



**PREVENTION OF CRUELTY TO ANIMALS (MISCELLANEOUS)
AMENDMENT ACT 1999**

No. 85 of 1999

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Statute Law Revision Amendments



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ELIZABETHAE II REGINAE

A.D. 1999

No. 85 of 1999

An Act to amend the Prevention of Cruelty to Animals Act 1985.

[Assented to 2 December 1999]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Prevention of Cruelty to Animals (Miscellaneous) Amendment Act 1999*.

(2) The *Prevention of Cruelty to Animals Act 1985* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 3—Interpretation

3. Section 3 of the principal Act is amended—

(a) by striking out the definition of "the Chief Inspector" and substituting the following definition:

"the Code" referred to in Part 4 means the Australian Code of Practice for the Care and Use of Animals for Scientific Purposes (National Health and Medical Research Council, CSIRO, Australian Agricultural Council) 1997, 6th edition, as amended from time to time;

(b) by striking out paragraph (b) of the definition of "inspector".

Amendment of s. 12—Functions of the Committee

4. Section 12 of the principal Act is amended by inserting after paragraph (c) the following paragraph:

- (ca) to develop, or assist in developing, codes of practice for animal welfare and to make recommendations to the Minister as to their adoption under the regulations; and.

Amendment of s. 13—Ill treatment of animals

5. Section 13 of the principal Act is amended—

(a) by striking out paragraphs (h) to (l) of subsection (2) and substituting the following paragraphs:

- (h) unless the animal is unconscious, kills the animal by a method that does not cause death to occur as rapidly as possible; or
- (i) ill treats the animal in any other manner prescribed by the regulations for the purposes of this section.

Amendment of s. 17—Application for a licence

6. Section 17 of the principal Act is amended by striking out from subsection (2)(a) "and form" and substituting "in a form approved by the Minister".

Amendment of s. 18—Grant of licences

7. Section 18 of the principal Act is amended by striking out from subsection (2) "prescribed form" and substituting "form approved by the Minister".

Amendment of s. 19—Conditions of licences

8. Section 19 of the principal Act is amended by inserting after subsection (3) the following subsection:

(4) A person who contravenes or fails to comply with a condition of a licence is guilty of an offence.

Maximum penalty: In relation to a body corporate—\$50 000.
In relation to a natural person—\$10 000.

Amendment of s. 23—Animal ethics committees

9. Section 23 of the principal Act is amended by striking out from subsection (3) "four" and substituting "five".

Amendment of s. 24—Procedure

10. Section 24 of the principal Act is amended by inserting in subsection (4) "in accordance with the Code but otherwise" after "conducted".

Amendment of s. 25—Functions of animal ethics committees

11. Section 25 of the principal Act is amended—

(a) by striking out paragraph (e) of subsection (1) and substituting the following paragraph:

- (e) to furnish the Minister with annual reports in accordance with the regulations; and;

(b) by inserting in subsection (1)(f) "by the Code or the regulations" after "prescribed";

(c) by inserting after subsection (1) the following subsection:

(1a) In performing its functions, an animal ethics committee must comply with the Code.

(d) by inserting in subsection (2) ", subject to and in accordance with the Code," after "An animal ethics committee may";

(e) by striking out from subsection (3)(a) "in order to obtain significant scientific data" and substituting "for the particular purpose";

(f) by inserting after subsection (3) the following subsection:

(4) A person who contravenes or fails to comply with a condition of an approval under this section is guilty of an offence.

Maximum penalty: In relation to a body corporate—\$50 000.
In relation to a natural person—\$10 000.

Amendment of s. 28—Inspectors

12. Section 28 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) The Minister may, by notice in the *Gazette*, appoint a person nominated by the Society to be an inspector for the purposes of this Act.;

(b) by inserting in subsection (2) "appointed under this section" after "inspector";

(c) by striking out from subsection (2) "the prescribed form" and substituting "a form approved by the Minister";

(d) by inserting after subsection (2) the following subsection:

(2a) On ceasing to be an inspector, the former inspector must surrender the certificate to the Minister.

Maximum penalty: \$2 500.;

(e) by inserting in subsection (3) "(or, in the case of a member of the police force not in uniform, his or her warrant card)" after "certificate".

Amendment of s. 29—Powers of inspectors

13. Section 29 of the principal Act is amended—

(a) by inserting in subsection (2)(e) "animal or" after "remove from the premises or vehicle any";

(b) by striking out from subsection (2)(f) "or films" and substituting ", films or video, audio or other recordings";

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(c) by inserting after subsection (4) the following subsection:

(4a) The costs and expenses reasonably incurred by a person or the Crown in seizing, treating or caring for an animal pursuant to subsection (2)(c) may be recovered as a debt from the owner of the animal.;

(d) by striking out from subsection (5) "the animal should not be worked or otherwise subjected to exertion" and substituting "an exercise of powers under this subsection is warranted";

(e) by striking out from subsection (5)(a) "rest the animal and";

(f) by inserting in subsection (5)(a) ", shelter, rest" after "water";

(g) by striking out from subsection (5) "and" appearing between paragraphs (a) and (b);

(h) by inserting after subsection (5)(b) the following paragraph:

(c) require the owner to ensure that the animal is exercised in accordance with the stipulations of the notice.

Insertion of s. 30A

14. The following section is inserted after section 30 of the principal Act:

Powers in relation to seized, surrendered or forfeited animals

30A. (1) An inspector may cause an animal to be killed, sold or otherwise disposed of in the following circumstances:

- (a) if a court has ordered the forfeiture of the animal to the Society pursuant to this Act; or
- (b) if the animal has been seized and held under this Act but is no longer required to be so held and—
 - (i) the whereabouts of the animal's owner cannot, after reasonable inquiries, be ascertained; or
 - (ii) the whereabouts of the animal's owner are known but the owner has failed, within 3 clear working days of being given written notice that the animal may be collected from a specified place, to collect the animal.

(2) If an animal is disposed of under subsection (1) by sale, the proceeds of the sale are, subject to any order of a court to the contrary, the property of the Society.

(3) In this section—

"working day" means any day except a Saturday, Sunday or public holiday.

Amendment of s. 34—Permits to hold rodeos

15. Section 34 of the principal Act is amended—

(a) by striking out from subsection (2)(b) "form" and substituting "in a form approved by the Minister";

(b) by inserting after subsection (3) the following subsection:

(4) A person who contravenes or fails to comply with a condition of a permit under this section is guilty of an offence.

Maximum penalty: \$1 250.

Amendment of s. 36—Power of court to deprive convicted person of animal

16. Section 36 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) Where the owner of an animal is convicted of an offence against this Act in respect of the animal, the court may make all or any of the following orders:

(a) an order directing the person to surrender the animal to an inspector;

(b) an order directing the person to surrender any other specified animal owned by the person to an inspector;

(c) an order directing that any animal owned by the person that has been surrendered or seized under this Act be forfeited to the Society;

(d) an order forbidding the person to acquire, or have custody of, any other animal or any other animal of a specified class, either until further order, or for the period specified in the order.

Insertion of s. 42A

17. The following section is inserted after section 42 of the principal Act:

Codes of practice

42A. Where a code is incorporated into or referred to in this Act or the regulations—

(a) a copy of the code must be kept available for inspection by members of the public, without charge and during normal office hours, at an office determined by the Minister; and

(b) evidence of the contents of the code may be given in any legal proceedings by production of a copy of a document apparently certified by or on behalf of the Minister to be a true copy of the code.

Further amendments of principal Act

18. The principal Act is further amended in the manner set out in the Schedule.

SCHEDULE
Statute Law Revision Amendments

<i>Provision Amended</i>	<i>How Amended</i>
Long title	Strike out "to repeal the Prevention of Cruelty to Animals Act 1936;".
Section 2	Strike out this section.
Section 3	
definition of "veterinary surgeon"	Strike out " <i>Veterinary Surgeons Act 1935</i> " and substitute " <i>Veterinary Surgeons Act 1985</i> ".
Section 4	Strike out this section.
Section 6(1)	Strike out this subsection and substitute: (1) <i>The Animal Welfare Advisory Committee</i> is established.
Section 6(2)	Strike out this subsection and substitute: (2) The Committee consists of 8 members appointed by the Governor, of whom— (a) 1 is to be nominated by the Minister for Primary Industries, Natural Resources and Regional Development; (b) 2 will be nominated by the South Australian Farmers Federation Incorporated; (c) 1 will be nominated by the Society; (d) 2 will be persons who, in the opinion of the Minister, are suitable to represent the interests of animal welfare organisations; (e) 1 will be nominated by the Australian Veterinary Association; (f) 1 will be engaged in research activities involving animals nominated by the Minister for Human Services.
Section 6(3)(a)	Strike out this paragraph and substitute: (a) the South Australian Farmers Federation Incorporated; or.
Section 6(4)	Strike out this subsection and substitute: (4) The Governor may appoint a member of the Committee to be the presiding member of the Committee and another member to be the deputy presiding member of the Committee.
Section 6(5)	Strike out "Chairman" and substitute "presiding member".
Section 7(1)	Strike out "shall" (twice occurring) and substitute, in each case, "will".
Section 7(4)	Strike out "shall" and substitute "must".
Section 8	Strike out "shall be" and substitute "is".

- Section 9(1) Strike out this subsection and substitute:
- (1) The presiding member or, in his or her absence, the deputy presiding member will preside at a meeting of the Committee or, in the absence of both the presiding member and the deputy presiding member, the members present will decide who is to preside at the meeting.
- Section 9(2) Strike out this subsection.
- Section 9(5) Strike out "shall be" and substitute "is".
- Section 9(6) Strike out this subsection and substitute:
- (6) Subject to this Act, the Committee may conduct its business as it thinks fit.
- Section 11(1) Strike out "shall" and substitute "will".
- Section 11(2) Strike out this subsection and substitute:
- (2) The secretary will be appointed under the *Public Sector Management Act 1995*.
- Section 13(1) Strike out this subsection and substitute:
- (1) A person who ill treats an animal is guilty of an offence.
- Maximum penalty: \$10 000 or imprisonment for 1 year.
- Section 14 Strike out "shall" and substitute "must".
- Strike out the penalty provision and substitute:
- Maximum penalty: \$10 000 or imprisonment for 1 year.
- Section 15 Strike out "shall" and substitute "must".
- Strike out the penalty provision and substitute:
- Maximum penalty: \$10 000 or imprisonment for 1 year.
- Section 16(1) Strike out "shall" and substitute "must".
- Strike out the penalty provision and substitute:
- Maximum penalty: In relation to a body corporate—\$50 000.
In relation to a natural person—\$10 000.
- Section 18(1) Strike out "shall" and substitute "must".
- Section 18(2) Strike out "shall" and substitute "must".
- Section 19(1) Strike out "shall be" and substitute "is".
- Section 20(1) Strike out "shall remain" and substitute "remains".
- Strike out "thereafter".
- Section 20(3) Strike out "notwithstanding" and substitute "despite the fact".
- Section 20(4) Strike out "shall" and substitute "must".
- Section 23(2) Strike out "shall" and substitute "must".
- Section 23(3) Strike out "shall" (wherever occurring) and substitute, in each case, "will".

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- Section 23(5) Strike out "shall" and substitute "will".
Strike out "chairman" and substitute "presiding member".
- Section 23(6) Strike out "shall be" and substitute "is".
- Section 23(7) Strike out "shall" (first occurring) and substitute "must".
Strike out "shall be" and substitute "is".
- Section 24(1) Strike out "shall consist" and substitute "consists".
- Section 24(4) Strike out "shall" and substitute "may".
- Section 25(3) Strike out "shall" and substitute "may".
- Section 26(1) Strike out "shall lie" and substitute "lies".
- Section 26(3) Strike out "shall" and substitute "may".
- Section 27(1) Strike out "shall lie" and substitute "lies".
- Section 27(4) Strike out "shall" and substitute "must".
- Section 27(5) Strike out "shall run" and substitute "runs".
- Section 28(2) Strike out "shall" and substitute "must".
- Section 28(3) Strike out "shall" and substitute "must".
- Section 29(2)(e) Strike out "affords" and substitute "afford".
- Section 29(3) Strike out "shall" and substitute "must".
- Section 29(4) Strike out "shall" and substitute "must".
- Section 29(7) Strike out "shall" and substitute "must".
Strike out the penalty provision and substitute:
Maximum penalty: \$1 250.
- Section 29(8) Strike out "shall" and substitute "must".
Strike out the penalty provision and substitute:
Maximum penalty: \$1 250.
- Section 29(10) Strike out "shall" and substitute "must".
Strike out the penalty provision and substitute:
Maximum penalty: \$1 250.
- Section 30(2) Strike out "shall" and substitute "must".
Strike out "the power conferred on him by" and substitute "a power under".
- Section 30(3) Strike out "shall" and substitute "may".
- Section 31 Strike out "shall" and substitute "must".
Strike out the penalty provision and substitute:
Maximum penalty: \$1 250.

- Section 32(1) Strike out "shall attach" and substitute "attaches".
- Section 32(2) Strike out "shall lie" and substitute "lies".
- Section 33 Strike out "shall" and substitute "must".
- Strike out the penalty provision and substitute:
- Maximum penalty: \$1 250.
- Section 34(1) Strike out "shall" and substitute "must".
- Strike out the penalty provision and substitute:
- Maximum penalty: \$1 250.
- Section 34(3) Strike out "shall" and substitute "must".
- Section 36(2) Strike out "shall" and substitute "must".
- Strike out the penalty provision and substitute:
- Maximum penalty: \$1 250.
- Section 38 Strike out "shall be" and substitute "is".
- Section 39(1)(a) Strike out "shall be" and substitute "is".
- Strike out "monetary".
- Section 39(1)(b) Strike out "shall" and substitute "is".
- Strike out "be guilty" and substitute "guilty".
- Strike out "monetary".
- Section 39(2) Strike out "shall" and substitute "will".
- Strike out "deemed" and substitute "taken".
- Section 40(1) Strike out "shall be" and substitute "is".
- Strike out the penalty provision and substitute:
- Maximum penalty: \$5 000.
- Section 40(2) Strike out "shall be" and substitute "is".
- Section 41 Strike out this section.
- Section 42 Strike out "shall" and substitute "will".
- Section 44(2)(h) Strike out this paragraph and substitute:
- (h)* prescribe a fine not exceeding \$1 250 for contravention of, or non-compliance with, a regulation.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor