993
Act No. 63 of 1993

s. 3A

Part 1 – Preliminary

- unless there is a written agreement to the contrary between the owner of the land and the owner of the animal; or
- (e) has a share, as a share farmer, in the business in which the animal is owned or farmed; or
 - (f) is the chief executive officer or manager (by whatever title known), or a director, of a body corporate that owns the animal.
- (1A) For the purposes of subsection (1)(b), an allegation contained in a complaint for an offence under this Act that states that a specified person had, or has, control, possession or custody of a specified animal is admissible as evidence in any legal proceedings as evidence of the matter stated.
- (2) One or more persons may have the care or charge of an animal.
- (3) For the purposes of proceedings for an offence against this Act –
- (a) the conduct and state of mind of an officer, employee or agent of a body corporate acting within the scope of his or her actual, usual or ostensible authority will be imputed to the body corporate; and
 - (b) the conduct and state of mind of an employee or agent of a natural person acting within the scope of his or her

Animal Welfare Act 1993
Act No. 63 of 1993

Part 1 – Preliminary

s. 4

actual, usual or ostensible authority will be imputed to that person.

- (4) For the purposes of subsection (3), a reference to “conduct” or “acting” includes a reference to failure to act.

4. Non-application of Act

- (1) Sections 8, 9 and 10 do not apply to practices used in the hunting of animals done in a usual and reasonable manner and without causing excess suffering unless the practices are prohibited by this or any other Act.

- (2) Sections 8, 9 and 10 do not apply to practices used in –

- (a) recreational fishing; or
- (b) angling; or
- (c) commercial fishing –

done in a usual and reasonable manner and without causing excess suffering unless the practices used are prohibited by this or any other Act.

- (3) Sections 8 and 9 do not apply to any animal research carried out in a licensed institution if that research is carried out –

- (a) with the approval of the Animal Experimentation Ethics Committee; and

Animal Welfare Act 1993
Act No. 63 of 1993

s. 5

Part 1 – Preliminary

- (b) in accordance with any procedures approved by the Animal Experimentation Ethics Committee; and
 - (c) in accordance with a Code of Practice relating to animal research.
- (4) Section 10(1)(a) and section 10(3) do not apply to the feeding of an animal if the feeding is carried out in a reasonable manner, having regard to the natural behaviour of the animal.

5. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2 – WELFARE OF ANIMALS

6. Duty of care to animals

A person who has the care or charge of an animal has a duty to take all reasonable measures to ensure the welfare of the animal.

7. Management of animals

A person who has the care or charge of an animal or group of animals must not use a method of management of the animal or group which is reasonably likely to result in unreasonable and unjustifiable pain or suffering to the animal or an animal in the group.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 000 penalty units;
or
- (b) a natural person, a fine not exceeding 200 penalty units or imprisonment for a term not exceeding 6 months, or both.

8. Cruelty to animals

- (1) A person must not do any act, or omit to do any duty, which causes or is likely to cause unreasonable and unjustifiable pain or suffering to an animal.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 8

Part 2 – Welfare of animals

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
 - (b) a natural person, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.
- (2) Without limiting the generality of subsection (1), a person is guilty of an offence under that subsection if the person –
- (a) wounds, mutilates, tortures, overrides, overdrives, overworks, abuses, beats, torments or terrifies an animal; or
 - (b) overloads or overcrowds an animal; or
 - (c) drives, conveys, carries or packs an animal in a manner or position or in circumstances that subjects or may subject it to unreasonable and unjustifiable pain or suffering; or
 - (d) works, rides, drives or uses an animal when it is unfit for the purpose; or
 - (e) has possession or custody of an animal that is confined, constrained or otherwise unable to provide for itself and fails to provide the animal with appropriate and sufficient food, drink, shelter or exercise; or

Animal Welfare Act 1993
Act No. 63 of 1993

Part 2 – Welfare of animals

s. 8

-
- (f) abandons an animal of a species usually kept in a state of confinement or for domestic purposes; or
 - (g) has possession or custody of a sick or injured animal and fails to provide veterinary or other appropriate treatment for the animal; or
 - (h) administers to or otherwise uses in respect of an animal an injurious drug or a toxic or noxious substance except for—
 - (i) medical curative purposes; or
 - (ii) scientific research purposes; or
 - (iii) normal management procedures; or
 - (iv) euthanasia; or
 - (v) the purposes of controlling a List A disease as defined in the *Animal Health Act 1995*; or
 - (vi) the purposes of controlling a pest animal in accordance with the pest register; or
 - (i) in the course of any sport or public performance or in the training for any sport or public performance, applies or exposes an electronic device to an animal; or
 - (j) uses a spur, or other like appliance, with sharpened rowels on an animal; or

Animal Welfare Act 1993
Act No. 63 of 1993

s. 8

Part 2 – Welfare of animals

(ja) uses a pronged collar, or a similar collar, on an animal; or

(k) does any other prescribed act.

(3) In this section –

abandons, in relation to an animal, includes the relinquishing of the care or charge of the animal without ensuring that another person has, or will immediately take, care or charge of the animal;

appropriate and sufficient means –

(a) in relation to the provision of food to an animal, that food of sufficient quality is provided –

(i) in sufficient quantity to meet the nutritional requirements of maintaining the animal in reasonable body condition and, if appropriate, allowing for growth and reproduction; and

(ii) as often as appropriate for the digestive system and metabolism of the animal; or

(b) in relation to the provision of drink, that fluids of sufficient quality are provided in sufficient

Animal Welfare Act 1993
Act No. 63 of 1993

Part 2 – Welfare of animals

s. 8A

quantity to keep the animal hydrated at all times; or

- (c) in relation to the provision of shelter, that shelter which affords protection for the animal from the adverse effects of weather conditions is provided;

pest animal means an animal of a kind or class which is entered in the pest register;

pest register means the pest register established and maintained under section 8A;

pronged collar means a collar, designed for use on animals, that consists of a series of links or segments with prongs, teeth or blunted open ends turned towards the animal's neck so that, when the collar is tightened, it pinches the skin around the animal's neck.

8A. Pest register

- (1) The Minister is to establish and maintain a register of kinds or classes of animals which are pests.
- (2) The Minister, after consulting the Advisory Committee, may enter in, or remove from, the register –
 - (a) the kind or class of an animal which is a pest; and

Animal Welfare Act 1993
Act No. 63 of 1993

s. 9

Part 2 – Welfare of animals

- (b) injurious drugs, toxic substances and noxious substances that may be administered or otherwise used to control such an animal of such a kind or class.
- (3) The register is to be in a form determined by the Minister.
- (4) The Minister may correct the register or an entry in the register without a recommendation from the Advisory Committee.

9. Aggravated cruelty

- (1) A person must not do any act, or omit to do any duty, referred to in section 8, if the person knows that, or is reckless as to whether, the act or omission will, or is reasonably likely to, result in –
 - (a) the death, deformity or serious disablement of an animal; or
 - (b) harm to an animal that endangers the life of the animal; or
 - (c) an injury to an animal that, either alone or in combination with the health of the animal at the time of the injury, results in a significant and longstanding injury to the animal.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 000 penalty units; or

Animal Welfare Act 1993
Act No. 63 of 1993

Part 2 – Welfare of animals

s. 10

- (b) a natural person, a fine not exceeding 200 penalty units or imprisonment for a term not exceeding 60 months, or both.
- (2) It is not a defence in proceedings for an offence under this section if an animal is euthanised before –
 - (a) the animal dies as a result of an act or omission referred to in subsection (1); or
 - (b) the full extent of the deformity, disablement, harm or injury to the animal as a result of that act or omission is known.
- (3) If a person is charged with, but not found guilty of, an offence under this section, the person may be convicted of an offence under section 8 if the evidence in the proceedings on the charge under section 9 establishes that the person committed an offence under section 8.

10. Baiting and shooting

- (1) A person must not keep or use an animal or allow an animal in the person's care or charge to be used –
 - (a) to fight, bait, worry, kill or injure another animal or to be baited, killed, worried or injured by another animal; or
 - (b) for the purpose of an activity in which the animal is released from captivity for

Animal Welfare Act 1993
Act No. 63 of 1993

s. 10

Part 2 – Welfare of animals

the purpose of being shot, killed, worried or injured.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 000 penalty units; or
 - (b) a natural person, a fine not exceeding 200 penalty units or imprisonment for a term not exceeding 12 months, or both.
- (2) A person must not promote or take part in an activity in which an animal is released from captivity for the purpose of being shot, killed, worried or injured.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 000 penalty units; or
 - (b) a natural person, a fine not exceeding 200 penalty units or imprisonment for a term not exceeding 12 months, or both.
- (3) A person must not keep, use or assist in the management of premises where animals fight, bait, worry, kill or injure other animals.

Penalty: In the case of –

Animal Welfare Act 1993
Act No. 63 of 1993

Part 2 – Welfare of animals

s. 11

- (a) a body corporate, a fine not exceeding 1 000 penalty units; or
- (b) a natural person, a fine not exceeding 200 penalty units or imprisonment for a term not exceeding 12 months, or both.

11. Use of animals to train other animals

- (1) A person must not –
 - (a) keep; or
 - (b) sell or supply; or
 - (c) offer for sale or supply; or
 - (d) keep for the purpose of sale or supply –

an animal that is intended to be used for the purpose of training another animal if the animal to be used for that purpose is likely to suffer unreasonable and unjustifiable pain or suffering.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
- (b) a natural person, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 11A

Part 2 – Welfare of animals

- (2) A person must not keep on premises at which greyhounds are being kept any animal which is intended to be used as bait for the training of greyhounds.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
- (b) a natural person, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.

11A. Rodeos

- (1) A person responsible for the organisation and conduct of a rodeo must ensure that it is conducted in accordance with –

- (a) any prescribed Code of Practice for rodeos; and
- (b) the prescribed requirements, if any.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 250 penalty units; or
- (b) a natural person, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

Animal Welfare Act 1993
Act No. 63 of 1993

Part 2 – Welfare of animals

s. 11A

- (2) A person responsible for the organisation and conduct of a rodeo must ensure that a veterinary surgeon is in attendance at all events at the rodeo that involve an animal.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 250 penalty units; or
- (b) a natural person, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

- (3) A person must not participate in an event at a rodeo except in accordance with –

- (a) the Rodeo Code of Practice; and
- (b) the prescribed requirements, if any.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 250 penalty units; or
- (b) a natural person, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

- (4) A person must not organise, or participate in, an event at a rodeo that involves the riding of sheep, calves or goats.

Penalty: In the case of –

Animal Welfare Act 1993
Act No. 63 of 1993

s. 11B

Part 2 – Welfare of animals

- (a) a body corporate, a fine not exceeding 250 penalty units; or
- (b) a natural person, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

11B. Functions of veterinary surgeon at rodeos

- (1) A veterinary surgeon who is attending a rodeo at the request of a person who is responsible for the organisation and conduct of the rodeo has the following functions:
 - (a) the examination of animals for fitness for use in the rodeo before they compete;
 - (b) the examination and treatment of sick or injured animals;
 - (c) the euthanasia of an animal if the veterinary surgeon considers it in the best interests and welfare of the animal;
 - (d) other functions imposed by the Rodeo Code of Practice.
- (2) A veterinary surgeon who is attending a rodeo at the request of a person who is responsible for the organisation and conduct of the rodeo has the following powers:
 - (a) if the veterinary surgeon considers that an animal is not fit for use in the rodeo, the veterinary surgeon may require –

Animal Welfare Act 1993
Act No. 63 of 1993

Part 2 – Welfare of animals

s. 11B

- (i) the person responsible for the organisation and conduct of the rodeo to prevent the use of the animal in the rodeo; and
 - (ii) the person who has control of the animal not to use, or allow the use of, the animal in the rodeo;
- (b) if the veterinary surgeon considers that certain actions need to be taken to allow him or her to properly assess the health, welfare or fitness of an animal or that any actions need to be taken, or should not be taken, in relation to the treatment, health, best interests or welfare of an animal, the veterinary surgeon may require –
 - (i) the person responsible for the organisation and conduct of the rodeo to do or refrain from doing any action, or to ensure that any action is taken or not taken, in relation to that animal; and
 - (ii) the person who has control of the animal to do or refrain from doing any action, or to allow or prevent the taking of any action, in relation to that animal;
- (c) other powers provided by the Rodeo Code of Practice;

Animal Welfare Act 1993
Act No. 63 of 1993

s. 12

Part 2 – Welfare of animals

- (d) the power to do all things necessary or convenient for the performance of the functions of the veterinary surgeon.
- (3) A person who has been required to do or refrain from doing any action under subsection (2) must not contravene that requirement.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
- (b) a natural person, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.

12. Traps

- (1) Subject to subsection (2), a person must not set, lay or place a leghold trap, glueboard trap or snare.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
 - (b) a natural person, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.
- (2) A person may apply to the Minister for an exemption to use a leghold trap, glueboard trap or snare.

Animal Welfare Act 1993
Act No. 63 of 1993

Part 2 – Welfare of animals

s. 12

- (3) The Minister, in granting an exemption, may impose any condition the Minister considers appropriate.
- (4) This section does not apply to –
- (a) the use of a mist net by a person who holds a permit to use a mist net granted under the *Nature Conservation Act 2002*; or
 - (b) a gillnet used in accordance with any regulations or rules made under the *Living Marine Resources Management Act 1995*; or
 - (c) a box trap, cage trap, mousetrap and other similar devices.
- (5) The Minister may delegate the powers under this section to the Secretary.
- (6) In this section –
- glueboard trap*** means a device that uses an adhesive substance to entrap an animal.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 13

Part 3 – Powers of officers

PART 3 – POWERS OF OFFICERS

13. Officers

- (1) The Minister may appoint persons to be officers for the purposes of this Act on such terms and for such periods as the Minister determines.
- (2) Without limiting subsection (1), the Minister may appoint a person to be an officer for the purposes of this Act subject to any one or more of the following:
 - (a) the successful completion of training specified by the Minister;
 - (b) that the person holds, and continues to hold, qualifications specified by the Minister;
 - (c) that the person is only to exercise certain functions or powers of officers as specified by the Minister if the person holds, and continues to hold, the qualifications specified by the Minister in respect of the function or power.

13A. Functions of officer

An officer has the following functions:

- (a) to protect, and secure the welfare of, animals;
- (b) to advise and instruct persons with the care or charge of animals;

Animal Welfare Act 1993
Act No. 63 of 1993

Part 3 – Powers of officers

s. 14

- (c) to investigate whether this Act has been contravened and, if so, take appropriate action.

14. Instructions by officers

- (1) An officer may give to one or more of the following persons such instructions as may be necessary to enable the officer to assess or ensure the welfare of an animal:
 - (a) a person who has the care or charge of the animal;
 - (b) a person who usually has the care or charge of the animal;
 - (c) a person who the officer has reasonable grounds for believing will have the care or charge of the animal in the future.
- (2) An instruction under subsection (1) is to be in writing unless –
 - (a) it is not practicable to give the instruction in writing at the time the instruction is given; or
 - (b) the officer giving the instruction considers that is in the interest of animal welfare to issue an immediate oral instruction.
- (3) If an officer gives an oral instruction to a person under this section, the officer is to give the person written confirmation of the instruction as

Animal Welfare Act 1993
Act No. 63 of 1993

s. 15

Part 3 – Powers of officers

soon as practicable after giving the oral instruction.

- (4) A person must comply with an instruction given to the person under subsection (1).

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 200 penalty units; or
- (b) a natural person, a fine not exceeding 40 penalty units.

15. Power to arrest without warrant

- (1) A police officer may arrest, without warrant, a person the police officer reasonably believes is committing or has committed an offence under this Act.
- (2) If a police officer has reasonable grounds for believing that a person is committing or has committed an offence under this Act, the police officer may require that person to give the person's name, address and date of birth.
- (3) If a police officer has requested a person to give the person's name, address and date of birth, the police officer may arrest, without warrant, that person if –
 - (a) that person refuses to give his or her name, address or date of birth; or

Animal Welfare Act 1993
Act No. 63 of 1993

Part 3 – Powers of officers

s. 16

- (b) the police officer reasonably believes any name, address or date of birth given by that person is false.

16. Power to enter, search and inspect premises

- (1) An officer may, without warrant, enter, search and inspect any premises, other than premises or a part of premises being used as a dwelling, if the officer reasonably believes that there is on the premises an animal in respect of which an offence under this Act has been, or is being, committed.

- (1A) Despite subsection (1), an officer may, without warrant, enter, search and inspect any premises, including premises or a part of premises being used as a dwelling, if the officer reasonably believes that –

- (a) an emergency exists that –

- (i) causes, or threatens to cause, injury, illness or distress to an animal on the premises; or

- (ii) places, or is likely to place, the premises at risk; and

- (b) there is on the premises, or in the dwelling, an animal that is in need of assistance.

- (2) An officer, authorized by the Minister to do so, may, at any reasonable time enter, search and inspect any premises where animals are sold,

Animal Welfare Act 1993
Act No. 63 of 1993

s. 16

Part 3 – Powers of officers

presented for sale, assembled or kept for commercial purposes.

- (2A) An officer may seize anything found on premises searched or inspected under subsection (1) or (2) that the officer reasonably believes –
- (a) is being, or has been, used in committing an offence against this Act; or
 - (b) is evidence that an offence is being, or has been, committed against this Act.
- (3) If a magistrate or justice is satisfied on application made on oath by an officer that–
- (a) an animal is in premises or a part of any premises being used as a dwelling; and
 - (b) the officer reasonably believes that an offence under this Act has been or is being committed in respect of that animal–

the magistrate or justice may grant a warrant authorizing the officer named in the warrant to enter, search and inspect those premises and seize anything the officer reasonably believes is being, or has been, used in committing the offence.

- (3A) If a magistrate or justice is satisfied on application made on oath by an officer that the officer reasonably believes that there is evidence on the premises, or a part of the premises, that relates to an offence under this Act, the

Animal Welfare Act 1993
Act No. 63 of 1993

Part 3 – Powers of officers

s. 16

magistrate or justice may grant a warrant authorising the officer named in the warrant –

- (a) to enter, search and inspect those premises; and
 - (b) seize anything the officer reasonably believes may be evidence that relates to an offence under this Act.
- (3B) A search warrant issued under this section –
- (a) is to be in accordance with the *Search Warrants Act 1997*; and
 - (b) may only authorise and name, in that search warrant, an officer –
 - (i) who is a police officer; or
 - (ii) who is authorised, in writing by the Minister, to execute a search warrant under this Act.
- (4) In entering, searching and inspecting premises, an officer may –
- (a) use such force as is reasonably necessary; and
 - (b) be accompanied by such assistants as the officer considers necessary; and
 - (c) stop any vehicle or conveyance.
- (4A) In entering, searching and inspecting premises, an officer may inspect or examine any animal on the premises.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 16A

Part 3 – Powers of officers

- (5) An assistant in the company of an officer has the same powers under this section as the officer.
- (6) In this section, a reference to an animal includes a reference to the animal whether alive or dead.
- (7) For the purposes of this section, a premises, or a part of a premises –
 - (a) is being used as a dwelling if a person ordinarily resides in that premises or that part of the premises; and
 - (b) is not being used as a dwelling if that premises, or that part of the premises, is a building or an area of land that is around or underneath premises, or a part of a premises, to which paragraph (a) applies.

16A. Photographs and films

For the purpose of this Act, an officer may –

- (a) take any photograph; and
- (b) make any film or video.

17. Power to take possession of animals

- (1) An officer may take possession of an animal and detain it in a safe place if the officer is satisfied that –
 - (a) an offence under this Act has been, or is being or is likely to be, committed in respect of the animal; or

Animal Welfare Act 1993
Act No. 63 of 1993

Part 3 – Powers of officers

s. 17A

- (ab) the animal requires medical treatment by a veterinary surgeon to relieve, or reduce, the pain or suffering of the animal; or
- (b) unless possession of the animal is taken –
 - (i) its life will be endangered; or
 - (ii) any pain or suffering it is undergoing will be unreasonably or unjustifiably prolonged.
- (2) An officer may –
 - (a) for the purpose of taking possession of an animal, be aided by such assistants as the officer considers necessary; and
 - (b) detain or cause the animal to be detained at such place and in such circumstances as the officer considers appropriate.
- (3) An assistant in the company of an officer has the same powers under this section as the officer.

17A. Court may order seizure or disposal of animals

- (1) In any proceedings under this Act in respect of an animal or on the application of an officer, a magistrate may make an order in respect of one or more of the following:
 - (a) that the animal be removed from the person who has care or charge of the animal;

Animal Welfare Act 1993
Act No. 63 of 1993

s. 18

Part 3 – Powers of officers

- (b) that the animal be placed in the care of, or returned to, another person specified in the order;
 - (c) that the animal –
 - (i) be sold, and any proceeds of the sale be distributed in accordance with section 46; or
 - (ii) be otherwise disposed of;
 - (d) any other order, or direction, in respect of the animal that the magistrate considers appropriate in the circumstances.
- (2) A magistrate may only make an order under subsection (1) in respect of an animal if the magistrate is satisfied that, without the order, the welfare of the animal is at risk.

18. Possession of animals and conveyances

If a person is arrested for an offence under this Act in respect of an animal, the officer arresting that person may –

- (a) take possession of the animal and detain it in a safe place; and
- (b) take possession of any conveyance and detain or cause it to be detained in a safe place if the animal –
 - (i) is attached to the conveyance; or

Animal Welfare Act 1993
Act No. 63 of 1993

Part 3 – Powers of officers

s. 19

- (ii) is being carried in or on the conveyance belonging to that person.

19. Application for return of animal or conveyance

- (1) If an officer has taken possession of, and detained, an animal or conveyance under section 17 or 18, the owner of the animal or conveyance may apply to a magistrate for its return.
- (2) On an application under subsection (1), the magistrate may –
 - (a) order that the animal or conveyance be returned to its owner on any terms and conditions the magistrate considers just; or
 - (b) refuse the application.

20. Return of animal or conveyance

- (1) If an officer has taken possession of, and detained, an animal or conveyance under section 17 or 18, the officer may return the animal or conveyance to its owner or to the person from whose possession it was taken if –
 - (a) the officer is satisfied that no purpose will be served by retaining possession of the animal or conveyance; and
 - (b) in the case of an animal, the officer is satisfied that if the animal is returned it

Animal Welfare Act 1993
Act No. 63 of 1993

s. 20

Part 3 – Powers of officers

will not be exposed to unreasonable or unjustifiable pain or suffering.

- (2) An officer may return an animal or conveyance whether or not a person has been charged with an offence under this Act.
- (3) If an officer has taken possession of, and detained, an animal or conveyance under section 17 or 18, the officer must return it to its owner or to the person from whose possession it was taken if –
 - (a) a period of 6 months has elapsed since the officer took possession of the animal or conveyance and no person has been charged with an offence under this Act in respect of that animal; or
 - (b) a person has been tried for an offence under this Act in respect of the animal and the court before which that person was tried made no order in respect of the possession, sale or other disposal of the animal or conveyance.
- (4) An officer may apply to a magistrate for a direction that an animal should not be returned to its owner or to the person from whose possession it was taken.
- (5) On an application under subsection (4), the magistrate may –
 - (a) direct that the animal be sold or otherwise disposed of and any proceeds

Animal Welfare Act 1993
Act No. 63 of 1993

Part 3 – Powers of officers

s. 21

of the sale be distributed in accordance with section 46; or

(b) refuse the application.

(6) A magistrate must not make a direction under subsection (5)(a) unless the magistrate is satisfied that it is in the best interests of the animal to do so.

21. Detention of animals or conveyances

The court before which a person is tried for an offence under this Act in respect of an animal may order –

(a) that any animal or conveyance detained under section 17 or 18 continue to be detained until –

(i) any monetary penalties imposed by the court are paid; and

(ii) the costs and expenses connected with taking possession of the animal or conveyance and detaining it are paid; and

(b) that in default of payment of any amount referred to in paragraph (a) within a time specified by the court, the animal or conveyance be sold and the proceeds of the sale be distributed in accordance with section 46.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 21A

Part 3 – Powers of officers

21A. Identification marks and devices

- (1) An officer may attach a mark or device to an animal for identification purposes.
- (2) An identification mark or device may be in any form the officer considers appropriate.
- (3) A person must not tamper with, or remove, an identification mark or device attached to an animal under subsection (1).

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 200 penalty units; or
- (b) a natural person, a fine not exceeding 40 penalty units.

22. Order for sale of animals

- (1) A court that finds the owner of an animal guilty of an offence under this Act in respect of the animal may, in addition to any other punishment it imposes in respect of the offence, order that the animal be sold or otherwise disposed of and that the proceeds of any sale be distributed in accordance with section 46.
- (2) A court must not make an order under subsection (1) unless it is satisfied that the provisions of section 8 are unlikely to be complied with.

Animal Welfare Act 1993
Act No. 63 of 1993

Part 3 – Powers of officers

s. 23

23. Care of animals in need

An officer may supply food or drink to an animal or authorize a veterinary surgeon to administer medical treatment to an animal if the officer is of the opinion that the animal –

- (a) is not provided with a sufficient quantity of food or drink fit for its consumption; or
- (b) is suffering from injury or disease or is otherwise suffering.

24. Power to kill animals

- (1) An officer or veterinary surgeon may kill an animal if –
 - (a) in their opinion the animal is injured or diseased or is otherwise suffering; and
 - (b) they reasonably believe that the injury, disease or other suffering will cause the animal continued and excessive pain and suffering.
- (2) If a justice is satisfied that it is necessary to do so, the justice may authorize, in writing, any person to kill a specified animal in the circumstances referred to in subsection (1).
- (3) Any person who kills an animal under subsection (1) or (2) –
 - (a) is to make available the carcass of the animal to the owner, if the owner

Animal Welfare Act 1993
Act No. 63 of 1993

s. 25

Part 3 – Powers of officers

requests, within 48 hours of killing the animal to take possession of the carcass;
or

- (b) may dispose of the carcass if there is no such request.

25. Examination of animals

- (1) An officer may require a veterinary surgeon to carry out any examination or take any sample as may be necessary to determine –
 - (a) the extent of any injury, disease or suffering endured by an animal; or
 - (b) whether any substance was being administered to an animal; or
 - (c) the cause of death of an animal.
- (2) An officer, at the request of a club registered under the *Racing Regulation Act 2004*, must require a veterinary surgeon to carry out any test necessary to determine whether any substance has been administered to an animal detained under section 17 or 18.
- (3) An officer may take any sample if the taking of the sample does not constitute veterinary services as defined in the *Veterinary Surgeons Act 1987*.

Animal Welfare Act 1993
Act No. 63 of 1993

Part 3 – Powers of officers

s. 26

26. Power to require information

- (1) In the course of performing functions or exercising powers under this Act, an officer may require any person to do one or more of the following:
 - (a) provide his or her name and address to the officer;
 - (b) answer any question relating to the health or welfare of an animal or to any other matter to which this Act applies.
- (2) When requiring a person to provide an answer under subsection (1)(b), the officer is to inform the person that the answer provided is not admissible against the person in any criminal or civil proceedings other than proceedings for an offence against this section.
- (3) A person must comply with a requirement made under subsection (1).

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 250 penalty units; or
 - (b) a natural person, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.
- (4) In complying with a requirement made under subsection (1), a person must not provide

Animal Welfare Act 1993
Act No. 63 of 1993

s. 26A

Part 3 – Powers of officers

information or an answer that the person knows to be false or misleading in a material particular.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 250 penalty units; or
 - (b) a natural person, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.
- (5) An answer provided by a person in complying with a requirement made under subsection (1)(b) is not admissible against the person in any criminal or civil proceedings, other than in proceedings for an offence against this section.
- (6) For the avoidance of doubt, an officer may perform a function, or exercise a power, under this section in respect of a person, regardless of whether –
- (a) the person is in Tasmania or elsewhere; or
 - (b) compliance with a requirement under this section requires information, or documents, that are in Tasmania or elsewhere.

26A. Officer to provide written notice of seizure

- (1) An officer who seizes an animal or thing under this Act must, as soon as practicable after the seizure, provide the person from whom the

Animal Welfare Act 1993
Act No. 63 of 1993

Part 3 – Powers of officers

s. 26B

animal or thing was seized with written notice of the seizure.

- (2) A written notice under subsection (1) is to –
- (a) identify the animal, or thing, seized from the person; and
 - (b) specify the reasons for the seizure of the animal or thing.
- (3) In this section –
- seize* includes take possession of.

26B. Decision of officer subject to review

A person who is aggrieved by a decision of an officer under this Act may apply to the Magistrates Court (Administrative Appeals Division) for a review of that decision.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 27

Part 4 – Animal research

PART 4 – ANIMAL RESEARCH

27. Animal research

- (1) A person must not carry out animal research unless it is carried out –
- (a) by an institution licensed under this Part; and
 - (b) in accordance with the licence issued, under this Part, to the institution.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
 - (b) a natural person, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.
- (2) Subsection (1) does not apply to –
- (a) an observational study of an animal that is conducted by the owner of the animal; or
 - (b) disease surveillance and monitoring, of an animal, that is conducted –
 - (i) by a person for the purposes of disease identification or disease management; and

Animal Welfare Act 1993
Act No. 63 of 1993

Part 4 – Animal research

s. 28

- (ii) in accordance with recognised methodologies and practices; or
 - (c) the administration of a veterinary treatment to an animal by a person if that treatment is administered for the welfare of the animal; or
 - (d) normal animal management practices, conducted by a person in respect of an animal, if those practices are conducted for the welfare of the animal.
- (3) A licensed institution may carry out animal research at one or more places or premises.

28. Suppliers of animals for research

A person may only supply animals to be used for animal research –

- (a) to a licensed institution; and
- (b) in accordance with the Code of Practice.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a period not exceeding 12 months, or both.

29. Applications for licences

- (1) An institution may apply to the Minister for a licence authorizing the institution to carry out animal research.
- (2) An application is to –

Animal Welfare Act 1993
Act No. 63 of 1993

s. 30

Part 4 – Animal research

- (a) be in writing; and
- (b) state the general nature of the animal research carried out or to be carried out by that institution; and
- (c) contain any other details the Minister may require; and
- (d) be accompanied by the prescribed fee.

30. Grant of licences

- (1) The Minister, on advice of an inspector, may–
 - (a) grant a licence; or
 - (b) refuse to grant a licence.
- (2) The Minister may only grant a licence to an institution if satisfied that the institution has an Animal Experimentation Ethics Committee constituted in accordance with the Code of Practice approved under section 34.
- (3) A licence is granted subject to the following conditions:
 - (a) that any animal research is not to commence until it is approved by the Animal Experimentation Ethics Committee;
 - (b) that any animal research is to be conducted in accordance with the Code of Practice;

Animal Welfare Act 1993
Act No. 63 of 1993

Part 4 – Animal research

s. 31

- (c) that the licensed institution is to be inspected at regular intervals and at least once in every 12 months to ensure compliance with the conditions of the licence;
 - (ca) that the licensed institution is to advise an inspector of the date, nature and result of any external review of the compliance by the institution with the Code of Practice;
 - (d) any other condition the Minister considers appropriate or necessary.
- (4) A licensed institution must comply with the conditions specified in subsection (3).
- Penalty: Fine not exceeding 500 penalty units.
- (5) A licence is to be –
- (a) granted in the name of the institution making the application; and
 - (b) in a form approved by the Minister.

31. Duration of licences

- (1) A licence remains in force for such period, not exceeding 3 years, as is specified in the licence unless the licence is sooner cancelled under section 32.
- (2) If an application for a review is made under section 33, a licence remains cancelled until an

Animal Welfare Act 1993
Act No. 63 of 1993

s. 32

Part 4 – Animal research

order is made by the Magistrates Court
(Administrative Appeals Division).

32. Cancellation of licences

- (1) The Minister may cancel a licence if the Minister, on the advice of an inspector, considers—
 - (a) that the institution should no longer hold the licence; or
 - (b) that the institution has not complied with the conditions of the licence.
- (2) An institution whose licence is cancelled under subsection (1) may not apply for another licence until –
 - (a) 12 months after that cancellation; or
 - (b) if an application for a review is made under section 33, 6 months after an order is made by the Magistrates Court (Administrative Appeals Division) affirming the cancellation.

33. Reviews

An institution may apply to the Magistrates Court (Administrative Appeals Division) for a review of –

- (a) the decision of the Minister to refuse to grant a licence; or

Animal Welfare Act 1993
Act No. 63 of 1993

Part 4 – Animal research

s. 34

- (b) the decision of the Minister to cancel a licence; or
- (c) a condition subject to which a licence is issued.

34. Code of Practice for animal research

The Minister may, on the recommendation of the Advisory Committee, approve a Code of Practice to regulate –

- (a) the carrying out of animal research; and
- (b) the functions and procedures of Animal Experimentation Ethics Committees.

35. Annual reports

- (1) A licensed institution must submit a report to the Minister on its activities in relation to animal research carried out by it no later than –
 - (a) the date specified for the submission of the report in the licence, or the conditions of the licence, of the institution; or
 - (b) if no date is specified in the licence or its conditions, 14 months after the issue of the licence.
- (2) After submitting a report under subsection (1), a licensed institution must submit a report to the Minister at 12-month intervals.
- (3) The report is to contain the following:

Animal Welfare Act 1993
Act No. 63 of 1993

s. 35

Part 4 – Animal research

- (a) the numbers and types of animals used in animal research;
 - (b) the types of animal research carried out;
 - (c) any other information the Minister may require.
- (4) As soon as practicable after 30 June and before 30 September in each year, the Minister is to cause a report to be laid on the table of each House of Parliament summarizing the reports submitted under this section.

PART 5 – INSPECTORS

36. Appointment of inspectors

The Minister may appoint officers or persons to be inspectors for the purposes of Part 4 on such terms and for such periods as the Minister considers appropriate.

37. Functions of inspectors

An inspector has the following functions:

- (a) to advise the Minister on matters relating to the granting or cancellation of licences;
- (b) to advise the Minister on matters relating to conduct of Animal Experimentation Ethics Committees;
- (c) any functions that are necessary for the administration of this Act;
- (d) any other functions determined by the Minister.

38. Powers of inspectors

(1) An inspector has the following powers:

- (a) to enter, search and inspect, without warrant, any place or premises at which a licensed institution carries out animal research;

Animal Welfare Act 1993
Act No. 63 of 1993

s. 38

Part 5 – Inspectors

- (b) to take samples or specimens kept by that institution in relation to research carried out on animals;
- (c) to take photographs of that place or those premises and animals or equipment kept by that institution in relation to research carried out on animals;
- (d) to inspect, take copies of or seize any records or documents kept by that institution in relation to research carried out on animals;
- (e) to inspect, without warrant, the premises of any institution applying for a licence, including its animal holding facilities, equipment and instruments to determine the suitability of the premises for the purpose of the application;
- (f) to enter and search, with a warrant, any premises in which the inspector reasonably believes animal research is being carried out in contravention of this Act;
- (g) to require any person to give such assistance as may be required;
- (h) to do anything necessary or convenient to perform his or her functions;
- (i) to do anything an officer has power to do under this Act.

Animal Welfare Act 1993
Act No. 63 of 1993

Part 5 – Inspectors

s. 38

- (2) In entering, searching and inspecting premises, an inspector may –
 - (a) use such force as is reasonably necessary; and
 - (b) be accompanied by such assistants as the inspector considers necessary; and
 - (c) stop any vehicle or conveyance.
- (3) An assistant in the company of an inspector has the same powers under this section as the inspector.
- (4) If a magistrate is satisfied, on the application made on oath by an inspector, that animal research is being carried out on premises in contravention of this Act, the magistrate may grant a warrant authorizing the inspector named in the warrant to enter and search those premises.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 39

Part 6 – Animal Welfare Advisory Committee

**PART 6 – ANIMAL WELFARE ADVISORY
COMMITTEE**

39. Membership of Advisory Committee

- (1) There is established an Animal Welfare Advisory Committee consisting of –
- (a) a person appointed as chairperson of the Advisory Committee; and
 - (b) a person nominated by the Secretary of the responsible Department in relation to the *Animal Welfare Act 1993*; and
 - (c) a person nominated by the Secretary of the responsible Department in relation to the *Nature Conservation Act 2002*; and
 - (d) a person nominated by the Secretary of the responsible Department in relation to the *Police Service Act 2003*; and
 - (da) a person nominated by the Secretary of the responsible Department in relation to the *Racing Regulation Act 2004*; and
 - (e) a person nominated by the Municipal Association of Tasmania; and
 - (f) a person nominated by the University of Tasmania; and
 - (g) a person to represent the sporting and recreational users of animals; and

Animal Welfare Act 1993
Act No. 63 of 1993

- (h) a person to represent the intensive animal industry including the pig and poultry industries; and
 - (i) a person nominated by the Tasmanian Farmers and Graziers Association to represent the grazing animal industry; and
 - (j) a person nominated by the Royal Society for the Prevention of Cruelty to Animals; and
 - (k) a registered veterinary surgeon nominated by the Australian Veterinary Association; and
 - (l) a person nominated by Animals Australia Incorporated; and
 - (m) such other persons as the Minister considers appropriate.
- (2) The members are appointed by the Minister.
- (3) A member of the Advisory Committee may, with the approval of the Minister, appoint a person nominated by the organization which the member represents as his or her deputy.
- (3A) The Secretary of a responsible Department referred to in paragraph (b), (c) or (d) of subsection (1) may, with the approval of the Minister, appoint a person as a deputy to the person nominated in paragraph (b), (c) or (d) of subsection (1).

Animal Welfare Act 1993
Act No. 63 of 1993

s. 40

Part 6 – Animal Welfare Advisory Committee

- (4) If a nomination under subsection (1) is not made within 30 days after the date on which that nomination is required by the Minister to be made, the Minister may appoint suitably qualified persons for appointment under that subsection.
- (5) If a body referred to in paragraph (e), (i), (j), (k) or (l) of subsection (1) changes its name, the Minister may, by order, amend that paragraph by substituting the body's new name.
- (6) If a body referred to in paragraph (e), (i), (j), (k) or (l) of subsection (1) ceases to exist, the Minister, on the recommendation of the Advisory Committee, may, by order, amend that paragraph by substituting the name of a body which the Minister is satisfied substantially represents the interests represented by the first-mentioned body.
- (7) Schedule 1 has effect with respect to members of the Advisory Committee.
- (8) Schedule 2 has effect with respect to meetings of the Advisory Committee.

40. Functions of Advisory Committee

- (1) The Advisory Committee has the following functions:
 - (a) to advise the Minister on any matter generally relating to animal welfare;

Animal Welfare Act 1993
Act No. 63 of 1993

- (b) to advise the Minister on any specific matter relating to animal welfare as requested by the Minister;
 - (c) to conduct an ongoing review of the laws relating to animal welfare;
 - (d) to recommend to the Minister any changes in the laws relating to animal welfare;
 - (e) to make recommendations on any matter of concern to the Advisory Committee;
 - (f) to identify areas which require development of public education strategies relating to animal welfare;
 - (g) to develop educational programmes relating to animal welfare;
 - (h) to make recommendations to the Minister on any matter relating to animal welfare standards or animal welfare guidelines;
 - (ha) any other functions imposed by this Act;
 - (i) any other functions the Minister may determine.
- (2) In carrying out its functions, the Advisory Committee is to take into account –
- (a) the community concerns about, and attitudes towards, animal welfare; and
 - (b) the needs of affected industries; and

Animal Welfare Act 1993
Act No. 63 of 1993

s. 40

Part 6 – Animal Welfare Advisory Committee

- (c) the changes in, and availability of, animal management practices.

PART 7 – OFFENCES

41. Obstruction

A person must not obstruct or hinder a person in the exercise of a power or the performance of a duty conferred or imposed by this Act.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 250 penalty units; or
- (b) a natural person, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

41A. Offences against officer

A person must not intimidate, threaten or abuse an officer.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
- (b) a natural person, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 41B

Part 7 – Offences

41B. Offences against inspector

A person must not intimidate, threaten or abuse an inspector.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
- (b) a natural person, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

42. Impersonation

A person must not impersonate an officer or any other person authorized to exercise a power or required to perform a duty under this Act.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 250 penalty units; or
- (b) a natural person, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

43. Custody of animals

- (1) If –

Animal Welfare Act 1993
Act No. 63 of 1993

Part 7 – Offences

s. 43

- (a) a person has been convicted of an offence under this Act in respect of an animal; and
- (b) the court considers the offence to be of a sufficiently serious nature –

the court may, in addition to, or instead of, any other penalty, order –

- (c) that the person be disqualified, for such period as the court orders, from having custody of any animal or any animal of a kind or class specified in the order; or
 - (d) that certain conditions specified in the order are to apply for such period as the court orders to the person's custody of any animal or any animal of a kind or class specified in the order.
- (2) If a court makes an order under subsection (1), it may suspend the order –
- (a) for any period the court considers necessary so that arrangements can be made for the custody of any animal; or
 - (b) pending the determination of an application under subsection (3).
- (3) A person in relation to whom an order has been made may, at any time after 12 months after the date of the order, apply to the court to have the order varied, suspended or cancelled.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 43

Part 7 – Offences

- (4) In determining an application the court must have regard to –
- (a) the applicant’s character; and
 - (b) the applicant’s conduct since the date of the order; and
 - (c) the nature of the offence; and
 - (d) any other circumstances it considers relevant.
- (5) In determining an application against an order, the court may –
- (a) direct that from a specified date –
 - (i) the order be varied, suspended or cancelled as specified in the direction; or
 - (ii) the order be varied to apply only to a specified animal or any animal of a specified kind or class; or
 - (b) refuse the application.
- (6) A court has no power to consider another application under subsection (3) in respect of an order until at least 12 months have elapsed after a direction or refusal under subsection (5).
- (7) A person must not have custody of an animal in contravention of an order made under subsection (1) or varied under subsection (5).

Animal Welfare Act 1993
Act No. 63 of 1993

Part 7 – Offences

s. 43AA

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 250 penalty units; or
 - (b) a natural person, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.
- (8) A person has custody of an animal if the animal is normally kept on premises owned or occupied by the person, whether or not the person has any care or charge of the animal.

43AA. Forfeiture of animal for contravention of section 43 order

- (1) On the application of an officer, a magistrate may order that an animal is forfeited to the Crown if he or she is satisfied that a person has custody of the animal in contravention of an order made under section 43(1) or such an order as varied under section 43(5).
- (2) An application for an order under subsection (1) may be made –
 - (a) in conjunction with proceedings for an offence against section 43(7), separately from proceedings for such an offence or orally on a finding of guilt (including a plea of guilty) in proceedings for such an offence; and

Animal Welfare Act 1993
Act No. 63 of 1993

s. 43AAB

Part 7 – Offences

- (b) whether or not proceedings for such an offence have been instituted.
- (3) An officer may take possession of and detain a forfeited animal.
- (4) A forfeited animal may be disposed of in any manner determined by the Secretary.
- (5) In this section –

forfeited animal means –

- (a) a particular animal referred to in an order made under subsection (1) and which is forfeited to the Crown by reason of that order; or
- (b) if an order is made under subsection (1) which forfeits an animal in the custody of a person to the Crown without referring to a particular animal, the animal in the custody of the person that an officer determines is to be so forfeited in accordance with that order.

43AAB. Registering an interstate order

- (1) The Minister is to establish and maintain a register of interstate orders.
- (2) The Minister is to record in the register an interstate order, or a variation of a registered interstate order, if –

Animal Welfare Act 1993
Act No. 63 of 1993

Part 7 – Offences

s. 43AAB

- (a) requested to do so in writing by an interstate Minister; and
 - (b) provided with a copy, or an extract of the operative provisions, of the order or variation by the interstate Minister.
- (3) As soon as practicable after the registration of an interstate order, or the variation of a registered interstate order, the Minister is to ensure that a notice is served on the person who is the subject of the order informing him or her that –
- (a) the interstate order has been –
 - (i) recorded in the register under this section; or
 - (ii) varied and the variation of the order has been recorded in the register under this section; and
 - (b) the registration of the order, or variation of the order, does not take effect until 14 days after the day on which the notice is served on the person; and
 - (c) from the time the registration takes effect, a contravention of the order, or order as varied, in Tasmania is an offence under subsection (5).
- (4) The registration of an interstate order, or variation of a registered interstate order, takes effect 14 days after notice is served, in accordance with subsection (3), on the person who is the subject of the order.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 43AAB

Part 7 – Offences

- (5) A person who is the subject of a registered interstate order –
- (a) must not contravene the order in Tasmania; or
 - (b) if the order has been varied and the variation registered, must not contravene the order as so varied in Tasmania.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 20 penalty units; or
 - (b) a natural person, a fine not exceeding 10 penalty units or imprisonment for a term not exceeding 3 months, or both.
- (6) In proceedings for an offence against subsection (5), a certificate purporting to be signed by the Minister certifying one or more of the following matters is evidence of the matters so certified:
- (a) that on the day specified in the certificate an interstate order was or was not registered;
 - (b) that on the day specified in the certificate a variation of a registered interstate order was or was not registered;
 - (c) that on the day specified in the certificate the registration of a registered interstate order, or the variation of a registered

Animal Welfare Act 1993
Act No. 63 of 1993

Part 7 – Offences

s. 43AAB

interstate order, had or had not taken effect;

- (d) that on the day specified in the certificate the terms set out in the certificate were the terms of a registered interstate order, the terms of a registered variation of such an order or the terms of such an order as varied by a registered variation.

(7) In this section –

corresponding law means a provision of a law of another State or a Territory that relates to animal welfare or the prevention of cruelty to animals and that the Minister accepts to be a corresponding law for the purposes of this section;

interstate Minister means the Minister in another State or a Territory who is responsible for the administration of a corresponding law;

interstate order means an order of a court made in another State or a Territory under a corresponding law;

registration, in relation to an interstate order or the variation of a registered interstate order, means the recording of the interstate order or variation in the register.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 43A

Part 7A – Infringement notices

PART 7A – INFRINGEMENT NOTICES

43A. Service of infringement notices

- (1) An officer may serve an infringement notice on a person if the officer is of the opinion that the person has committed an offence under this Act or the regulations.
- (2) An infringement notice is not to be served on a person who has not attained the age of 18 years.
- (3) An infringement notice is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*.

43B - 43I.

PART 8 – MISCELLANEOUS

44. Delegation by Minister

The Minister may delegate any of his or her powers under this Act other than this power of delegation.

44A. Animal welfare standards

The regulations may prescribe standards which must be followed in the care and management of animals.

44B. Animal welfare guidelines

- (1) The Minister, after consultation with the Advisory Committee, may approve guidelines on animal welfare.
- (2) Animal welfare guidelines are to include guidelines for the education and guidance of persons involved in the care and management of animals.

44C. Officers and inspectors to produce identification

- (1) If –
 - (a) an officer or inspector is performing or exercising any functions or powers at premises; and
 - (b) a person who is affected or likely to be affected, or is in charge of the premises,

Animal Welfare Act 1993
Act No. 63 of 1993

s. 45

Part 8 – Miscellaneous

requests that the officer or inspector produce identification –

the officer or inspector must produce his or her identification as an officer or inspector.

- (2) If an officer or inspector cannot immediately comply with the request of a person under subsection (1), the officer or inspector –
 - (a) may continue to perform and exercise his or her functions and powers despite his or her inability to immediately comply with the request; and
 - (b) must produce his or her identification, or provide a copy of that identification, to the person within 14 days.

45. Costs and expenses

- (1) A court may make an order in respect of any costs and expenses properly incurred by a person in taking possession of, or keeping, an animal or providing veterinary treatment to an animal in accordance with this Act.
- (1A) An order made under subsection (1) may be made to recover costs and expenses in respect of an animal, whether or not proceedings under this Act, in respect of the animal, have been completed.
- (1B) For the avoidance of doubt, more than one order may be made under subsection (1) in respect of an animal, if –

Animal Welfare Act 1993
Act No. 63 of 1993

Part 8 – Miscellaneous

s. 46

- (a) additional costs and expenses are reasonably incurred in respect of the animal after an order under subsection (1) has already been made in respect of that animal; and
 - (b) those additional costs and expenses are not covered by an existing order under subsection (1).
- (2) Any costs and expenses properly incurred by a person in exercising a power or performing a duty conferred or imposed by this Act in respect of an animal or conveyance, and not otherwise recovered, is a debt due to that person from the owner of the animal or conveyance.
- (3) In this section, a reference to a person includes a reference to the Crown.

46. Disbursement of proceeds of sale

The proceeds of the sale of any animal or conveyance sold pursuant to an order or direction of a magistrate or court made under section 20, 21 or 22 are to be used –

- (a) firstly, to pay any unpaid monetary penalty imposed by the magistrate or court in respect of an offence under this Act in respect of the animal; and
- (b) secondly, to pay the costs and expenses connected with selling the animal or conveyance; and

Animal Welfare Act 1993
Act No. 63 of 1993

s. 47

Part 8 – Miscellaneous

- (c) thirdly, to pay the costs and expenses connected with taking possession of the animal or conveyance and detaining it; and
- (d) fourthly, to pay the costs and expenses connected with any veterinary treatment given to the animal; and
- (e) fifthly, to reimburse the person who owned the animal or conveyance immediately before its sale.

47. Animal Welfare Trust Account

- (1) There is established in the Public Account an account to be called the Animal Welfare Trust Account.
- (2) There is to be paid into the Animal Welfare Trust Account –
 - (a) any money or proceeds of the realization of any property given to the State for the purposes of animal welfare; and
 - (b) any interest arising from the investment of such money or proceeds; and
 - (c) any pecuniary penalties recovered under this Act.
- (3) Any money standing to the credit of the Animal Welfare Trust Account may be applied by the Minister, after consultation with the Advisory Committee, for purposes of animal welfare.

48. Immunity from action

Any action or proceeding does not lie against –

- (a) a person acting in good faith –
 - (i) who is exercising or who reasonably believes is exercising a power or performing a function conferred or imposed on that person by this Act; or
 - (ii) in accordance with any instructions of an officer or inspector; or
- (b) a society, or a member or officer of a society, in respect of anything done in accordance with paragraph (a).

48A. Liability of employer or body corporate

- (1) If an employee is charged with an offence under this Act and the employee proves to the satisfaction of a court that he or she was acting on the instructions of his or her employer, the court may –
 - (a) while continuing to hear the proceedings against the employee, order the employer to appear and answer the charge as if the employer had also been charged with the offence; or
 - (b) dismiss the charge against the employee and order the employer to appear and

Animal Welfare Act 1993
Act No. 63 of 1993

s. 48A

Part 8 – Miscellaneous

answer the charge as if the employer had been charged with the offence; or

- (c) continue to hear the proceedings against the employee and take no further action in respect of the employer; or
 - (d) dismiss the charge against the employee and take no further action in respect of the charge.
- (2) If a body corporate commits an offence against this Act –
- (a) each person concerned in the management of the body corporate is taken to have also committed the offence and may be convicted of the offence unless the person shows that –
 - (i) the act or omission constituting the offence took place without the person's knowledge or consent; or
 - (ii) the person used all due diligence to prevent the act or omission by the body corporate; and
 - (b) the obligations of the body corporate under this Act are not dissolved by the dissolution of the body corporate, or by the body corporate becoming an externally administered body corporate within the meaning of the Corporations Act, after the day the offence took place.

Animal Welfare Act 1993
Act No. 63 of 1993

Part 8 – Miscellaneous

s. 48B

48B. Evidentiary matters

- (1) In any legal proceedings under this Act, a document purporting to be a report signed by a veterinary surgeon is taken to be evidence of the particulars contained in the report in the absence of evidence to the contrary.
- (2) In any legal proceedings under this Act, a certificate purporting to be signed by the Minister certifying one or more of the following matters is evidence of the matters so certified:
 - (a) that on a day specified in the certificate an animal was or was not entered in the register maintained under section 8A;
 - (b) that on a day specified in the certificate an injurious drug or a toxic or noxious substance was entered in that register in respect of the control of an animal entered in that register.
- (3) In any legal proceedings under this Act, an inspector or officer is taken to have been validly appointed as inspector or officer in the absence of evidence to the contrary.

48C. Limitation period for offences

- (1) Proceedings for an offence against section 9 or 10 may be commenced within 5 years after the day on which the offence is alleged to have been committed.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 48D

Part 8 – Miscellaneous

- (2) Proceedings for an offence against any other provision of this Act may be commenced within 2 years after the day on which the offence is alleged to have been committed.

48D. Continuing offences

- (1) A person who commits a continuing offence against this Act is liable, in addition to the penalty otherwise prescribed, to a further penalty, not exceeding one-fifth of the maximum penalty otherwise prescribed, for each day during which the offence continues.
- (2) For the purposes of this section, an obligation to do an act continues until the act is done, notwithstanding that any period within which, or time before which, the act is required to be done has ended or passed.

48E. Additional orders on conviction

- (1) In addition to any other sentence that a court may impose in respect of a person convicted of an offence under this Act, the court may make an order requiring the person to –
 - (a) undertake a program of counselling or treatment specified in the order; or
 - (b) complete the training or program specified in the order.
- (2) Before making an order under subsection (1), the court may –

Animal Welfare Act 1993
Act No. 63 of 1993

Part 8 – Miscellaneous

s. 49

- (a) make an order requiring the person to submit to a psychological assessment, or other form of assessment, that the court considers relevant; and
- (b) consider the assessment, and any recommendations made as a result of the assessment, when making an order under subsection (1).

49. Proclamation of society

The Governor may, by proclamation, declare any society that has aims and objectives similar to those of the Royal Society for the Prevention of Cruelty to Animals to be a society for the purposes of this Act.

50. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the Governor may make regulations in relation to –
 - (a) the keeping, treatment, handling, transportation, sale, injuring, killing, taking, care, use, husbandry or management of any animal or class or kind of animal; and
 - (b) the types of animal research that may be carried out.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 50

Part 8 – Miscellaneous

- (3) Regulations made under this section may provide that any provision of this Act does not apply to any specified animal or class or kind of animal, matter, practice or person.
- (4) Regulations may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method issued, formulated, prescribed, adopted or published by any authority or body as in force at a particular date.
- (5) Regulations may be made subject to conditions or so as to apply differently according to matters, limitations or restrictions specified in the regulations.
- (6) A regulation under this section may authorise any matter or thing to be from time to time determined, applied or regulated by any person specified in the regulations.
- (7) The regulations may –
 - (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence –
 - (i) in the case of an offence by a body corporate, provide for the imposition of a fine not exceeding 100 penalty units and, if the offence is a continuing offence, a further fine not exceeding 20 penalty units for

Animal Welfare Act 1993
Act No. 63 of 1993

Part 8 – Miscellaneous

s. 51

each day during which the offence continues; or

- (ii) in the case of an offence by a natural person, provide for the imposition of a fine not exceeding 50 penalty units and, if the offence is a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.

51. Repeal

The *Cruelty to Animals Prevention Act 1925* is repealed.

52. Transitional provisions

- (1) A society which, immediately before the commencement of this Act, was a society for the purposes of the *Cruelty to Animals Prevention Act 1925* by virtue of a proclamation under section 3 of that Act, is, on that commencement, taken to be a society under section 49 of this Act.
- (2) A person (other than a police officer) who, immediately before the commencement of this Act, was an officer appointed for the purposes of the *Cruelty to Animals Prevention Act 1925* is, on that commencement, taken to be an officer appointed under section 13 of this Act for a period of 12 months.

Animal Welfare Act 1993
Act No. 63 of 1993

s. 53

Part 8 – Miscellaneous

53. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Primary Industry and Fisheries; and
- (b) the Department responsible to the Minister for Primary Industry and Fisheries in relation to the administration of this Act is the Department of Primary Industry and Fisheries.

**SCHEDULE 1 – PROVISIONS WITH RESPECT TO
MEMBERS OF ADVISORY COMMITTEE**

Section 39(7)

1. Interpretation

In this Schedule, *member* means a member of the Advisory Committee or the deputy of a member.

2. Term of office

A member other than a member referred to in section 39(1)(b) or (c) is to be appointed for such period, not exceeding 3 years, as is specified in the member's instrument of appointment.

3. Holding other office

The holder of an office who is required under any Act to devote the whole of his or her time to the duties of that office is not disqualified from –

- (a) holding that office and also the office of a member; or
- (b) accepting any remuneration payable to a member.

4. Remuneration of members

A member is entitled to be paid such remuneration (including travelling and

Animal Welfare Act 1993
Act No. 63 of 1993

sch. 1

subsistence allowances) as the Minister determines.

5. Vacation of office

- (1) A member vacates office if he or she –
 - (a) dies; or
 - (b) resigns; or
 - (c) is removed from office under subclause (2), (3) or (4).

- (2) The Minister may remove a member from office if the member –
 - (a) is absent from 2 consecutive meetings of the Advisory Committee without the permission of the other members of the Advisory Committee; or
 - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
 - (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for 12 months or longer; or
 - (d) is convicted of an offence against this Act.

Animal Welfare Act 1993
Act No. 63 of 1993

sch. 1

- (3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.
- (4) The Minister may remove a member from office if –
 - (a) satisfied, having regard to the information supplied by the body which nominated that member, that the member is no longer qualified to be a member of the Advisory Committee; or
 - (b) that body recommends the removal of that member.
- (5) The appointment of any deputy of a member terminates if that member is removed from office pursuant to subclause (4).

6. Filling of vacancies

If the office of a member becomes vacant, the Minister may appoint a person to the vacant office for the remainder of that member's term of office.

7. Validity of proceedings

- (1) An act or proceeding of the Advisory Committee or of a person acting under the direction of the Advisory Committee is not invalid by reason only that at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the membership of the Advisory Committee.

Animal Welfare Act 1993
Act No. 63 of 1993

sch. 1

- (2) An act or proceeding of the Advisory Committee or of a person acting under the direction of the Advisory Committee is valid and has effect, even if –
- (a) the appointment of a member of the Advisory Committee was defective; or
 - (b) a person appointed as a member of the Advisory Committee was disqualified from acting as, or incapable of being, such a member.

8. Presumptions

In any proceedings by or against the Advisory Committee, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Advisory Committee; or
- (b) any resolution of the Advisory Committee; or
- (c) the appointment of any member; or
- (d) the presence of a quorum at any meeting of the Advisory Committee.

**SCHEDULE 2 – PROVISIONS WITH RESPECT TO
MEETINGS OF ADVISORY COMMITTEE**

Section 39(8)

1. Interpretation

In this Schedule, *member* means a member of the Advisory Committee or the deputy of a member.

2. Convening of meetings of Advisory Committee

A meeting of the Advisory Committee may be convened by the chairperson or by any 3 members.

3. Procedure at meetings

- (1) The quorum at any duly convened meeting of the Advisory Committee is half the number of the total members plus one member.
- (2) Any duly convened meeting of the Advisory Committee at which a quorum is present is competent to transact any business of the Advisory Committee.
- (3) Questions arising at a meeting of the Advisory Committee are to be determined by a majority of votes of the members present and voting.

Animal Welfare Act 1993
Act No. 63 of 1993

sch. 2

4. Chairperson

- (1) The chairperson of the Advisory Committee or his or her deputy is to preside at all meetings of the Advisory Committee.
- (2) If the chairperson of the Advisory Committee or his or her deputy is not present at a meeting of the Advisory Committee a member elected by the members present is to preside at that meeting.

5. Minutes

The Advisory Committee is to cause full and accurate minutes to be kept of its proceedings at meetings and must submit to the Minister a copy of the minutes of each meeting within 30 days after the date on which the meeting is held.

6. Conduct of meetings

- (1) Subject to this Act, the Advisory Committee may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.
- (2) The Advisory Committee may permit members to participate in a particular meeting, or all meetings, by –
 - (a) telephone; or
 - (b) video conference; or

- (c) any other means of communication approved by the Advisory Committee.
- (3) A member who participates in a meeting under a permission granted under subclause (2) is taken to be present at the meeting.
- (4) Without limiting subclause (1), the Advisory Committee may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

7. Resolution without meetings

- (1) If the majority of members appointed sign a document containing a statement that they are in favour of a resolution of a matter in the terms set out in the document, a resolution in those terms is taken to have been passed at a meeting of the Advisory Committee held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last of the members signs the document.
- (2) If a resolution is taken to have been passed under subclause (1), each member is to be –
 - (a) advised immediately of the resolution; and
 - (b) given a copy of the terms of the resolution.
- (3) For the purposes of subclause (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one

Animal Welfare Act 1993
Act No. 63 of 1993

sch. 2

or more members, is taken to constitute one document.

Animal Welfare Act 1993
Act No. 63 of 1993

sch. 2

NOTES

The foregoing text of the *Animal Welfare Act 1993* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 30 November 2022 are not specifically referred to in the following table of amendments.

| Act | Number and year | Date of commencement |
|---|-----------------|----------------------------------|
| <i>Animal Welfare Act 1993</i> | No. 63 of 1993 | 27.10.1993 (all except Pt. 4) |
| <i>Animal Welfare Amendment Act 1995</i> | No. 94 of 1995 | 24.11.1995 |
| <i>Animal Welfare Act 1993</i> | No. 63 of 1993 | 1.4.1996 (remaining) |
| <i>Marine Resources (Consequential Amendments) Act 1995</i> | No. 18 of 1995 | 31.5.1996 |
| <i>Animal Welfare Amendment Act 2002</i> | No. 13 of 2002 | 25.6.2002 |
| <i>Magistrates Court (Administrative Appeals Division) (Consequential Amendments) Act 2001</i> | No. 73 of 2001 | 1.7.2002 |
| <i>National Parks and Wildlife Separation (Consequential Amendments) Act 2002</i> | No. 64 of 2002 | 31.12.2002 |
| <i>Police Service (Consequential Amendments) Act 2003</i> | No. 76 of 2003 | 1.1.2004 |
| <i>Racing Regulation (Transitional and Consequential Provisions) Act 2004</i> | No. 64 of 2004 | 1.1.2005 |
| <i>Animal Welfare Amendment Act 2008</i> | No. 26 of 2008 | 27.4.2008 |
| <i>Monetary Penalties Enforcement (Transitional Arrangements and Consequential Amendments) Act 2007</i> | No. 72 of 2007 | 28.4.2008 |
| <i>Animal Welfare Amendment Act 2008</i> | No. 26 of 2008 | 29.7.2008 |
| <i>Animal Welfare Amendment Act 2012</i> | No. 8 of 2012 | 8.5.2012 |
| <i>Animal Welfare Amendment Act 2015</i> | No. 18 of 2015 | 24.6.2015 |
| <i>Financial Management (Consequential and Transitional Provisions) Act 2017</i> | No. 4 of 2017 | 1.7.2019 |
| <i>Animal Welfare Amendment Act 2022</i> | No. 36 of 2022 | 30.11.2022 |
| <i>Biosecurity (Consequential and Transitional Provisions) Act 2020</i> | No. 18 of 2020 | not commenced |

Animal Welfare Act 1993
Act No. 63 of 1993

sch. 2

TABLE OF AMENDMENTS

| Provision affected | How affected |
|--------------------|---|
| Section 3 | Amended by No. 94 of 1995, s. 4, No. 76 of 2003, Sched. 1, No. 26 of 2008, s. 4 and No. 36 of 2022, s. 4 |
| Section 3A | Inserted by No. 26 of 2008, s. 5 |
| Section 4 | Amended by No. 36 of 2022, s. 5 |
| Section 7 | Amended by No. 13 of 2002, s. 4 |
| Section 8 | Amended by No. 13 of 2002, s. 5, No. 26 of 2008, s. 6 and No. 18 of 2015, s. 6 |
| Section 8A | Amended by No. 13 of 2002, s. 6, No. 26 of 2008, s. 7 and No. 36 of 2022, s. 6 |
| Section 9 | Inserted by No. 26 of 2008, s. 8 |
| Section 10 | Amended by No. 13 of 2002, s. 7, No. 26 of 2008, s. 9 |
| Section 11 | Substituted by No. 18 of 2015, s. 7 |
| Section 11A | Amended by No. 36 of 2022, s. 7 |
| Section 11B | Amended by No. 13 of 2002, s. 8 and No. 26 of 2008, s. 10 |
| Section 12 | Amended by No. 13 of 2002, s. 9 and No. 18 of 2015, s. 8 |
| Section 13 | Inserted by No. 26 of 2008, s. 11 |
| Section 13A | Amended by No. 18 of 2015, s. 9 |
| Section 14 | Inserted by No. 26 of 2008, s. 11 |
| Section 16 | Amended by No. 18 of 1995, s. 3 and Sched. 1, No. 64 of 2002, Sched. 1, No. 26 of 2008, s. 12 and No. 18 of 2015, s. 10 |
| Section 16A | Substituted by No. 18 of 2015, s. 11 |
| Section 17 | Inserted by No. 26 of 2008, s. 13 |
| Section 21A | Amended by No. 26 of 2008, s. 14 and No. 18 of 2015, s. 12 |
| Section 24 | Amended by No. 94 of 1995, s. 5, No. 13 of 2002, s. 10, No. 26 of 2008, s. 15, No. 18 of 2015, s. 13 and No. 36 of 2022, s. 8 |
| Section 25 | Inserted by No. 13 of 2002, s. 11 |
| Section 26 | Amended by No. 36 of 2022, s. 9 |
| Section 26A | Inserted by No. 36 of 2022, s. 10 |
| Section 26B | Inserted by No. 13 of 2002, s. 12 |
| Section 27 | Amended by No. 18 of 2015, s. 14 |
| Section 27 | Amended by No. 13 of 2002, s. 13 and No. 36 of 2022, s. 11 |
| Section 27 | Amended by No. 13 of 2002, s. 14 and No. 64 of 2004, Sched. 1 |
| Section 27 | Substituted by No. 26 of 2008, s. 16 |
| Section 27 | Amended by No. 18 of 2015, s. 15 and No. 36 of 2022, s. 12 |
| Section 27 | Inserted by No. 18 of 2015, s. 16 |
| Section 27 | Inserted by No. 18 of 2015, s. 16 |
| Section 27 | Amended by No. 94 of 1995, s. 6, No. 18 of 2015, s. 17 and No. 36 of 2022, s. 13 |

Animal Welfare Act 1993
Act No. 63 of 1993

sch. 2

| Provision affected | How affected |
|--------------------|---|
| Section 30 | Amended by No. 26 of 2008, s. 17 and No. 18 of 2015, s. 18 |
| Section 31 | Amended by No. 73 of 2001, Sched. 1 |
| Section 32 | Amended by No. 73 of 2001, Sched. 1 and No. 26 of 2008, s. 18 |
| Section 33 | Substituted by No. 73 of 2001, Sched. 1 |
| Section 35 | Amended by No. 26 of 2008, s. 19 |
| Section 38 | Amended by No. 94 of 1995, s. 7 |
| Section 39 | Amended by No. 64 of 2002, Sched. 1, No. 76 of 2003, Sched. 1, No. 26 of 2008, s. 20, No. 8 of 2012, s. 4 and No. 18 of 2015, s. 19 |
| Section 40 | Amended by No. 26 of 2008, s. 21 |
| Section 41 | Amended by No. 13 of 2002, s. 15 and No. 18 of 2015, s. 20 |
| Section 41A | Inserted by No. 13 of 2002, s. 16 Amended by No. 18 of 2015, s. 21 |
| Section 41B | Inserted by No. 36 of 2022, s. 14 |
| Section 42 | Amended by No. 13 of 2002, s. 17 and No. 18 of 2015, s. 22 |
| Section 43 | Amended by No. 13 of 2002, s. 18 and No. 18 of 2015, s. 23 |
| Section 43AA | Inserted by No. 26 of 2008, s. 22 |
| Section 43AAB | Inserted by No. 26 of 2008, s. 22 |
| Section 43A | Amended by No. 72 of 2007, Sched. 1 Inserted by No. 26 of 2008, s. 23 |
| Section 43B | Repealed by No. 72 of 2007, Sched. 1 Inserted by No. 26 of 2008, s. 23 |
| Section 43C | Repealed by No. 72 of 2007, Sched. 1 Inserted by No. 26 of 2008, s. 23 |
| Section 43D | Repealed by No. 72 of 2007, Sched. 1 Inserted by No. 26 of 2008, s. 23 |
| Section 43E | Repealed by No. 72 of 2007, Sched. 1 Inserted by No. 26 of 2008, s. 23 |
| Section 43F | Repealed by No. 72 of 2007, Sched. 1 Inserted by No. 26 of 2008, s. 23 |
| Section 43G | Repealed by No. 72 of 2007, Sched. 1 Inserted by No. 26 of 2008, s. 23 |
| Section 43H | Repealed by No. 72 of 2007, Sched. 1 Inserted by No. 26 of 2008, s. 23 |
| Section 43I | Repealed by No. 72 of 2007, Sched. 1 Inserted by No. 26 of 2008, s. 23 |
| Section 44 | Substituted by No. 26 of 2008, s. 24 |
| Section 44A | Inserted by No. 26 of 2008, s. 24 |
| Section 44B | Inserted by No. 26 of 2008, s. 24 |
| Section 44C | Inserted by No. 26 of 2008, s. 24 |
| Section 45 | Amended by No. 36 of 2022, s. 15 |
| Section 47 | Amended by No. 4 of 2017, Sched. 1 |
| Section 48 | Amended by No. 26 of 2008, s. 25 |

Animal Welfare Act 1993
Act No. 63 of 1993

sch. 2

| Provision affected | How affected |
|--------------------|---|
| Section 48A | Inserted by No. 26 of 2008, s. 26 |
| Section 48B | Inserted by No. 26 of 2008, s. 26 |
| Section 48C | Inserted by No. 26 of 2008, s. 26 |
| Section 48D | Inserted by No. 18 of 2015, s. 24 |
| Section 48E | Inserted by No. 18 of 2015, s. 24 |
| Section 50 | Amended by No. 26 of 2008, s. 27 |
| Schedule 2 | Amended by No. 94 of 1995, s. 8 and No. 18 of 2015, s. 25 |