

**Reprint  
as at 8 September 2018**



## **Animal Welfare Act 1999**

Public Act	1999 No 142
Date of assent	14 October 1999
Commencement	see section 1(2)

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#### **Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry for Primary Industries.**

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**An Act—**

- (a) to reform the law relating to the welfare of animals and the prevention of their ill-treatment; and, in particular,—
- (i) to recognise that animals are sentient:
  - (ia) to require owners of animals, and persons in charge of animals, to attend properly to the welfare of those animals:
  - (ii) to specify conduct that is or is not permissible in relation to any animal or class of animals:
  - (iii) to provide a process for approving the use of animals in research, testing, and teaching:
  - (iv) to establish a National Animal Welfare Advisory Committee and a National Animal Ethics Advisory Committee:
  - (v) to provide for the development and issue of codes of welfare and the approval of codes of ethical conduct:
- (b) to repeal the **Animals Protection Act 1960**

Title paragraph (a)(i): replaced, on 10 May 2015, by section 4 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Title paragraph (a)(ia): inserted, on 10 May 2015, by section 4 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**1 Short Title and commencement**

- (1) This Act may be cited as the Animal Welfare Act 1999.
- (2) This Act comes into force on 1 January 2000.

**2 Interpretation**

- (1) In this Act, unless the context otherwise requires,—
  - accredited reviewer** means a person accredited under section 109 to carry out independent reviews under section 105
  - aircraft** has the meaning given to it by section 2 of the Civil Aviation Act 1990
  - animal—**
    - (a) means any live member of the animal kingdom that is—
      - (i) a mammal; or
      - (ii) a bird; or

- (iii) a reptile; or
  - (iv) an amphibian; or
  - (v) a fish (bony or cartilaginous); or
  - (vi) any octopus, squid, crab, lobster, or crayfish (including freshwater crayfish); or
  - (vii) any other member of the animal kingdom which is declared from time to time by the Governor-General, by Order in Council, to be an animal for the purposes of this Act; and
- (b) includes any mammalian foetus, or any avian or reptilian pre-hatched young, that is in the last half of its period of gestation or development; and
- (c) includes any marsupial pouch young; but
- (d) does not include—
- (i) a human being; or
  - (ii) except as provided in paragraph (b) or paragraph (c), any animal in the pre-natal, pre-hatched, larval, or other such developmental stage

**animal establishment** means a place at which animals are used or held in the charge of any person, and which has, as its principal purpose, the using or holding of animals for display, sport, entertainment, temporary care, sale, conservation, scientific study, or other activity

**animal welfare export certificate** means an animal welfare export certificate issued under section 46

**appointed member** means,—

- (a) in relation to the National Animal Welfare Advisory Committee, a member of the Committee who is appointed under section 58(2)(a) or section 58(2)(b); and
- (b) in relation to the National Animal Ethics Advisory Committee, any member of the Committee

**approved organisation** means an organisation declared, under section 121, to be an approved organisation for the purposes of this Act

**associated animal** means, in relation to an animal that is manipulated, an animal that—

- (a) is of the same species and is from the same flock, herd, or other group as the animal that is manipulated; and
- (b) is in the immediate care of the veterinarian who carries out the manipulation

**auxiliary officer** means an auxiliary officer appointed under section 125

**blistering**, in relation to a horse, means a procedure which involves the application of chemical cautery to the legs of the horse and which creates tissue damage to, or an inflammatory reaction in, the legs of the horse

**code holder**, in relation to a code of ethical conduct, means—

- (a) the person who, by virtue of an application under section 87, obtained the Director-General's approval of that code; or
- (b) where the approval of that code has, with the consent of the Director-General, been transferred under section 93(1) to any other person, that other person

**code of welfare** means a code of welfare issued under section 75

**controlled surgical procedure** means—

- (a) the de velvetting of a deer; or
- (b) any other surgical procedure which is performed on an animal and which is, under section 16, declared to be a controlled surgical procedure

**cosmetic**—

- (a) means any finished product that is used or represented for use for the primary purpose of cleansing, improving the attractiveness of, changing the appearance of, perfuming, moisturising, or deodorising the skin, hair, nails, or other external parts of the human body, human teeth, or the mucous membranes of the human mouth, whether or not the product is or contains any substance, mixture of substances, or thing; and
- (b) includes any substance, mixture of substances, or thing declared to be a cosmetic by regulations made for that purpose under section 183; but
- (c) does not include—
  - (i) a medicine, as defined in section 3 of the Medicines Act 1981; or
  - (ii) a medical device, as defined in section 3A of that Act; or
  - (iii) a related product, as defined in section 94 of that Act; or
  - (iv) an agricultural compound or a veterinary medicine, as those terms are defined in section 2(1) of the Agricultural Compounds and Veterinary Medicines Act 1997; or
  - (v) a food, as defined in section 9 of the Food Act 2014 or a drink within the meaning of that section; or
  - (vi) toothpaste; or
  - (vii) any substance, mixture of substances, or thing declared not to be a cosmetic by regulations made for that purpose under section 183

**crops**, in relation to the ears of a dog, means the performance on the pinnae of the ears of the dog of a surgical procedure that is designed to make the ears of the dog stand upright

**device** means any explosive (not being a firearm as defined in section 2 of the Arms Act 1983), incendiary device, or electrical or electronic thing (not being a trap) that is used for the purpose of killing, managing, entrapping, capturing, entangling, restraining, or immobilising an animal; and includes any contraption, process, or thing that is declared by the Governor-General by Order in Council, made on the recommendation of the Minister after consultation in accordance with section 184, to be a device for the purposes of this Act

**Director-General** means the chief executive of the Ministry

**enforcement order** means an enforcement order made under section 144; and includes an enforcement order made without notice in accordance with section 148

**firing**, in relation to a horse, means a procedure which involves the application of thermal cautery to the legs of the horse and which creates tissue damage to, or an inflammatory reaction in, the legs of the horse

**hunt or kill**, in relation to animals, includes—

- (a) hunting, fishing, or searching for any animal and killing, taking, catching, trapping, capturing, tranquilising, or immobilising any animal by any means:
- (b) pursuing or disturbing any animal;—

and **hunting or killing** has a corresponding meaning

**ill-treat**, in relation to an animal, means causing the animal to suffer, by any act or omission, pain or distress that in its kind or degree, or in its object, or in the circumstances in which it is inflicted, is unreasonable or unnecessary

**infringement offence** means—

- (a) an offence against section 36(3):
- (b) any other offence created by or under this Act that is declared by regulations made under this Act to be an infringement offence for the purposes of this Act

**inspector** means an inspector appointed under section 124(1) or section 124(2); and includes every constable

**manipulation**, in relation to an animal, has the meaning given to it by section 3

**marae**—

- (a) means—
  - (i) land which is set apart for the purposes of a marae or meeting place under section 338 or section 341 of Te Ture Whenua Maori Act 1993 (Maori Land Act 1993) or any corresponding former provision and which is used for the purposes for which it is set apart; or
  - (ii) Maori freehold land on which a Maori meeting house is erected; and

- (b) includes all buildings, such as the wharenuī (meeting house), the wharekai (dining room), the ablution blocks, and other associated buildings, situated on, or adjacent to, land of the kind described in paragraph (a)(i) or paragraph (a)(ii) and used for the purposes for which the land is so set apart

**marine mammal** has the meaning given to it by section 2(1) of the Marine Mammals Protection Act 1978

**marine wildlife** has the meaning given to it by section 2(1) of the Wildlife Act 1953

**marking**, in relation to an animal, means—

- (a) marking that animal by any method for the purpose of distinguishing that animal or animals of that type from others; and
- (b) includes affixing or applying to, or implanting in, that animal, for the purpose of distinguishing that animal or animals of that type from others, any band, ring, clip, tag, electronic identification device, or paint, or any other thing

**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**Ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**National Animal Ethics Advisory Committee** means the National Animal Ethics Advisory Committee established by section 62

**National Animal Welfare Advisory Committee** means the National Animal Welfare Advisory Committee established by section 56

**nicking**, in relation to a horse, means the cutting of the skin or ligaments of the tail of the horse, being a cutting that is designed to make the horse carry its tail in a raised position

**non-human hominid** means any non-human member of the family Homini-*dae*, being a gorilla, chimpanzee, bonobo, or orangutan

**owner**, in relation to an animal, includes the parent or guardian of a person under the age of 16 years who—

- (a) owns the animal; and
- (b) is a member of the parent's or guardian's household living with and dependent on the parent or guardian

**person** includes a corporation sole, and also a body of persons, whether corporate or unincorporate

**person in charge**, in relation to an animal, includes a person who has the animal in that person's possession or custody, or under that person's care, control, or supervision

**pest** means—

- (a) any animal in a wild state that, subject to subsection (2), the Minister of Conservation declares, by notice in the *Gazette*, to be a pest for the purposes of this Act:
- (b) any member of the family Mustelidae (except where held under a licence under regulations made under the Wildlife Act 1953):
- (c) any feral cat:
- (d) any feral dog:
- (e) any feral rodent:
- (f) any feral rabbit:
- (g) any feral hare:
- (h) any grass carp:
- (i) any koi or European carp:
- (j) any silver carp:
- (k) any mosquito fish:
- (l) any animal in a wild state that is a pest or unwanted organism within the meaning of the Biosecurity Act 1993

**physical, health, and behavioural needs**, in relation to an animal, has the meaning given to it by section 4

**prohibited device** means a device declared under section 32(1)(a) to be a prohibited device for the purposes of this Act

**prohibited trap** means a trap declared under section 32(1)(a) to be a prohibited trap for the purposes of this Act

**project** means—

- (a) any experiment, or series of related experiments, forming a discrete piece of research; or
- (b) a protocol for the carrying out of routine manipulations within a specified period; or
- (c) any experiment or demonstration, or series of related experiments or demonstrations, undertaken for teaching purposes

**research, testing, and teaching** has the meaning given to it by section 5

**restricted surgical procedure** means—

- (a) the debarking of a dog (the performance on the vocal chords of a dog of a surgical procedure intended to reduce the noise the dog is capable of emitting); or
- (b) the declawing of a cat (the removal from the foot of a cat by a surgical procedure of the whole or part of 1 or more of the claws of the cat); or
- (c) the docking of the tail of a horse; or

(d) any surgical procedure which is performed on an animal and which is, under section 16, declared to be a restricted surgical procedure

**road** includes any motorway, street, private road, access way, private way, or service lane, and every bridge, culvert, ford, gate, or other thing belonging to any road

**safari park** has the meaning given to it by section 2(1) of the Wild Animal Control Act 1977

**ship** has the meaning given to it by section 2(1) of the Maritime Transport Act 1994

**significant surgical procedure** has the meaning given to it by section 6

**substance**, in relation to any cosmetic, has the same meaning as in section 2(1) of the Medicines Act 1981

**territorial authority** means a territorial authority within the meaning of the Local Government Act 2002

**threatened species** has the meaning given to it by section 2(1) of the Biosecurity Act 1993

**trap**—

(a) means a net, cage, snare, pen, pitfall, or mechanical or adhesive thing used for the purpose of killing, entrapping, capturing, entangling, restraining, or immobilising an animal; and

(b) includes any contraption, process, or thing that is declared by the Governor-General by Order in Council, made on the recommendation of the Minister after consultation in accordance with section 184, to be a trap for the purposes of this Act; but

(c) does not include—

(i) any fenced area of land or other effective enclosure used for handling, herding, or mustering an animal; or

(ii) any animal housing system used routinely or commonly in farm or other animal production systems; or

(iii) any enclosure, such as a cage, that is being used for transporting an animal; or

(iv) a firearm

**vehicle** has the meaning given to it by section 2(1) of the Land Transport Act 1998

**veterinarian** means a veterinarian or a specialist within the meaning of section 4 of the Veterinarians Act 2005

**wild animal** has the meaning given to it by section 2(1) of the Wild Animal Control Act 1977



**working day** means any day except—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and
  - (ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
  - (b) a day in the period commencing on 20 December in any year and ending with 15 January in the following year.
- (2) The Minister of Conservation must not declare an animal to be a pest for the purposes of this Act unless he or she is of the opinion that the fulfilling of responsibilities or functions of the Director-General of Conservation or the Minister of Conservation or the Department of Conservation under—
- (a) the Conservation Act 1987; or
  - (b) any Act listed in Schedule 1 of the Conservation Act 1987; or
  - (c) any other Act or regulations—
- requires the declaration to be made.
- (3) Any notice under this section declaring an animal to be a pest for the purposes of this Act may be at any time amended or revoked by the Minister of Conservation by a subsequent notice published in the *Gazette*.

Compare: 1960 No 30 ss 2, 3(2)(ii); 1971 No 48 s 2; 1983 No 141 s 2; 1987 No 20 s 2

Section 2(1) **cosmetic**: inserted, on 10 May 2015, by section 5(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 2(1) **device**: amended, on 10 May 2015, by section 5(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 2(1) **device**: amended, on 19 December 2002, by section 3(1) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 2(1) **infringement offence**: replaced, on 10 May 2015, by section 5(4) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 2(1) **inspector**: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 2(1) **substance**: inserted, on 10 May 2015, by section 5(7) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 2(1) **territorial authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **trap**: substituted, on 19 December 2002, by section 3(2) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 2(1) **veterinarian**: substituted, on 22 December 2005, by section 105 of the Veterinarians Act 2005 (2005 No 126).

Section 2(1) **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

### 3 Definition of manipulation

- (1) In this Act, unless the context otherwise requires, the term **manipulation**, in relation to an animal, means, subject to subsections (1A) to (3), interfering with

the normal physiological, behavioural, or anatomical integrity of the animal by deliberately—

- (a) subjecting it to a procedure which is unusual or abnormal when compared with that to which animals of that type would be subjected under normal management or practice and which involves—
  - (i) exposing the animal to any parasite, micro-organism, drug, chemical, biological product, radiation, electrical stimulation, or environmental condition; or
  - (ii) enforced activity, restraint, nutrition, or surgical intervention; or
- (b) depriving the animal of usual care;—

and **manipulating** has a corresponding meaning.

- (1A) The term defined by subsection (1) includes the killing of an animal (other than an animal in a wild state) for the purpose of interfering with the animal's body or its tissues in a manner specified in that subsection.
- (1B) The term defined by subsection (1) also includes the breeding or production of an animal using any breeding technique (including genetic modification) that may result in the birth or production of an animal that is more susceptible to, or at greater risk of, pain or distress during its life as a result of the breeding or production.
- (2) The term defined by subsection (1) does not include—
  - (a) any therapy or prophylaxis necessary or desirable for the welfare of an animal; or
  - (b) the killing of an animal by the owner or person in charge as the end point of research, testing, or teaching if the animal is killed in such a manner that the animal does not suffer unreasonable or unnecessary pain or distress; or
  - (c) *[Repealed]*
  - (d) the hunting or killing of any animal in a wild state by a method that is not an experimental method; or
  - (e) any procedure that the Minister declares, under subsection (3), not to be a manipulation for the purposes of this Act.
- (2A) Subsection (1A) does not apply to any killing of an animal that is carried out by any person—
  - (a) while exercising powers under the Biosecurity Act 1993 for the purposes specified in section 121(1A) of that Act; or
  - (b) while exercising powers or performing functions for the purposes of a response activity carried out under the Biosecurity Act 1993, being an activity undertaken after any event described in subsection (2B) and for any purpose described in subsection (2C).
- (2B) The events concerned are—

- (a) the detection of an unwanted organism not previously known to be present in New Zealand:
  - (b) the appearance of different effects of an unwanted organism known to be present in New Zealand and capable of being eradicated.
- (2C) The purposes concerned are—
- (a) to investigate the unwanted organism:
  - (b) to minimise the impact of the unwanted organism on natural and physical resources, human health, and overseas market access for New Zealand products:
  - (c) to control the spread of the unwanted organism:
  - (d) to reduce the geographical distribution of the unwanted organism:
  - (e) to eradicate the unwanted organism.
- (3) The Minister may from time to time, after consultation with the National Animal Welfare Advisory Committee and the National Animal Ethics Advisory Committee, declare any procedure, by notice in the *Gazette*, not to be a manipulation for the purposes of this Act.
- (4) The Minister must, in deciding whether to publish a notice under subsection (3) in relation to a procedure, have regard to the following matters:
- (a) the nature of the procedure; and
  - (b) the effect that the performance of the procedure will or may have on an animal's welfare; and
  - (c) the purpose of the procedure; and
  - (d) the extent (if any) to which the procedure is established in New Zealand in relation to the production of animals or commercial products; and
  - (e) the likelihood of managing the procedure adequately by the use of codes of welfare or other instruments under this Act or any other Act; and
  - (f) the consultation conducted under subsection (3); and
  - (g) any other matter considered relevant by the Minister.

Compare: 1960 No 30 s 2; 1983 No 141 s 2

Section 3(1): amended, on 1 January 2018, by section 6(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 3(1A): inserted, on 1 January 2018, by section 6(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 3(1B): inserted, on 1 January 2018, by section 6(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 3(2)(c): repealed, on 1 January 2018, by section 6(4) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 3(2A): inserted, on 1 January 2018, by section 6(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 3(2B): inserted, on 1 January 2018, by section 6(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 3(2C): inserted, on 1 January 2018, by section 6(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### 4 **Definition of physical, health, and behavioural needs**

In this Act, unless the context otherwise requires, the term **physical, health, and behavioural needs**, in relation to an animal, includes—

- (a) proper and sufficient food:
- (ab) proper and sufficient water:
- (b) adequate shelter:
- (c) opportunity to display normal patterns of behaviour:
- (d) physical handling in a manner which minimises the likelihood of unreasonable or unnecessary pain or distress:
- (e) protection from, and rapid diagnosis of, any significant injury or disease,—

being a need which, in each case, is appropriate to the species, environment, and circumstances of the animal.

Compare: 1960 No 30 s 3(b)

Section 4(a): replaced, on 10 May 2015, by section 7 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 4(ab): inserted, on 10 May 2015, by section 7 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### 5 **Definition of research, testing, and teaching**

(1) In this Act, unless the context otherwise requires, the term **research, testing, and teaching** means, subject to subsections (1A) to (4),—

- (a) any work (being investigative work or experimental work or diagnostic work or toxicity testing work or potency testing work) that involves the manipulation of any animal; or
- (b) any work that—
  - (i) is carried out for the purpose of producing antisera or other biological products; and
  - (ii) involves the manipulation of any animal; or
- (c) any teaching that involves the manipulation of any animal; or
- (d) any routine breeding of animals that may result in the birth or production of an animal that is more susceptible to, or at greater risk of, pain or distress during its life, being breeding for the purpose of carrying out any work or teaching of a type specified in paragraphs (a) to (c) on any offspring.

(1A) The term defined by subsection (1) includes any work of a kind described in subsection (1)(a) or (b) carried out on the body or tissues of an animal after the

- animal was killed for the purpose, if the killing of the animal was a manipulation under section 3(1A).
- (1B) A reference in subsection (1) to a manipulation of an animal includes a reference to the act of breeding or producing the animal in a way described in section 3(1B).
- (1C) In applying subsection (1) in relation to a manipulation described in section 3(1B), the reference in subsection (1) to work must be read as a reference to scientific work but does not include normal animal management or practice.
- (2) The term defined by subsection (1) does not include any manipulation that is carried out on any animal that is in the immediate care of a veterinarian, if—
- (a) the veterinarian believes on reasonable grounds that the manipulation will not cause the animal unreasonable or unnecessary pain or distress, or lasting harm; and
  - (b) the manipulation is—
    - (i) for clinical purposes in order to diagnose any disease in the animal or any associated animal; or
    - (ii) for clinical purposes in order to assess the effectiveness of a proposed treatment regime for the animal or any associated animal; or
    - (iii) for the purposes of assessing the characteristics of the animal with a view to maximising the productivity of the animal or any associated animal.
- (2A) Subsection (2)(a) does not apply in relation to a manipulation described in section 3(1A).
- (3) The term defined by subsection (1) does not include any manipulation of an animal—
- (a) which is carried out with the principal objective of—
    - (i) assisting the breeding, marking, capturing, translocation, or trapping of animals of that type; or
    - (ii) weighing or taking measurements from the animal; or
    - (iii) assessing the characteristics of animals of that type; and
  - (b) which is a manipulation of an animal that—
    - (i) is carried out routinely; or
    - (ii) is a minor modification of a manipulation that is carried out routinely; and
  - (c) which is used to fulfill responsibilities and functions under—
    - (i) the Conservation Act 1987; or
    - (ii) any Act listed in Schedule 1 of the Conservation Act 1987; or

- (iii) any other Act or regulations under which the Minister of Conservation or the Director-General of Conservation or the Department of Conservation has responsibilities or functions; or
  - (iv) the Fisheries Act 1996.
- (4) For the purposes of this section, an animal is in the immediate care of a veterinarian if the veterinarian—
- (a) has accepted responsibility for the health and welfare of the animal; and
  - (b) is providing the animal with direct and continuing care.
- (5) In the other sections of this Act (except section 57(a)(i)),—
- (a) the term **research** means any research work that comes within the term defined by subsection (1); and
  - (b) the term **testing** means any testing work that comes within the term defined by subsection (1); and
  - (c) the term **teaching** means any teaching that comes within the term defined by subsection (1).

Section 5(1): amended, on 1 January 2018, by section 8(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 5(1)(c): amended, on 1 January 2018, by section 8(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 5(1)(d): inserted, on 1 January 2018, by section 8(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 5(1A): inserted, on 1 January 2018, by section 8(4) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 5(1B): inserted, on 1 January 2018, by section 8(4) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 5(1C): inserted, on 1 January 2018, by section 8(4) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 5(2A): inserted, on 1 January 2018, by section 8(5) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

## 6 Definition of significant surgical procedure

- (1) In this Act, unless the context otherwise requires, the term **significant surgical procedure** includes, but is not limited to,—
- (a) a restricted surgical procedure; and
  - (b) a controlled surgical procedure; and
  - (c) any other surgical procedure declared under subsection (2) to be a significant surgical procedure for the purposes of this Act.
- (2) The Governor-General may from time to time, by Order in Council made on the advice of the Minister tendered after consultation with the National Animal Welfare Advisory Committee, declare that a surgical procedure is or is not a significant surgical procedure for the purposes of this Act.

- (3) The Governor-General may, by Order in Council made on the advice of the Minister tendered after consultation with the National Animal Welfare Advisory Committee, amend or revoke an Order in Council made under subsection (2).
- (4) The Minister must, in deciding whether or not to recommend the making of an Order in Council under subsection (2) or subsection (3), have regard to the following matters:
  - (a) the nature of the procedure; and
  - (b) the effect that the performance of the procedure will or may have on an animal's welfare; and
  - (c) the purpose of the procedure; and
  - (d) the extent (if any) to which the procedure is established in New Zealand in relation to the production of animals or commercial products; and
  - (e) the likelihood of the procedure being managed adequately by the use of codes of welfare or other instruments under this Act; and
  - (f) the consultation conducted under subsection (2) or subsection (3), as the case may be, and any consultation conducted under section 184(1); and
  - (g) any other matter considered relevant by the Minister.
- (5) The consultation required by section 184(1) is in addition to the consultation required by subsections (2) and (3) of this section.
- (6) The Minister may recommend the making of an Order in Council under subsection (2) only if the Minister is satisfied—
  - (a) that the question whether a surgical procedure is a significant surgical procedure for the purposes of this Act is so uncertain as to require that the uncertainty be removed by the making of an Order in Council under subsection (2); or
  - (b) that the question whether a surgical procedure should or should not be able to be performed on an animal by any person is a matter of public concern and that concern is so great that it needs to be removed by the making of an Order in Council under subsection (2).
- (7) An Order in Council made under this section is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 6(7): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

## **7 Notice of making of Order in Council**

- (1) Where an Order in Council is made under section 6(2) or section 6(3), the Minister must, as soon as practicable after the making of that Order in Council,—

- (a) publish notice of the making of that Order in Council in 1 or more daily newspapers published in the cities of Auckland, Wellington, Christchurch, and Dunedin respectively; and
  - (b) give written notice of the making of that Order in Council to those persons who appear to the Minister to be representative of the classes of persons likely to be affected by the making of that Order in Council; and
  - (c) give such other public notice of the making of that Order in Council as the Minister thinks fit.
- (2) Despite subsection (1), the publication in accordance with the Legislation Act 2012 of any Order in Council made under this section is deemed for all purposes to be notice thereof to all persons concerned, and in any prosecution under this Act the liability of the defendant is to be determined accordingly.

Section 7(2): amended, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Section 7(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **8 Act to bind the Crown**

- (1) This Act binds the Crown.
- (2) Despite subsection (1), where the Crown—
  - (a) is the owner of any animal or wildlife by virtue of—
    - (i) section 9(1) of the Wild Animal Control Act 1977; or
    - (ii) section 57(3) of the Wildlife Act 1953; or
  - (b) is, by virtue of any other Act, the owner of any other animal (being an animal in a wild state); or
  - (c) has, under any other Act, the responsibility of administering and managing an animal (being an animal in a wild state),—

the ownership of the animal or wildlife, or the responsibility of administering and managing the animal, does not of itself make the Crown subject to any obligation or liability under this Act in respect of the animal or wildlife.

Compare: 1960 No 30 s 19A(8); 1983 No 141 s 6

## **8A Transitional and savings provisions relating to amendments to Act**

The transitional and savings provisions set out in Schedule 4, which relate to amendments made to this Act by the Animal Welfare Amendment Act (No 2) 2015, have effect for the purposes of this Act.

Section 8A: inserted, on 10 May 2015, by section 10 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).



## Part 1 Care of animals

### 9 Purpose

- (1) The purpose of this Part is to ensure that owners of animals and persons in charge of animals attend properly to the welfare of those animals.
- (2) This Part accordingly—
  - (a) requires owners of animals, and persons in charge of animals, to take all reasonable steps to ensure that the physical, health, and behavioural needs of the animals are met in accordance with both—
    - (i) good practice; and
    - (ii) scientific knowledge; and
  - (b) requires owners of ill or injured animals, and persons in charge of such animals, to ensure that the animals receive treatment that alleviates any unreasonable or unnecessary pain or distress from which the animals are suffering; and
  - (c) imposes restrictions on the carrying out of surgical procedures on animals; and
  - (d) provides for the classification of the types of surgical procedures that may be performed on animals; and
  - (e) specifies the persons or classes of persons who may perform each class of such surgical procedures; and
  - (f) specifies certain minimum conditions that must be observed in relation to the transportation of animals.

Section 9(2)(b): amended, on 10 May 2015, by section 11(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### *Obligations of owners and of persons in charge of animals*

### 10 Obligation in relation to physical, health, and behavioural needs of animals

The owner of an animal, and every person in charge of an animal, must ensure that the physical, health, and behavioural needs of the animal are met in a manner that is in accordance with both—

- (a) good practice; and
- (b) scientific knowledge.

### 11 Obligation to alleviate pain or distress of ill or injured animals

- (1) The owner of an animal that is ill or injured, and every person in charge of such an animal, must ensure that the animal receives treatment that alleviates any unreasonable or unnecessary pain or distress being suffered by the animal.

- (2) This section does not—
- (a) limit section 10; or
  - (b) require a person to keep an animal alive when it is in such a condition that it is suffering unreasonable or unnecessary pain or distress.

Section 11(1): amended, on 10 May 2015, by section 12 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### *Offences*

#### **12 Animal welfare offences**

A person commits an offence who, being the owner of, or a person in charge of, an animal,—

- (a) fails to comply, in relation to the animal, with section 10; or
- (b) fails, in the case of an animal that is ill or injured, to comply, in relation to the animal, with section 11; or
- (c) kills the animal in such a manner that the animal suffers unreasonable or unnecessary pain or distress.

Compare: 1960 No 30 s 3(b); 1983 No 141 s 3(1)

#### **13 Strict liability**

- (1) In a prosecution for an offence against section 12, it is not necessary for the prosecution to prove that the defendant intended to commit an offence.
- (1A) In a prosecution for an offence against section 12 committed after the commencement of this subsection, evidence that a relevant code of welfare was in existence at the time of the alleged offence and that a relevant minimum standard established by that code was not complied with is rebuttable evidence that the person charged with the offence failed to comply with, or contravened, the provision of this Act to which the offence relates.
- (2) Subject to subsection (3), it is a defence in any prosecution for an offence against section 12 if the defendant proves—
  - (a) that, in relation to the animal to which the prosecution relates, the defendant took,—
    - (i) in the case of an offence against section 12(a), all reasonable steps to comply with section 10; or
    - (ii) in the case of an offence against section 12(b), all reasonable steps to comply with section 11; or
    - (iii) in the case of an offence against section 12(c), all reasonable steps not to commit a breach of section 12(c); or
  - (b) that the act or omission constituting the offence took place in circumstances of stress or emergency, and was necessary for the preservation, protection, or maintenance of human life; or

- (c) that there was in existence at the time of the alleged offence a relevant code of welfare and that the minimum standards established by the code of welfare were in all respects equalled or exceeded.
- (3) Except with the leave of the court, subsection (2) does not apply unless, within 7 days after the service of the summons, or within such further time as the court may allow, the defendant has delivered to the prosecutor a written notice—
- (a) stating that the defendant intends to rely on subsection (2); and
  - (b) specifying—
    - (i) where the defendant intends to rely on subsection (2)(a), the reasonable steps that the defendant will claim to have taken; or
    - (ii) where the defendant intends to rely on subsection (2)(b), the circumstances of stress or emergency, and the reasons why the act or omission was necessary for the preservation, protection, or maintenance of human life; or
    - (iii) where the defendant intends to rely on subsection (2)(c), the relevant code of welfare that was in existence at the time of the alleged offence, and the facts that show that the minimum standards established by that code of welfare were in all respects equalled or exceeded.

Section 13(1A): inserted, on 19 December 2002, by section 4 of the Animal Welfare Amendment Act 2002 (2002 No 53).

#### **14 Further animal welfare offences**

- (1) A person commits an offence who, being the owner of, or a person in charge of, an animal, without reasonable excuse,—
- (a) keeps the animal alive when it is in such a condition that it is suffering unreasonable or unnecessary pain or distress; or
  - (b) sells, attempts to sell, or offers for sale, otherwise than for the express purpose of being killed, the animal when it is suffering unreasonable or unnecessary pain or distress.
- (2) A person commits an offence who, being the owner of, or person in charge of, an animal, without reasonable excuse, deserts the animal in circumstances in which no provision is made to meet its physical, health, and behavioural needs.

Compare: 1960 No 30 s 3(j), (k), (p); 1964 No 76 s 2; 1983 No 141 s 3(2)

#### *Surgical procedures*

#### **15 Restriction on performance of surgical procedures**

- (1) Except as provided in section 18(1), no person may perform any significant surgical procedure on an animal unless that person is—
- (a) a veterinarian; or

- (b) a person who is acting under the direct supervision of a veterinarian and who is a student undergoing his or her training to become a veterinarian.
- (2) A veterinarian who, for the purpose of teaching veterinary science, supervises the performance of a significant surgical procedure, must be present throughout the performance of that surgical procedure.
- (3) Any person may, subject to subsection (4) and to Parts 2 and 6 and to any regulations made under section 183B, perform on an animal any surgical procedure that is not a significant surgical procedure.
- (4) No person may, in performing on an animal a surgical procedure that is not a significant surgical procedure, perform that surgical procedure in such a manner that the animal suffers unreasonable or unnecessary pain or distress.

Section 15(1)(b): replaced, on 10 May 2015, by section 13(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 15(3): amended, on 10 May 2015, by section 13(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

## **16 Classification of surgical procedures**

- (1) The Governor-General may from time to time, by Order in Council made on the advice of the Minister tendered after consultation with the National Animal Welfare Advisory Committee, declare any surgical procedure to be performed on an animal to be—
  - (a) a restricted surgical procedure; or
  - (b) a controlled surgical procedure.
- (2) The Governor-General may from time to time, by Order in Council made on the advice of the Minister tendered after consultation with the National Animal Welfare Advisory Committee, amend or revoke any order made under subsection (1).
- (3) The National Animal Welfare Advisory Committee must, in consulting with the Minister in regard to any proposal that an order be made under subsection (1) or that any order made under subsection (1) be amended or revoked, consider, in relation to each surgical procedure to which the proposed order or amendment or revocation relates,—
  - (a) both the reasons for and the reasons against the surgical procedure being performed; and
  - (b) the degree of pain or distress that the carrying out of the surgical procedure is likely to cause; and
  - (c) whether a person who is not a veterinarian could adequately carry out the procedure; and
  - (d) any other matter relevant to the particular category of the procedure under consideration.

- (4) The consultation required by section 184(1) is in addition to the consultation required by subsections (1) and (2) of this section.
- (5) The Minister must, in deciding whether or not to recommend the making of an Order in Council under subsection (1) or subsection (2), have regard to the following matters:
  - (a) the matters set out in paragraphs (a) to (d) of subsection (3); and
  - (b) the consultation conducted under subsection (1) or subsection (2), as the case may be, and any consultation carried out under section 184(1); and
  - (c) any other matter considered relevant by the Minister.
- (6) An Order in Council made under this section is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 16(6): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

#### **17 Performance of restricted surgical procedures**

- (1) A restricted surgical procedure may be performed on an animal only by—
  - (a) a veterinarian; or
  - (b) a person who is acting under the direct supervision of a veterinarian and who is being taught veterinary science at undergraduate level.
- (2) Where a restricted surgical procedure is to be performed on an animal, the veterinarian who is to perform that procedure, or who is to supervise the performance of that procedure by a person who is being taught veterinary science, must, before performing or supervising the performance of that surgical procedure, first satisfy himself or herself that the performance of that procedure is in the interests of the animal.
- (3) A veterinarian who—
  - (a) performs a restricted surgical procedure on an animal; or
  - (b) for the purpose of teaching veterinary science, supervises the performance of a restricted surgical procedure on an animal,—must ensure that the animal is, throughout the performance of the surgical procedure, under the influence of a general or local anaesthetic or an analgesic that is sufficient to prevent the animal from feeling pain.
- (4) A veterinarian who, for the purpose of teaching veterinary science, supervises the performance of a restricted surgical procedure, must be present throughout the performance of that surgical procedure.

#### **18 Performance of controlled surgical procedures**

- (1) A controlled surgical procedure may be performed on an animal only by—
  - (a) a veterinarian; or

- (b) a person who is acting under the direct supervision of a veterinarian and who is being taught veterinary science at undergraduate level; or
  - (c) a person who is both the owner of the animal and a person who has veterinary approval to perform a surgical procedure of that type on that species of animal; or
  - (d) a person who is both an employee of the owner of the animal and a person who has veterinary approval to perform a surgical procedure of that type on that species of animal.
- (2) A veterinarian who, for the purpose of teaching veterinary science, supervises the performance of a controlled surgical procedure, must be present throughout the performance of that surgical procedure.
- (3) A person, being an owner of an animal or an employee of an owner of an animal, has, for the purposes of subsection (1), veterinary approval to perform a controlled surgical procedure on the animal only if a veterinarian certifies in writing, before the procedure is performed on the animal, that the veterinarian is satisfied that the person has the relevant expertise, practical experience, drugs, equipment, and accommodation to perform that type of surgical procedure competently on that species of animal.

## **19 Veterinary approval**

- (1) Where a veterinarian issues, under section 18(3), a certificate of veterinary approval, that certificate must state—
- (a) the full name and address of the person to whom it is issued;
  - (b) if it is issued to a person in that person's capacity as an employee of the owner of an animal, the full name and address of the owner;
  - (c) the type of surgical procedure to which the certificate relates and the species of animal on which the person to whom it is issued may perform that surgical procedure;
  - (d) the duration of the approval given by the certificate.
- (2) The veterinarian who issues the certificate may specify that the approval given by the certificate is to have effect—
- (a) indefinitely; or
  - (b) for a stated period; or
  - (c) until a stated date.
- (3) Every certificate issued under section 18(3)—
- (a) comes into force on the date specified in the certificate; and
  - (b) continues in force until—
    - (i) it is revoked under section 20(1); or
    - (ii) it is surrendered under section 20(3); or

- (iii) in the case of a certificate granted for a stated period or until a stated date, the expiry of that period or the passing of that date.

## **20 Revocation and surrender of certificate of veterinary approval**

- (1) A certificate issued under section 18(3) may at any time, by notice in writing to the person to whom it was issued, be revoked—
  - (a) by the veterinarian by whom it was issued; or
  - (b) by the Director-General.
- (2) A certificate issued under section 18(3) may be revoked only if the person effecting the revocation is satisfied that the person to whom it was issued—
  - (a) does not, at the date of the revocation, have the relevant expertise, practical experience, drugs, equipment, or accommodation to perform the type of surgical procedure to which the certificate relates competently on any species of animal to which the certificate relates; or
  - (b) is disqualified under section 169(1) from being the owner of, or exercising authority in respect of, an animal or animals of a particular kind or description; or
  - (c) has been convicted of an offence against this Act.
- (3) A person to whom a certificate under section 18(3) has been issued may at any time surrender that certificate by notice in writing to that effect to either—
  - (a) the veterinarian by whom it was issued; or
  - (b) the Director-General.
- (4) Where a certificate under section 18(3) is revoked under subsection (1) or surrendered under subsection (3), the person to whom the certificate has been issued—
  - (a) ceases to have the approval evidenced by the certificate; and
  - (b) must surrender the certificate to either—
    - (i) the veterinarian by whom it was issued; or
    - (ii) the Director-General.

### *Surgical procedure offences*

## **21 Surgical procedure offences**

- (1) A person commits an offence who, without reasonable excuse, acts in contravention of or fails to comply with—
  - (a) section 15(1) or section 15(2); or
  - (b) section 15(4); or
  - (c) section 17(2) or section 17(3) or section 17(4); or
  - (d) section 18(2).

- (2) A person commits an offence who—
- (a) crops, or causes to be cropped, the ears of a dog; or
  - (b) performs, or causes to be performed, blistering or firing or nicking on a horse.

Compare: 1960 No 30 s 3(ma); 1971 No 48 s 3(3)(s)

### *Transport of animals*

## **22 Transport of animals**

- (1) Every person in charge of a vehicle or an aircraft, and the master of or, if there is no master, the person in charge of, a ship, being a vehicle, aircraft, or ship in or on which an animal is being transported, must ensure—
- (a) that the welfare of the animal is properly attended to; and
  - (b) that, in particular, the animal—
    - (i) is provided with reasonably comfortable and secure accommodation; and
    - (ii) is supplied with proper and sufficient food and water.

- (2) A person commits an offence who fails, without reasonable excuse, to comply with any provision of subsection (1).

Compare: 1960 No 30 s 7(1), (3); 1993 No 19 s 3(1)

## **23 Other offences in relation to transport of animals, etc**

- (1) A person commits an offence who, without reasonable excuse, confines or transports an animal in a manner or position that causes the animal unreasonable or unnecessary pain or distress.
- (2) A person commits an offence who, being the owner of, or the person in charge of, an animal, permits that animal, without reasonable excuse,—
- (a) to be driven or led on a road; or
  - (b) to be ridden; or
  - (c) to be transported in or on a vehicle, an aircraft, or a ship,—
- while the condition or health of that animal is such as to render it unfit to be so driven, led, ridden, or transported.

Compare: 1960 No 30 s 3(f), (o); 1983 No 141 s 3(3)

### *Defence and rebuttable evidence*

Heading: amended, on 19 December 2002, by section 5(1) of the Animal Welfare Amendment Act 2002 (2002 No 53).

## **24 Defence and rebuttable evidence**

- (1) In a prosecution for an offence against section 21(1)(b) or section 22(2) or section 23 committed after the commencement of this subsection, evidence that a



relevant code of welfare was in existence at the time of the alleged offence and that a relevant minimum standard established by that code was not complied with is rebuttable evidence that the person charged with the offence failed to comply with, or contravened, the provision of this Act to which the offence relates.

- (2) It is a defence in any prosecution for an offence against section 21(1)(b) or section 22(2) or section 23(1) or section 23(2) if the defendant proves—
- (a) that there was in existence at the time of the alleged offence a relevant code of welfare; and
  - (b) that the minimum standards established by the code of welfare were in all respects equalled or exceeded.

Compare: 1960 No 30 s 19A(7)(a); 1983 No 141 s 6

Section 24 heading: amended, on 19 December 2002, by section 5(2) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 24(1): inserted, on 19 December 2002, by section 5(3) of the Animal Welfare Amendment Act 2002 (2002 No 53).

### *Penalties*

## **25 Penalties**

A person who commits an offence against section 12 or section 14(1) or section 14(2) or section 21(1) or section 21(2) or section 22(2) or section 23(1) or section 23(2) is liable on conviction,—

- (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$50,000 or to both; or
- (b) in the case of a body corporate to a fine not exceeding \$250,000.

Compare: 1960 No 30 s 3; 1993 No 19 s 3(1)

Section 25: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 25(a): amended, on 7 July 2010, by section 4(1)(a) of the Animal Welfare Amendment Act 2010 (2010 No 93).

Section 25(a): amended, on 7 July 2010, by section 4(1)(b) of the Animal Welfare Amendment Act 2010 (2010 No 93).

Section 25(b): amended, on 7 July 2010, by section 4(2) of the Animal Welfare Amendment Act 2010 (2010 No 93).

### *Safari parks*

## **26 Safari parks**

Subject to section 8, the owner of, or person in charge of, a wild animal that is available for hunting in a safari park is, under this Part, subject to the same obligations and liabilities as any other owner of, or person in charge of, an animal.

## Part 2

### Conduct towards animals

#### 27 Purpose

The purpose of this Part is to state conduct that is or is not permissible in relation to a species of animal or animals used for certain purposes—

- (a) by prohibiting certain types of conduct; and
- (b) by controlling the use and sale of traps and devices used to kill, manage, entrap, capture, entangle, restrain, or immobilise an animal.

#### *Ill-treatment of animals*

#### 28 Wilful ill-treatment of animals

- (1) A person commits an offence if that person wilfully ill-treats an animal with the result that—
  - (a) the animal is permanently disabled; or
  - (b) the animal dies; or
  - (c) the pain or distress caused to the animal is so great that it is necessary to destroy the animal in order to end its suffering; or
  - (d) the animal is seriously injured or impaired.
- (2) For the purposes of subsection (1)(d), an animal is **seriously injured or impaired** if the injury or impairment—
  - (a) involves—
    - (i) prolonged pain and suffering; or
    - (ii) a substantial risk of death; or
    - (iii) loss of a body part; or
    - (iv) permanent or prolonged loss of a bodily function; and
  - (b) requires treatment by or under the supervision of a veterinarian.
- (3) A person who commits an offence against this section is liable on conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 5 years or to a fine not exceeding \$100,000 or to both;
  - (b) in the case of a body corporate, to a fine not exceeding \$500,000.

Compare: 1960 No 30 ss 2, 4; 1993 No 19 s 3(1)

Section 28: substituted, on 7 July 2010, by section 5 of the Animal Welfare Amendment Act 2010 (2010 No 93).

Section 28(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## 28A Reckless ill-treatment of animals

- (1) A person commits an offence if that person recklessly ill-treats an animal with the result that—
  - (a) the animal is permanently disabled; or
  - (b) the animal dies; or
  - (c) the pain or distress caused to the animal is so great that it is necessary to destroy the animal in order to end its suffering; or
  - (d) the animal is seriously injured or impaired.
- (2) For the purposes of subsection (1)(d), an animal is **seriously injured or impaired** if the injury or impairment—
  - (a) involves—
    - (i) prolonged pain and suffering; or
    - (ii) a substantial risk of death; or
    - (iii) loss of a body part; or
    - (iv) permanent or prolonged loss of a bodily function; and
  - (b) requires treatment by or under the supervision of a veterinarian.
- (3) A person who commits an offence against this section is liable on conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 3 years or to a fine not exceeding \$75,000 or to both;
  - (b) in the case of a body corporate, to a fine not exceeding \$350,000.

Section 28A: inserted, on 7 July 2010, by section 5 of the Animal Welfare Amendment Act 2010 (2010 No 93).

Section 28A(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## 29 Further offences

A person commits an offence who—

- (a) ill-treats an animal; or
- (b) pierces the tongue or tongue phrenum of an animal with a pig ring or similar thing or with any wire; or
- (c) keeps or uses a place for the purpose of causing an animal to fight, or for the purpose of baiting or otherwise ill-treating an animal, or manages or assists in the management of, any such place; or
- (d) is present, for the purpose of witnessing the fighting or baiting of an animal, at a place used or kept for the purpose; or
- (e) in any manner encourages, aids, or assists in the fighting or baiting of an animal; or

- (f) brands any animal in such a manner that the animal suffers unreasonable or unnecessary pain or distress; or
- (g) releases an animal, being an animal that has been kept in captivity, in circumstances in which the animal is likely to suffer unreasonable or unnecessary pain or distress; or
- (h) counsels, procures, aids, or abets any other person to do an act or refrain from doing an act as a result of which an animal suffers unreasonable or unnecessary pain or distress.

Compare: 1960 No 30 s 3(a), (c), (d), (e), (f), (u), (w)

### **30 Strict liability**

- (1) In a prosecution for an offence against section 29(a), it is not necessary for the prosecution to prove that the defendant intended to commit an offence.
- (1A) In a prosecution for an offence against section 29(a) committed after the commencement of this subsection, evidence that a relevant code of welfare was in existence at the time of the alleged offence and that a relevant minimum standard established by that code was not complied with is rebuttable evidence that the person charged with the offence contravened section 29(a).
- (2) Subject to subsection (3), it is a defence in any prosecution for an offence against section 29(a) if the defendant proves—
  - (a) that, in relation to the animal to which the prosecution relates, the defendant took all reasonable steps not to commit a breach of section 29(a); or
  - (b) that the act or omission constituting the offence took place in circumstances of stress or emergency, and was necessary for the preservation, protection, or maintenance of human life; or
  - (c) that there was in existence at the time of the alleged offence a relevant code of welfare and that the minimum standards established by the code of welfare were in all respects equalled or exceeded.
- (3) Except with the leave of the court, subsection (2) does not apply unless, within 7 days after the service of the summons, or within such further time as the court may allow, the defendant has delivered to the prosecutor a written notice—
  - (a) stating that the defendant intends to rely on subsection (2); and
  - (b) specifying—
    - (i) where the defendant intends to rely on subsection (2)(a), the reasonable steps that the defendant will claim to have taken; and
    - (ii) where the defendant intends to rely on subsection (2)(b), the circumstances of stress or emergency, and the reasons why the act or omission was necessary for the preservation, protection, or maintenance of human life; or

- (iii) where the defendant intends to rely on subsection (2)(c), the relevant code of welfare that was in existence at the time of the alleged offence, and the facts that show that the minimum standards established by that code of welfare were in all respects equalled or exceeded.

Section 30(1A): inserted, on 19 December 2002, by section 6 of the Animal Welfare Amendment Act 2002 (2002 No 53).

*Ill-treating, hunting, or killing wild animals or animals in wild state*

Heading: inserted, on 10 May 2015, by section 20 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**30A Wilful or reckless ill-treatment of wild animals or animals in wild state**

- (1) A person commits an offence if the person wilfully ill-treats a wild animal or an animal in a wild state.
- (2) A person commits an offence if the person recklessly ill-treats a wild animal or an animal in a wild state.
- (3) A defendant has a defence to a prosecution for an offence against subsection (1) or (2) if the defendant satisfies the court that the conduct alleged to constitute an offence is or is part of a generally accepted practice in New Zealand for the hunting or killing of wild animals of that type or animals in a wild state of that type.
- (4) In determining whether wilful or reckless ill-treatment of an animal has occurred, a court may treat an act or omission as lawful (and not subject to subsection (1) or (2)) if satisfied that—
  - (a) the act or omission was done in the course of performing functions for the purposes of another Act; and
  - (b) not to treat the act or omission as lawful would be contrary to the purpose and principles of that Act.
- (5) Nothing in subsection (1) or (2) applies to—
  - (a) a wild animal in captivity (other than in captivity in a safari park); or
  - (b) the accidental or inadvertent killing or harming of an animal; or
  - (c) any act or omission necessary to protect a person's life or safety.
- (6) Nothing in subsection (1) or (2) affects section 179 or 181.
- (7) A person who commits an offence against subsection (1) is liable on conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 5 years or to a fine not exceeding \$100,000, or to both;
  - (b) in the case of a body corporate, to a fine not exceeding \$500,000.
- (8) A person who commits an offence against subsection (2) is liable on conviction,—

- (a) in the case of an individual, to imprisonment for a term not exceeding 3 years or to a fine not exceeding \$75,000, or to both:
- (b) in the case of a body corporate, to a fine not exceeding \$350,000.

Section 30A: inserted, on 10 May 2015, by section 20 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **30B Hunting or killing**

- (1) Nothing in this Act makes it unlawful to hunt or kill—
  - (a) any animal in a wild state; or
  - (b) any wild animal or pest in accordance with the provisions of—
    - (i) the Wildlife Act 1953; or
    - (ii) the Wild Animal Control Act 1977; or
    - (iii) the Conservation Act 1987; or
    - (iv) the Biosecurity Act 1993; or
    - (v) any other Act; or
  - (c) any other wild animal or pest; or
  - (d) any game animal in accordance with the provisions of the Game Animal Council Act 2013; or
  - (e) any fish caught from a constructed pond.

- (2) Subsection (1) is subject to sections 30A and 30C to 30E and Part 6.

Compare: 1960 No 30 s 19(1)(c), (2)

Section 30B: inserted, on 10 May 2015, by section 20 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **30C Hunting in safari parks**

- (1) Nothing in this Act makes it unlawful to hunt a wild animal that is available for hunting in a safari park.
- (2) Subsection (1) is subject to subsection (3) and to sections 30A and 30E and Part 6.
- (3) Despite subsection (1) and section 30B, if a person has hunted and captured a wild animal in a safari park (not being an animal that has been captured for the purpose of facilitating its imminent destruction), this Act applies in relation to that person as the person in charge of that animal.

Section 30C: inserted, on 10 May 2015, by section 20 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **30D Captured animals**

- (1) If a person has in captivity an animal captured in a wild state (not being an animal that has been captured for the purpose of facilitating its imminent destruction), this Act applies in relation to that person as the person in charge of that animal.

- (2) If a person has in captivity an animal captured in a wild state (not being an animal caught by fishing) for the purpose of facilitating its imminent destruction, section 12(c) applies in relation to the killing of that animal.
- (3) Nothing in subsection (1) or (2) applies in relation to a wild animal that is hunted and captured in a safari park.
- (4) Nothing in section 30B applies to any wild animal or pest that is farmed or kept as a pet (other than a pest fish that is caught from a freshwater fish farm by a recreational fisher).

Section 30D: inserted, on 10 May 2015, by section 20 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **30E Certain provisions relating to traps and devices not excluded**

Sections 30B and 30C do not restrict the application of sections 34 and 36.

Section 30E: inserted, on 10 May 2015, by section 20 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### *Animal fighting ventures*

### **31 Animal fighting ventures**

- (1) A person commits an offence who—
  - (a) knowingly owns, possesses, keeps, trains, or breeds an animal for the purposes of having that animal participate in an animal fighting venture; or
  - (b) knowingly sells, buys, transports, or delivers to another person any animal for the purposes of having the animal participate in an animal fighting venture.
- (2) In this section, **animal fighting venture**—
  - (a) means any event that involves a fight between at least 2 animals and is conducted for the purposes of sport, wagering, or entertainment; but
  - (b) does not include any activity the primary purpose of which involves the use of 1 or more animals in hunting or killing an animal in a wild state.

#### *Traps and devices*

### **32 Power to declare traps or devices to be prohibited or restricted traps or devices**

- (1) For the purposes of this Act, the Governor-General may from time to time, by Order in Council, made on the advice of the Minister tendered after consultation by that Minister with the National Animal Welfare Advisory Committee, declare any trap or device to be—
  - (a) a prohibited trap or a prohibited device; or
  - (b) a restricted trap or a restricted device.

- (2) Subsection (1) does not authorise the making of an order in respect of any trap or device used for fishing.
- (3) Subsection (2) does not derogate from the provisions of—
  - (a) the Wildlife Act 1953; or
  - (b) the Marine Mammals Protection Act 1978; or
  - (c) the Fisheries Act 1996.
- (4) Where the order declares any trap to be a restricted trap or any device to be a restricted device, the order may contain provisions regulating the sale or use of the trap or device.
- (5) An order may be general in its application or may relate to a particular trap or class of traps or a particular device or class of devices.
- (5A) An order relating to a restricted trap or class of traps, or a restricted device or class of devices, may relate to—
  - (a) the use of a particular trap or class of traps, or a particular device or class of devices, in relation to a particular species or type of animal;
  - (b) a specified district or subdivision of a district of a territorial authority, or any specified part of New Zealand.
- (6) The Governor-General may, by Order in Council, made on the advice of the Minister tendered after consultation with the National Animal Welfare Advisory Committee, amend or revoke an Order in Council made under subsection (1).
- (7) The consultation required by section 184(1) is in addition to the consultation required by subsections (1) and (6) of this section.
- (8) An Order in Council made under this section is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 32(5): substituted, on 19 December 2002, by section 7 of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 32(5A): inserted, on 19 December 2002, by section 7 of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 32(8): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

### 33 Criteria

The Minister must, in deciding whether or not to recommend the making of an Order in Council under section 32(1) or section 32(6), have regard to the following matters:

- (a) the nature and purpose of the trap or device; and
- (b) whether any pain or distress that the trap or device is likely to cause would be unreasonable; and



- (c) whether the use of other instruments under this Act, or instruments under other Acts, are adequate to manage the effects of the trap or device on animal welfare; and
- (d) whether the trap or device conforms to any relevant New Zealand standard within the meaning of the Standards Act 1988; and
- (e) the availability and cost-effectiveness of, and the feasibility of a transition to, other means of achieving the purpose of the trap or device (whether by means of another trap or device or by different means); and
- (f) whether the trap or device could be modified, or the method of use controlled, to avoid unacceptable effects on animal welfare; and
- (g) the consultation conducted under section 32(1) or section 32(6), as the case may be, and any consultation conducted under section 184(1); and
- (h) any other matter considered relevant by the Minister.

Section 33(e): substituted, on 19 December 2002, by section 8 of the Animal Welfare Amendment Act 2002 (2002 No 53).

#### **34 Restrictions on use of traps and devices to kill, manage, entrap, capture, entangle, restrain, or immobilise animals**

A person commits an offence who, without reasonable excuse and for the purpose of killing, managing, entrapping, capturing, entangling, restraining, or immobilising an animal,—

- (a) uses a prohibited trap or a prohibited device; or
- (b) uses a restricted trap or a restricted device in contravention of any provision of an Order in Council made under section 32.

#### **35 Restrictions on sale of traps and devices**

- (1) A person commits an offence who, without reasonable excuse, sells, attempts to sell, or offers or exposes for sale, a prohibited trap or a prohibited device.
- (2) A person commits an offence who, in selling a restricted trap or a restricted device, contravenes, without reasonable excuse, any provision of any Order in Council made under section 32.

#### *Inspection of traps*

#### **36 Obligations relating to traps**

- (1) A person who, for the purpose of capturing alive a mammal, bird, reptile, or amphibian, sets a trap or causes a trap to be set must—
  - (a) manually inspect that trap, or cause a competent person to manually inspect that trap, within 12 hours after sunrise on each day the trap remains set, beginning on the day immediately after the day on which the trap is set; or

- (b) manually inspect that trap, or cause a competent person to manually inspect that trap, within 24 hours after the capture of an animal in the trap, but this paragraph applies only if—
  - (i) the person monitors the trap with an electronic monitoring system (such as a system of capture sensors and a wireless communication network) that is maintained by the person and that is reliable; and
  - (ii) the monitoring system operates in such a way that it promptly communicates the fact that an animal has been captured in the trap and enables the person to meet the person’s obligations under subsection (2) within that 24-hour period.
- (2) A person who, for the purpose of capturing alive a mammal, bird, reptile, or amphibian, sets a trap or causes a trap to be set must—
  - (a) remove, or cause to be removed, any live animal found in that trap; or
  - (b) attend properly to the care of the animal or, without delay, kill the animal.
- (3) A person who, without reasonable excuse, fails to comply with subsection (1) commits an infringement offence.
- (4) A person who, without reasonable excuse, fails to comply with subsection (2) commits an offence and is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$5,000; or
  - (b) in the case of a body corporate, to a fine not exceeding \$25,000.

Section 36: replaced, on 10 May 2015, by section 21 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 36(1): replaced, on 8 September 2018, by section 4 of the Statutes Amendment Act 2018 (2018 No 27).

### *Penalties*

#### **37 Penalties**

A person who commits an offence against section 29 or section 31(1) or section 34 or section 35(1) or section 35(2) is liable on conviction,—

- (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$50,000 or to both; and
- (b) in the case of a body corporate, to a fine not exceeding \$250,000.

Compare: 1960 No 30 s 3; 1993 No 19 s 3(1)

Section 37: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 37(a): amended, on 7 July 2010, by section 6(1)(a) of the Animal Welfare Amendment Act 2010 (2010 No 93).

Section 37(a): amended, on 7 July 2010, by section 6(1)(b) of the Animal Welfare Amendment Act 2010 (2010 No 93).

Section 37(b): amended, on 7 July 2010, by section 6(2) of the Animal Welfare Amendment Act 2010 (2010 No 93).

### **Part 3**

#### **Animal exports**

#### **38 Purpose**

The purpose of this Part is to protect the welfare of animals being exported from New Zealand and to protect New Zealand's reputation as a responsible exporter of animals and products made from animals.

Section 38: replaced, on 10 May 2015, by section 22 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **39 Effect of this Part**

The provisions of this Part do not limit the other provisions of this Act.

#### **40 Animal welfare export certificate**

- (1) A person commits an offence who exports an animal from New Zealand to another country on a ship or aircraft other than under the authority, and in accordance with the conditions, of an animal welfare export certificate.
- (2) Nothing in subsection (1) applies if the exportation of the animal—
  - (a) is exempted from the requirements of that subsection by a notice published under section 48(1); or
  - (b) is being effected under the authority of a permit, certificate, or other authorisation issued under the Conservation Act 1987 or any Act listed in Schedule 1 of that Act.
- (3) A person who commits an offence against subsection (1) is liable on conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$25,000 or to both; or
  - (b) in the case of a body corporate, to a fine not exceeding \$125,000.

Section 40(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

#### **41 Guidelines for issue of animal welfare export certificates**

*[Repealed]*

Section 41: repealed, on 25 August 2016, by section 23 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **42 Application for animal welfare export certificate**

- (1) Any person may apply to the Director-General for the issue of an animal welfare export certificate.
- (2) The application must—

- (a) be made on a form provided by the Director-General for the purpose; and
  - (b) contain, or be accompanied by, such information as the Director-General requires; and
  - (c) be accompanied by the prescribed fee (if any); and
  - (d) be made to the Director-General at least 20 working days before the date on which the applicant proposes that the animal leave New Zealand.
- (3) The Director-General may permit an application to be made other than in accordance with subsection (2)(d) if he or she is satisfied that unforeseen or unusual circumstances prevented the application from being made in accordance with subsection (2)(d).
- (4) Where an application made in accordance with subsection (2)(d) or subsection (3) does not comply in any material respect with subsection (2)(a) or subsection (2)(b), the Director-General may request the applicant to make good the deficiencies in the application.
- (5) If the deficiencies are made good at least 20 working days before the date on which the applicant proposes that the animal leave New Zealand, the Director-General must proceed to deal with the application.
- (6) If the deficiencies are not made good at least 20 working days before the date on which the applicant proposes that the animal leave New Zealand, the Director-General may deal with the application only if he or she is satisfied that there is sufficient time to give proper consideration to the application before that date.

### **43 Consideration of application**

- (1) The Director-General must, in considering any application under section 42, have regard to such of the following matters as are relevant:
- (a) the manner in which the welfare of any animals previously exported by the applicant was attended to on the journey between New Zealand and the country to which they were exported:
  - (b) the capability, skills, and experience of the applicant in relation to the export of animals:
  - (c) the species or type of animal and the number of animals proposed to be exported:
  - (d) the ages, and the physiological state, of the animals proposed to be exported:
  - (e) the mode of transport proposed and the facilities provided:
  - (f) the length and nature of the journey proposed:
  - (g) the susceptibility of the animal to harm and distress under the conditions of transport proposed:

- (h) any New Zealand requirements in relation to the export of the animal:
  - (i) any requirements of the country into which the animal is being exported:
  - (j) any relevant international standard:
  - (k) the date on which it is intended that the animal leave New Zealand:
  - (ka) any regulations made under section 183C relating to the export of animals:
  - (kb) New Zealand's reputation as a responsible exporter of animals and products made from animals:
  - (l) any other matters that the Director-General considers relevant to the welfare of the animal.
- (2) The Director-General may, in considering any application under section 42, have regard to the following matters:
- (a) the post-arrival conditions for the management of the animals in the importing country:
  - (b) the manner in which the welfare of any animals previously exported by the applicant was attended to during—
    - (i) the 30-day period commencing on the date of their arrival in the importing country; or
    - (ii) any lesser period after their arrival that the Director-General thinks fit.

Section 43(1)(ka): inserted, on 25 August 2016, by section 24(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 43(1)(kb): inserted, on 25 August 2016, by section 24(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 43(2): inserted, on 25 August 2016, by section 24(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **44 Decision on application**

- (1) After considering an application under section 42, the Director-General must decide whether to grant or refuse the application.
- (2) On the grant of any application under section 42, the Director-General may, under section 45, specify the conditions that are to be imposed on the issue, under section 46, of the animal welfare export certificate.
- (3) If the Director-General grants the application and, under section 45, imposes conditions of the animal welfare export certificate, the Director-General must forthwith notify the applicant in writing that the application has been granted, and that an animal welfare export certificate will be issued subject to satisfactory compliance with, or satisfactory arrangements being made for compliance with, all of those conditions.
- (4) If the Director-General grants the application and does not, under section 45, impose conditions of the animal welfare export certificate, the Director-

General must forthwith issue an animal welfare export certificate to the applicant.

- (5) If the Director-General refuses to grant the application, the Director-General must forthwith give notice in writing to the applicant of the refusal and the reasons for it.

#### **45 Conditions**

- (1) The Director-General may, in granting an application for an animal welfare export certificate, impose, as conditions of that certificate, all or any of the following conditions:
- (a) a condition that the animal or the ship or aircraft be inspected before the animal is loaded or after the animal is loaded or both before and after the animal is loaded by a person authorised by the Director-General:
  - (b) a condition that the animal receive specified preconditioning before travel:
  - (c) a condition that a person authorised by the Director-General certify in writing that the animal is fit to travel:
  - (d) a condition that an animal health certificate be issued by a person authorised by the Director-General:
  - (e) a condition that the animal be loaded onto the ship or aircraft in a particular manner and in accordance with particular requirements:
  - (f) a condition that the animal be accompanied on the ship or aircraft by a particular named person:
  - (g) a condition that the animal be accompanied on the ship or aircraft by a person approved by the Director-General to undertake the work:
  - (h) a condition that the animal be accompanied on the ship or aircraft by a person who has certain qualifications or skills:
  - (i) a condition specifying the manner in which, and the extent to which food and water is to be provided to the animal while it is on the ship or aircraft:
  - (j) a condition that the animal be provided on the ship or aircraft with facilities specified by the Director-General:
  - (k) a condition specifying the manner in which the animal is to be managed on the journey:
  - (l) any condition specified in any relevant international standard:
  - (la) a condition requiring an exporter to provide a report on the way in which the animals were managed during their journey and to provide any specified information that the Director-General considers relevant:

- (lb) a condition requiring an exporter to provide a report on the welfare of the animals and to provide any specified information that the Director-General considers relevant, for—
  - (i) the 30-day period commencing on the date of their arrival in the importing country; or
  - (ii) any lesser period after their arrival that the Director-General thinks fit:
- (m) such other conditions as the Director-General considers appropriate for the welfare of the animal.
- (2) The Director-General may at any time before the departure of the animal amend or add to the conditions imposed under subsection (1).
- (3) The amendment or addition must be effected by giving written notice of the amendment or addition to the person to whom the animal welfare export certificate has been issued.
- (4) Except where the amendment or addition is necessary to meet the requirements of the country to which the animal is being exported, the Director-General may not, under subsection (2), amend the conditions or add to the conditions in such a way as to impose on the person to whom the animal welfare export certificate has been issued requirements that, at the time of the amendment or addition, that person cannot reasonably be expected to meet before the date of the departure of the animal.

Section 45(1)(la): inserted, on 25 August 2016, by section 25 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 45(1)(lb): inserted, on 25 August 2016, by section 25 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **46 Issue of animal welfare export certificate**

- (1) Subject to satisfactory compliance with, or satisfactory arrangements made for compliance with, all conditions (if any) imposed under section 45, the Director-General must issue the certificate by signing it and giving it to the applicant.
- (2) The failure to comply with any relevant regulations made under this Act is a sufficient ground on which the Director-General may—
  - (a) refuse to issue a certificate; or
  - (b) revoke or amend any certificate that has already been issued.

Section 45(2): inserted, on 25 August 2016, by section 26 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **47 Multiple consignment animal welfare export certificates**

- (1) A person may apply for, and the Director-General may issue, a multiple consignment animal welfare export certificate that will enable the person to export animals over a period of time without having to obtain an animal welfare export certificate in respect of each consignment.

- (2) Where an application is made for a multiple consignment animal welfare export certificate, the Director-General must consider, in addition to the matters specified in section 43, the frequency of the export consignments proposed by the applicant, and may, in addition to the conditions that may be imposed under section 45, impose such other conditions as are required in relation to the multiple consignments.
- (3) Subsections (2) to (4) of section 45 apply not only in relation to conditions imposed under section 45 but also in relation to conditions imposed under subsection (2) of this section.

#### **48 Exemptions**

- (1) The Director-General may from time to time, by notice in the *Gazette*,—
  - (a) exempt certain species or types of animals from the requirements of section 40(1); or
  - (b) specify the circumstances in which any animals are to be exempted from the requirements of section 40(1); or
  - (c) exercise both his or her power under paragraph (a) and his or her power under paragraph (b),—if he or she is satisfied that the risk to the welfare of the animals is minimal.
- (2) A notice under subsection (1) may—
  - (a) restrict the exemption to particular modes of transport or to particular destinations; and
  - (b) impose conditions that must be complied with.
- (3) The Director-General must, in considering whether to publish a notice under subsection (1), have regard to the following matters:
  - (a) whether export authorisation is required under any other Act that has animal welfare requirements;
  - (b) the susceptibility of the species or type of animals to harm or distress;
  - (c) any other matter that is relevant to the welfare of animals.
- (4) Any notice under subsection (1) may be at any time amended or revoked by the Director-General by a subsequent notice published in the *Gazette*.

#### **49 Delegation of functions or powers of Director-General**

- (1) The Director-General may from time to time, by writing under his or her hand, either generally or particularly, delegate to a person who is not an employee of the Ministry any of the functions and powers of the Director-General under this Part, but not including the power to delegate under this section.
- (2) Subject to any general or special directions given or conditions imposed by the Director-General, the person to whom any functions or powers are delegated under this section may exercise those functions or powers in the same manner



and with the same effect as if they had been conferred on that person directly by this Act and not by delegation.

- (3) The power of the Director-General to delegate under this section does not limit any power of delegation conferred on the Director-General by any other Act or prevent the Director-General delegating to any other person, under that power, any of the functions and powers of the Director-General under this Part.
- (4) Every person purporting to act pursuant to any delegation under this section is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.
- (5) Any delegation under this section may be made to a specified person or to persons of a specified class, or to the holder or holders for the time being of a specified office or specified class of offices.
- (6) No such delegation affects or prevents the exercise of any function or power by the Director-General, nor does any such delegation affect the responsibility of the Director-General for the actions of any person acting under the delegation.

#### **50 Revocation of delegations**

- (1) Every delegation under section 49 is revocable in writing at will.
- (2) Any such delegation, until it is revoked, continues in force according to its tenor, even though the Director-General by whom it was made may have ceased to hold office, and continues to have effect as if made by the successor in office of that Director-General.

#### **51 Review of decisions**

- (1) Where a decision under any provision of sections 42 to 48 is made by a person acting under the delegated authority of the Director-General, the applicant is entitled to have the decision reviewed by the Director-General.
- (2) Where a decision under any of the provisions of sections 42 to 48 is made by the Director-General, the applicant is entitled to have the decision reviewed by the Minister.

#### **52 Animals being exported in accordance with conservation legislation**

Despite anything in the Conservation Act 1987 or in any Act listed in Schedule 1 of that Act, where any person, acting under the Conservation Act 1987 or any Act listed in Schedule 1 of that Act, is considering an application to export an animal, that person must have regard to the following matters:

- (a) any relevant international standards relating to animal welfare:
- (b) the need to ensure that the animal is provided with reasonably comfortable and secure accommodation:
- (c) the need to ensure the supply of proper and sufficient food and water to the animal:

- (d) the need to minimise the risk of injury or adverse effects on the welfare of the animal.

### **53 Enforcement**

- (1) Where any animal that is to be exported from New Zealand to another country is being prepared for loading on to a ship or aircraft or is loaded on to a ship or aircraft other than under the authority, and in accordance with the terms, of an animal welfare export certificate, an inspector or other person authorised by the Director-General may—
  - (a) seize the animals and convey them to another place;
  - (b) take any other steps that the inspector or authorised person considers necessary or desirable to prevent or mitigate any suffering of the animal;
  - (c) direct the owner or person in charge of the animal to take steps to prevent or mitigate any suffering of the animal.
- (2) The inspector or authorised person may keep the animal at a place chosen by the inspector or authorised person until—
  - (a) the animal is, under section 172, forfeited to the Crown or to an approved organisation; or
  - (b) a District Court Judge orders that the animal be delivered to the owner of the animal or to the person charged with the offence against this Act.

### **54 Offence**

- (1) A person commits an offence who, without reasonable excuse, fails to comply with any requirement of an inspector or authorised person under section 53(1)(c).
- (2) A person who commits an offence against subsection (1) is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$5,000; or
  - (b) in the case of a body corporate, to a fine not exceeding \$25,000.

Section 54(1): amended, on 10 May 2015, by section 27 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 54(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **Part 4 Advisory committees**

### **55 Purpose**

- (1) The purpose of this Part is to establish a National Animal Welfare Advisory Committee and a National Animal Ethics Advisory Committee.
- (2) The National Animal Welfare Advisory Committee will, among other things,—

- (a) advise the Minister on issues relating to the welfare of animals; and
  - (b) develop, and advise the Minister on, codes of welfare; and
  - (c) recommend to the Minister that regulations be made under section 183A prescribing animal welfare standards or requirements.
- (3) The National Animal Ethics Advisory Committee will, among other things,—
- (a) advise the Minister and the Director-General on—
    - (i) ethical issues and animal welfare issues arising from research, testing, and teaching; and
    - (ii) codes of ethical conduct; and
  - (b) recommend, for approval by the Director-General under section 109, such persons as are, in the opinion of the Committee, suitable for appointment as accredited reviewers.

Section 55(2)(b): amended, on 10 May 2015, by section 28(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 55(2)(c): inserted, on 10 May 2015, by section 28(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### *National Animal Welfare Advisory Committee*

### **56 National Animal Welfare Advisory Committee**

This section establishes a committee to be called the National Animal Welfare Advisory Committee.

### **57 Functions**

The functions of the National Animal Welfare Advisory Committee are—

- (a) to advise the Minister on any matter relating to the welfare of animals in New Zealand, including (without limitation)—
  - (i) areas where research into the welfare of animals is required; and
  - (ii) legislative proposals concerning the welfare of animals:
- (b) to make recommendations to the Minister—
  - (i) under section 3(3) (which relates to manipulation); and
  - (ii) under sections 6 and 16 (which relate to surgical procedures):
- (c) to discharge its functions under section 32 in relation to the making of Orders in Council declaring traps or devices to be prohibited or restricted traps or devices:
- (d) to discharge its functions under section 32 in relation to the conditions that should be attached to the sale or use of any restricted trap or restricted device:
- (e) to make recommendations to the Minister concerning the issue, amendment, suspension, revocation, and review of codes of welfare:

- (f) to develop and promote, and to assist other persons to promote, the development of guidelines in relation to—
  - (i) the use of traps or devices or both;
  - (ii) the hunting or killing of animals in a wild state.

Section 57(f): amended, on 10 May 2015, by section 29(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

## **58 Membership**

- (1) The National Animal Welfare Advisory Committee consists of not more than 11 members.
- (2) Those members comprise—
  - (a) a chairperson appointed by the Minister; and
  - (b) such other members (not exceeding 9) as are appointed by the Minister in accordance with subsection (3); and
  - (c) the chairperson of the National Animal Ethics Advisory Committee.
- (3) The Minister must, in making appointments under subsection (2)(b), have regard to the need for the Committee to possess knowledge and experience in the following areas:
  - (a) veterinary science;
  - (b) agricultural science;
  - (c) animal science;
  - (d) the commercial use of animals;
  - (e) the care, breeding, and management of companion animals;
  - (f) ethical standards and conduct in respect of animals;
  - (g) animal welfare advocacy;
  - (h) the public interest in respect of animals;
  - (i) environmental and conservation management;
  - (j) any other area the Minister considers relevant.

## **59 Term of office**

- (1) Every appointed member of the National Animal Welfare Advisory Committee—
  - (a) must be appointed by the Minister by notice published in the *Gazette*; and
  - (b) subject to clause 2 of Schedule 1, holds office for such term, not exceeding 3 years, as the Minister specifies in the notice of appointment; and
  - (c) takes office from the date of the publication of the notice of appointment in the *Gazette* or on such later date as may be specified in the notice; and
  - (d) is eligible for reappointment from time to time.

- (2) Despite subsection (1)(b), every appointed member of the National Animal Welfare Advisory Committee, unless sooner vacating office under clause 2 of Schedule 1, continues in office until the member's successor comes into office.

**60 Annual report**

The National Animal Welfare Advisory Committee must, as soon as practicable after the end of each year ending with 31 December, furnish to the Minister a report of its operations during that year.

**61 Further provisions applying to National Animal Welfare Advisory Committee**

The provisions set out in Schedule 1 apply to the National Animal Welfare Advisory Committee and its proceedings.

*National Animal Ethics Advisory Committee*

**62 National Animal Ethics Advisory Committee**

This section establishes a committee to be called the National Animal Ethics Advisory Committee.

Compare: 1960 No 30 s 19A(5); 1983 No 141 s 6

**63 Functions**

The functions of the National Animal Ethics Advisory Committee are—

- (a) to advise the Minister on ethical issues and animal welfare issues arising from research, testing, and teaching:
- (b) to make recommendations to the Minister under section 3(3) (which relates to manipulation):
- (c) to make recommendations to the Director-General under section 85 (which relates to restrictions on use of non-human hominids):
- (d) to provide advice and information on the development and review of codes of ethical conduct:
- (e) to make recommendations to the Director-General concerning the approval, amendment, suspension, or revocation of any code of ethical conduct:
- (f) to make recommendations to the Minister concerning the setting of standards and policies for codes of ethical conduct:
- (g) to provide information and advice to animal ethics committees:
- (h) to recommend, for approval by the Director-General under section 109, such persons as are, in the opinion of the Committee, suitable for appointment as accredited reviewers:
- (i) to consider the reports of independent reviews of code holders and animal ethics committees:

- (j) to make recommendations to the Minister under section 118(3) (which relates to the power of the Minister to approve research or testing).

#### **64 Membership**

- (1) The National Animal Ethics Advisory Committee consists of not more than 10 members.
- (2) Those members comprise—
  - (a) a chairperson appointed by the Minister; and
  - (b) such other members (not exceeding 9) as are appointed by the Minister in accordance with subsection (3).
- (3) The Minister must, in making appointments under subsection (2)(b), have regard to—
  - (a) the public interest in relation to the manipulation of animals in research, testing, and teaching; and
  - (b) the need for the Committee to possess knowledge and experience in the following areas:
    - (i) veterinary science:
    - (ii) medical science:
    - (iii) biological science:
    - (iv) the commercial use of animals in research and testing:
    - (v) ethical standards and conduct in respect of animals:
    - (vi) education issues, including the use of animals in schools:
    - (vii) the manipulation of animals in research, testing, and teaching:
    - (viii) environmental and conservation management:
    - (ix) animal welfare advocacy:
    - (x) any other area the Minister considers relevant; and
  - (c) the need for a balance between those members who are currently involved in research, testing, and teaching and those members who are not so involved.

#### **65 Term of office**

- (1) The chairperson and every other member of the National Animal Ethics Advisory Committee—
  - (a) must be appointed by the Minister by notice published in the *Gazette*; and
  - (b) subject to clause 2 of Schedule 1, holds office for such term, not exceeding 3 years, as the Minister specifies in the notice of appointment; and
  - (c) takes office from the date of the publication of the notice of appointment in the *Gazette* or such later date as may be specified in the notice; and

- (d) is eligible for reappointment from time to time.
- (2) Despite subsection (1)(b), the chairperson and every other member of the National Animal Ethics Advisory Committee, unless sooner vacating office under clause 2 of Schedule 1, continues in office until the member's successor comes into office.

Compare: 1994 No 107 ss 47, 48

**66 Annual report**

The National Animal Ethics Advisory Committee must, as soon as practicable after the end of each year ending with 31 December, furnish to the Minister a report of its operations during that year.

**67 Further provisions applying to National Animal Ethics Advisory Committee**

The provisions set out in Schedule 1 apply in relation to the National Animal Ethics Advisory Committee and its proceedings.

**Part 5  
Codes of welfare**

**68 Purpose**

The purpose of this Part is to establish procedures for the development, issue, amendment, review, and revocation of codes of welfare that—

- (a) relate to animals that are owned by any person or are in the charge of any person; and
- (b) establish minimum standards with regard to the way in which persons care for such animals and conduct themselves towards such animals; and
- (c) include recommendations on the best practice to be observed by persons in caring for such animals and in conducting themselves towards such animals.

**69 Contents**

A code of welfare may relate to 1 or more of the following:

- (a) a species of animal:
- (b) animals used for purposes specified in the code:
- (c) animal establishments of a kind specified in the code:
- (d) types of entertainment specified in the code (being types of entertainment in which animals are used):
- (e) the transport of animals:
- (f) the procedures and equipment used in the management, care, or killing of animals or in the carrying out of surgical procedures on animals.

**70 Preparation of draft code**

- (1) The Minister, the National Animal Welfare Advisory Committee, or any other person may prepare a draft code of welfare.
- (2) Where any person other than the National Animal Welfare Advisory Committee prepares a draft code of welfare, that person must forward the draft code to the National Animal Welfare Advisory Committee.

**71 Public notification**

- (1) The National Animal Welfare Advisory Committee must publicly notify a draft code of welfare if the Committee is satisfied that—
  - (a) the draft should proceed; and
  - (b) the draft complies with the purposes of this Act; and
  - (c) the draft is so clearly written as to be readily understood; and
  - (d) the draft indicates any matters that the Committee considers should be dealt with by regulations under this Act; and
  - (e) representatives of the persons likely to be affected by the draft have been consulted about it; and
  - (f) the Minister has approved the notification of the draft.
- (2) If the Committee decides not to proceed with a draft code prepared by any person other than the Committee, it must—
  - (a) give the person its reasons in writing for not proceeding; and
  - (b) notify the Minister of its decision.
- (3) The National Animal Welfare Advisory Committee must publicly notify the draft code of welfare—
  - (a) by publishing, in 1 or more daily newspapers circulating in the cities of Auckland, Wellington, Christchurch, and Dunedin, a notice complying with subsection (4); and
  - (b) by giving such further notice (if any) as the National Animal Welfare Advisory Committee considers appropriate, having regard to the persons likely to have an interest in the draft code.
- (4) Every notice published or given under subsection (3) must—
  - (a) contain a description of the draft code of welfare; and
  - (b) state that submissions on the draft code of welfare may be made in writing by any person; and
  - (c) state that every submission on the draft code of welfare should specify—
    - (i) those aspects that the submission supports; and
    - (ii) those aspects that the submission opposes; and



- (iii) the reasons for supporting the aspects supported and the reasons for opposing the aspects opposed; and
- (iv) any alternatives to provisions of the draft code that the person wishes to recommend; and
- (d) a list of the places where the draft code may be obtained or inspected; and
- (e) the closing date for the receipt by the National Animal Welfare Advisory Committee of submissions on the draft code, being a date no earlier than 30 working days after the date on which the notice is first published in a daily newspaper in accordance with subsection (3)(a); and
- (f) the address of the place to which submissions on the draft code may be delivered or sent.

Section 71(1): replaced, on 10 May 2015, by section 30 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 71(2): replaced, on 10 May 2015, by section 30 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

## **72 Consultation**

- (1) The National Animal Welfare Advisory Committee may consult with those persons who, in response to a notice published or given under section 71(3), make submissions on the draft code of welfare.
- (2) Subsection (1) does not prevent the National Animal Welfare Advisory Committee from adopting additional means of consulting with any person in relation to an intention to make a recommendation to the Minister to issue a code of welfare.

## **73 Matters to be considered**

- (1) The National Animal Welfare Advisory Committee must, in considering the content of a draft code of welfare, and before deciding whether to recommend to the Minister the issue of that code,—
  - (a) be satisfied that the proposed standards are the minimum necessary to ensure that the purposes of this Act will be met; and
  - (b) be satisfied that the recommendations for best practice (if any) are appropriate.
- (2) In carrying out its functions under subsection (1), the National Animal Welfare Advisory Committee must have regard to—
  - (a) the submissions made under section 71 and the consultations undertaken by the Committee; and
  - (b) good practice and scientific knowledge in relation to the management of the animals to which the code relates; and
  - (c) available technology; and

- (d) any other matters considered relevant by the National Animal Welfare Advisory Committee.
- (3) In carrying out its functions under subsection (1), the National Animal Welfare Advisory Committee may take into account practicality and economic impact, if relevant.
- (4) The National Animal Welfare Advisory Committee may recommend to the Minister that regulations be made under section 183A(1)(a) (which relates to standards or requirements for the purposes of giving effect to Parts 1 and 2).
- (5) The National Animal Welfare Advisory Committee may recommend to the Minister the making of regulations under section 183A(2) (which relates to prescribing standards or requirements that do not fully meet specified obligations).
- (6) Before making a recommendation under subsection (5), the National Animal Welfare Advisory Committee must consider the relevant provisions of section 183A.

Section 73(3): replaced, on 10 May 2015, by section 31 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 73(4): replaced, on 10 May 2015, by section 31 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 73(5): inserted, on 10 May 2015, by section 31 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 73(6): inserted, on 10 May 2015, by section 31 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **74 Recommendation to Minister**

- (1) The National Animal Welfare Advisory Committee must, as soon as reasonably practicable after the closing date for the receipt of submissions in relation to a draft code of welfare, decide whether or not to recommend to the Minister the issue of the code.
- (2) The Committee's recommendations must be accompanied by a report setting out—
  - (a) the reasons for the Committee's recommendation; and
  - (b) the nature of any significant differences of opinion about the code, or any provision of it, that have been shown by the submissions; and
  - (c) the nature of any significant differences of opinion about the code, or any provision of it, that have occurred within the Committee; and
  - (d) if applicable, those matters contained in, or related to, the code that the Committee considers should be dealt with by regulations under this Act.
- (3) The National Animal Welfare Advisory Committee must send to the person who prepared the draft code a copy of its decision and a copy of the report made under subsection (2).

Section 74(2)(c): amended, on 10 May 2015, by section 32(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 74(2)(d): inserted, on 10 May 2015, by section 32(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

## 75 Issue of code

- (1) The Minister may, after considering the recommendation made to the Minister by the National Animal Welfare Advisory Committee under section 74 and after having had regard to the matters specified in section 73, decide—
  - (a) to issue the code of welfare by a notice in the *Gazette* after making such changes (if any) to the draft code as the Minister considers appropriate; or
  - (b) to refer the code of welfare back to the National Animal Welfare Advisory Committee with a request that the Committee reconsider 1 or more of the aspects of the code of welfare; or
  - (c) to decline to issue the code of welfare.
- (2) Where the Minister refers the code of welfare back to the National Animal Welfare Advisory Committee under subsection (1)(b), the Committee must, after reconsidering the aspects referred to by the Minister in the Minister's request,—
  - (a) make a further report to the Minister setting out its recommendations with regard to those aspects of the code and its reasons for its recommendations; and
  - (b) supply to the person who prepared the draft code a copy of the report made under paragraph (a).
- (3) Subsection (1) applies, with all necessary modifications, to the recommendations received by the Minister under subsection (2).
- (4) Where the Minister decides, under subsection (1)(c) to decline to issue the code of welfare, the Minister must give to the National Animal Welfare Advisory Committee and to the person who prepared the code of welfare, the Minister's reasons for declining to issue the code of welfare.
- (5) A code of welfare comes into force on the day after the date of the publication under subsection (1)(a) of a notice approving the issue of the code or on such later date as may be specified in that notice.

## 76 Amendment or revocation of code of welfare

- (1) The Minister may from time to time, by notice in the *Gazette*,—
  - (a) revoke a code of welfare or any part of a code of welfare; or
  - (b) make amendments of a minor nature to a code of welfare (being minor amendments that would not materially affect the purposes of the code).

- (2) The Minister must, before publishing a notice under subsection (1), consult with the National Animal Welfare Advisory Committee about the proposed revocation or amendments.

Section 76(1)(a): amended, on 10 May 2015, by section 33 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **77 Availability of codes of welfare**

- (1) Where a code of welfare is issued under section 75, the Minister must ensure that, so long as that code of welfare remains in force, copies of that code of welfare, and of all amendments to that code, are available—
- (a) for inspection by members of the public free of charge; and
  - (b) for purchase by members of the public at a reasonable price.
- (2) The notice by which the code of welfare or the amendment is issued must show, in relation to the code of welfare, or the amendment to which the notice relates, a place at which copies of the code, or, as the case requires, the amendment, are available for inspection free of charge and for purchase.

#### **78 Review of code of welfare**

- (1) The National Animal Welfare Advisory Committee may at any time review the whole or any part of any code of welfare for the time being in force.
- (2) The National Animal Welfare Advisory Committee must review a code of welfare if required to do so by the Minister by notice in writing.
- (3) Sections 71 to 75 apply, with the necessary modifications, in relation to a review of the code of welfare or part of the code as if the review were a proposal to make a recommendation to the Minister to issue the code.
- (4) *[Repealed]*
- (5) *[Repealed]*

Section 78(1): replaced, on 10 May 2015, by section 34(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 78(3): amended, on 10 May 2015, by section 34(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 78(4): repealed, on 10 May 2015, by section 34(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 78(5): repealed, on 10 May 2015, by section 34(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **78A Review date may be extended**

*[Repealed]*

Section 78A: repealed, on 10 May 2015, by section 35(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**79 Codes of welfare treated as legislative instruments for purposes of disallowance**

Codes of welfare issued under section 75 and notices amending or revoking codes of welfare are disallowable instruments, but not legislative instruments, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 79: replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

**Part 6**

**Use of animals in research, testing, and teaching**

**80 Purposes**

- (1) The principal purpose of this Part is to ensure that the use of animals in research, testing, and teaching is confined to cases in which there is good reason to believe—
  - (a) that the findings of the research or testing or the results of the teaching will enhance—
    - (i) the understanding of human beings, animals, or ecosystems; or
    - (ii) the maintenance or protection of human or animal health or welfare; or
    - (iii) the management, protection, or control of ecosystems, plants, animals, or native fauna; or
    - (iv) the production and productivity of animals; or
    - (v) the achievement of educational objectives; and
  - (b) that the benefits derived from the use of animals in research, testing, and teaching (whether the direct benefits of a project or the likely benefits of that project when combined with the findings of other related projects that have been undertaken in the past or that are currently being undertaken or are planned for the future) are not outweighed by the likely harm to the animals; and
  - (c) that, where the research, testing, or teaching involves the use of a non-human hominid, that research, testing, or teaching may be carried out only where either—
    - (i) it is in the best interests of the non-human hominid; or
    - (ii) it is in the interest of the species to which the non-human hominid belongs and the benefits to be derived from the use of the non-human hominid in the research, testing, or teaching (being benefits of the kind described in paragraph (b)) are not outweighed by the likely harm to the non-human hominid.
- (2) The other purposes of this Part are—

- (a) to ensure that,—
  - (i) in relation to animals used in research, testing, and teaching, all reasonable steps are taken to ensure that the physical, health, and behavioural needs of those animals are met in accordance with both good practice and scientific knowledge; and
  - (ii) where animals used in research, testing, and teaching are ill or injured, they receive, where practicable, treatment that alleviates any unreasonable or unnecessary pain or distress:
  - (iii) where, because of the nature of the research, testing, or teaching, the needs referred to in subparagraph (i) cannot be fully met or the treatment referred to in subparagraph (ii) cannot be provided, any degree of pain or distress is reduced to the minimum possible in the circumstances:
- (b) to promote efforts—
  - (i) to reduce the number of animals used in research, testing, and teaching to the minimum necessary:
  - (ii) to refine techniques used in any research, testing, and teaching so that the harm caused to the animals is minimised and the benefits are maximised:
  - (iii) to replace animals as subjects for research, and testing by substituting, where appropriate, non-sentient or non-living alternatives:
  - (iv) to replace the use of animals in teaching by substituting for animals, where appropriate, non-sentient or non-living alternatives or by imparting the information in another way.

### **81 Effect of this Part**

- (1) Nothing in Parts 1 and 2 prevents animals being used in research, testing, or teaching in accordance with this Part.
- (2) The limitation imposed by subsection (1) on the application of Parts 1 and 2 does not apply in any case where any animal is used in research, testing, or teaching other than in accordance with this Part or other than in accordance with the conditions of any project approval.
- (3) To avoid doubt, nothing in this Part applies in relation to the use of animals for any purpose that does not involve research, testing, or teaching.

Section 81(3): inserted, on 10 May 2015, by section 36 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### *Restrictions*

### **82 Restrictions on research, testing, and teaching involving use of animals**

- (1) No person may carry out research, testing, or teaching involving the use of animals unless—

- (a) that person holds a code of ethical conduct approved under this Part; or
  - (b) that person is authorised or required by a contract of employment, or any other type of contract, entered into with a person of the kind described in paragraph (a) to carry out the research, testing, or teaching.
- (2) A person commits an offence who contravenes subsection (1).  
Compare: 1960 No 30 ss 19A(1), 19B; 1983 No 141 s 6; 1987 No 20 s 3(2)

### **83 Restrictions on carrying out of projects**

- (1) Notwithstanding section 82, no person may carry out any project unless it has first been approved by an animal ethics committee appointed by the code holder and is carried out in accordance with any conditions imposed by that animal ethics committee.
- (2) A person commits an offence who contravenes subsection (1).  
Compare: 1960 No 30 s 19B; 1983 No 141 s 6

### **84 Power to carry out certain projects**

- (1) A person may carry out research, testing, or teaching without obtaining, under section 91, approval of a code of ethical conduct and without appointing an animal ethics committee, if—
- (a) each project carried out by that person is approved by an animal ethics committee established by a person who is a code holder; and
  - (b) the policies and procedures relating to the arrangements in relation to the research, testing, or teaching are set out in the code holder's code of ethical conduct; and
  - (c) the arrangements in relation to the research, testing, or teaching are agreed on by that person, the code holder, and the animal ethics committee; and
  - (d) the code holder, before the research, testing, or teaching is commenced, gives to the Director-General written notice of the arrangements for the research, testing, or teaching.
- (2) This section has effect despite anything in sections 82 and 83.

### **84A Prohibition on use of animals in research, testing, and teaching for making cosmetic**

- (1) A person must not use an animal in any research, testing, or teaching that is for the purpose of—
- (a) developing, making, or testing a cosmetic; or
  - (b) developing, making, or testing an ingredient that is intended exclusively for use in a cosmetic.

- (2) Subsection (1)(b) does not apply to research, testing, or teaching in relation to an ingredient that is carried out for a purpose unrelated to the intended use of the ingredient in a cosmetic.
- (3) A person commits an offence who contravenes subsection (1).
- (4) In a prosecution for an offence against this section, it is not necessary for the prosecution to prove that the defendant intended to commit the offence.

Section 84A: inserted, on 10 May 2015, by section 37 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **85 Restrictions on use of non-human hominids**

- (1) No person may carry out any research, testing, or teaching involving the use of a non-human hominid unless such use has first been approved by the Director-General and the research, testing, or teaching is carried out in accordance with any conditions imposed by the Director-General.
- (2) The Director-General may, in giving approval under subsection (1), impose, as conditions of that approval, such conditions as the Director-General thinks fit.
- (3) The Director-General may from time to time, by notice in writing to any person holding an approval under subsection (1),—
  - (a) revoke any condition of that approval:
  - (b) revoke any condition of that approval, and impose another condition in its place:
  - (c) amend any condition of that approval.
- (4) The Director-General must consult with the National Animal Ethics Advisory Committee before exercising the powers conferred by subsection (1) or subsection (2) or subsection (3).
- (5) The Director-General must not give approval under subsection (1) unless he or she is satisfied—
  - (a) that the use of the non-human hominid in the research, testing, or teaching is in the best interests of the non-human hominid; or
  - (b) that the use of the non-human hominid in the research, testing, or teaching is in the interests of the species to which the non-human hominid belongs and that the benefits to be derived from the use of the non-human hominid in the research, testing, or teaching are not outweighed by the likely harm to the non-human hominid.
- (6) The Director-General must monitor the carrying out of any research, testing, or teaching to which an approval given under subsection (1) relates.
- (7) A person commits an offence who contravenes subsection (1).
- (8) Nothing in sections 82 to 84 applies in relation to research, testing, or teaching that involves the use of a non-human hominid.



## **86 Revocation of approval**

- (1) The Director-General may at any time, by notice in writing to the person to whom an approval under section 85(1) was given, revoke that approval if the Director-General is satisfied,—
  - (a) where the approval was given in accordance with section 85(5)(a), that the use of the non-human hominid in the research, testing, or teaching is no longer in the best interests of the non-human hominid; or
  - (b) where the approval was given in accordance with section 85(5)(b), that the use of the non-human hominid in the research, testing, or teaching is no longer in the interests of the species to which the non-human hominid belongs; or
  - (c) where the approval was given in accordance with section 85(5)(b), that the benefits to be derived from the use of the non-human hominid in the research, testing, or teaching (being benefits of the kind described in section 80(1)(b)) are outweighed by the likely harm to the non-human hominid; or
  - (d) that any condition of the approval is not being complied with; or
  - (e) that the person to whom the approval was granted—
    - (i) is no longer carrying out research, testing, or teaching; or
    - (ii) has been convicted of an offence against any Act specified in section 96(2)(b); or
    - (iii) no longer has the capability and skills to carry out research, testing, or teaching; or
    - (iv) has failed to comply in a material respect with this Act or any regulations made under this Act or any code of ethical conduct; or
    - (v) has provided in that person's application for the approval information that was false in a material respect.
- (2) The Director-General must, before revoking the approval, give the person to whom the approval was given, an opportunity to be heard.

### *Codes of ethical conduct*

## **87 Codes of ethical conduct**

- (1) Any person referred to in subsection (2) may apply to the Director-General for approval of a code of ethical conduct in relation to the use of animals.
- (2) The persons are—
  - (a) any person who—
    - (i) is engaged in, or wishes to be engaged in, research, testing, or teaching; and
    - (ii) wishes to use animals in that research, testing, or teaching:

- (b) any person who—
  - (i) is not directly engaged in research, testing, or teaching; but
  - (ii) wishes to enable a teaching organisation to use animals in research, testing, or teaching.

Section 87: replaced, on 10 May 2015, by section 38 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

## **88 Contents of code of ethical conduct**

- (1) Each code of ethical conduct must contain provisions that set out, in relation to the carrying out of the research, testing, or teaching to which the code relates, the policies to be adopted and the procedures to be followed,—
  - (a) by the code holder; and
  - (b) by an animal ethics committee appointed by the code holder.
- (2) The policies and procedures must—
  - (a) enable the animal ethics committee to carry out its functions effectively; and
  - (b) enable persons who are members of the animal ethics committee but who are not employed by the code holder to have an effective input into the working of the committee; and
  - (c) make provision for adequate monitoring of compliance with the conditions of project approvals to be carried out; and
  - (d) make provision for the code holder to collect the information and to maintain the records required by regulations made under this Act; and
  - (e) specify animal management practices and facilities that are such as to enable the purposes of this Part to be met adequately; and
  - (f) be such as to ensure that where any member of the animal ethics committee makes a complaint, that complaint may be dealt with fairly and promptly by the animal ethics committee or the code holder; and
  - (g) include, if necessary, the policies and procedures referred to in section 84(1)(b).
- (3) The provisions of each code of ethical conduct must—
  - (a) be consistent with this Act and with any standards or policies prescribed by regulations made under this Act; and
  - (b) be such as to enable any requirements specified in regulations made under this Act to be met.

Compare: 1960 No 30 s 19A(2); 1983 No 141 s 6; 1987 No 20 s 3(2)

## **89 Application for approval**

- (1) Every application under section 87 must be in writing and must contain—

- (a) information on the general nature and extent of the research, testing, or teaching to which the application relates; and
  - (b) a statement of the period in respect of which the approval is sought; and
  - (c) particulars of any convictions against—
    - (i) this Act; or
    - (ii) the Animals Protection Act 1960; or
    - (iii) the Agricultural Compounds and Veterinary Medicines Act 1997; or
    - (iv) the Biosecurity Act 1993; or
    - (v) the Companies Act 1993; or
    - (vi) the Crimes Act 1961; or
    - (vii) the Dog Control Act 1996; or
    - (viii) the Serious Fraud Office Act 1990; or
    - (ix) the Trade in Endangered Species Act 1989; or
    - (x) the Veterinarians Act 2005; or
    - (xi) any Act that was replaced by any of the Acts specified in subparagraphs (ii) to (x); or
    - (xii) any Act passed in substitution for any of the Acts specified in subparagraphs (iii) to (x).
- (2) Every application under section 87 must be accompanied by—
- (a) the proposed code of ethical conduct to which the application relates; and
  - (b) evidence, in the form of independent references and appropriate academic qualifications, that the applicant, or the persons employed or engaged to do the work, have the capability, skills, and experience to carry out the type of research, testing, or teaching to which the application relates; and
  - (c) where the application relates to a second or subsequent period of research, testing, or teaching, a report—
    - (i) made by an accredited reviewer; and
    - (ii) showing that the work carried out during the previous period of research, testing, or teaching was satisfactory in terms of section 106(1).
- (3) The Director-General must refer to the National Animal Ethics Advisory Committee for its comments every application made under section 87 and must consult with that Committee with regard to every such application.
- (4) Where a person, who is deemed, by section 192(b)(ii), to be a code holder for the purposes of section 105(3), makes an application under section 87, that

application is deemed for the purposes of this section to be an application relating to a second or subsequent period of research, testing, or teaching.

Section 89(1)(a): amended, on 10 May 2015, by section 39 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 89(1)(c)(x): amended, on 22 December 2005, by section 105 of the Veterinarians Act 2005 (2005 No 126).

## 90 Changes to proposed code

The Director-General may, before deciding whether to approve, or to refuse to approve, a proposed code of ethical conduct, change the contents of the code if the National Animal Ethics Advisory Committee so recommends after consultation with the applicant.

Compare: 1960 No 30 s 19A(5); 1983 No 141 s 6

## 91 Approval of code of ethical conduct

- (1) The Director-General must, in considering any application under section 87, have regard to the following matters:
  - (a) the contents of the proposed code of ethical conduct; and
  - (b) the evidence and other information and particulars supplied to the Director-General in accordance with section 89(1) and paragraphs (b) and (c) of section 89(2); and
  - (c) the consultation conducted under section 89(3).
- (2) On approving the proposed code of ethical conduct, the Director-General may impose such conditions as he or she considers appropriate.
- (3) Where the Director-General approves a proposed code of ethical conduct, the Director-General must publish a notice of the approval in the *Gazette*.
- (4) Where the Director-General refuses to approve a proposed code of ethical conduct, the Director-General must give the applicant written notice of—
  - (a) the refusal; and
  - (b) the reasons for the refusal.

Compare: 1960 No 30 s 19A(6); 1983 No 141 s 6

## 92 Time limits

- (1) Subject to subsection (3), the Director-General must, within 40 working days after receiving an application under section 87—
  - (a) decide whether to approve the proposed code of ethical conduct, with or without changes, and, if it is to be approved, any conditions to be imposed; and
  - (b) give or post to the applicant written notice of the decision on the application.

- (2) If the period specified in subsection (1) expires without the Director-General having approved the proposed code of ethical conduct and without having given a notice under subsection (1)(b), the Director-General is deemed to have refused to approve the proposed code of ethical conduct.
- (3) If, within the period specified in subsection (1), the Director-General notifies the applicant in accordance with subsection (1)(b) that either the Director-General or the National Animal Ethics Advisory Committee either—
  - (a) requires more information from the applicant; or
  - (b) needs to consult the applicant,—the period specified in subsection (1) is deemed to be extended by a further 40 working days.

### **93 Approval to be personal to code holder**

- (1) An approval of a code of ethical conduct is personal to the code holder and, except with the consent of the Director-General, is not transferable.
- (2) An approval of a code of ethical conduct does not vest by operation of law in any person other than the code holder.
- (3) For the purposes of subsection (1), where—
  - (a) a code holder assigns the assets and goodwill of the code holder's business to another person; or
  - (b) a transfer of all or some of the share capital of the code holder has the effect of transferring control of the code holder's business to another person,—

every such assignment or transfer has the effect of revoking the approval of the code of ethical conduct held by the code holder unless that assignment or transfer is effected with the consent of the Director-General.

### **94 Duration of approval**

- (1) Every approval under section 91 of a code of ethical conduct has effect for such period, not exceeding the period of 5 years beginning with the date of the publication in the *Gazette* of notice of the approval of that code, as the Director-General specifies in that notice.
- (2) Subsection (1) is subject to sections 95 and 96.

### **95 Application for amendment, suspension, or revocation of code of ethical conduct**

- (1) Every code holder may apply to the Director-General for his or her approval to the amendment, suspension, or revocation of the approval of the code of ethical conduct in respect of which the code holder holds the Director-General's approval.

- (2) Every such application must be in writing and must state the reason why the code of ethical conduct should be amended, suspended, or revoked.
- (3) The Director-General must refer to the National Animal Ethics Advisory Committee for its comments every application made under subsection (1) for his or her approval to the amendment of a code of ethical conduct and must consult with that Committee with regard to every such application.
- (4) Despite subsections (1) to (3), nothing in this section prevents a code holder from making minor amendments to a code of ethical conduct (being minor amendments that would not materially affect the purposes of the code) without the approval of the Director-General.
- (5) Where, in any year ending with 31 December, a code holder makes minor amendments to a code of ethical conduct, that code holder must, as soon as practicable after the end of that year but not later than 31 March in the succeeding year, give to the Director-General in writing particulars of those minor amendments.

#### **96 Amendment, suspension, or revocation**

- (1) The Director-General must, in considering any application under section 95 for approval to the amendment to a code of ethical conduct, consider—
  - (a) whether the current provisions of the code of ethical conduct are appropriate to the activities of the code holder; and
  - (b) whether scientific developments make it appropriate for the code of ethical conduct to be amended; and
  - (c) the consultation conducted under section 95(3).
- (2) The Director-General may, whether or not an application is made under section 95, suspend or revoke the approval of a code of ethical conduct if the Director-General believes, on reasonable grounds, that the code holder—
  - (a) is no longer carrying out research, testing, or teaching or no longer wishes to enable research, testing, or teaching to be carried out by another person; or
  - (b) has been convicted of an offence against—
    - (i) this Act; or
    - (ii) the Animals Protection Act 1960; or
    - (iii) the Agricultural Compounds and Veterinary Medicines Act 1997; or
    - (iv) the Biosecurity Act 1993; or
    - (v) the Companies Act 1993; or
    - (vi) the Crimes Act 1961; or
    - (vii) the Dog Control Act 1996; or
    - (viii) the Serious Fraud Office Act 1990; or

- (ix) the Trade in Endangered Species Act 1989; or
  - (x) the Veterinarians Act 2005; or
  - (xi) any Act that was replaced by any of the Acts specified in subparagraphs (ii) to (x); or
  - (xii) any Act passed in substitution for any of the Acts specified in subparagraphs (iii) to (x); or
  - (c) no longer has the capability and skills necessary to carry out research, testing, or teaching or to enable research, testing, or teaching to be carried out by another person; or
  - (d) has failed to comply in a material respect with this Act or any regulations made under this Act or the code of ethical conduct; or
  - (e) has provided in or with the code holder's application under section 87 information that was false in a material respect.
- (3) Except where a code holder applies under section 95(1) for the suspension or revocation of the approval of a code of ethical conduct, the Director-General must, before revoking or suspending the approval of a code of ethical conduct, give the code holder an opportunity to be heard and must consult with the National Animal Ethics Advisory Committee with regard to the proposed revocation or suspension of the code of ethical conduct.
- (4) Where the Director-General decides to approve the suspension or revocation of the approval of a code of ethical conduct, the Director-General must publish a notice of the decision in the *Gazette*.
- (5) Where the Director-General refuses to approve an amendment to a code of ethical conduct, the Director-General must give the applicant written notice of—
- (a) the refusal; and
  - (b) the reasons for the refusal.

Section 96(2)(a): amended, on 10 May 2015, by section 40(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 96(2)(b)(x): amended, on 22 December 2005, by section 105 of the Veterinarians Act 2005 (2005 No 126).

Section 96(2)(c): amended, on 10 May 2015, by section 40(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

## 97 Review of decisions

- (1) Where a decision under section 85 or section 86 or section 91 or section 96 is made by a person acting under the delegated authority of the Director-General, the person seeking an approval or holding an approval under section 85 or the applicant or the code holder, as the case may be, are each entitled to have the decision reviewed by the Director-General.
- (2) Where a decision under section 85 or section 86 or section 91 or section 96 is made by the Director-General, the person seeking an approval or holding an

approval under section 85 or the applicant or the code holder, as the case may be, are each entitled to have the decision reviewed by the Minister.

### *Animal ethics committees*

#### **98 Establishment of animal ethics committees**

Every code holder must establish and maintain an animal ethics committee.

#### **99 Functions and powers**

- (1) The functions of an animal ethics committee are—
- (a) to consider and determine on behalf of the code holder applications for the approval of projects:
  - (b) to consider and determine, under section 84(1)(a), applications for the approval of projects:
  - (c) to set, vary, and revoke conditions of project approvals:
  - (d) to monitor compliance with conditions of project approvals:
  - (e) to monitor animal management practices and facilities to ensure compliance with the terms of the code of ethical conduct:
  - (f) to consider and determine applications for the renewal of project approvals:
  - (g) to suspend or revoke, where necessary, project approvals:
  - (h) to recommend to the code holder amendments to the code of ethical conduct.
- (2) Each animal ethics committee has such powers as are reasonably necessary to enable it to carry out its functions.

#### **100 Criteria**

- (1) In considering any application for the approval of a project and in setting, varying, or revoking conditions of the approval of a project, every animal ethics committee must have regard to such of the following matters as are relevant:
- (a) the purposes of this Part, but the committee need not have regard to the purpose stated in section 80(1)(b) for any part of the project that involves manipulation to which section 3(1A) applies; and
  - (b) any matters that the committee is required to consider by regulations made under this Act; and
  - (c) the scientific or educational objectives of the project; and
  - (d) the harm to, or the distress felt by, the animals as a result of the manipulation, and the extent to which that harm or distress can be alleviated by any means (including, where the pain or distress cannot be held within reasonable levels, the abandonment of the manipulation or the humane destruction of animals), but this paragraph does not apply to the killing



- of animals for the purpose of any project where research, testing, and teaching are to be performed on their bodies or tissues; and
- (e) whether the design of the experiment or demonstration is such that it is reasonable to expect that the objectives of the experiment or demonstration will be met; and
  - (f) the factors that have been taken into account in the choice of animal species; and
  - (fa) the extent to which there has been—
    - (i) assessment of the suitability of using non-sentient or non-living alternatives in the project; and
    - (ii) replacement of animals as subjects with suitable non-sentient or non-living alternatives; and
  - (g) whether the number of animals to be used is the minimum necessary to ensure a meaningful interpretation of the findings and the statistical validity of the findings; and
  - (h) whether adequate measures will be taken to ensure the general health and welfare of animals before, during, and after manipulation; and
  - (i) whether suitably qualified persons will be engaged in supervising and undertaking the research, testing, or teaching; and
  - (j) whether any duplication of an experiment is proposed and, if so, whether any such duplication will be undertaken only if the original experiment—
    - (i) is flawed in a way that was not able to be predicted; or
    - (ii) needs to be duplicated for the purpose of confirming a result that was unexpected or has far-reaching implications; and
  - (k) whether the same animals are to be used repeatedly in successive projects, and, if so, the cumulative effect of the successive projects on the welfare of the animals; and
  - (l) whether there is a commitment to ensuring that findings of any experiment will be adequately used, promoted, or published; and
  - (m) any other matters that the committee considers relevant.
- (2) When an animal ethics committee considers approving a research, testing, and teaching project that involves manipulation to which section 3(1A) applies, the committee must be satisfied that every animal that will be subject to that manipulation will be killed in such a manner that the animal does not suffer unreasonable or unnecessary pain or distress.

Section 100(1)(a): amended, on 1 January 2018, by section 41(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 100(1)(d): amended, on 1 January 2018, by section 41(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 100(1)(fa): inserted, on 9 November 2015, by section 41(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 100(2): inserted, on 1 January 2018, by section 41(4) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **101 Membership**

- (1) Each animal ethics committee is to consist of at least 4 members.
- (2) If the code holder is an organisation, the members of the animal ethics committee must be appointed by the chief executive of the organisation or his or her nominee.
- (3) One member must be—
  - (a) the code holder; or
  - (b) if the code holder is an organisation, a senior member of the organisation appointed by the chief executive to be a member of the committee.
- (4) Any senior member of an organisation who is appointed under subsection (3)(b) must be a person who is capable of evaluating—
  - (a) each proposal for a project; and
  - (b) the qualifications and skills of the proposer of a project; and
  - (c) the scientific value or the teaching value, as the case may require, of a project.
- (5) One member must be a veterinarian (not being a veterinarian who is an employee of, or is otherwise associated with, the code holder) appointed by the code holder on the nomination of the New Zealand Veterinary Association or a similar national body of veterinarians.
- (6) One member must be a person appointed by the code holder on the nomination of an approved organisation.
- (7) The person appointed under subsection (6) must not be—
  - (a) a person who is in the employ of, or is otherwise associated with, the code holder; or
  - (b) a person who is involved in the use of animals for research, testing, or teaching.
- (8) One member must be a person appointed by the code holder on the nomination of a territorial authority or regional council.
- (9) The person appointed under subsection (8) must not be—
  - (a) a person who is in the employ of, or is otherwise associated with, the code holder; or
  - (b) a person who is associated with the scientific community or an animal welfare agency.
- (10) The appointed members of each animal ethics committee hold office for such terms and on such conditions as are specified in the code of ethical conduct.

## **102 Procedure**

The procedure of an animal ethics committee must, except as provided in this Act or in regulations made under this Act or in the code of ethical conduct, be determined by the committee.

## **103 Report of non-compliance**

- (1) Any member of an animal ethics committee who believes that the committee or the code holder is failing to comply in a material respect with this Act or with any regulations made under this Act or with the code of ethical conduct, may report the non-compliance to the Director-General.
- (2) A member of an animal ethics committee who makes a report under subsection (1) in good faith is not to be liable to any civil or criminal proceedings or to any disciplinary proceedings by reason of having made that report.
- (3) The Director-General must use his or her best endeavours not to disclose any information that might identify the person who made the report unless—
  - (a) the person consents to the disclosure of that information; or
  - (b) the Director-General reasonably believes that disclosure of the identifying information—
    - (i) is essential to the investigation of the allegations made in the report; or
    - (ii) is essential having regard to the principles of natural justice.
- (4) Nothing in the Official Information Act 1982 or the Privacy Act 1993 requires the Director-General to disclose information that might identify the person who made the report.

## **104 Protection of members of animal ethics committees**

No member of an animal ethics committee is personally liable for any act done or omitted by the member or the committee in good faith in the course of the operations of the committee.

### *Reviews of code holders and animal ethics committees*

## **105 Independent reviews**

- (1) An independent review of each code holder and of each animal ethics committee established and maintained by the code holder must be undertaken in accordance with this section.
- (2) Where the code holder in respect of a code of ethical conduct is—
  - (a) a person who, on the approval of that code, became a code holder for the first time; or

- (b) a person who, on the approval of that code, was a person who had not, at any time in the period of 2 years immediately preceding the date of that approval, been a code holder,—

an independent review must take place within 2 years after the date on which notice of that approval was published in the *Gazette*.

- (3) Where a code holder (including a code holder to whom subsection (2) applies) applies for the approval of a code of ethical conduct for a second or subsequent period, an independent review must have been completed before the period of the current approval has expired.

### **106 Purpose**

- (1) The purpose of an independent review is to review compliance by a code holder, and by each animal ethics committee appointed by the code holder, with the requirements and standards of this Act and of any regulations made under this Act and of the code of ethical conduct.
- (2) The accredited reviewer is entitled, in relation to an animal ethics committee, to review all aspects of the committee's decision-making process but is not entitled to pass judgment on the validity or appropriateness of the final decision except where failure to comply with the Act or poor process appears to have had a significant bearing on the decision.

### **107 Period to which independent review relates**

The independent review is to relate,—

- (a) in the case of an independent review to which section 105(2) relates, to the period since the code of ethical conduct was approved; or
- (b) in the case of an independent review to which section 105(3) relates, to the period since the last independent review.

### **108 Conduct of independent review**

- (1) Each independent review is to be conducted by an accredited reviewer appointed by the code holder.
- (2) The code holder appointing the accredited reviewer must pay the accredited reviewer for the accredited reviewer's work in conducting the review.
- (3) The remuneration paid for the work is to be such as is agreed on by the code holder and the accredited reviewer.

### **109 Accredited reviewers**

- (1) The Director-General may, on the application of any natural person, accredit that person to carry out independent reviews under section 105.
- (2) Before granting accreditation, the Director-General must be satisfied that the person is a fit and proper person to conduct reviews under section 105, having regard to—

- (a) the relevant competencies possessed by the person; and
  - (b) the person's character or reputation; and
  - (c) the person's ability to maintain an appropriate degree of impartiality and independence in conducting reviews under section 105.
- (3) The Director-General may from time to time, after consultation with the National Animal Ethics Advisory Committee, specify, by notice in the *Gazette*, the qualifications, experience, or other requirements to be met by persons wishing to become accredited reviewers.
- (4) For the purposes of this Act, the Director-General may, without application being made, grant accreditation to any officer or employee of the Ministry who is qualified to carry out reviews under section 105.

### **110 Performance of duties**

Every accredited reviewer must—

- (a) maintain an appropriate degree of impartiality and independence in carrying out his or her duties; and
- (b) take all reasonable steps to ensure that his or her judgment is not impaired—
  - (i) by any relationship with, or interest in, the person or organisation subject to review; or
  - (ii) by any involvement in the development of, or the process for the approval of, a code of ethical conduct; and
- (c) use his or her best endeavours to comply with, and give effect to, any relevant performance standards or other requirements issued by the Director-General under section 112; and
- (d) keep full and readily accessible records of each independent review conducted by the accredited reviewer.

### **111 Applications for accreditation**

- (1) Every application for accreditation under section 109 must—
- (a) be made in writing to the Director-General; and
  - (b) be made on a form provided by the Director-General and in a manner approved by the Director-General; and
  - (c) be accompanied by the prescribed fee (if any).
- (2) For the purpose of assessing the matters specified in section 109(2), the Director-General may require an applicant to supply information additional to that contained in the application.
- (3) If the applicant fails to supply the information within 3 months after the request, or within such further time as the Director-General may allow, the application lapses.

**112 Performance standards**

The Director-General may from time to time, by notice in the *Gazette*,—

- (a) issue performance standards in relation to the exercise or performance by accredited reviewers of their functions, powers, and duties under this Act;
- (b) amend or revoke any performance standards issued under paragraph (a).

**113 Provisions applying in respect of accreditation and accredited reviewers**

The provisions set out in Schedule 2 apply in respect of both accreditation under section 109 and accredited reviewers.

**114 Review**

The accredited reviewer must, in conducting the independent review, assess the extent to which the code holder and the animal ethics committee are—

- (a) implementing the policies, procedures, and requirements set out in this Act and in any regulations made under this Act and in the code of ethical conduct; and
- (b) complying with this Act and any regulations made under this Act and the code of ethical conduct.

**115 Report**

The accredited reviewer must, after conducting a review,—

- (a) prepare a draft report setting out—
  - (i) the preliminary conclusions reached by the reviewer; and
  - (ii) the preliminary recommendations to be made by the accredited reviewer; and
- (b) send copies of the draft report to the code holder; and
- (c) allow the code holder at least 15 working days within which to respond to and comment on the contents of the draft report; and
- (d) after complying with paragraphs (a) to (c) and considering any response and comments made by the code holder in relation to the draft report, prepare a final report setting out the accredited reviewer's conclusions and recommendations; and
- (e) send, to the code holder, a copy of the final report; and
- (f) send, to the Director-General and the National Animal Ethics Advisory Committee,—
  - (i) a copy of the final report; and
  - (ii) a copy of any response and comments made by the code holder in relation to the draft report.

**116 Level of compliance**

- (1) The Director-General must, after receiving a copy of the final report, inform the code holder in writing whether, in the opinion of the Director-General, the report indicates either—
  - (a) that the code holder has achieved a satisfactory level of compliance; or
  - (b) that the code holder has not achieved a satisfactory level of compliance.
- (2) Where the Director-General is of the opinion that the report shows that the code holder has not achieved a satisfactory level of compliance, the Director-General must inform the code holder in writing of the actions that the code holder is required to take in order to achieve a satisfactory level of compliance.

**117 Power of Minister to commission review**

- (1) Where the Minister has reasonable grounds to believe that a code holder or an animal ethics committee may not be complying with this Act or any regulations made under this Act or the relevant code of ethical conduct, the Minister may, at the Crown's expense, appoint a person to make an independent review of that code holder or that animal ethics committee or both.
- (2) The Minister may determine the terms of reference for the review.
- (3) This section has effect despite anything in sections 100 to 114.
- (4) Sections 115 and 116 apply, with all necessary modifications, in relation to a person appointed under this section,—
  - (a) as if that person were an accredited reviewer to whom section 115 applies; and
  - (b) as if, for the expression "Director-General" wherever it appears in those sections, there were substituted in each case the word "Minister".

*Power of Minister to approve research or testing*

**118 Power of Minister to approve research or testing**

- (1) The Minister may authorise any person or organisation to carry out research or testing without the approval of an animal ethics committee where the Minister is satisfied that such research or testing is necessary in the national interest.
- (2) In considering whether the research or testing is necessary in the national interest, the Minister must have regard to the following matters:
  - (a) whether the research or testing is necessary for the purpose of protecting New Zealand's biosecurity interests:
  - (b) whether the research or testing relates to matters that affect or are likely to affect or are relevant to New Zealand's international obligations:
  - (c) whether the research and testing is necessary for the purpose of protecting human or animal health.

- (3) Subject to subsection (4), the Minister must consult with the National Animal Ethics Advisory Committee before exercising the powers conferred on the Minister by subsection (1).
- (4) Subsection (3) does not apply in any case where the research or testing is necessary in relation to the exercise of emergency powers under other Acts.
- (5) Nothing in section 82 or section 83 applies in relation to the carrying out of research or testing authorised by the Minister under subsection (1).

### *Penalties*

#### **119 Penalties**

A person who commits an offence against section 82(2) or section 83(2) or section 84A(3) or section 85(7) is liable on conviction,—

- (a) in the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$25,000 or to both; and
- (b) in the case of a body corporate, to a fine not exceeding \$125,000.

Section 119: amended, on 10 May 2015, by section 42 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 119: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **Part 7**

### **Provisions relating to administration**

#### **120 Purpose**

The purpose of this Part is to—

- (a) specify the criteria for an organisation to be declared as an approved organisation; and
- (b) provide for the appointment of inspectors and auxiliary officers; and
- (c) specify the powers and duties of approved organisations in relation to animals in their custody; and
- (d) specify the powers of inspectors and auxiliary officers, including their powers of search and their powers in relation to animals.

#### *Approved organisations, inspectors, and auxiliary officers*

#### **121 Approved organisations**

- (1) The Minister may from time to time, on the application of any organisation, declare that organisation, by notice in the *Gazette*, to be an approved organisation for the purposes of this Act.
- (2) The application must include—
  - (a) the full name and address of the applicant; and



- (b) the area in which the applicant will, if declared to be an approved organisation, operate as an approved organisation; and
- (c) information that will enable the Minister to assess whether the organisation meets the criteria set out in section 122.

## 122 Criteria

- (1) The Minister must, before declaring an organisation to be an approved organisation for the purposes of this Act, be satisfied, by the production to the Minister of suitable evidence, that—
  - (a) one of the purposes or roles of the organisation concerns the welfare of animals or a particular species of animal; and
  - (b) the accountability arrangements, financial arrangements, and management of the organisation are such that, having regard to the interests of the public, the organisation is suitable to be declared to be an approved organisation; and
  - (c) the functions and powers of the organisation are not such that the organisation could face a conflict of interest if it were to have both those functions and powers and the functions and powers of an approved organisation; and
  - (d) the employment contracts or arrangements between the organisation and the organisation's inspectors and auxiliary officers are such that, having regard to the interests of the public, the organisation is suitable to be declared to be an approved organisation; and
  - (e) the persons who may be recommended for appointment as inspectors or auxiliary officers—
    - (i) will have the relevant technical expertise and experience to be able to exercise competently the powers, duties, and functions conferred or imposed on inspectors and auxiliary officers under this Act; and
    - (ii) subject to section 126, will be properly answerable to the organisation.
- (2) The Minister may, in making a declaration under section 121, impose, as conditions of the Minister's approval, conditions relating to the establishment by the organisation of performance standards and technical standards for inspectors and auxiliary officers.
- (3) The Minister may, in making a declaration under section 121, specify that the approval is given in respect of—
  - (a) only the species specified in the declaration; or
  - (b) all animals.
- (4) Nothing in this section obliges the Minister to make a declaration under section 121.

- (5) The Minister may, in making a declaration under section 121, impose, as conditions of the Minister's approval, any other conditions or requirements that relate to the organisation's performance of its functions and powers that he or she considers necessary or desirable.

Section 122(1)(a): replaced, on 10 May 2015, by section 43(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 122(3): inserted, on 10 May 2015, by section 43(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 122(4): inserted, on 10 May 2015, by section 43(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 122(5): inserted, on 10 May 2015, by section 43(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **123 Amendment or revocation of declaration**

- (1) The Minister may from time to time, by notice in the *Gazette*, revoke any declaration made under section 121 if the Minister is satisfied that—
- (a) the organisation no longer meets any 1 or more of the criteria set out in section 122; or
  - (b) the organisation has failed to comply with any condition imposed under section 122(2); or
  - (c) the organisation has failed to comply with any condition imposed under section 122(5).
- (2) The Minister may from time to time, by notice in the *Gazette*,—
- (a) revoke any condition imposed under section 122(2) or (5):
  - (b) revoke any condition imposed under section 122(2) or (5), and impose another condition in its place:
  - (c) amend any condition imposed under section 122(2) or (5) or this section.

Section 123(1): replaced, on 10 May 2015, by section 44(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 123(2)(a): amended, on 10 May 2015, by section 44(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 123(2)(b): amended, on 10 May 2015, by section 44(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 123(2)(c): amended, on 10 May 2015, by section 44(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **123A Appointment of auditors**

- (1) The Director-General may appoint auditors to carry out audits of approved organisations for the purposes of this Act.
- (2) The Director-General may appoint as auditors only those persons who have appropriate experience, technical competence, and qualifications relevant to the audits.

- (3) Auditors may, but need not, be persons who are employed under the State Sector Act 1988.

Section 123A: inserted, on 10 May 2015, by section 45 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **123B Audits**

- (1) The Director-General must set terms of reference for audits of approved organisations.
- (2) Audits include examinations, investigations, and reviews.
- (3) Auditors conduct audits as to the previous and current positions, and as to the likely future position, of—
- (a) an organisation's ability to meet the criteria set out in section 122(1):
  - (b) compliance by an organisation and its inspectors and auxiliary officers with any relevant performance and technical standards for inspectors and auxiliary officers:
  - (c) an organisation's compliance with any memorandum of understanding established between the organisation and the Ministry:
  - (d) the exercise of any power, and the carrying out of any functions or duties, by any inspector or auxiliary officer of an organisation:
  - (e) an organisation's compliance with animal welfare law:
  - (f) compliance by an organisation and its inspectors and auxiliary officers with any direction issued by the Director-General under section 126:
  - (g) any other class or description of audit necessary to audit an organisation's work or status as an approved organisation under this Act.
- (4) Any inspector, auxiliary officer, or employee of an organisation, and any other inspector or auxiliary officer, may be the subject of an audit.

Section 123B: inserted, on 10 May 2015, by section 45 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **123C Auditors' general duties**

- (1) An auditor must use his or her best endeavours to comply with and give effect to relevant performance or technical standards when exercising powers or carrying out functions or duties for the purposes of this Act.
- (2) An auditor must give the approved organisation that is to be audited a written notice of the audit and the terms of reference a reasonable time before the audit starts, unless giving notice would defeat the purpose of the audit.
- (3) The auditor must conduct the audit within the terms of reference.

Section 123C: inserted, on 10 May 2015, by section 45 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**123D Auditors' powers**

- (1) An auditor may exercise the powers in this section for the purposes of an audit.
- (2) The Director-General may give the approved organisation that is to be audited a written notice to appear before an auditor at a time and place specified in the notice.
- (3) If the Director-General acts under subsection (2), the auditor may require the approved organisation to answer all questions relating to the audit put to the organisation.
- (4) An auditor may examine the systems, processes, and records of the approved organisation.
- (5) The approved organisation must ensure that the auditor—
  - (a) has full access to all books and records in the possession or under the control of the organisation and to any place where any such books or records are kept; and
  - (b) is able to examine or audit any books or records, and take copies or extracts from them; and
  - (c) has full access to facilities (for example, animal shelters) that are maintained so that the organisation can fulfil its duties under this Act, and is able to take samples and records from facilities and animals kept there as provided in section 127; and
  - (d) has full access to any other thing that relates to the organisation's performance of duties under this Act and the organisation's ability to meet the criteria set out in section 122(1).

Section 123D: inserted, on 10 May 2015, by section 45 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**124 Appointment of inspectors**

- (1) The Director-General may from time to time appoint persons employed in the State sector to be inspectors for the purposes of this Act.
- (2) The Minister may from time to time, on the recommendation of an approved organisation, appoint any person to be an inspector for the purposes of this Act.
- (3) Every inspector appointed under subsection (2)—
  - (a) must be appointed either—
    - (i) for particular purposes of this Act specified in the inspector's instrument of appointment, which may include the exercise of particular powers of inspectors under this Act or relate to a particular species; or
    - (ii) for the general purposes of this Act; and
  - (b) must be appointed either—
    - (i) for a particular district or part or parts of New Zealand; or

- (ii) to act generally throughout New Zealand.
- (4) The Minister may appoint a person to be an inspector under subsection (2) only where the Minister is satisfied that the person has the experience, technical competence, and other qualifications to undertake the functions of an inspector.
- (5) Every constable is, by virtue of his or her office, deemed to be an inspector appointed to act generally throughout New Zealand for the general purposes of this Act.
- (6) Every inspector appointed under subsection (2)—
  - (a) is appointed for such term, not exceeding 3 years, as the Minister thinks fit, and is eligible for reappointment from time to time:
  - (aa) may at any time be suspended from office by the Minister if he or she considers it desirable to do so pending the investigation of a complaint relating to—
    - (i) the inspector's performance of his or her functions or duties; or
    - (ii) any suspected neglect of duty or misconduct of the inspector:
  - (b) may at any time be removed from office by the Minister for incapacity affecting performance of duty, neglect of duty, or misconduct proved to the satisfaction of the Minister:
  - (c) may resign his or her office by giving written notice to that effect to the Minister:
  - (d) must on the expiration of the term of his or her appointment, or on the sooner expiry of his or her appointment by removal from office or resignation, surrender to the Minister his or her instrument of appointment.
- (6A) If the Minister suspends an inspector under subsection (6)(aa), the Minister must give the inspector a written notice stating—
  - (a) that the inspector's appointment is suspended; and
  - (b) either—
    - (i) the period of the suspension; or
    - (ii) that suspension is for an indefinite period; and
  - (c) the reasons for the suspension.
- (7) Without limiting subsection (6)(b), it is declared that where an approved organisation informs the Minister in writing that an inspector who was appointed on the recommendation of that approved organisation is no longer acting for that approved organisation or for an incorporated society that is a branch or member of that approved organisation in that capacity or in the particular district or part or parts of New Zealand for which the inspector was appointed, the Minister may, by written notice to that inspector, invite that inspector to both resign his or her office in accordance with subsection (6)(c) and surrender his or her instrument of appointment in accordance with subsection (6)(d) by a date spe-

cified in the notice, and, if that inspector fails to do so by that date, the Minister may revoke that inspector's appointment.

- (8) No person appointed by the Minister under subsection (2) to be an inspector is by virtue of that appointment employed in the Public Service for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956.
- (9) The Director-General may from time to time establish performance standards and technical standards for inspectors appointed under subsection (1).
- (10) Every inspector appointed under subsection (1) or subsection (2) must, when performing his or her functions or duties under this Act or exercising his or her powers under this Act, use his or her best endeavours to comply with, and give effect to, the relevant performance standards or technical standards.

Compare: 1960 No 30 s 9; 1995 No 31 s 15

Section 124(1): replaced, on 9 August 2015, by section 46(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 124(3)(a): replaced, on 10 May 2015, by section 46(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 124(5): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 124(6)(aa): inserted, on 10 May 2015, by section 46(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 124(6A): inserted, on 10 May 2015, by section 46(4) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 124(7): amended, on 27 September 2001, by section 4 of the Animal Welfare Amendment Act 2001 (2001 No 52).

## **125 Appointment of auxiliary officers**

- (1) The Director-General may from time to time, on the recommendation of an approved organisation, appoint any person to be an auxiliary officer for the purposes of this Act.
- (2) No person appointed by the Director-General under this section to be an auxiliary officer is by virtue of that appointment employed in the Public Service for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956.
- (2A) The Director-General may at any time suspend a person's appointment as an auxiliary officer.
- (3) The Director-General may at any time revoke any appointment made under subsection (1).

Section 125(2A): inserted, on 10 May 2015, by section 47 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**126 Inspectors and auxiliary officers to act under direction of Director-General**

- (1) All inspectors and auxiliary officers must act under the direction of the Director-General in the exercise and performance of the powers, duties, and functions conferred or imposed on them under this Act.
- (2) In the event of any conflict arising between the powers, duties, and functions conferred or imposed on an inspector or auxiliary officer, as the case may be, as an employee or member of an approved organisation and the powers, duties, and functions conferred or imposed on that inspector or auxiliary officer under this Act, the powers, duties, and functions conferred or imposed on that inspector or auxiliary officer under this Act prevail.

Compare: 1995 No 31 s 16

*Power to inspect land, premises, and places and stationary vehicles, aircraft, and ships*

**127 Power to inspect land, premises, and places and stationary vehicles, aircraft, and ships**

- (1) Subject to subsections (3) and (4), an inspector may—
  - (a) in the case of any land, premises, or place, at any reasonable time or times; and
  - (b) in the case of any vehicle, aircraft, or ship, at any reasonable time or times at which the vehicle, aircraft, or ship is stationary,—

enter, without warrant, that land or those premises or that place or any such vehicle, aircraft, or ship for the purposes of inspecting any animal on or in that land or those premises or that place or in or on any such vehicle, aircraft, or ship.
- (2) A constable may, for the purpose of exercising the powers conferred by this section or of enabling an inspector to exercise any of the powers conferred by this section, stop any vehicle if the constable has reasonable grounds to believe that an animal on or in that vehicle is suffering or is likely to suffer unreasonable or unnecessary pain or distress.
- (3) No inspector may, under subsection (1), enter in or on any dwelling or marae unless he or she is authorised to do so by a search warrant issued under section 131.
- (4) In the case of a ship that is neither a ship registered under the Ship Registration Act 1992 nor a ship entitled under any provision of that Act (other than section 8(1)(b)) to be registered as a New Zealand ship, the power that an inspector has, under subsection (1), may be exercised only if the ship—
  - (a) is in a port, harbour, roadstead, or anchorage in New Zealand; or

- (b) is otherwise within the internal waters of New Zealand as defined by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.
- (4A) If an inspector exercises a power of entry under subsection (1), the inspector may take any photographs, sound or video recordings, drawings, or other records (whether paper-based or electronic) of anything relevant to, and observed during, an inspection.
- (4B) If an inspector exercises a power of entry under subsection (1), the inspector may take—
- (a) the carcass of or tissue or other bodily samples (for example, blood samples) from any dead animal found during an inspection:
  - (b) tissue or other bodily samples (for example, blood samples) from any live animal found during the inspection.
- (5) Where an inspector who exercises a power of entry under subsection (1) has reasonable grounds to believe, in respect of any animal found on or in the land, premises, or place or in or on the vehicle, aircraft, or ship, that—
- (a) the animal has been wilfully ill-treated contrary to section 28; or
  - (aa) the owner of the animal is already disqualified from owning an animal under this Act; or
  - (b) the physical, health, and behavioural needs of the animal or the need for the animal to receive treatment from a veterinarian make it necessary or desirable to remove the animal from the land, premises, or place or the vehicle, aircraft, or ship; or
  - (c) the animal is at clear risk of imminent harm,—
- the inspector may take and maintain possession of the animal, by force if necessary, and convey the animal to another place.
- (6) The inspector may keep the animal at a place chosen by the inspector until—
- (a) the animal is, under section 172, forfeited to the Crown or to an approved organisation; or
  - (b) a District Court Judge orders that the animal be delivered to the owner of the animal or to the person charged with the offence against this Act.
- (7) An inspector may take any person in or on any land, premises, or place or in or on an aircraft, ship, or vehicle to assist the inspector with an inspection under subsection (1).

Compare: 1960 No 30 s 10(1), (4), (5), (6); 1978 No 63 s 2(2)

Section 127(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 127(4A): inserted, on 10 May 2015, by section 48(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 127(4B): inserted, on 10 May 2015, by section 48(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).



Section 127(5)(aa): inserted, on 10 May 2015, by section 48(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 127(5)(b): amended, on 10 May 2015, by section 48(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 127(5)(c): inserted, on 10 May 2015, by section 48(4) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

## **128 Production of evidence of appointment**

An inspector exercising a power of entry under section 127 must, at the time of initial entry and, if requested at any subsequent time, produce—

- (a) evidence of his or her appointment as an inspector; and
- (b) evidence of his or her identity.

Compare: 1960 No 30 s 10(3A); 1983 No 141 s 4(3)

## **129 Notice of entry**

If the person in charge of the land, premises, or place or the vehicle, aircraft, or ship, as the case may be, is not present at the time at which a power of entry is exercised, without warrant, under section 127, the inspector must leave in a prominent place on the land, premises, or place or in or on the vehicle, aircraft, or ship a written statement of—

- (a) the time and date of the entry; and
- (b) the purpose of the entry; and
- (c) the condition of any animals inspected; and
- (d) the animals (if any) that have been removed from the premises in accordance with section 127(5); and
- (e) the name of that inspector; and
- (f) the address of the Police station or other office to which inquiries should be made.

Compare: 1960 No 30 s 10(3B); 1983 No 141 s 4(3)

## **130 Power to prevent or mitigate suffering**

- (1) Where an inspector, either in the course of the exercise of a power of entry under section 127 or at any other time, has reasonable grounds to believe that an animal is suffering or is likely to suffer unreasonable or unnecessary pain or distress, the inspector—

- (a) may take all such steps as the inspector considers are necessary or desirable to prevent or mitigate the suffering of the animal (including, if necessary, destroying or arranging for the destruction of the animal); and
- (b) may, by notice in writing given by the inspector to the owner or the person in charge of the animal or any person appearing to be in charge of the animal, require the person to whom the notice is given to take all such steps as the inspector considers are necessary or desirable to pre-

vent or mitigate the suffering of the animal (including, if necessary, destroying or arranging for the destruction of the animal).

- (1A) If an inspector proposes to destroy, or require the destruction of, an animal under subsection (1), the inspector must ensure that the process in section 138 is followed before the animal is destroyed (as if that section applied).
- (1B) Without limiting section 185, a notice under subsection (1)(b) may be served on a person by—
- (a) delivering it personally to the person:
  - (b) delivering it to the person at the person's usual or last-known place of residence or business:
  - (c) sending it by fax or email to the person's fax number or email address:
  - (d) posting it in a letter addressed to the person at the person's usual or last-known place of residence or business.
- (1C) The following provisions apply to service as described in subsection (1B):
- (a) service on an officer of a body, or on the body's registered office, is deemed to be service on the body:
  - (b) service on any of the partners in a partnership is deemed to be service on the partnership:
  - (c) service by post is deemed to occur at the time at which the notice would have been delivered in the ordinary course of the post.
- (2) A person commits an offence who, without reasonable excuse, fails to comply with any requirement of an inspector under subsection (1)(b).
- (3) A person who commits an offence against subsection (2) is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$5,000; or
  - (b) in the case of a body corporate, to a fine not exceeding \$25,000.

Compare: 1960 No 30 s 10(6), (7); 1993 No 19 s 3(1)

Section 130(1)(a): amended, on 1 October 2012, by section 195(1) of the Search and Surveillance Act 2012 (2012 No 24).

Section 130(1)(b): amended, on 1 October 2012, by section 195(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 130(1A): inserted, on 10 May 2015, by section 49(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 130(1B): inserted, on 10 May 2015, by section 49(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 130(1C): inserted, on 10 May 2015, by section 49(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 130(2): amended, on 10 May 2015, by section 49(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 130(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

*Search warrants*

**131 Search warrants**

- (1) Any issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who, on an application made in the manner provided in subpart 3 of Part 4 of that Act by a constable or an inspector, is satisfied that there are reasonable grounds for believing that in or on any land, premises, or place specified in the application or any vehicle, aircraft, or ship specified in the application—
- (a) an offence against this Act or any regulations made under this Act has been, or is being, committed; or
  - (b) the suffering of an animal could be prevented or mitigated; or
  - (c) there is any thing that is evidence of an offence committed against this Act or any regulations made under this Act; or
  - (d) there is any thing which there are reasonable grounds to believe may be evidence of the commission of any offence against this Act or any regulations made under this Act,—

may issue a search warrant to authorise every constable and inspector to search the land, premises, or place or the vehicle, aircraft, or ship.

- (2) In the case of a ship that is neither a ship registered under the Ship Registration Act 1992 nor a ship entitled under any provision of that Act (other than section 8(1)(b)) to be registered as a New Zealand ship, the power that a constable or an inspector has, under a search warrant issued under subsection (1), may be exercised only if the ship—
- (a) is in a port, harbour, roadstead, or anchorage in New Zealand; or
  - (b) is otherwise within the internal waters of New Zealand as defined by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.
- (3) The provisions of Part 4 of the Search and Surveillance Act 2012 apply, subject to subsection (4) and sections 133(2) and (4), 136, and 136A.
- (4) Despite subsection (3), sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a warrant issued to a named constable or to every constable.

Compare: 1960 No 30 s 10(3); 1983 No 141 s 4(2)

Section 131(1): amended, on 26 March 2015, by section 4 of the Animal Welfare Amendment Act 2015 (2015 No 6).

Section 131(1): amended, on 1 October 2012, by section 195(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 131(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 131(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 131(3): replaced, on 1 October 2012, by section 195(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 131(4): inserted, on 1 October 2012, by section 195(4) of the Search and Surveillance Act 2012 (2012 No 24).

### **132 Form and content of search warrant**

*[Repealed]*

Section 132: repealed, on 1 October 2012, by section 195(5) of the Search and Surveillance Act 2012 (2012 No 24).

### **133 Powers conferred by search warrant**

(1) *[Repealed]*

(2) If an inspector executes a search warrant and seizes an animal under that search warrant, the inspector may maintain possession of that animal, and convey that animal to another place.

(3) *[Repealed]*

(4) Where an inspector executes a search warrant and the inspector is satisfied an animal is suffering unreasonable or unnecessary pain or distress because—

(a) the physical, health, and behavioural needs of the animal are not being met; or

(b) for any other reason,—

the inspector may take any steps that the inspector considers are necessary or desirable to prevent or mitigate the suffering of the animal (including, if necessary, destroying or arranging for the destruction of the animal).

(4A) If an inspector proposes to destroy, or require the destruction of, an animal under subsection (4), the inspector must ensure that the process in section 138 is followed before the animal is destroyed (as if that section applied).

(5) *[Repealed]*

Compare: 1960 No 30 s 10(6)

Section 133(1): repealed, on 1 October 2012, by section 195(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 133(3): repealed, on 1 October 2012, by section 195(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 133(4): amended, on 1 October 2012, by section 195(6) of the Search and Surveillance Act 2012 (2012 No 24).

Section 133(4A): inserted, on 10 May 2015, by section 50 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 133(5): repealed, on 1 October 2012, by section 195(5) of the Search and Surveillance Act 2012 (2012 No 24).

### **134 Production of search warrant**

*[Repealed]*

Section 134: repealed, on 1 October 2012, by section 195(5) of the Search and Surveillance Act 2012 (2012 No 24).

### 135 Notice of execution of search warrant

*[Repealed]*

Section 135: repealed, on 1 October 2012, by section 195(5) of the Search and Surveillance Act 2012 (2012 No 24).

*Further provisions relating to powers of search and entry*

### 136 Disposal of thing seized

- (1) Subject to subsections (2) and (3) and section 136A, subparts 1, 5, 6, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply in respect of—
  - (a) any thing seized by a constable (including any animal seized by a constable under the authority of a search warrant issued under section 131 and any animal of which a constable takes possession under section 137(1)); and
  - (b) with the necessary modifications, any thing seized by an inspector (including any animal seized by an inspector under the authority of a search warrant issued under section 131 and any animal of which an inspector takes possession under section 127).
- (2) Despite anything in subpart 6 of Part 4 of the Search and Surveillance Act 2012, a constable or an inspector who has custody of an animal may place that animal in the care of any other person.
- (3) If the court orders, under section 154(2)(c) of the Search and Surveillance Act 2012, that any animal or thing seized must be disposed of by way of sale, the proceeds of that sale must be applied—
  - (a) first, in the payment of the expenses incurred in arranging the sale:
  - (b) secondly, if an animal and equipment are sold,—
    - (i) the expenses incurred in caring for that animal before the sale; and
    - (ii) if any other animals seized at the same time or under the same warrant have not been sold but are still being cared for, the expenses incurred in caring for those animals (if the owner or person in charge of those animals was, at the time of their seizure, the same person as the person who was the owner of or the person in charge of the animal sold):
  - (c) thirdly, in such manner as the court thinks fit.

Section 136(1): replaced, on 1 October 2012, by section 195(7) of the Search and Surveillance Act 2012 (2012 No 24).

Section 136(1)(b): amended, on 10 May 2015, by section 51 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 136(2): replaced, on 1 October 2012, by section 195(8) of the Search and Surveillance Act 2012 (2012 No 24).

Section 136(3): amended, on 1 October 2012, by section 195(9) of the Search and Surveillance Act 2012 (2012 No 24).

**136A Disposal of animals seized or taken into custody prior to commencement or determination of proceedings**

- (1) This section applies if—
  - (a) 1 or more animals are seized by a constable or an inspector, under the authority of a search warrant issued under section 131, or are taken into possession by an inspector under section 127 or a constable under section 137(1); and
  - (b) either—
    - (i) proceedings for an offence involving that animal or those animals—
      - (A) have been commenced but not yet determined; or
      - (B) have not yet been commenced but are intended to be commenced within a reasonable period; or
    - (ii) the owner of that animal or those animals cannot be located.
- (2) If this section applies, the District Court, on its own motion, or on an application by a constable or an inspector, may make an order authorising—
  - (a) the sale of the animal or animals; or
  - (b) the placement of the animal or animals with another person; or
  - (c) the destruction or other disposal of the animal or animals; or
  - (d) the dehorning or performance of other surgical procedures on the animal or animals.
- (3) The District Court—
  - (a) must, before making an order under subsection (2), give the owner of the animal or animals, if known and able to be contacted, an opportunity to be heard; and
  - (b) may make an order under subsection (2) if it is satisfied that there are good reasons for making that order; and
  - (c) may, when making the order, impose conditions (whether relating to the payment of any security holder in the animal or animals or otherwise).
- (4) In determining whether to make any order referred to in subsection (2), the court must have regard to the following matters:
  - (a) whether the owner of the animal or animals has been identified, and if not, the steps that have been taken to identify and contact that person;
  - (b) the number of animals involved;
  - (c) whether the animal or animals are being kept for economic purposes or for companionship;
  - (d) the cost of continuing to hold the animal or animals;
  - (e) the physical state of the animal or animals;

- (f) whether it is reasonable or practicable for the animal or animals to be placed elsewhere:
  - (g) whether it is reasonable or practicable for the Ministry or an approved organisation to retain possession of and care for the animal or animals until the determination of the proceedings relating to the animal or animals:
  - (h) whether any person will suffer material or other loss, and the extent of that loss, if the animal or animals are sold:
  - (i) any other matters the court considers relevant.
- (5) If an animal is sold under the authority of an order under subsection (2)(a), the proceeds of sale (if any) must be held by the Ministry or an approved organisation (after deducting (in order) the costs of sale, any sums required to be paid to a security holder or any other person under a condition of the order for sale, and any costs incurred by the Crown or approved organisation in caring for the animal or animals or providing veterinary treatment to that animal or those animals).
- (6) The Ministry or approved organisation referred to in subsection (5) must, unless the proceeds of sale are forfeited to the Crown under section 172(1) or the owner of the animal is unknown or cannot be contacted, pay the proceeds of sale to the owner as soon as practicable—
- (a) after the determination of the proceedings for an offence involving that animal or those animals; or
  - (b) after a decision is taken not to commence any such proceedings.

Section 136A: inserted, on 1 October 2012, by section 196 of the Search and Surveillance Act 2012 (2012 No 24).

Section 136A(1)(a): amended, on 10 May 2015, by section 52 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 136A(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

### **137 Vehicle, aircraft, ship, or animal may be detained**

- (1) If a constable arrests a person for an offence against section 22(2), 23(1) or (2), or 40(1) and the person is for the time being in charge of a vehicle, an aircraft, or a ship, or an animal, the constable may—
- (a) take possession of the vehicle, aircraft, or ship, or the animal, or both, and may take that vehicle, aircraft, or ship, or take that animal, or both, as the case may be, to another place; and
  - (b) detain that vehicle, aircraft, or ship, or that animal, or both, at a place chosen by the constable for a period that is reasonably necessary to—
    - (i) conduct a search of the vehicle, aircraft, or ship, or animal, or both, under another provision in this Act or under any other enactment that authorises such a search; or

- (ii) provide humane treatment for any animal that is moved.
- (2) *[Repealed]*
- (3) In the case of a ship that is neither a ship registered under the Ship Registration Act 1992 nor a ship entitled under any provision of that Act (other than section 8(1)(b)) to be registered as a New Zealand ship, the powers that a constable has, under subsection (1), may be exercised only if the ship—
  - (a) is in a port, harbour, roadstead, or anchorage in New Zealand; or
  - (b) is otherwise within the internal waters of New Zealand as defined by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.

Compare: 1960 No 30 s 11

Section 137(1): replaced, on 1 October 2012, by section 197(1) of the Search and Surveillance Act 2012 (2012 No 24).

Section 137(2): repealed, on 1 October 2012, by section 197(1) of the Search and Surveillance Act 2012 (2012 No 24).

Section 137(3): amended, on 1 October 2012, by section 197(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 137(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

#### *Powers in relation to injured or sick animals*

### **138 Destruction of injured or sick animals (other than marine mammals)**

- (1) If an inspector, auxiliary officer, or a veterinarian finds a severely injured or sick animal (other than a marine mammal), and in his or her opinion, the animal should be destroyed because reasonable treatment will not be sufficient to make the animal respond and the animal will suffer unreasonable or unnecessary pain or distress if it continues to live, he or she must, as soon as possible,—
  - (a) consult with the owner of that animal, if that owner can be found within a reasonable time; and
  - (b) if the owner asks for a second opinion from a veterinarian as to whether that animal should be destroyed, allow the owner to obtain that second opinion.
- (2) If—
  - (a) the owner of a severely injured or sick animal cannot be found within a reasonable time; or
  - (b) the owner of a severely injured or sick animal—
    - (i) does not, on being found, agree to the destruction of the animal; and
    - (ii) does not obtain within a reasonable time a second opinion from a veterinarian as to whether the animal should be destroyed,—



the inspector, or auxiliary officer, or veterinarian, as the case may be, must, without delay, destroy that animal or cause it to be destroyed.

- (3) If the owner of a severely injured or sick animal is found and consulted under subsection (1), and agrees that the animal should be destroyed,—
- (a) the inspector, auxiliary officer, or veterinarian, as the case may be, must, without delay, destroy that animal or cause it to be destroyed; or
  - (b) the owner of that animal must, without delay, destroy that animal or cause it to be destroyed.
- (4) If the owner obtains a second opinion under subsection (1)(b), and the veterinarian giving that opinion agrees that the animal should be destroyed,—
- (a) the inspector, auxiliary officer, or veterinarian as the case may be, must, without delay, destroy that animal or cause it to be destroyed; or
  - (b) the owner of that animal must, without delay, destroy that animal or cause it to be destroyed.
- (5) Where, under this section, an inspector, auxiliary officer, or veterinarian destroys an animal or causes it to be destroyed, he or she may dispose of the carcass in such manner as he or she thinks fit.

Compare: 1960 No 30 s 12(3); 1962 No 55 s 2(1)

Section 138(4): amended, on 10 May 2015, by section 53 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **139 Destruction of impounded animals that are diseased, injured, or sick**

Despite section 138, if—

- (a) an inspector, auxiliary officer, or veterinarian certifies in writing that an animal impounded in a pound under the Impounding Act 1955 or the Dog Control Act 1996 is so diseased, injured, or sick that it is in a state of continual suffering; and
- (b) the territorial authority having jurisdiction over the pound is unable to find the owner of that animal within a reasonable time after the inspector, auxiliary officer, or veterinarian has given such a certificate,—

the territorial authority must, without delay, destroy that animal or cause it to be destroyed.

Compare: 1960 No 30 s 12(6)

### **140 Injured and sick marine mammals**

If an inspector, auxiliary officer, or veterinarian finds a severely injured or sick marine mammal, the inspector, auxiliary officer, or veterinarian, as the case may be, must, as soon as possible, report the matter to a Marine Mammals Officer declared or appointed as such under section 11 of the Marine Mammals Protection Act 1978 to be dealt with under that Act.

Compare: 1960 No 30 s 12(5); 1978 No 80 s 30(1)

*Disposal of animals in custody of approved organisations***141 Duties of approved organisation**

- (1) Where a person (other than the owner of an animal) gives that animal into the custody of an approved organisation and that approved organisation accepts custody of that animal, or where an approved organisation takes any animal into its custody, that approved organisation—
- (a) must take reasonable steps to identify the owner of the animal; and
  - (b) may take such steps as it considers necessary or desirable to prevent or mitigate any suffering of the animal.
- (1A) Subsection (1B) applies if—
- (a) an owner of an animal, or a person acting as the agent of an owner of an animal, gives the animal into the temporary custody of an approved organisation; and
  - (b) an arrangement exists for the return of the animal to the owner or the owner's agent; and
  - (c) the owner or the owner's agent does not return to reclaim custody of that animal as agreed.
- (1B) If this subsection applies, the approved organisation may sell, re-home, or dispose of (including destroy) the animal in any manner that an inspector or auxiliary officer acting for the organisation thinks fit if—
- (a) the approved organisation has taken reasonable steps to locate and contact the owner; and
  - (b) either—
    - (i) the approved organisation has been unable to locate or contact the owner; or
    - (ii) the approved organisation has located and attempted to contact the owner, but the owner will not respond; and
  - (c) the approved organisation has given the owner written notice of its intention to sell, re-home, or otherwise dispose of (including destroy) the animal in accordance with the provisions of subsection (3); and
  - (d) the owner has not, within the period specified in the notice, reclaimed the animal and paid any costs incurred by the organisation and specified in the notice.
- (2) Where the approved organisation cannot identify the owner of the animal, an inspector or auxiliary officer acting for the approved organisation may—
- (a) after the animal has been in the custody of the organisation for at least 7 days,—
    - (i) sell the animal; or

- (ii) find a home for the animal; or
    - (iii) destroy or otherwise dispose of the animal in such manner as the inspector or auxiliary officer thinks fit:
  - (aa) at any time, sell, re-home, or otherwise dispose of (including destroy) the animal in any manner that the inspector or auxiliary officer thinks fit if—
    - (i) the animal is wild or unsocialised; and
    - (ii) the animal is severely distressed; and
    - (iii) in the opinion of a veterinarian, the animal's distress is a direct result of being contained to the extent that it would be unreasonable and unnecessary to continue to contain the animal:
  - (b) at any time, in any case where the animal is diseased or is suspected of being diseased and the inspector or auxiliary officer has reasonable grounds to believe that the welfare of other animals in the custody of the approved organisation would be compromised if the organisation were to continue to hold that animal in custody,—
    - (i) sell the animal; or
    - (ii) find a home for the animal; or
    - (iii) destroy or otherwise dispose of the animal in such manner as the inspector or auxiliary officer thinks fit.
- (3) Where the approved organisation both identifies the owner of the animal and knows the address of the owner of the animal, the approved organisation must give to the owner a written notice informing the owner that the approved organisation is holding the animal in its custody and that, unless the owner, within 7 days of the receipt of that notice, claims the animal and pays any costs incurred by the approved organisation in caring for the animal or in providing veterinary treatment to the animal (being costs that the approved organisation wishes to claim), the approved organisation may—
  - (a) sell the animal; or
  - (b) find a home for the animal; or
  - (c) destroy or otherwise dispose of the animal in such manner as the inspector or auxiliary officer thinks fit.
- (4) If the owner does not, within the period specified in the notice, claim the animal and pay any costs incurred by the approved organisation and specified in the notice, an inspector or auxiliary officer acting for the approved organisation may—
  - (a) sell the animal; or
  - (b) find a home for the animal; or
  - (c) destroy or otherwise dispose of the animal in such manner as the inspector or auxiliary officer thinks fit.

- (5) Where an animal is sold under subsection (1B), (2), or (4), the approved organisation must, after deducting any costs incurred by the approved organisation in caring for the animal or providing veterinary treatment to the animal, apply the proceeds of the sale towards the costs of the animal welfare work of the approved organisation.
- (6) In this section, the term **animal** does not include—
- (a) a native animal; or
  - (b) stock within the meaning of section 2(1) of the Impounding Act 1955.

Section 141(1A): inserted, on 10 May 2015, by section 54(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 141(1B): inserted, on 10 May 2015, by section 54(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 141(2)(aa): inserted, on 10 May 2015, by section 54(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 141(5): amended, on 10 May 2015, by section 54(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **142 Obligation to maintain register**

- (1) An approved organisation must record in a register the numbers and types of animals sold, re-homed, destroyed, or otherwise disposed of under section 141, and include in that register, in relation to each animal,—
- (a) particulars of the date when custody of the animal was obtained and of the date when the animal was disposed of; and
  - (b) a record of whether the animal was sold, re-homed, destroyed, or otherwise disposed of.
- (2) The records in relation to each animal must be kept for at least 1 year after the date on which the approved organisation obtained custody of the animal.

#### *Enforcement orders*

#### **143 Application for enforcement order**

- (1) An inspector may apply to the District Court for an enforcement order requiring any person to comply with the provisions of—
- (a) this Act; or
  - (b) any regulations made under this Act; or
  - (c) a code of ethical conduct or conditions imposed by an animal ethics committee in giving its approval of a project.
- (2) Every application to the District Court under this section must be made by originating application.
- (3) Subject to modification by sections 145 to 155 and by any rules made under section 156, the District Court Rules made under section 228 of the District Court Act 2016 apply to every application to the court under this section.

Section 143(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 143(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 143(3): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

#### **144 Power to make enforcement order**

The District Court may make an enforcement order on an application under section 143 only if the District Court is satisfied that the person in respect of whom the order is sought has been acting in contravention of the provisions of this Act or of any regulations made under this Act or of any code of ethical conduct or of any conditions imposed by an animal ethics committee in giving its approval of a project or is likely to do so.

Section 144: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

#### **145 Compliance with enforcement order**

- (1) Where an enforcement order is made against a person, and that enforcement order is served on that person, that person must—
  - (a) comply with the order; and
  - (b) unless the order directs otherwise, pay all the costs and expenses of complying with the order.
- (2) If a person against whom an enforcement order is made fails to comply with the order, any person may, with the consent of the District Court,—
  - (a) comply with the order on behalf of the person who fails to comply with the order and, for that purpose,—
    - (i) enter, without warrant but with a constable, a marae or dwelling-house; and
    - (ii) enter, without warrant or a constable, any other land or structure; and
  - (b) exercise, in relation to any animal found upon that land or structure, any of the powers that a person executing a search warrant under section 131 would have in relation to that animal; and
  - (c) after allowing for any money received under paragraph (a) or paragraph (b) from the sale of any animal, recover the costs and expenses of complying with the order and of selling or otherwise disposing of the animal as if those costs and expenses were a debt due from the person against whom the enforcement order was made.
- (3) If the animal is sold under the powers given by subsection (2),—
  - (a) the person exercising those powers may retain the proceeds of the sale to the extent necessary to offset the costs and expenses to the person of complying with the order and of selling the animal; and

- (b) any remaining balance of the sale proceeds must be returned to the owner of the animal, if the owner can be found; and
- (c) if the owner cannot be found, the remaining balance must be paid into a Crown Bank Account.

Section 145(2)(a): substituted, on 27 September 2001, by section 5 of the Animal Welfare Amendment Act 2001 (2001 No 52).

Section 145(2)(a)(i): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 145(2)(a)(ii): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 145(2)(c): amended, on 19 December 2002, by section 11(1) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 145(3): added, on 19 December 2002, by section 11(2) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 145(3)(c): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

#### **146 Notification of application**

- (1) Except as provided in section 148 (which relates to temporary enforcement orders), where an application for an enforcement order is made, the applicant must serve notice of the application on every person directly affected by the application.
- (2) Every notice required to be served under this section must be served within 7 working days after the date on which the application is filed in the District Court or within such further time as the District Court may allow.

Section 146(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

#### **147 Right to be heard**

Except as provided in section 148 (which relates to temporary enforcement orders), before deciding an application for an enforcement order, the District Court must hear—

- (a) the applicant; and
- (b) any person against whom the order is sought who wishes to be heard.

#### **148 Temporary enforcement order**

- (1) An enforcement order may be made on an application without notice if the District Court is satisfied that the delay that would be caused by proceeding on notice would or might entail a risk of harm to any animal.
- (2) An enforcement order made on an application without notice is a temporary order that, unless it is sooner discharged, becomes final by operation of law 3 months after the date on which it is made.
- (3) Where an enforcement order is made on an application without notice, the respondent may,—

- (a) notify the court that he or she wishes to be heard on whether a final order should be substituted for the temporary order; or
- (b) apply for the enforcement order to be discharged.

**149 Coming into force of enforcement order**

Every enforcement order comes into effect on the date on which it is served on the respondent or on such later date as is specified in the order.

**150 Duration of enforcement order**

- (1) A temporary enforcement order continues in force until—
  - (a) the order becomes a final order in accordance with section 148; or
  - (b) the order is discharged under section 151.
- (2) A final enforcement order continues in force until it is discharged under section 151.

**151 Power to vary or discharge enforcement order**

The District Court may, if it thinks fit, on the application of the applicant or the respondent, vary or discharge an enforcement order.

Section 151: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

**152 Offence to contravene enforcement order**

- (1) A person commits an offence who contravenes an enforcement order.
- (2) A person who commits an offence against subsection (1) is liable on conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$25,000 or to both; or
  - (b) in the case of a body corporate, to a fine not exceeding \$125,000.

Section 152(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**153 Appeals to High Court**

- (1AA) This subsection applies to a decision of the District Court, on an application under section 143, to—
  - (a) make or refuse to make an enforcement order; or
  - (b) dismiss the proceedings; or
  - (c) otherwise finally determine the proceedings.
- (1) A party to proceedings in which there is made a decision to which subsection (1AA) applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.

(2) The High Court Rules 2016 and sections 126 to 130 of the District Court Act 2016, with all necessary modifications, apply to an appeal under this section as if it were an appeal under section 124 of that Act.

(3) *[Repealed]*

Section 153(1AA): inserted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 153(1AA): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 153(1): substituted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 153(2): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 153(3): repealed, on 1 January 2004, by section 48(2) of the Supreme Court Act 2003 (2003 No 53).

#### **154 Appeals to Court of Appeal**

(1) A party to any appeal under section 153 may, with the leave of the Court of Appeal, appeal to the Court of Appeal against any determination of the High Court on a question of law arising in that appeal.

(2) On an appeal to the Court of Appeal under this section, the Court of Appeal has the same power to adjudicate on the proceedings as the High Court had.

(3) *[Repealed]*

Section 154(3): repealed, on 1 January 2004, by section 48(2) of the Supreme Court Act 2003 (2003 No 53).

#### **155 Effect of appeal**

Except where the court making the order appealed from otherwise directs,—

(a) the operation of an enforcement order is not suspended by an appeal under section 153 or section 154; and

(b) every enforcement order may be enforced in the same manner in all respects as if no such appeal were pending.

#### **156 Rules of court**

In addition to all other powers conferred by the District Court Act 2016, the Governor-General may from time to time, by Order in Council, make rules—

(a) regulating the practice and procedure of the District Court in proceedings under this Act that relate to enforcement orders:

(b) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act that relate to enforcement orders.

Section 156: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 156(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).



### *Compliance notices*

Heading: inserted, on 10 May 2015, by section 55 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **156A Scope**

- (1) An inspector may issue a compliance notice to a person.
- (2) A compliance notice may—
  - (a) require the person to cease doing something that the inspector has good cause to suspect contravenes or is likely to contravene this Act or any regulations made under it; or
  - (b) prohibit the person from starting something that the inspector has good cause to suspect contravenes or is likely to contravene this Act or any regulations made under it; or
  - (c) prohibit the person from doing something again that the inspector has good cause to suspect contravenes or is likely to contravene this Act or any regulations made under it; or
  - (d) prohibit the person from having something done on the person's behalf that the inspector has good cause to suspect contravenes or is likely to contravene this Act or any regulations made under it; or
  - (e) prohibit the person from having something done on the person's behalf again that the inspector has good cause to suspect contravenes or is likely to contravene this Act or any regulations made under it; or
  - (f) require the person to do something that the inspector reasonably believes is necessary to ensure that the person complies with this Act or any regulations made under it.

Compare: 1993 No 95 s 154

Section 156A: inserted, on 10 May 2015, by section 55 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **156B Content**

A compliance notice must state—

- (a) the name of the person to whom it is issued; and
- (b) the reasons why the inspector issued it; and
- (c) the requirement or prohibition in section 156A(2) imposed by the inspector; and
- (d) one of the following:
  - (i) for a requirement, the period, if any, within which the requirement must be achieved, which must start on the day on which the notice is served and end after a time that is reasonable for the achievement of the requirement; or

- (ii) for a prohibition, the time and date, if any, from which the prohibition is to take effect; and
- (e) the conditions, if any, imposed by the inspector; and
- (f) the consequences of not complying with the notice; and
- (g) the rights of appeal in section 156F; and
- (h) the name and address of the agency whose inspector issued the notice.

Compare: 1993 No 95 s 154A

Section 156B: inserted, on 10 May 2015, by section 55 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **156C Service**

- (1) An inspector who issues a compliance notice must ensure that it is served on the person to whom it is issued.
- (2) Without limiting section 185, a compliance notice may be served by—
  - (a) delivering it personally to the person;
  - (b) delivering it to the person at the person's usual or last-known place of residence or business;
  - (c) sending it by fax or email to the person's fax number or email address;
  - (d) posting it in a letter addressed to the person at the person's usual or last-known place of residence or business.
- (3) The following provisions apply to service as described in subsection (2):
  - (a) service on an officer of a body, or on the body's registered office, is deemed to be service on the body;
  - (b) service on any of the partners in a partnership is deemed to be service on the partnership;
  - (c) service by post is deemed to occur at the time at which the notice would have been delivered in the ordinary course of the post.

Compare: 1993 No 95 s 154B

Section 156C: inserted, on 10 May 2015, by section 55 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **156D Compliance**

The person to whom a compliance notice is issued must—

- (a) comply with the notice; and
- (b) do so within the period stated in the notice, if a period is stated; and
- (c) pay all the costs and expenses of complying with the notice, unless the order states otherwise.

Compare: 1993 No 95 s 154C

Section 156D: inserted, on 10 May 2015, by section 55 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**156E Change or cancellation**

- (1) A compliance notice may be changed or cancelled under subsection (2) or cancelled under subsection (3) by the Director-General.
- (2) If the Director-General receives a written application from the person to whom the notice was issued to change or cancel the notice, the Director-General—
  - (a) must consider the application as soon as practicable and in any event within 10 working days after the date on which the application is received, having regard to—
    - (i) the purpose for which the notice was issued; and
    - (ii) the effect of a change or cancellation on the purpose; and
    - (iii) any other matter he or she thinks fit:
  - (b) may confirm, change, or cancel the notice:
  - (c) must give the person to whom the notice was issued written notice of the confirmation, change, or cancellation.
- (3) The Director-General—
  - (a) may cancel the notice if he or she considers that the notice is no longer required; and
  - (b) must give the person to whom the notice was issued written notice of the cancellation.
- (4) An application to change or cancel a compliance notice does not operate as a stay of the notice.

Compare: 1993 No 95 s 154D

Section 156E: inserted, on 10 May 2015, by section 55 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**156F Appeal to District Court**

- (1) The following persons may appeal to the District Court:
  - (a) the person to whom a compliance notice was issued under section 156A:
  - (b) a person whose application under section 156E(2) did not succeed.
- (2) The appeal does not operate as a stay of the compliance notice.
- (3) The person may apply to the court for a stay of the compliance notice pending the court's decision on the appeal.
- (4) The court must consider the application for a stay as soon as practicable after the application for it is lodged.
- (5) The court must consider—
  - (a) whether to hear—
    - (i) the person:
    - (ii) the Director-General; and

- (b) the likely effect on animal welfare of granting a stay; and
  - (c) whether it is unreasonable for the person to comply with the compliance notice pending the decision on the appeal; and
  - (d) any other matters that the court thinks fit.
- (6) The court may grant or refuse a stay and may impose any terms or conditions that the court thinks fit.
  - (7) The stay has legal effect once a copy of it is served on the Director-General.
  - (8) The stay remains in force until the District Court orders it lifted.
  - (9) The rules of procedure under the District Court Act 2016 apply to the making of an appeal and an application for a stay.
  - (10) The District Court may confirm, change, or cancel the compliance notice appealed against.

Compare: 1993 No 95 s 154E

Section 156F: inserted, on 10 May 2015, by section 55 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 156F(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 156F(9): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

### **156G Appeal to High Court, Court of Appeal, or Supreme Court**

- (1) A party to an appeal under section 156F may appeal to the High Court on a question of law.
- (2) The High Court Rules 2016 and sections 126 to 130 of the District Court Act 2016 apply to an appeal under subsection (1)—
  - (a) as if it were an appeal under section 124 of the District Court Act 2016; and
  - (b) with all necessary modifications.
- (3) A party to an appeal under subsection (1) may appeal to the Court of Appeal or the Supreme Court against a determination of the High Court on a question of law, with the leave of the court appealed to, and subject to section 75 of the Senior Courts Act 2016.
- (4) The Court of Appeal or the Supreme Court hearing an appeal under this section has the same power to adjudicate on the appeal as the High Court had.

Compare: 1993 No 95 s 154F

Section 156G: inserted, on 10 May 2015, by section 55 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 156G(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 156G(2): amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

Section 156G(2)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 156G(3): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

### **156H Effect of appeal**

An appeal under section 156F or 156G has the following effects:

- (a) the Director-General whose compliance notice is appealed against must not cancel the notice while the notice is the subject of an appeal or while the time for the person's appeal rights is running; and
- (b) the person who appeals must comply with the notice if compliance is required as the result of the person exercising the person's appeal rights.

Compare: 1993 No 95 s 154G

Section 156H: inserted, on 10 May 2015, by section 55 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **156I Penalties for non-compliance with compliance notice**

- (1) A person commits an offence who, without reasonable excuse, fails to comply with any requirement made or prohibition imposed under section 156A.
- (2) A person who commits an offence against this section is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$5,000; or
  - (b) in the case of a body corporate, to a fine not exceeding \$25,000.

Section 156I: inserted, on 10 May 2015, by section 55 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### *Miscellaneous provisions*

### **157 Offenders to give name and address**

- (1) An inspector may request any person to give his or her full name, address, and date of birth—
  - (a) if that person has been found offending against this Act or any regulations made under this Act; or
  - (b) if the inspector has reasonable grounds to believe that that person has committed an offence against this Act or any regulations made under this Act.
- (2) If the inspector believes on reasonable grounds that any details given to the inspector under subsection (1) are false or misleading, the inspector may request the person to give to the inspector such verification of those details as it is reasonable in the circumstances to require the person to provide.
- (3) If any person, without reasonable excuse, refuses or fails to comply with a request made under subsection (1) or subsection (2) and persists in the refusal

or failure after being warned by the inspector of the provisions of this subsection, any inspector who is a constable may arrest that person without warrant.

- (4) A person commits an offence who, without reasonable excuse,—
- (a) fails to comply with a request made under subsection (1) or (2); or
  - (b) gives to an inspector, in response to a request made under subsection (1) or (2), particulars that are false in a material respect.
- (5) A person who commits an offence against subsection (4) is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$5,000; or
  - (b) in the case of a body corporate, to a fine not exceeding \$25,000.

Compare: 1960 No 30 s 17(1)

Section 157(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 157(4): replaced, on 10 May 2015, by section 57 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 157(5): inserted, on 10 May 2015, by section 57 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **158 Protection of persons acting under authority of Act**

- (1) No inspector, auxiliary officer, accredited reviewer, or person assisting an inspector or constable is personally liable for any act done or omitted in good faith by the inspector, auxiliary officer, accredited reviewer, or person in pursuance or intended pursuance of any of the functions, duties, or powers conferred by this Act on the inspector, auxiliary officer, accredited reviewer, or person.
- (2) Any liability that would but for this section lie against an inspector or auxiliary officer, or a person assisting an inspector or constable, lies against the Crown.

Compare: 1960 No 30 s 14

Section 158(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 158(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

## *Offences*

### **159 Obstruction of inspector or auxiliary officer**

- (1) A person commits an offence who wilfully obstructs or hinders an inspector or auxiliary officer in the exercise of the inspector's or auxiliary officer's powers or in the performance of the inspector's or auxiliary officer's duties under this Act.
- (2) A person who commits an offence against subsection (1) is liable on conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000 or to both; or

(b) in the case of a body corporate, to a fine not exceeding \$25,000.

Compare: 1960 No 30 s 18; 1978 No 63 s 4; 1993 No 19 s 3(1)

Section 159(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### **160 Impersonating inspector or auxiliary officer**

- (1) A person commits an offence who,—
- (a) not being an inspector appointed under this Act, describes himself or herself or otherwise holds himself or herself out as being an inspector appointed under this Act; or
  - (b) not being an auxiliary officer appointed under this Act, describes himself or herself or otherwise holds himself or herself out as being an auxiliary officer appointed under this Act.
- (2) A person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000 or to both.

Section 160(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **Part 8 Offences**

### *Infringement offences*

#### **161 Infringement offences**

- (1) If a person is alleged to have committed an infringement offence, that person may either—
- (a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or
  - (b) be served with an infringement notice as provided in section 162.
- (2) Despite section 21(1) of the Summary Proceedings Act 1957, leave under that provision is not required in order to file a charging document in respect of an infringement offence under this Act.

Section 161(1)(a): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 161(2): inserted, on 10 May 2015, by section 58 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **162 Infringement notices**

- (1) If an inspector has reasonable cause to believe that a person has committed an infringement offence, an infringement notice may be issued to that person by the inspector.

- (2) An infringement notice may be served—
- (a) by delivering it personally to the person who appears to have committed the infringement offence; or
  - (b) by sending it by post addressed to the person at the person's last known place of residence or business.
- (3) An infringement notice sent to a person by post under subsection (2)(b) is to be treated as having been served on the person when it was so posted.
- (4) An infringement notice must be in the prescribed form and must contain the following particulars:
- (a) such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and
  - (b) the amount of the infringement fee (being an amount not exceeding \$1,000 prescribed by regulations made under this Act); and
  - (c) the address or addresses at which the infringement fee may be paid; and
  - (d) the time within which the infringement fee may be paid; and
  - (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and
  - (f) a statement of the right of the person served with the notice to request a hearing; and
  - (g) a statement of the consequences if the person served with the notice does not pay the fee and does not request a hearing; and
  - (h) such other particulars as are prescribed.
- (5) If an infringement notice has been issued under this section, proceedings in respect of the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957, and in that case the provisions of that section apply with the necessary modifications.

Section 162(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 162(4)(b): replaced, on 10 May 2015, by section 59 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **163 Payment of infringement fees**

All infringement fees are payable to the Director-General, and the Director-General must pay all infringement fees received into a Crown Bank Account.

Section 163: amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).



*Further provisions relating to offences*

**164 Liability of employers and principals**

- (1) Subject to subsection (3), where any offence is committed against this Act or any regulations made under this Act by a person as the employee of another person, that offence must, for the purposes of this Act, be treated as committed by that other person as well as by the first-mentioned person, whether or not it was done with that other person's knowledge or approval.
- (2) Where an offence is committed against this Act or any regulations made under this Act by a person acting as the agent of another person, that offence must, for the purposes of this Act, be treated as committed by that other person as well as by the first-mentioned person, unless it is done without that other person's express or implied authority.
- (3) In any proceedings for an offence against this Act or any regulations made under this Act against any person in respect of any offence alleged to have been committed against this Act or any regulations made under this Act by an employee of that person, it is a defence for that person to prove,—
  - (a) in the case of a natural person,—
    - (i) that he or she did not know nor could reasonably be expected to have known that the offence was to be or was being committed and that he or she took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred; or
    - (ii) that he or she took such steps as were reasonably practicable to prevent the commission of the offence and that he or she took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred.
  - (b) in the case of a body corporate,—
    - (i) that neither the directors nor any person involved in the management of the body corporate knew, or could reasonably be expected to have known, that the offence was to be or was being committed; and
    - (ii) the body corporate took such steps as were reasonable in all the circumstances to investigate or remedy the effects of the action or event after it occurred.

**165 Liability of directors and officers of bodies corporate**

Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate is guilty of the like offence if it is proved—

- (a) that the act that constituted the offence took place with his or her authority, permission, or consent; or

- (b) that he or she knew or should have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

### **166 Evidence in proceedings**

- (1) In any proceedings for an offence against this Act, a certificate purporting to be signed by the Director-General and stating that a person named in the certificate is an inspector appointed under section 124 or an auxiliary officer appointed under section 125—
  - (a) is admissible in evidence; and
  - (b) is, in the absence of proof to the contrary, sufficient evidence of the matters stated in it.
- (2) The production of a certificate for the purposes of this section purporting to be signed by the Director-General is prima facie evidence of the certificate without proof of the signature of the person purporting to have signed it.
- (3) A certificate referred to in subsection (1) is admissible in evidence only if,—
  - (a) at least 14 days before the hearing at which the certificate is to be tendered, a copy of that certificate is served, by or on behalf of the prosecutor, on the defendant or the defendant's agent or counsel, and that person is at the same time informed in writing that the prosecutor does not propose to call the person who signed the certificate as a witness at the hearing; and
  - (b) the court has not, on the application of the defendant made not less than 7 days before the hearing, ordered, not less than 4 days before the hearing (or such lesser period as the court in the special circumstances of the case thinks fit), that the certificate should not be admissible as evidence in the proceedings.
- (4) The court may not make an order under subsection (3)(b) unless the court is satisfied that there is a reasonable doubt as to the accuracy or validity of the relevant certificate.

Compare: 1991 No 18 s 29

### **167 Time for filing charging document for offence against section 54 or 130**

- (1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against section 54 or 130 of this Act ends on the date that is 2 years after the date on which the offence was committed.
- (2) Nothing in subsection (1) affects the application of section 25 of the Criminal Procedure Act 2011 in relation to any offence not mentioned in that subsection.

Section 167: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**168 Inspector may conduct proceedings**

- (1) Subsection (2) applies if proceedings have been commenced by—
  - (a) the filing of a charging document in the name of an inspector; or
  - (b) the filing of a notice under section 21 of the Summary Proceedings Act 1957.
- (2) Despite section 10 of the Criminal Procedure Act 2011, an inspector (not necessarily the inspector who commenced the proceedings) may appear and conduct the proceedings against the defendant.

Section 168: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**168A Burden of proof of reasonable excuse**

In proceedings for an offence against any of sections 14, 21, 22, 23, 34, 35, 36, 54, and 130,—

- (a) the prosecutor need not assert absence of reasonable excuse in the charging document; and
- (b) the burden of proving that the defendant had a reasonable excuse lies on the defendant.

Section 168A: inserted, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**169 Court may disqualify person from owning or exercising authority in respect of animals**

- (1) This section applies if a person is convicted of an offence against—
  - (a) any section in Part 1 or 2; or
  - (b) section 152(1); or
  - (c) section 169B(1).
- (2) This section also applies if a person is charged with an offence against any enactment specified in subsection (1) and is found unfit to stand trial (under the Criminal Procedure (Mentally Impaired Persons) Act 2003).
- (3) If this section applies in relation to a person, the court may (in addition to or in substitution for any other penalty or order) make an order disqualifying that person for any period that it thinks fit from being the owner of, or exercising authority over, or being the person in charge of,—
  - (a) an animal or animals of a particular kind or description; or
  - (b) animals generally.
- (4) In considering whether to make an order under subsection (3), the court must have regard to—
  - (a) the purposes of Parts 1 and 2; and

- (b) the maximum penalty specified for the charge from which the conviction arose; and
  - (c) the seriousness of the offending, including (without limitation) the nature and gravity of the harm, the number of animals involved, and the frequency of the offending; and
  - (d) the character of the person; and
  - (e) the previous offending history (if any) of the person; and
  - (f) any other circumstances of the case.
- (5) In making an order under subsection (3), the court may also specify a minimum disqualification period.

Section 169: replaced, on 10 May 2015, by section 60 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **169A Disqualified person may apply to court for removal or variation of disqualification**

- (1) A person who is disqualified under section 169(1) may apply to the court for the removal or variation of the disqualification.
- (2) A person may not apply under subsection (1) before—
- (a) the expiry of the minimum disqualification period, if there is one; or
  - (b) if there is no minimum disqualification period, the expiry of 2 years from the date of the disqualification order.
- (3) The court may order that, as from a date specified in the order, the disqualification be removed or varied, or that the application be refused.
- (4) In deciding an application under this section, the court may have regard to—
- (a) the matters specified in section 169(4); and
  - (b) the applicant's conduct since the disqualification order was made.
- (5) If the court varies the disqualification or refuses the application, the person who is disqualified may not re-apply under subsection (1) before the expiry of 12 months after the date of the order of variation or the refusal.

Section 169A: inserted, on 7 July 2010, by section 7 of the Animal Welfare Amendment Act 2010 (2010 No 93).

Section 169A(4): replaced, on 10 May 2015, by section 61 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **169B Offence of contravening disqualification order**

- (1) A person commits an offence if the person contravenes a disqualification order made under section 169(3) (under which provision a court can make an order relating to an animal or animals of a particular kind or description or to animals generally).
- (2) A person who commits an offence against subsection (1) is liable on conviction,—

- (a) in the case of an individual, to imprisonment for a term not exceeding 3 years or to a fine not exceeding \$75,000 or to both:
  - (b) in the case of a body corporate, to a fine not exceeding \$350,000.
- (3) In subsection (1), **order** includes an order varied under section 169A.
- Section 169B: inserted, on 7 July 2010, by section 7 of the Animal Welfare Amendment Act 2010 (2010 No 93).
- Section 169B(1): replaced, on 10 May 2015, by section 62 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).
- Section 169B(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### 170 Liability for damage

- (1) If a person is convicted of an offence against this Act, the court may order that that person pay to any other person such sum as the court thinks fit by way of compensation for any loss of property suffered by that second-mentioned person through or by means of the offence.
  - (2) An order for a payment under this section may be enforced in the same manner as a fine.
  - (3) An order under this section does not affect the right of a person to recover by civil proceedings any sum in excess of the amount paid under the order.
- Compare: 1960 No 30 s 15

### 171 Application of fines recovered in respect of offences

Where proceedings for an offence against any provision of this Act are instituted by an inspector appointed under section 124(2), the court may order that the whole or any part of any fine recovered in respect of that offence be paid to an approved organisation.

Compare: 1960 No 30 s 15A; 1964 No 76 s 3

### 172 Power of court to order that certain animals be forfeited to the Crown or approved organisation

- (1) The court convicting a person (the **offender**) of an offence against this Act in respect of an animal or animals may (in addition to or in substitution for any other penalty),—
  - (a) if it thinks it desirable for the protection of the animal or animals in question, order that any or all of the following animals be forfeited to the Crown or to an approved organisation:
    - (i) the animal or animals to which the charge relates and of which the offender is the owner:
    - (ii) any other animals at the date of conviction owned by the offender:
  - (b) if it thinks it desirable, order that any proceeds of sale of the animal retained under section 136A be forfeited to the Crown.

- (1A) *[Repealed]*
- (2) If a court finds that a person is unfit to stand trial for an offence against this Act in respect of an animal or animals, the court may make any order provided for in subsection (1) as if it had convicted the person of the offence.
- (3) If an animal is forfeited to the Crown or an approved organisation under this section,—
- (a) in the case of a person found unfit to stand trial, the proceeds of sale (if any) must be held by the Ministry or an approved organisation (after deducting (in order) the costs of sale, any sums required to be paid to a security holder or any other person under a condition of the order for sale, and any costs incurred by the Crown or approved organisation in caring for the animal or animals or providing veterinary treatment to that animal or those animals), and the Ministry or approved organisation, as the case may be, must pay the proceeds of sale to the owner as soon as practicable:
- (b) in any other case, the animal may be sold or otherwise disposed of as the Minister or the approved organisation, as the case may be, thinks fit.

Compare: 1960 No 20 s 16A; 1978 No 63 s 2(1)

Section 172 heading: amended, on 7 July 2010, by section 9(1) of the Animal Welfare Amendment Act 2010 (2010 No 93).

Section 172(1): replaced, on 1 October 2012, by section 198 of the Search and Surveillance Act 2012 (2012 No 24).

Section 172(1A): repealed, on 1 October 2012, by section 198 of the Search and Surveillance Act 2012 (2012 No 24).

Section 172(2): replaced, on 10 May 2015, by section 63 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 172(3): inserted, on 10 May 2015, by section 63 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **173 Expenses incurred by inspectors and territorial authorities**

- (1) All expenses reasonably incurred by any person as a result of the exercise of any of the powers conferred by section 53 or section 127(5) to (7) or section 131 or section 133(2) to (4) or section 137 or section 138 or by any person called upon under section 133(5), including in each case the costs of any veterinary treatment reasonably required in respect of an animal and the costs of destroying an animal, are recoverable from the owner or person in charge or appearing to be in charge of the animal.
- (2) All expenses reasonably incurred by a territorial authority in destroying an animal under section 139 are recoverable from the owner or person in charge or appearing to be in charge of the animal.
- (3) Those expenses are recoverable as a debt or, where the person from whom they are recoverable is convicted of an offence against this Act in respect of the ani-

mal, may be assessed by the court and be recoverable from the defendant in the same manner as a fine.

Compare: 1960 No 30 s 13; 1962 No 55 s 3

**174 Certain offences against Dog Control Act 1996 to be treated as offences against this Act**

For the purposes of this Part, and sections 169, 170, 172, and 173, an offence against section 54 of the Dog Control Act 1996 is deemed to be an offence against Part 1 of this Act.

Compare: 1960 No 30 s 8A; 1996 No 13 s 79

**Part 9**  
**Miscellaneous provisions**

*Exceptions in relation to hunting or killing*

*[Repealed]*

Heading: repealed, on 10 May 2015, by section 64 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**175 Hunting or killing**

*[Repealed]*

Section 175: repealed, on 10 May 2015, by section 64 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**176 Hunting in safari parks**

*[Repealed]*

Section 176: repealed, on 10 May 2015, by section 64 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**177 Captured animals**

*[Repealed]*

Section 177: repealed, on 10 May 2015, by section 64 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

**178 Certain provisions relating to traps and devices not excluded**

*[Repealed]*

Section 178: repealed, on 10 May 2015, by section 64 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

*Exceptions in relation to use of animals to protect human health or safety*

**179 Use of animals to protect human health or safety**

Nothing in this Act makes it unlawful for any person belonging to, or acting on behalf of, any of the agencies listed in Schedule 3 to use (other than for

research, testing, or teaching) animals as substitutes for humans in the course of carrying out statutory functions or duties or exercising statutory powers for the purposes of protecting human health or safety or enforcing the law.

### **180 Power to amend Schedule 3 by Order in Council**

The Governor-General may from time to time, by Order in Council,—

- (a) amend Schedule 3 by including in that schedule or adding to that schedule—
  - (i) the name of any government department:
  - (ii) the name of any Crown entity within the meaning of section 2(1) of the Public Finance Act 1989:
  - (iii) the name of any body established by a public Act of Parliament or by an Order in Council made under a public Act of Parliament:
- (b) make such amendments to Schedule 3 as are required—
  - (i) to recognise the abolition or dissolution of any agency or body or any alteration in the name of any agency or body; or
  - (ii) to correct any error or omission in any previous exercise of the powers conferred by this subsection:
- (c) amend Schedule 3 by omitting from that schedule the name of any agency or body.

#### *Exception in relation to agricultural compounds and hazardous substances*

### **181 Agricultural compounds and hazardous substances**

Nothing in this Act applies in relation to the use of—

- (a) any agricultural compound that—
  - (i) is registered under the Agricultural Compounds and Veterinary Medicines Act 1997; and
  - (ii) is used in accordance with the conditions subject to which it is registered; or
- (b) any hazardous substance that—
  - (i) is approved under the Hazardous Substances and New Organisms Act 1996; and
  - (ii) is used in accordance with the controls that attach to the substance by virtue of its hazard classification under that Act.

#### *Recovery of costs*

### **182 Criteria in relation to recovery of costs**

- (1) The Minister must, in recommending to the Governor-General in Council the making of regulations under section 183(1)(e), have regard to the need to



ensure that the costs of administering this Act (being costs that are justifiable and calculated in a transparent way) are recovered in accordance with the principles of equity and efficiency.

- (2) For the purposes of subsection (1), the costs of administering this Act do not include those costs that are recovered in departmental revenue (within the meaning of the Public Finance Act 1989) generated by the Ministry from the Crown.
- (3) In determining appropriate mechanisms (to be recommended for inclusion in regulations made under section 183(1)(e)) for the recovery of costs of a particular function or service, the Minister must ensure that those mechanisms will result in the recovery of any amount by which the sum of—
  - (a) the costs of the function or service in a 2-year period; and
  - (b) any shortfall in the recovery of the costs in the preceding 2-year period—  
exceeds any over-recovery of costs in respect of the preceding 2-year period.
- (4) Regulations made under section 183(1)(e) may provide for the recovery of the costs of administering this Act and of performing the powers, duties, and functions conferred or imposed by or under this Act by 1 or more of the following methods:
  - (a) fixed charges:
  - (b) charges fixed on an hourly or other unit basis:
  - (c) estimated charges paid before the provision of the service or performance of the function followed by reconciliation and an appropriate payment or refund after provision of the service or performance of the function:
  - (d) actual and reasonable charges:
  - (e) refundable or non-refundable deposits paid before provision of the service or performance of the function:
  - (f) charges imposed on users of services or third parties:
  - (g) liens on property in the possession of the Crown.

Compare: 1993 No 95 s 135

Section 182(1): amended, on 10 May 2015, by section 65 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 182(3): amended, on 10 May 2015, by section 65 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 182(4): amended, on 10 May 2015, by section 65 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

*Regulations***183 Regulations**

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
  - (a) prescribing the forms of search warrants, infringement notices, and other documents required under this Act:
  - (b) prescribing standards and policies that must be included in every code of ethical conduct:
  - (c) requiring every code holder (as defined in subsection (2)) to collect, and maintain, and to provide to the Director-General or to an inspector, information in relation to—
    - (i) the numbers and types of projects undertaken by the code holder:
    - (ii) the numbers and species of animals used:
    - (iii) the severity of the manipulation of the animals:
    - (iiia) the killing of animals that were bred, but not used, for the purposes of research, testing, and teaching:
    - (iv) such other matters in relation to the research, testing, or teaching carried out under the code of ethical conduct as are specified in the regulations:
  - (d) prescribing matters to which animal ethics committees must have regard in considering, under section 100, applications for approval of projects:
  - (da) declaring any substance, mixture of substances, or thing to be, or not to be, a cosmetic for the purpose of the definition of cosmetic in section 2(1):
  - (e) prescribing matters in respect of which costs are recoverable under this Act and the regulations made under this Act, the amounts of those costs or the method by which they are to be assessed, the persons liable for payment of the costs, and the circumstances in which the recovery of costs may be remitted or waived (in whole or in part):
  - (f) prescribing, for the purposes of proceedings in relation to enforcement orders, the matters in respect of which fees are payable under this Act:
  - (g) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act:
  - (h) prescribing the offences created by or under this Act that constitute infringement offences for the purposes of this Act, and prescribing infringement fees not exceeding \$1,000 for each infringement offence, which may be different fees for different offences (including different fees for a first or second or third offence):

- (i) prescribing penalties for offences against regulations made under this Act, not exceeding,—
    - (i) in the case of an individual, a fine not exceeding \$5,000; or
    - (ii) in the case of a body corporate, a fine not exceeding \$25,000;
  - (j) providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.
- (2) In subsection (1)(c), the term **code holder** includes any person carrying out research, testing, or teaching in accordance with section 84 or section 85 or section 118(1) or section 192(4) or section 192(5).

Compare: 1960 No 30 ss 19A, 19B, 20; 1971 No 48 s 5; 1983 No 141 ss 6, 7; 1987 No 20 s 3(2); 1993 No 19 s 3(1)

Section 183(1)(c)(iia): inserted, on 10 May 2015, by section 66(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 183(1)(da): inserted, on 10 May 2015, by section 66(2) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 183(1)(h): inserted, on 10 May 2015, by section 66(3) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### 183A Regulations relating to standards of care

- (1) The Governor-General may, on the recommendation of the Minister, by Order in Council, make regulations for all or any of the following purposes:
- (a) prescribing standards or requirements for the purposes of giving effect to Parts 1 and 2 (other than sections 30A to 30E), including—
    - (i) animal welfare standards or requirements relating to the care of animals by owners or persons in charge of animals;
    - (ii) animal welfare standards or requirements relating to the conduct of those persons towards animals owned by them or in their charge;
    - (iii) the prohibition of specified things or activities;
  - (b) establishing any minimum standard that could be established under Part 5, or amending, revoking, or replacing any minimum standard or any part of a minimum standard established under Part 5.
- (2) Without limiting the generality of subsection (1), regulations made under this section may prescribe standards or requirements that do not fully meet—
- (a) the obligations of section 10 or 11; or
  - (b) the obligations that a person would need to observe in the treatment, transport, or killing of animals if that person were to avoid committing an offence against section 12(c), 21(b), 22(2), 23(1), 23(2), or 29(a).
- (3) The Minister must not recommend the making of regulations in reliance on subsection (2) unless he or she is satisfied that either or both of the following apply:

- (a) any adverse effects of a change from current practices to new practices have been considered and there are no feasible or practical alternatives currently available;
  - (b) not to do so would result in an unreasonable impact on a particular industry sector within New Zealand, a sector of the public, or New Zealand's wider economy.
- (4) In deciding whether any impact is unreasonable under subsection (3)(b), the Minister must have regard to the welfare of any affected animals.
- (5) Any regulations made in reliance on subsection (2) in accordance with the considerations in subsection (3) must provide for the regulations to be in force for a period of time specified in the regulations (the **specified period**) that—
  - (a) is reasonably necessary to enable a transition from current practice to a practice that fully meets the obligations specified in subsection (2)(a) and (b); and
  - (b) does not exceed 10 years (which period may, however, be extended once under subsection (6)).
- (6) The specified period may be extended once only by up to 5 years by regulations made under this subsection on the recommendation of the Minister if he or she is satisfied that the majority of participants in the sector concerned—
  - (a) have made significant progress towards implementing compliant practice; and
  - (b) cannot reasonably be expected to become compliant before the close of the specified period, taking into account the steps that still need to be completed for implementation of compliant practice; and
  - (c) will become compliant within the extended period.
- (7) Despite subsections (3) to (6), if the Minister considers that requiring a practice to fully meet the obligations specified in subsection (2)(a) and (b) would impose an unjustifiable limitation on the requirements of a religious or cultural practice, the Minister may recommend the making of regulations in reliance on subsection (2) for an indefinite period subject to review at 10-yearly intervals or shorter intervals specified in the regulations.
- (8) In reaching a decision not to recommend the making of regulations in reliance on subsection (2), the Minister may consider any factors that the Minister thinks would make such regulations contrary to New Zealand's overall interests (including, without limitation, health, social, economic, international, or environmental interests).
- (9) Nothing in this section obliges the Minister to recommend the making of regulations in reliance on subsection (2).
- (10) The Minister must consult the National Animal Welfare Advisory Committee before recommending the making of any regulations under this section (other than regulations already proposed by the Committee), but nothing in sections

71 to 75 applies in relation to the making of regulations under subsection (1)(b).

- (11) If a person does or omits to do anything in reliance on regulations made under subsection (2) that would otherwise be a contravention of, or failure to comply with, any provision of Part 1 or 2, the person has a defence to a prosecution for an offence under this Act in respect of the act or omission if the court is satisfied that the act or omission was authorised by the regulations.

Section 183A: inserted, on 10 May 2015, by section 67 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **183B Regulations relating to surgical and painful procedures**

- (1) The Governor-General may, on the recommendation of the Minister, by Order in Council, make regulations for all or any of the following purposes:
- (a) prohibiting specified surgical procedures or painful procedures from being performed on animals:
  - (b) prescribing requirements in relation to the performance of specified surgical or painful procedures on animals, including (without limitation) regulations that prescribe—
    - (i) the classes of persons who may carry out a specified procedure:
    - (ii) any skills, qualifications, approval, or experience that must be held by a person before he or she is authorised to carry out specified procedures:
    - (iii) the types of pain relief or medication to be used for specified procedures:
    - (iv) the forms of restraint and equipment to be used for specified procedures:
    - (v) the procedures that may be performed only if in the best interests of the animal:
    - (vi) any other standards or restrictions necessary to ensure the welfare of animals during the procedures:
  - (c) declaring that any specified surgical procedure is not a significant surgical procedure for the purposes of this Act.
- (2) Before recommending the making of regulations under this section, the Minister must have regard to—
- (a) whether the procedure has the potential to—
    - (i) cause significant pain or distress; or
    - (ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards; and
  - (b) the nature of the procedure, including whether this involves—

- (i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or
  - (ii) physical interference with sensitive soft tissue or bone structure; or
  - (iii) significant loss of tissue or loss of significant tissue; and
- (c) the purpose of the procedure; and
  - (d) the extent (if any) to which the procedure is established in New Zealand; and
  - (e) good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products; and
  - (f) the likelihood of the procedure being managed adequately by codes of welfare or other instruments under this Act; and
  - (g) any other matter the Minister considers relevant.
- (3) The Minister must consult the National Animal Welfare Advisory Committee before recommending the making of regulations under this section (other than regulations proposed by the Committee).
- (4) In the absence of evidence to the contrary, a particular procedure is presumed to be a surgical procedure or a painful procedure if regulations are made in respect of the procedure under this section.

Section 183B: inserted, on 10 May 2015, by section 67 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### **183C Regulations relating to exporting animals**

- (1) The Governor-General may, on the recommendation of the Minister, by Order in Council, make regulations prescribing requirements and other matters relating to the exportation of animals, including (without limitation) requirements or matters relating to—
- (a) the species, age, number, and fitness of animals:
  - (b) the duration and date of journeys:
  - (c) the transport vehicles and associated facilities (such as loading and unloading equipment):
  - (d) the purpose of the exportation:
  - (e) pre-conditions required to be satisfied before travel:
  - (f) the people accompanying the animals:
  - (g) pre-loading facilities:
  - (h) reporting and independent monitoring.
- (2) Any regulations made under subsection (1) may prohibit, either absolutely or conditionally, any specified type of exportation of animals.

- (3) Any regulations imposing any conditional prohibition on a specified type of exportation of animals may—
- (a) require that the prior approval of the Director-General be obtained before exportation:
  - (b) authorise him or her to impose conditions on any exportation:
  - (c) set out criteria applying to the granting of approval and describe the types of conditions that may be imposed.

Section 183C: inserted, on 10 May 2015, by section 67 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### *Consultation*

#### **184 Consultation**

- (1) The Minister must consult, to the extent that is reasonably practicable, having regard to the circumstances of the particular case, the persons the Minister has reason to believe are representative of interests likely to be substantially affected by a proposed Order in Council or proposed regulations before deciding whether to recommend—
- (a) the making of an Order in Council under—
    - (i) section 2(1) (in relation to the definitions of **animal**, **device**, or **trap**); or
    - (ii) section 6; or
    - (iii) section 16(1) or (2); or
    - (iv) section 32(1) or (6); or
    - (v) section 200(4); or
    - (vi) section 202(5); or
  - (b) the making of regulations under—
    - (i) section 183(1)(b), (d), or (e); or
    - (ii) section 183A; or
    - (iii) section 183B; or
    - (iv) section 183C.
- (2) Subsection (1) does not apply in respect of an Order in Council or regulations if—
- (a) the Minister considers it desirable in the public interest that the Order in Council or regulations be made urgently; or
  - (b) in the case of regulations recommended by the National Animal Welfare Advisory Committee under section 74(2)(d),—
    - (i) the Committee has consulted on the subject matter of the proposed regulations under section 71(1); and

- (ii) the Minister has not yet issued the relevant draft code of welfare.
- (3) A failure to comply with subsection (1) does not affect the validity of any Order in Council or regulations made under this Act.

Section 184(1): replaced, on 10 May 2015, by section 68(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

Section 184(2): replaced, on 10 May 2015, by section 68(1) of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

### *Notices*

#### **185 Service of notices**

- (1) Any notice or other document required or authorised by this Act to be served on or given to any person must be in writing and is sufficiently served or given if—
- (a) it is delivered to that person; or
  - (b) it is left at that person's usual or last known place of abode or business or at an address specified for that purpose in any document received from that person; or
  - (c) it is posted in a letter addressed to that person by name at that place of abode or business or address.
- (2) If the person is absent from New Zealand, the notice or other document may be served on or given to the person's agent in New Zealand.
- (3) If the person is deceased, the notice or other document may be served on or given to the person's personal representatives.
- (4) If the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representatives, the notice or other document must be served or given in such manner as may be directed by an order of the District Court.
- (5) If any such notice or other document is sent to any person by post, it is, unless the contrary is shown, deemed to have been delivered to the person on the 7th day after the day on which it was posted; and in proving the delivery it is sufficient to prove that the letter was properly addressed and posted.
- (6) Despite anything in subsections (1) to (5), the District Court may in any case make an order directing the manner in which any notice or other document is to be served or given, or dispensing with the service or giving of the notice or document.
- (7) This section does not apply to notices or other documents served or given in any proceedings in any court.

Section 185(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 185(6): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).



*Transitional provisions*

**186 Advisory committees**

- (1) The Animal Welfare Advisory Committee, appointed under section 13 of the Ministry of Agriculture and Fisheries Act 1953, is deemed to have continued in being throughout the period beginning on 1 July 1995 and ending with the commencement of this Act as if—
  - (a) throughout the period beginning on 1 July 1995 and ending with the close of 28 February 1998, it had been appointed, and its functions had been defined, by the Minister of Agriculture under section 21(1) of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995; and
  - (b) throughout the period beginning on 1 March 1998 and ending with the commencement of this Act, it had been appointed, and its functions had been defined, by the Minister of Agriculture under section 18(1) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997.
- (2) On the commencement of this Act,—
  - (a) the Animal Welfare Advisory Committee referred to in subsection (1); and
  - (b) the National Animal Ethics Advisory Committee appointed under section 19A of the Animals Protection Act 1960,—are dissolved.

**187 Transitional provisions relating to membership of committees**

- (1) Every person who, immediately before the commencement of this Act, held office as a member of the Animal Welfare Advisory Committee referred to in section 186(1) is a member of the National Animal Welfare Advisory Committee established by section 56 until the expiry of the term for which that person was appointed (unless that person sooner vacates office under clause 2 of Schedule 1).
- (2) Every person who, immediately before the commencement of this Act, held office as a member of the National Animal Ethics Advisory Committee, appointed under section 19A(5) of the Animals Protection Act 1960, is a member of the National Animal Ethics Advisory Committee established by section 62 until the expiry of the term for which that person was appointed (unless that person sooner vacates office under clause 2 of Schedule 1).

**188 Transitional provisions relating to inspectors**

- (1) Every person who, immediately before the commencement of this Act, held office as an inspector under section 9(1) of the Animals Protection Act 1960 is an inspector for the purposes of this Act until he or she dies, or resigns, or his or her appointment is revoked by the Director-General.

- (2) Every person who, immediately before the commencement of this Act, held office as an inspector under section 9(2) of the Animals Protection Act 1960 is deemed to be an inspector for the purposes of this Act until the expiry of the term for which that person was appointed (unless that person sooner dies or resigns or is removed from office under section 124(6)(b) or has his or her appointment revoked under section 124(7)).

### **189 Transitional provision relating to approved organisations**

- (1) The organisation known as the Royal New Zealand Society for the Prevention of Cruelty to Animals, Incorporated is an approved organisation for the purposes of this Act.
- (2) Despite subsection (1), the Minister may at any time, by notice in the *Gazette*, impose, as conditions of the approval of the Royal New Zealand Society for the Prevention of Cruelty to Animals, Incorporated as an approved organisation, conditions relating to the establishment by the organisation of performance standards and technical standards for inspectors and auxiliary officers.
- (3) Subsection (1) does not limit the power of the Minister to revoke the approval of the Royal New Zealand Society for the Prevention of Cruelty to Animals, Incorporated as an approved organisation if the Minister is satisfied that the organisation—
- (a) no longer meets any 1 or more of the criteria set out in section 122(1); or
  - (b) has failed to comply with any condition imposed under subsection (2).
- (4) The Minister may from time to time, by notice in the *Gazette*,—
- (a) revoke any condition imposed under subsection (2);
  - (b) revoke any condition imposed under subsection (2), and impose another condition in its place;
  - (c) amend any condition imposed under subsection (2) or this subsection.

### **190 Transitional provision relating to branch and member societies**

- (1) Any incorporated society that is a branch or member of the Royal New Zealand Society for the Prevention of Cruelty to Animals, Incorporated may, through that royal society (in its capacity as an approved organisation) recommend persons—
- (a) for appointment under section 124 as inspectors; or
  - (b) for appointment under section 125 as auxiliary officers.
- (2) Where any person is appointed as an inspector or auxiliary officer in accordance with a recommendation made under subsection (1) by an incorporated society to which that subsection applies, that incorporated society is deemed while—
- (a) it continues to be a branch or member of the Royal New Zealand Society for the Prevention of Cruelty to Animals, Incorporated; and

- (b) the Royal New Zealand Society for the Prevention of Cruelty to Animals, Incorporated continues to be an approved organisation for the purposes of this Act; and
- (c) any person appointed in accordance with a recommendation made under subsection (1) by that incorporated society continues to hold office as an inspector or auxiliary officer,—

to be an approved organisation for the purposes of sections 53(2)(a), 101(6), 126(2), 127(6)(a), 133(3)(a), 141, 142, 171, and 172.

Section 190 heading: amended, on 27 September 2001, by section 6(2) of the Animal Welfare Amendment Act 2001 (2001 No 52).

Section 190(1): amended, on 27 September 2001, by section 6(1) of the Animal Welfare Amendment Act 2001 (2001 No 52).

Section 190(2)(a): amended, on 27 September 2001, by section 6(1) of the Animal Welfare Amendment Act 2001 (2001 No 52).

## 191 Deemed codes of welfare

*[Repealed]*

Section 191: repealed, on 10 May 2015, by section 69 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

## 192 Codes of ethical conduct

- (1) Where a code of ethical conduct that has been approved by the Minister under section 19A of the Animals Protection Act 1960 is in force on the commencement of this Act,—
  - (a) that code,—
    - (i) if approved by the Minister before 31 December 1990, is deemed to have been approved by the Director-General under section 91 for the period of 3 years beginning with the date of the commencement of this Act; and
    - (ii) if approved by the Minister in the period beginning on 1 January 1991 and ending with the close of 31 December 1994, is deemed to have been approved by the Director-General under section 91 for the period of 4 years beginning with the date of the commencement of this Act; and
    - (iii) if approved by the Minister after 31 December 1994, is deemed to have been approved by the Director-General under section 91 for the period of 5 years beginning with the date of the commencement of this Act; and
  - (b) the code holder in respect of any such code—
    - (i) is deemed to be the person who applied for and obtained, under section 19A of the Animals Protection Act 1960, the Minister's approval of that code of ethical conduct; and

- (ii) is deemed, for the purposes of section 105(3), to be a code holder.
- (2) Sections 95 and 96 and all the other provisions of this Act (including the terms defined by section 2(1)) have effect, with all necessary modifications, in relation to every code of ethical conduct to which subsection (1) applies.
- (3) Despite subsection (1), where a code of ethical conduct to which that subsection applies contains a provision that would be outside the scope of a code of ethical conduct approved by the Director-General under section 91, no such provision has effect by virtue of the approval deemed by subsection (1) of this section to have been given under section 91.
- (4) Where, at the commencement of this Act, a person (other than a code holder in respect of a code of ethical conduct to which subsection (1) applies) is carrying out research, testing, or teaching without having a code of ethical conduct approved under section 19A of the Animal Protection Act 1960 but is having each of that person's projects approved by an animal ethics committee appointed by such a code holder, that person may, for the period for which the code holder's code of ethical conduct is deemed to be approved under section 91, continue to carry out research, testing, and teaching if each project carried out by that person during that period—
- (a) is approved by that animal ethics committee; and
- (b) is carried out in accordance with that code of ethical conduct.
- (5) Where a code of ethical conduct is deemed by subsection (1)(a) to have been approved by the Director-General under section 91, any person may, for the period for which the code is deemed to have been approved, carry out research, testing, or teaching without obtaining under that section approval of a code of ethical conduct and without appointing an animal ethics committee if—
- (a) each project carried out by that person is approved by an animal ethics committee appointed by the person who is the code holder in respect of that code of ethical conduct; and
- (b) the arrangements in relation to the research, testing, or teaching are agreed on by that person, the code holder in respect of that code of ethical conduct, and the animal ethics committee appointed by that code holder; and
- (c) the code holder in respect of that code of ethical conduct, before the research, testing, or teaching is commenced, gives to the Director-General written notice of the arrangements for the research, testing, or teaching.

### **193 Animal ethics committees**

- (1) Where a code holder in respect of a code of ethical conduct to which section 192 applies has, before the commencement of this Act, appointed an animal ethics committee that is in existence on the commencement of this Act, that animal ethics committee, even if its membership does not comply with section

101, may, for the period for which the code of ethical conduct is deemed to have been approved under section 91, continue in existence as if it were an animal ethics committee appointed under this Act.

- (2) Subject to subsection (1) and to all necessary modifications, for the period for which the code of ethical conduct is deemed to have been approved under section 91, the provisions of this Act apply in relation to every animal ethics committee to which subsection (1) applies; and every such animal ethics committee has and may exercise the functions and powers conferred on animal ethics committees by this Act.

### *Amendments and repeals*

#### **194 Related amendments to other enactments**

The enactments specified in Schedule 5 are amended in the manner indicated in that schedule.

#### **195 Amendment to Ombudsmen Act 1975**

*Amendment(s) incorporated in the Act(s).*

#### **196 Amendments to Local Government Official Information and Meetings Act 1987**

*Amendment(s) incorporated in the Act(s).*

#### **197 Amendment to Customs Export Prohibition Order 1996**

*Amendment(s) incorporated in the regulations.*

#### **198 Repeals**

The enactments specified in Schedule 6 are repealed.

### *Savings provisions*

#### **199 Certain regulations to continue in force**

- (1) Despite the repeal of the Animals Protection Act 1960 by section 198, the regulations specified in Schedule 7, while ceasing to have effect as regulations, continue to have effect, with all necessary modifications, as if they were a code of welfare issued under Part 5, and may be amended or revoked by the Minister under Part 5.
- (2) Subject to this section, the following regulations and circular are revoked:
- (a) clauses 1(a) and 2, and the heading preceding clause 2, of Part 7 of Schedule 1 of the Fish Export Processing Regulations 1995 (SR 1995/54):
  - (b) regulation 80(1) of the Game Regulations 1975 (SR 1975/174):
  - (c) regulation 76 of the Meat Regulations 1969 (SR 1969/192):

- (d) the Slaughter of Stock, Game, and Poultry Regulations 1969 (SR 1969/194);
  - (e) New Zealand Fishing Industry Agreed Implementation Standards 003.4 Live Eels and Rock Lobsters Circular 1995.
- (3) Despite subsection (2), the regulations and circular specified in that subsection, while ceasing to have effect as such, continue to have effect subject to the modifications listed in subsection (4) as if they were minimum standards of a code of welfare (to be known as the Animal Welfare (Commercial Slaughter) Code of Welfare 2002) issued under Part 5, and may be amended or revoked by the Minister under Part 5.
- (4) The modifications referred to in subsection (3) are as follows:
- (a) references in the Slaughter of Stock, Game, and Poultry Regulations 1969 (the **Slaughter Regulations**) to slaughtering places and to establishments include references to—
    - (i) premises and places used for primary processing within the meaning of the Animal Products Act 1999; and
    - (ii) permanent slaughterhouses operated by homekill or recreational catch service providers within the meaning of that Act:
  - (b) the requirements of the Slaughter Regulations, as well as applying to the animals specified in regulation 3(1) of those regulations, apply also to—
    - (i) farmed deer (except to the extent that any other method has been approved by the Director-General as a safe and humane means of slaughter of deer); and
    - (ii) stock as defined in clause 3 of the Meat (Game and Stock) Order 1998:
  - (c) regulation 9 of the Slaughter Regulations (which relates to poultry) is excluded from the deemed code, and regulation 8 of those regulations does not apply to poultry:
  - (d) the circular specified in subsection (2)(e) applies only to primary processors of eels or rock lobsters who are required to operate under either a registered risk management programme or a regulated control scheme under the Animal Products Act 1999.
- (5) Subsections (2) to (4) apply according to their tenor despite anything in section 13 or any other provision of the Animal Products (Ancillary and Transitional Provisions) Act 1999.

Section 199(2): added, on 19 December 2002, by section 15(1) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 199(3): added, on 19 December 2002, by section 15(1) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 199(4): added, on 19 December 2002, by section 15(1) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 199(5): added, on 19 December 2002, by section 15(1) of the Animal Welfare Amendment Act 2002 (2002 No 53).

## **200 Certain bylaws to continue in force**

- (1) Despite the repeal of section 684(1)(37) of the Local Government Act 1974 by section 198, bylaws made under that section and in force immediately before the commencement of this Act, unless sooner revoked, continue in force, and have effect, for the period of 6 years (or such longer period as may be specified by the Governor-General by Order in Council under subsection (4)) beginning with the date of the commencement of this Act as if this Act had not been passed.
- (2) Bylaws continued in force by subsection (1) may be revoked by the local authority by which they were made or by an Order in Council made under section 32(1).
- (3) So far as any bylaws continued in force by subsection (1) are inconsistent with or repugnant to any Order in Council made under section 32(1), the bylaws are subject to the Order in Council.
- (4) The Governor-General may, by Order in Council made on the recommendation of the Minister, extend the period of 6 years specified in subsection (1).
- (5) In deciding whether to recommend the making of an order under subsection (4), the Minister must—
  - (a) consult in accordance with section 184; and
  - (b) have regard to—
    - (i) the welfare of any affected animals; and
    - (ii) the interests of persons involved in the commercial use of any affected animals; and
    - (iii) any other relevant factor.

Section 200(1): amended, on 19 December 2002, by section 16(1) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 200(4): added, on 19 December 2002, by section 16(2) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 200(5): added, on 19 December 2002, by section 16(2) of the Animal Welfare Amendment Act 2002 (2002 No 53).

## **201 Saving**

*[Expired]*

Section 201: expired, on 1 January 2006, by section 202.

## **202 Expiry of section 201**

- (1) Subject to subsections (2) to (4), section 201 expires with the close of the period of 6 years (or such longer period as may be specified by the Governor-General by Order in Council under subsection (5)) beginning on the date of commencement of this Act.

- (2) The Minister may, by notice in the *Gazette*, declare that section 201 is to cease to have effect on a date specified in the notice (being a date earlier than the close of the period referred to in subsection (1))—
  - (a) in relation to the castration of any type of animal specified in the notice;  
or
  - (b) in relation to the dehorning of any type of animal specified in the notice.
- (3) The Minister may publish a notice under subsection (2) only if,—
  - (a) where the notice relates to the castration of any type of animal, a code of welfare relating to the castration of that type of animal has been issued since the commencement of this Act; and
  - (b) where the notice relates to the dehorning of any type of animal, a code of welfare relating to the dehorning of that type of animal has been issued since the commencement of this Act.
- (4) Every notice published under subsection (2) has effect according to its tenor.
- (5) The Governor-General may, by Order in Council made on the recommendation of the Minister, extend the period of 6 years specified in subsection (1).
- (6) In deciding whether to recommend the making of an order under subsection (5), the Minister must—
  - (a) consult in accordance with section 184; and
  - (b) have regard to—
    - (i) the welfare of any affected animals; and
    - (ii) the interests of persons involved in the commercial use of any affected animals; and
    - (iii) any other relevant factor.

Section 202(1): amended, on 19 December 2002, by section 17(1) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 202(2): amended, on 19 December 2002, by section 17(2) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 202(5): added, on 19 December 2002, by section 17(3) of the Animal Welfare Amendment Act 2002 (2002 No 53).

Section 202(6): added, on 19 December 2002, by section 17(3) of the Animal Welfare Amendment Act 2002 (2002 No 53).



## Schedule 1

### Provisions applying in respect of National Animal Welfare Advisory Committee and National Animal Ethics Advisory Committee

ss 61, 67

#### 1 Interpretation

In this schedule, **advisory committee** means the National Animal Welfare Advisory Committee or the National Animal Ethics Advisory Committee.

#### 2 Extraordinary vacancies

- (1) Any appointed member of an advisory committee (including the chairperson of the advisory committee) may at any time be removed from office by the Minister for disability affecting performance of duty, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.
- (2) Any appointed member of an advisory committee (including the chairperson of the advisory committee) may at any time resign his or her office by giving written notice to that effect to the Minister.
- (3) If the chairperson or any other appointed member of an advisory committee dies or resigns or is removed from office, the vacancy so created must be treated as an extraordinary vacancy.
- (4) An extraordinary vacancy must be filled in the manner in which the appointment to the vacant office was originally made.
- (5) The powers of an advisory committee are not affected by any vacancy in its membership.

#### 3 Deputy chairperson

- (1) An advisory committee must, at its first meeting after the commencement of this Act, and at its first meeting in every subsequent year, elect 1 of its members to be its deputy chairperson.
- (2) The deputy chairperson may at any time, without resigning office as a member, by written notice to the chairperson resign office as deputy chairperson.
- (3) Unless the deputy chairperson sooner resigns from that office, or is appointed to be the chairperson of the advisory committee, or vacates his or her office as a member of the advisory committee, he or she holds the office of deputy chairperson until the appointment of a successor in accordance with this clause, and is eligible for reappointment.
- (4) If the deputy chairperson is appointed to be the chairperson of the advisory committee, or ceases to be a member of the advisory committee, he or she thereupon vacates the office of deputy chairperson.
- (5) If any person who is for the time being holding office as deputy chairperson vacates office as a member of the advisory committee, an election to fill the

vacancy in the office of deputy chairperson must be held at the first meeting of the advisory committee held after the vacancy on the advisory committee has been filled.

- (6) Where the office of deputy chairperson becomes vacant in any other case, the advisory committee must elect 1 of its members to fill that vacancy as soon as practicable after its occurrence.
- (7) During every vacancy in the office of chairperson, or while the chairperson is for any reason unable to perform the functions, powers, and duties of the chairperson, the deputy chairperson has and may exercise all the functions, powers, and duties of the chairperson.
- (8) No acts done by the deputy chairperson acting as the chairperson may in any proceedings be questioned on the grounds that the occasion for the deputy chairperson so acting had not arisen or had ceased.

#### **4 Subcommittees**

- (1) An advisory committee may from time to time appoint such subcommittees as the advisory committee thinks fit.
- (2) Each subcommittee appointed by an advisory committee must inquire into, and report to that advisory committee on, such matters within the scope of that advisory committee's functions as are referred to the subcommittee by that advisory committee.
- (3) Each subcommittee must consist of 2 or more persons (of whom at least 1 must be a member of the advisory committee by which it is appointed).
- (4) Every subcommittee appointed under this clause is subject in all things to the control of the advisory committee by which the subcommittee was appointed, and may at any time be discharged, altered, or reconstituted by that advisory committee.
- (5) The chairperson of a subcommittee appointed under this clause must be appointed by the advisory committee by which the subcommittee was appointed unless that advisory committee otherwise determines.

#### **5 Meetings**

- (1) The first meeting of an advisory committee must be held at such time and place as the Minister, in each case, appoints.
- (2) Subsequent meetings of an advisory committee must be held at such times and places as the body or its chairperson from time to time appoints.
- (3) At all meetings of an advisory committee the quorum necessary for the transaction of business is 6 members.
- (4) At all meetings of an advisory committee, its chairperson presides if he or she is present.

- (5) If the chairperson is not present, or if there is no chairperson, the deputy chairperson, if present, must preside.
- (6) If neither the chairperson nor the deputy chairperson is present at the meeting, or if there is no chairperson and no deputy chairperson, the members present must appoint 1 of their number to be the chairperson for the purposes of that meeting.
- (7) Every question arising at a meeting of an advisory committee must be determined by a majority of the votes cast by members present at the meeting.
- (8) The chairperson or other person presiding has a deliberative vote, and, in the case of an equality of votes, also has a casting vote.
- (9) No member of an advisory committee is entitled to be present or vote or otherwise participate in the capacity of a member of the advisory committee at any part of a meeting of the advisory committee where the member has a direct or indirect pecuniary interest in the matter being considered.

#### **6 Assent to resolution without a meeting**

A resolution in writing signed, or assented to by letter, facsimile, electronic mail, telegram, cable, or telex message, by at least 6 members is as valid and effectual as if it had been passed at a meeting of the advisory committee duly called and constituted.

Schedule 1 clause 6: amended, on 10 May 2015, by section 70 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### **7 Teleconference meeting**

- (1) The contemporaneous linking together by telephone or other means of communication of a number of members of an advisory committee, being not less than the relevant quorum provided by clause 5(3), whether or not 1 or more of the members is out of New Zealand, is deemed to constitute a meeting of the advisory committee; and all of the provisions of this schedule apply to that meeting, if the following conditions are met:
  - (a) notice must have been given, by telephone or other means of communication, to every member of the advisory committee for the time being entitled to receive notice of a meeting of the advisory committee; and
  - (b) each of the members taking part in the meeting by telephone or other means of communication must—
    - (i) be linked by telephone or such other means for the purposes of the meeting; and
    - (ii) at the commencement of the meeting acknowledge, to all the other members taking part, the member's presence for the purpose of a meeting of the advisory committee; and
    - (iii) be able, throughout the meeting, to hear each of the other members taking part; and

- (iv) on any vote, individually express his or her vote to the meeting.
- (2) A member must not leave a meeting held under subclause (1) by disconnecting the member's telephone or other means of communication unless the member has previously obtained the express consent of the chairperson or other person presiding at the meeting. A member is conclusively presumed to have been present, and to have formed part of the quorum, at all times during the meeting by telephone or other means of communication unless the member previously obtained the express consent of the chairperson or other person presiding to leave the meeting.
- (3) A minute of the proceedings at a meeting held under subclause (1) is sufficient evidence of those proceedings, and the observance of all necessary formalities, if certified as a correct minute by the chairperson or other person presiding at the meeting.

## **8 Protection of members of advisory committee**

- (1) No member of an advisory committee is personally liable for any act done or omitted by the member or the committee in good faith in the course of the operations of the committee.
- (2) Any liability that would but for this section lie against a member of an advisory committee lies against the Crown.

## **9 Procedure**

Subject to the provisions of this Act, an advisory committee may regulate its procedure in such manner as it thinks fit.

## **10 Fees and allowances**

- (1) An advisory committee, and each subcommittee appointed by an advisory committee, is a statutory board for the purposes of the Fees and Travelling Allowances Act 1951.
- (2) There may be paid, out of public money to the members of an advisory committee, and to the members of any subcommittee appointed by an advisory committee, remuneration by way of fees, salary, or allowances and travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly.

## **11 Administrative assistance**

The Director-General must, in the case of an advisory committee, provide such administrative assistance to the advisory committee as may be necessary to enable the advisory committee to carry out its functions.

## Schedule 2

### Provisions applying in respect of accreditation and accredited reviewers

s 113

#### 1 Grant of accreditation

- (1) Where the Director-General decides to grant an application under section 109, the Director-General must supply to the successful applicant a notice of accreditation that specifies—
  - (a) the full name and address of the person accredited; and
  - (b) any conditions applying under clause 3; and
  - (c) the duration of the accreditation.
- (2) The Director-General may specify in any terms of accreditation that the accreditation is to have effect indefinitely or for a stated period or until a stated date.
- (3) Every grant of accreditation—
  - (a) comes into force on the date specified in the notice of accreditation; and
  - (b) continues in force until—
    - (i) it is withdrawn under clause 5; or
    - (ii) it is surrendered under clause 6; or
    - (iii) in the case of accreditation granted for a stated period or until a stated date, the expiry of that period or the passing of that date.

#### 2 Refusal to grant accreditation

- (1) If the Director-General proposes to refuse to grant an application under section 109, the Director-General must give the applicant—
  - (a) a notice containing such particulars as will clearly inform the applicant of the substance of the grounds on which the Director-General proposes to refuse to accredit the applicant; and
  - (b) a copy of any information on which the Director-General relies in proposing to refuse to grant accreditation; and
  - (c) a reasonable opportunity to make written submissions or be heard in respect of the matter.
- (2) Where the Director-General finally decides to refuse to grant an application under section 109, the Director-General must, as soon as practicable, notify that fact to the applicant in writing, giving reasons.

#### 3 Conditions of accreditation

- (1) An accreditation under section 109 may be subject to such conditions as the Director-General thinks fit and specifies in the notice of accreditation.

- (2) The Director-General may at any time, by written notice to an accredited reviewer, revoke, amend, or add to any conditions imposed under subclause (1).
- (3) Except where any variation to the conditions of accreditation is made on the application of the accredited reviewer and in accordance with the terms of that application, the Director-General may not vary any condition of accreditation imposed under this clause without (to the extent practicable in the circumstances of the variation proposed) first giving the affected person a reasonable opportunity to make written submissions to or be heard by the Director-General in relation to the matter.

#### **4 Accreditation fee**

- (1) Every accredited person is liable to pay any accreditation fee prescribed.
- (2) The accreditation fee prescribed may be an annual accreditation fee or a fee prescribed as payable at such greater intervals as are set out in the regulations.
- (3) Any failure to pay the appropriate fee by the due date, being a failure that persists for more than 30 days, may result in the accreditation being withdrawn under clause 5.

#### **5 Withdrawal of accreditation**

- (1) The Director-General may at any time, by notice in writing to an accredited reviewer, withdraw his or her accreditation if satisfied—
  - (a) that the person is not a fit and proper person to carry out independent reviews under section 105; or
  - (b) that the person has failed to comply with any term or condition of the accreditation; or
  - (c) that the person has contravened, or failed to comply with, any requirement of this Act in any particular that, in the opinion of the Director-General, casts doubt on the person's fitness or competency to carry out independent reviews under section 105.
- (2) The Director-General may not withdraw accreditation unless he or she has first given the person concerned an opportunity to be heard.
- (3) Where accreditation is withdrawn under this clause, the person whose accreditation is withdrawn must, as soon as practicable,—
  - (a) surrender to the Director-General his or her notice of accreditation; and
  - (b) take all reasonable steps to notify the fact of the withdrawal of accreditation to each person who was a client of the person (in that person's capacity as an accredited reviewer) immediately before the withdrawal.

#### **6 Surrender of accreditation**

- (1) An accredited reviewer may at any time surrender his or her accreditation by notice in writing to that effect to the Director-General.

- (2) A surrender takes effect on the expiry of 3 months after the date of the receipt of the notice by the Director-General, or on such earlier date as the Director-General may approve.
- (3) On or before the surrender takes effect, the accredited reviewer must send his or her notice of accreditation to the Director-General.

#### **7 Substituted notice of accreditation**

The Director-General may, if he or she thinks fit, and on payment of the prescribed fee (if any), cancel an existing notice of accreditation granted under clause 1, and issue a new notice in substitution for it,—

- (a) if the terms or conditions of the accreditation are to be or have been varied under clause 3; or
- (b) if the existing notice has become disfigured or dilapidated, or contains a mistake, or if the Director-General is satisfied that the existing notice has been lost or destroyed.

#### **8 List of accredited reviewers**

- (1) The Director-General must cause to be kept and maintained a list of accredited reviewers.
- (2) The Director-General must—
  - (a) make the list available for public inspection, without fee, at reasonable hours at the head office of the Ministry at Wellington; and
  - (b) supply to any person, on request and on payment of the prescribed fee (if any), a copy of that list.
- (3) The list may be kept in such manner as the Director-General thinks fit, including, either wholly or partly, by means of a device or facility—
  - (a) that records or stores information electronically or by other means; and
  - (b) that permits the information so recorded to be readily inspected or reproduced in usable form; and
  - (c) that permits the information to be accessed by electronic means, including (without limitation) by means of remote log on access.

#### **9 Audit of accredited reviewers**

- (1) The Director-General may from time to time audit the manner in which an accredited reviewer is performing his or her duties.
- (2) For the purposes of an audit under subclause (1), the Director-General is entitled, at any convenient time,—
  - (a) to have full access to all books and records in the possession or under the control of the accredited reviewer (being books and records kept for the purposes of an independent review under section 105), and to any place where any such books or records are kept:

- (b) to examine or audit any books or records of the kind specified in paragraph (a):
- (c) to require any accredited reviewer to produce for inspection within a reasonable period specified by the Director-General any books or records of the kind specified in paragraph (a), and to take copies of, or extracts from, any such books or records.



**Schedule 3**  
**Agencies authorised to use animals in protecting human health or  
safety or enforcing the law**

s 179

New Zealand Defence Force.

New Zealand Police.

## Schedule 4

### Codes continued in force as codes of welfare issued under this Act

s 8A

Schedule 4: replaced, on 10 May 2015, by section 71 of the Animal Welfare Amendment Act (No 2) 2015 (2015 No 49).

#### 1 Interpretation

In this schedule, **amendment Act** means the Animal Welfare Amendment Act (No 2) 2015.

#### 2 Codes of welfare

- (1) Every code of welfare in force at the commencement of this schedule continues in force and, after that commencement, may be amended, reviewed, revoked, or replaced under this Act.
- (2) If the National Animal Welfare Advisory Committee has publicly notified a draft code of welfare under section 71 before the commencement of this schedule and the code has not been issued before that commencement, the Committee need not include in the draft any recommendation for the making of regulations under this Act.

#### 3 Certain research, testing, and teaching projects

- (1) Subclause (2) applies to research, testing, and teaching projects approved by an animal ethics committee before the commencement of this schedule that relate to—
  - (a) the killing of animals for the purpose of carrying out research, testing, and teaching on their bodies or tissues; or
  - (b) the breeding of animals with characteristics making them susceptible to increased pain and suffering during their life.
- (2) Approvals of projects to which this subclause applies that are in force on the commencement of this schedule continue in force according to their terms and do not require re-approval because of the operation of any provisions of the amendment Act (such as section 6 of that Act).
- (3) Any projects being carried out lawfully without the approval of an animal ethics committee before the commencement of this schedule do not require approval because of the operation of any provisions of the amendment Act.

#### 4 Power of inspector to issue infringement notice for breach of compliance notice

- (1) This clause applies to persons who, immediately before the commencement of section 56 of the Animal Welfare Amendment Act (No 2) 2015, hold an appointment under this Act as an inspector.

- (2) The terms of appointment of inspectors to whom this clause applies may be amended to specifically authorise them to issue any person with an infringement notice under this Act for breach of a compliance notice.
- (3) An inspector to whom this clause applies may not issue an infringement notice for breach of a compliance notice unless the terms of his or her appointment have been amended to authorise him or her to issue such infringement notices.

## Schedule 5

### Enactments amended

s 194

**Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87)***Amendment(s) incorporated in the Act(s).***Animal Products Act 1999 (1999 No 93)***Amendment(s) incorporated in the Act(s).***Biosecurity Act 1993 (1993 No 95)***Amendment(s) incorporated in the Act(s).***Conservation Act 1987 (1987 No 65) (RS Vol 36, p 1)***Amendment(s) incorporated in the Act(s).***Dog Control Act 1996 (1996 No 13)***Amendment(s) incorporated in the Act(s).***Impounding Act 1955 (1955 No 108) (RS Vol 7, p 339)***Amendment(s) incorporated in the Act(s).***Marine Mammals Protection Act 1978 (1978 No 80) (RS Vol 34, p 709)***Amendment(s) incorporated in the Act(s).***National Parks Act 1980 (1980 No 66) (RS Vol 36, p 517)***Amendment(s) incorporated in the Act(s).***Summary Proceedings Act 1957 (1957 No 87) (RS Vol 9, p 583)***Amendment(s) incorporated in the Act(s).***Wild Animal Control Act 1977 (1977 No 111) (RS Vol 33, p 957)***Amendment(s) incorporated in the Act(s).*

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## Schedule 6 Enactments repealed

s 198

**Animals Protection Act 1960 (1960 No 30) (RS Vol 6, p 1)**

**Animals Protection Amendment Act 1962 (1962 No 55) (RS Vol 6, p 18)**

**Animals Protection Amendment Act 1964 (1964 No 76) (RS Vol 6, p 19)**

**Animals Protection Amendment Act 1971 (1971 No 48) (RS Vol 6, p 19)**

**Animals Protection Amendment Act 1978 (1978, No 63) (RS Vol 6, p 20)**

**Animals Protection Amendment Act 1983 (1983 No 141)**

**Animals Protection Amendment Act 1987 (1987 No 20)**

**Animals Protection Amendment Act 1993 (1993 No 19)**

**Local Government Act 1974 (1974 No 66) (RS Vol 25, p 1)**

*Amendment(s) incorporated in the Act(s).*

**Meat Act 1981 (1981 No 56)**

*Amendment(s) incorporated in the Act(s).*

**Wild Animal Control Amendment Act 1979 (1979 No 146) (RS Vol 33, p 1011)**

*Amendment(s) incorporated in the Act(s).*

**Wild Animal Control Amendment Act 1997 (1997 No 80)**

*Amendment(s) incorporated in the Act(s).*

**Schedule 7**  
**Regulations continued in force as code of welfare**

s 199

**Animals Protection (Docking of Tails) Regulations 1972 (SR 1972/45)**

**Animals Protection (Docking of Tails) Regulations 1972, Amendment No 1 (SR 1976/10)**

## Reprints notes

### 1 *General*

This is a reprint of the Animal Welfare Act 1999 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Statutes Amendment Act 2018 (2018 No 27): Part 1

District Court Act 2016 (2016 No 49): section 261

Senior Courts Act 2016 (2016 No 48): section 183(b), (c)

Animal Welfare Amendment Act (No 2) 2015 (2015 No 49)

Animal Welfare Amendment Act 2015 (2015 No 6)

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Legislation Act 2012 (2012 No 119): section 77(3)

Search and Surveillance Act 2012 (2012 No 24): sections 195–198

Criminal Procedure Act 2011 (2011 No 81): section 413

Animal Welfare Amendment Act 2010 (2010 No 93)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Veterinarians Act 2005 (2005 No 126): section 105

Animal Welfare Amendment Act 2005 (2005 No 90)

Supreme Court Act 2003 (2003 No 53): section 48(2)

Local Government Act 2002 (2002 No 84): section 262

District Courts Amendment Act 2002 (2002 No 63): section 4

Animal Welfare Amendment Act 2002 (2002 No 53)

Animal Welfare Amendment Act 2001 (2001 No 52)

Public Finance Act 1989 (1989 No 44): section 65R(3)

