



# Animal Welfare Amendment Act 2010

Public Act 2010 No 93  
Date of assent 6 July 2010  
Commencement see section 2

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Animal Welfare Amendment Act 2010.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**3 Principal Act amended**

This Act amends the Animal Welfare Act 1999.

**4 Penalties**

- (1) Section 25(a) is amended by—
  - (a) omitting “6” and substituting “12”; and
  - (b) omitting “\$25,000” and substituting “\$50,000”.
- (2) Section 25(b) is amended by omitting “\$125,000” and substituting “\$250,000”.

**5 New sections 28 and 28A substituted**

Section 28 is repealed and the following sections are substituted:

**“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 on indictment,—
- “(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).”

#### “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 on indictment,—
- “(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.”

**6 Penalties**

- (1) Section 37(a) is amended by—
  - (a) omitting “6” and substituting “12”; and
  - (b) omitting “\$25,000” and substituting “\$50,000”.
- (2) Section 37(b) is amended by omitting “\$125,000” and substituting “\$250,000”.

**7 New sections 169, 169A, and 169B substituted**

Section 169 is repealed and the following sections are substituted:

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

- “(1) A court may (in addition to or in substitution for any other penalty) disqualify a person for any period that it thinks fit from being the owner of, or exercising authority in respect of, an animal or animals of a particular kind or description where the court convicts that person of an offence against—
  - “(a) section 28 or 28A; or
  - “(b) any section in Part 1 or 2 and the person has previously been convicted of an offence against—
    - “(i) any section in Part 1 or 2; or
    - “(ii) any of sections 3, 4, and 16(3) of the Animals Protection Act 1960; or
  - “(c) any section in Part 1 or 2 and the court considers that by reason of the serious nature of the offence the person should be disqualified under this section; or
  - “(d) section 152(1); or
  - “(e) section 169B(1).
- “(2) In making an order under subsection (1), the court may also specify a minimum disqualification period.

“Compare: 1960 No 30 s 16; 1993 No 19 ss 2, 3(1).

**“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 character of the applicant; and
  - “(b) the applicant’s conduct since the disqualification order was made; and
  - “(c) the nature of the offence of which the applicant was convicted; and
  - “(d) any other circumstance of the case.
- “(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.

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

- “(1) A person commits an offence who, in contravention of an order made under section 169(1), becomes the owner of, or exercises authority in respect of, an animal or animals of a particular kind or description to which the order relates.
- “(2) A person who commits an offence against subsection (1) is liable on summary 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.”

**8 Transitional provision in respect of section 169 of principal Act**

Section 169 before amendment by this Act (**old section 169**) continues in force as if it had not been amended in respect of any person who, on the commencement of this Act, is subject to a disqualification order made under old section 169(1) or under section 16(1) of the Animals Protection Act 1960.

**9 Power of court to order that certain animals be forfeited to the Crown**

(1) The heading to section 172 is amended by adding “**or approved organisation**”.

(2) Section 172 is amended by repealing subsection (1) and substituting the following subsections:

“(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) order that any or all of the following animals be forfeited to the Crown or to an approved organisation:

“(a) the animal or animals to which the charge relates and of which the offender is the owner:

“(b) any other animals at the date of conviction owned by the offender.

“(1A) The court may make an order of forfeiture only if it thinks that it is desirable for the protection of the animal or animals in question.”

**10 Consequential amendments**

(1) Part 2 of Schedule 1 of the Summary Proceedings Act 1957 is amended by inserting the following item after the item relating to section 28 of the Animal Welfare Act 1999:

28A	Reckless ill-treatment of animals
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(2) Part 3 of the Schedule of the Criminal Investigations (Bodily Samples) Act 1995 is amended by inserting, after the item relating to section 28 of the Animal Welfare Act 1999, the following item:

Reckless ill-treatment of animals      section 28A

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**Legislative history**

15 February 2010	Introduction (Bill 118–1)
23 February 2010	First reading and referral to Primary Production Committee
26 April 2010	Reported from Primary Production Committee (Bill 118–2)
27 May 2010	Second reading
17 June 2010	Committee of the whole House
1 July 2010	Third reading
6 July 2010	Royal assent

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This Act is administered by the Ministry of Agriculture and Forestry.

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