

# Prevention of Cruelty to Animals (General) Regulation 1996

## Does not include amendments by:

*Veterinary Practice Act 2003 No 87* (not commenced)

## Reprint history:

Reprint No 1

13 March 2001

## Part 1 – Preliminary

### 1 Name of Regulation

This Regulation is the *Prevention of Cruelty to Animals (General) Regulation 1996*.

### 2 Commencement

This Regulation commences on 1 September 1996.

### 3 Definition

In this Regulation:

"**the Act**" means the *Prevention of Cruelty to Animals Act 1979*.

### 4 Notes

The explanatory note and table of contents do not form part of this Regulation.

## Part 2 – Confinement, carriage and use of animals

### 5 Conveyance of stock animals

(1) A person must not:

- (a) carry or convey a large stock animal in a cage or vehicle, or
- (b) being a person in charge of a large stock animal, authorise the carriage or conveyance of the animal in a cage or vehicle,

unless the cage or vehicle is of a height that allows the animal to stand upright without any part of the animal coming into contact with the roof, ceiling or cover of the cage or vehicle.

(2) In this clause, a reference to a large stock animal is a reference to an animal that belongs to the class of animals comprising cattle, horses, sheep, goats, swine and deer.

### 6 Minimum cage sizes for fowls used for egg production

(1) A person must not confine fowls in a cage for the purpose of their being used for egg production unless the floor area of the cage is not less than the minimum floor area applicable to the cage, as follows:

- (a) for a cage that contains one fowl, the minimum floor area is 1,000 square centimetres,
- (b) for a cage that contains 2 fowls, the minimum floor area is 1,350 square centimetres,
- (c) for a cage that contains 3 or more fowls, the minimum floor area is the area calculated by allowing:

- (i) 450 square centimetres for each fowl, if the average weight of the fowls in the cage is 2.4 kilograms or less, or
  - (ii) 600 square centimetres for each fowl, if the average weight of the fowls in the cage is more than 2.4 kilograms.
- (2) If fowls are kept in more than 30 cages at a place, compliance with subclause (1) (c) in relation to those cages is to be determined on the basis of average flock weight rather than on the basis of the average weight of the fowls in the individual cages. For that purpose, the reference in subclause (1) (c) to the average weight of the fowls in the cage is to be read as a reference to the average flock weight.
- (3) Average flock weight is the average weight of the fowls in all the cages concerned, determined in a manner that follows the procedures for counting and weighing set out in the *National Guidelines for RSPCA Inspectors for the Inspection of Layer Hens in Cages*, which is included in the *Australian Model Code of Practice for the Welfare of Animals--Domestic Poultry*, 3rd edition, issued by the Agriculture and Resource Management Council of Australia and New Zealand.
- (4) A contravention of this clause by a person who is a first offender does not constitute an offence unless:
- (a) an officer has given the person a direction in writing to remedy the contravention within a period (not longer than 3 months) specified in the direction, and
  - (b) the person has failed to remedy the contravention within that period.
- (5) A person is a first offender if the person has not been convicted of an offence in respect of any previous contravention of this clause.
- (6) For the purposes of this clause, the floor area of a cage is taken to include the area under any egg baffle, manure deflector, drinking nipple or vee-trough for water.

## **7 Use of animals in films and theatrical performances**

- (1) A person must not use an animal in connection with the production of a film or theatrical performance, or cause or permit an animal to be used in connection with the production of a film or theatrical performance, otherwise than in accordance with the relevant Code of Practice.
- (2) A person does not commit an offence in respect of any failure to comply with the relevant Code of Practice if the failure occurs despite the person's having done all that he or she could reasonably be expected to have done to comply with that Code.
- (3) In this clause: "**relevant Code of Practice**" means the document entitled *Code of Practice for the Welfare of Animals in Films and Theatrical Performances*, as approved on 3 February 1997 by the Animal Welfare Advisory Council, copies of which are available from the Department of Agriculture.

## **7A Steeplechasing and hurdle racing: section 21C**

- (1) A person who organises or participates in a steeplechase or hurdle race to which this clause applies is exempt from the operation of section 21C of the Act in relation to that race.
- (2) This clause applies to a steeplechase or hurdle race that is organised in such a way that no horse in the race can approach or attempt to jump a particular obstacle or hurdle at the same time as any other horse in the race.

## **Part 3 – Miscellaneous**

### **8 Definition of "stock animal": section 4**

For the purposes of the definition of "**stock animal**" in section 4 (1) of the Act, deer are a prescribed species, and are therefore stock animals.

### **8A Prescribed manner in which pinioning of bird is permitted: section 4**

For the purposes of section 4 (2A) of the Act, the prescribed manner in which the carrying out of

the pinioning of a bird is not an act of cruelty is a manner that complies with the provisions of the document entitled *Guidelines for the Pinioning of Birds*, as approved on 7 June 1995 by the Animal Welfare Advisory Council, copies of which are available free of charge from the Department of Agriculture.

### **8B Prescribed class of animal and prescribed period: sections 8 and 26**

For the purposes of sections 8 (3) and 26 (2) (a) and (5) (b) (i) of the Act:

- (a) ruminant stock animals that, because of drought conditions, are at the relevant time being given, by necessity, supplementary feeding of stored or purchased stock feed are a prescribed class of animal, and
- (b) 72 hours is the period prescribed for that prescribed class of animal.

### **9 Prescribed circumstances in which tail docking permitted: section 12**

(1) For the purposes of section 12 (2) of the Act, the prescribed circumstances in which the docking of the tail of a cow, heifer or female calf may be performed are:

- (a) that it is or will be a dairy cow and that the pastoral and environmental conditions in the place where it is or will be kept are such that there is a likelihood of disease to its udder, and
- (b) if it is 6 months old or older, that the veterinary surgeon who docks its tail is, before doing so, provided with a statutory declaration stating reasons sufficient to establish the circumstances set out in paragraph (a).

(2) For the purposes of section 12 (2) of the Act, the prescribed conditions in accordance with which the docking of the tail of a cow, heifer or female calf may be performed are that the tail is docked in such a manner that the tail is left long enough to cover the animal's vulva.

### **10 Prescribed circumstances in which "debarking" permitted: section 12**

For the purposes of section 12 (2) of the Act, the prescribed circumstances in which a dog may be operated on for the purpose of preventing the dog from being able to bark are that the veterinary surgeon who performs the operation is, before doing so, provided with a statutory declaration to the effect that the dog will be destroyed unless the operation is performed because the dog's barking causes an unacceptable public nuisance.

### **11 Prescribed circumstances in which "declawing" permitted: section 12**

For the purposes of section 12 (2) of the Act, the prescribed circumstances in which a cat's claws may be removed are as follows:

- (a) in the case of a domestic cat, that the veterinary surgeon who removes the cat's claws is, before doing so, provided with a statutory declaration to the effect that the cat will be destroyed unless its claws are removed:
  - (i) because the cat is causing unacceptable damage to property with its claws and attempted retraining of the cat has been unsuccessful, or
  - (ii) because the cat has repeatedly killed wildlife,
- (b) in any other case, that the veterinary surgeon who removes the cat's claws is, before doing so, provided with a statutory declaration to the effect that the procedure is being requested because of potential damage by the cat to property, persons or animals.

### **12 Particulars of certain procedures to be recorded: section 12A**

(1) For the purposes of section 12A (1) of the Act, the prescribed form for a register is that it is in writing.

(2) The prescribed particulars to be recorded in the register are as follows:

- (a) the name and address of the owner of the animal on which the procedure was carried out,
- (b) the nature of the procedure,

- (c) the date on which the procedure was carried out,
- (d) a full description of the animal on which the procedure was carried out,
- (e) the name of the veterinary surgeon who carried out the procedure.

### **13 Prescribed types of electrical devices and prescribed species: section 16**

For the purposes of the definition of "**electrical device**" in section 16 (1) of the Act, a type of device listed in Column 1 of Schedule 1 is a prescribed type of electrical device unless it is used for a purpose or in circumstances specified in Column 2 of that Schedule.

### **14 Exemptions: sections 18, 18A**

(1) Any person who:

- (a) uses any premises, or manages or controls any premises that are used, for the purposes of a rodeo, or
- (b) receives money for the admission of another person to premises that are used for the purposes of a rodeo, or
- (c) being an owner of premises, authorises the premises to be used for the purposes of a rodeo,

is exempt from the operation of section 18 of the Act in respect of the use of the premises for the purposes of a rodeo, subject to the condition that the rodeo is at all times conducted in accordance with the relevant Code of Practice.

(2) Any person who advertises, promotes or takes part in a rodeo is exempt from the operation of section 18A of the Act in respect of the advertising, promoting or taking part in the rodeo, subject to the condition that the rodeo is at all times conducted in accordance with the relevant Code of Practice.

(3) A person does not commit an offence in respect of any failure to comply with the relevant Code of Practice if the failure occurs despite the person having done all that he or she could reasonably be expected to have done to comply with that Code.

(4) In this clause: "**relevant Code of Practice**" means the document entitled *Code of Practice for the Welfare of Animals Used in Rodeo Events*, as approved on 30 April 1988 by the Animal Welfare Advisory Council, copies of which are available from the Department of Agriculture. "**rodeo**" means any exhibition, spectacle or display (whether or not conducted for the purpose of gain) in which a person takes part in:

- (a) buck-jumping,
- (b) rough riding, or
- (c) the dogging, roping or tying of any animal.

### **15 (Repealed)**

### **16 Coursing prohibited: section 21**

(1) The object of this clause is to prescribe certain kinds of animal whose possession, at places where an activity prohibited by section 21 of the Act is being conducted, is taken to be evidence that the animal is kept for the purpose of being used in connection with that activity.

(2) For the purposes of section 21 (2C) of the Act, all species of animals (other than coursing dogs) are prescribed species.

### **17 Prescribed parts of NSW and prescribed traps: section 23**

(1) The object of this clause is to prescribe the various parts of New South Wales in which the use of various kinds of traps is prohibited by section 23 of the Act.

(2) For the purposes of section 23 of the Act, the prescribed parts of New South Wales are as follows:

- (a) the Eastern and Central Division within the meaning of the *Crown Lands Act 1989*,
- (b) the Western Division within the meaning of the *Crown Lands Act 1989*,
- (c) Lord Howe Island.

(3) For the purposes of section 23 of the Act, the prescribed types of trap are those traps

that are sold under any of the following trade or proprietary names or descriptions:

- (a) "Lane's 'Ace' Rabbit Trap",
- (b) "Lane's Dog Trap",
- (c) "Lane's Round Jaw Wild Dog Trap",
- (d) "Lane's Dingo Trap",
- (e) "Oneida No 14 Steel Trap",

and any other trap that is similar in design, construction or manner of operation to any of those traps (except for a soft-jawed trap, that is, a trap with steel jaws that are offset and padded).

### **18 Prescribed authorities: sections 25 and 26**

(1) The object of this clause is to prescribe the form of authority that must be held by an officer exercising powers under section 25 or 26 of the Act.

(2) For the purposes of sections 25 and 26 of the Act, a prescribed authority is:

- (a) in relation to a police officer--an identification certificate issued in respect of the officer by the Commissioner of Police, and
- (b) in relation to any other officer--an authority, bearing the photograph of the officer, issued in respect of the officer by the Minister.

### **18A Authorised officers exercising certain powers: section 26**

(1) For the purposes of section 26 (5A) of the Act, the manner in which a direction to stop a vehicle must be made is by displaying a notice (whether or not it is illuminated) containing at least the word "STOP" in letters of a size and style that would be reasonably visible to the driver of the vehicle.

(2) For the purposes of section 26 (5A) of the Act, an officer who makes a direction to stop a vehicle must be identified in the following manner:

- (a) if the officer is not a police officer:
  - (i) the officer must wear a uniform approved by the Minister, and
  - (ii) the officer must carry his or her prescribed authority (as referred to in clause 18) available for inspection upon request, and
  - (iii) the officer's vehicle must be identified by clearly visible signage, as approved by the Minister,
- (b) if the officer is a police officer:
  - (i) the officer must be in uniform or must otherwise display evidence that he or she is a police officer, and
  - (ii) the officer must carry his or her prescribed authority (as referred to in clause 18) available for inspection upon request.

(3) For the purposes of section 26 (7B) (b) of the Act, the following classes of persons are prescribed:

- (a) persons registered as veterinary surgeons under the *Veterinary Surgeons Act 1986*,
- (b) persons who have special expertise in the handling of the animal concerned.

### **19 Advertisement of sale of animals: section 31A**

For the purposes of section 31A (1) (b) (ii) of the Act, an advertisement for the proposed sale of an animal under section 31A of the Act:

(a) must appear, at least once before the date of the proposed sale, in the public notices or equivalent section of a newspaper circulating in the locality in which the animal was seized, and

(b) must include a description of the animal.

### **19A Guidelines relating to the welfare of farm or companion animals: section 34A**

(4) For the purposes of section 34A (1) of the Act, the following documents, published by the CSIRO, are prescribed as guidelines:

- (a) *Model Code of Practice for the Welfare of Animals--Domestic Poultry* (3rd

Edition, 1995),

(b) *Model Code of Practice for the Welfare of Animals--Farmed Buffalo* (1995),

(c) *Model Code of Practice for the Welfare of Animals--Animals at Saleyards* (1991),

(d) *Model Code of Practice for the Welfare of Animals--The Goat* (1991),

(e) *Model Code of Practice for the Welfare of Animals--The Sheep* (1991),

(f) *Model Code of Practice for the Welfare of Animals--The Farming of Deer* (1991),

(g) *Australian Model Code of Practice for the Welfare of Animals--Cattle* (1992),

(h) *National Guidelines for Beef Cattle Feedlots in Australia* (2nd Edition, 1997).

(5) For the purposes of this clause:

(a) the *Model Code of Practice for the Welfare of Animals--The Farming of Deer* (1991) is taken to have been amended by omitting clause 5.2 (ii) and by inserting instead:

(ii) Removal of the "velvet antlers" should be the responsibility of a person registered as a veterinary surgeon under the *Veterinary Surgeons Act 1986* or a person acting in accordance with the approval in writing of the Board of Veterinary Surgeons of New South Wales, as referred to in section 44 (2) of that Act.

(b) the *Australian Model Code of Practice for the Welfare of Animals--Cattle* (1992) is taken to have been amended by omitting Appendix 2.

## 20 Repeal

(1) The *Prevention of Cruelty to Animals (General) Regulation 1981* is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the *Prevention of Cruelty to Animals (General) Regulation 1981*, had effect under that Regulation continues to have effect under this Regulation.

## Schedule 1 Electrical devices

(Clause 13)

| Column 1 Type of device  | Column 2 Purpose or circumstance  |
|--|---|
| Electro-immobiliser  | Restraining cattle, but only if used by a veterinary surgeon for purposes other than as an alternative to analgesia or anaesthesia    |
| Electric stock prod  | Driving, herding, mustering or controlling weaned cattle or swine   |
| Electric fence   | Confining, controlling or protecting animals (except dogs and cats)   |
| Electro-ejaculator   | Collecting semen from conscious cattle or sheep   |
|  | Collecting semen from animals that have been tranquillised and administered with an analgesic or animals that have been anaesthetised |
| The device sold under the name of a Kawe stock prod (including any similar device delivering an electric shock of no greater intensity or duration than a Kawe stock prod) | Controlling horses being used in a rodeo  |
| Electric stock grid  | Confining stock animals (except poultry)  |
| Electric fightback lure  | Training coursing dogs  |
| Electro-fishing device   | Catching fish species under licence, permit or  |

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|  | authority under the <i>Fisheries Management Act 1994</i> or in accordance with the <i>Animal Research Act 1985</i>                       |
| The device sold under the name Pingg String (including any similar device delivering an electric shock of no greater intensity or duration than a Pingg String)      | Confining dogs or cats, but only if used inside a fence through which dogs or cats cannot pass and that is not less than 1.5 metres high |
| Canine invisible boundary  | Confining dogs, but only if used inside a fence through which dogs cannot pass and that is not less than 1.5 metres high                 |
| Electronic bird deterrent device   | Deterring birds from roosting on building ledges and other external building surfaces  |
| Any other device producing an electrical discharge that is used in such a way that the animal in relation to which it is being used cannot move away from the device |  |

### Historical notes

The following abbreviations are used in the Historical notes:

|      |                    |      |             |         |              |
|------|--------------------|------|-------------|---------|--------------|
| Am   | amended            | No   | number      | Schs    | Schedules    |
| Cl   | clause             | p    | page        | Sec     | section      |
| Cll  | clauses            | pp   | pages       | Secs    | sections     |
| Div  | Division           | Reg  | Regulation  | Subdiv  | Subdivision  |
| Divs | Divisions          | Regs | Regulations | Subdivs | Subdivisions |
| GG   | Government Gazette | Rep  | repealed    | Subst   | substituted  |
| Ins  | inserted           | Sch  | Schedule    |         |              |

Table of amending instruments *Prevention of Cruelty to Animals (General) Regulation 1996* published in Gazette No 97 of 23.8.1996, p 4852 and amended as follows:*Prevention of Cruelty to Animals (General) Amendment (Performing Animals) Regulation 1997* (GG No 104 of 26.9.1997, p 8201)*Prevention of Cruelty to Animals (General) Amendment Regulation 2000* (GG No 93 of 21.7.2000, p 6462)

#### Table of amendments

|                |                  |
|----------------|------------------|
| Cl 7           | Am 26.9.1997.    |
| Cll 7A, 8A, 8B | Ins 21.7.2000.   |
| Cl 13          | Subst 21.7.2000. |
| Cl 14          | Am 26.9.1997.    |
| Cl 15          | Rep 21.7.2000.   |
| Cll 16, 18     | Am 21.7.2000.    |
| Cll 18A, 19A   | Ins 21.7.2000.   |
| Sch 1          | Subst 21.7.2000. |