

South Australia

Animal Welfare Act 1985

An Act for the promotion of animal welfare; and for other purposes.

Contents

Part 1—Preliminary

- 1 Short title
- 3 Interpretation
- 5 Act to bind Crown

Part 2—The Animal Welfare Advisory Committee

- 6 Establishment of Animal Welfare Advisory Committee
- 7 Term of office of members
- 8 Allowances and expenses
- 9 Conduct of business
- 9A Conflict of interest under Public Sector (Honesty and Accountability) Act
- 10 Saving provision
- 11 Secretary
- 12 Functions of the Committee

Part 3—Animal welfare offences

- 13 Ill treatment of animals
- 14 Prohibited activities
- 14A Possession of certain items prohibited
- 15 Electrical devices not to be used in contravention of regulations
- 15A Duty of person in charge of vehicle in case of accidents involving animals

Part 4—Teaching and research involving animals

Division 1—Licences for teaching and research involving animals

- 16 Prohibition of use of animals for teaching or research unless licensed
- 17 Application for a licence
- 18 Grant of licences
- 19 Conditions of licence
- 20 Renewal of licences
- 21 Surrender of licences
- 22 Revocation of suspension of licences

Division 2—Animal Ethics Committees

- 23 Establishment of animal ethics committees by licensee
- 23A Approval of animal ethics committee by Minister
- 24 Procedure

25 Functions of animal ethics committees

Division 3—Reviews

26 Reviews of decisions of animal ethics committees

27 Reviews of decisions of Minister

Part 5—Enforcement

Division 1—Appointment and identification of inspectors

28 Appointment of inspectors

29 Identification of inspectors

Division 2—Powers of inspectors

30 General powers

31 Routine inspections

31A Special powers relating to animals

31B Animal welfare notices

Division 3—Miscellaneous

31C Dealing with seized animals and objects

31D Warrant procedures

31E Offence to hinder etc inspectors

32A Court orders on finding of guilt etc

Part 6—Miscellaneous

33 Delegation

34 Permit to hold rodeos

34A False or misleading statements

34B Power of veterinary surgeons to destroy animals

35 Power to provide food to neglected animals

37 Service of notices

38 Offences by bodies corporate

39 Continuing offences

40 Vicarious liability of employers in certain circumstances

42 Evidence

42A Codes of practice

43 Act does not render unlawful practices that are in accordance with prescribed code of animal husbandry practice

43A Reports in respect of alleged contraventions

43B Victimisation

44 Regulations

Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Animal Welfare Act 1985*.

3—Interpretation

In this Act, unless the contrary intention appears—

animal means a member of any species of the sub-phylum *vertebrata* except—

- (a) a human being; or
- (b) a fish,

and includes any prescribed animal;

animal ethics committee means—

- (a) an animal ethics committee established under section 23; or
- (b) a body approved by the Minister as an animal ethics committee under section 23A;

animal welfare notice means a notice given by an inspector under section 31B;

animal welfare order means an order of a court under section 32A;

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) 2004, 7th edition, as amended from time to time;

the Committee means the Animal Welfare Advisory Committee established under this Act;

electrical device means any of the following devices designed for the purpose of confining or controlling an animal:

- (a) an electrical prod or goad;
- (b) a collar designed to impart an electric shock;
- (c) an electroimmobiliser;
- (d) any other electrical device prescribed by the regulations;

electroimmobiliser means an electrical device designed to temporarily immobilise an animal;

harm means any form of damage, pain, suffering or distress (including unconsciousness), whether arising from injury, disease or any other condition;

inspector means—

- (a) a police officer; or
- (c) a person holding an appointment as an inspector under Part 5;

organised animal fight means an event in which an animal is encouraged to fight with another animal;

owner includes—

- (a) in relation to an animal, a person who has the custody and control of the animal; and
- (b) in relation to real or personal property—a person entitled to possession of the property;

premises means any land, building or structure (including a moveable building or structure);

rodeo means a competition involving cattle or horses (or both) and featuring 1 or more rodeo events, but does not include a competition declared by the regulations not to be a rodeo;

rodeo event means any of the following events:

- (a) saddle bronc riding;
- (b) bareback bronc riding;
- (c) bull riding;
- (d) steer riding;
- (e) roping or tying;
- (f) team roping;
- (g) steer wrestling;
- (h) a prescribed event;

serious harm means—

- (a) harm that endangers an animal's life; or
- (b) harm that results in an animal being so severely injured, so diseased or in such physical condition that it would be cruel not to destroy the animal; or
- (c) harm that consists of, or results in, serious and protracted impairment of a physical or mental function;

the Society means the Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated;

Tribunal means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

vehicle includes an aircraft, a vessel, a caravan, a trailer and anything attached to a vehicle;

veterinary surgeon means a person who is registered as a veterinary surgeon under the *Veterinary Practice Act 2003*.

5—Act to bind Crown

This Act binds the Crown.

Part 2—The Animal Welfare Advisory Committee

6—Establishment of Animal Welfare Advisory Committee

- (1) The *Animal Welfare Advisory Committee* is established.
- (2) The Committee consists of 8 members appointed by the Minister, of whom—
 - (a) 1 is to be nominated by the Minister responsible for the administration of the *Livestock Act 1997*;
 - (b) 2 will be nominated by Primary Producers SA 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 responsible for the administration of the *Health Care Act 2008*.
- (3) Where the Minister, by notice in writing, requests—
- (a) Primary Producers SA Incorporated; or
 - (b) the Society; or
 - (c) the Australian Veterinary Association,
- to make a nomination for the purposes of this section, and the body to which the request is addressed fails to make such a nomination within the time allowed in the notice, the Minister may select a person for appointment as a member of the Committee, and a person so selected may then be appointed to the Committee as if nominated by the body to which the request was addressed.
- (4) The Minister 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.
- (5) The Minister may appoint a suitable person to be the deputy of a member of the Committee (other than the presiding member), and the deputy may, in the absence of that member, act as a member of the Committee.

7—Term of office of members

- (1) A member of the Committee will be appointed for such term, not exceeding 3 years, as the Minister determines and specifies in the instrument of appointment, and on the expiration of a term of office, will be eligible for reappointment.
- (2) The Minister may remove a member of the Committee from office on the ground of—
 - (a) mental or physical incapacity to carry out satisfactorily the duties of a member; or
 - (b) dishonourable conduct; or
 - (c) neglect of duty.
- (3) The office of a member of the Committee becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office; or
 - (c) resigns by notice in writing to the Minister; or
 - (d) is removed from office by the Minister under subsection (2).
- (4) On the office of a member of the Committee becoming vacant, a person must be appointed to that office in accordance with this Act.

8—Allowances and expenses

A member of the Committee is entitled to receive such allowances and expenses as the Minister may from time to time determine.

9—Conduct of business

- (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.
- (3) Five members constitute a quorum of the Committee.
- (4) Each member present at a meeting of the Committee is entitled to 1 vote on a question arising for decision at that meeting.
- (5) A decision supported by the votes of not less than 5 members of the Committee is a decision of the Committee.
- (6) Subject to this Act, the Committee may conduct its business as it thinks fit.

9A—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Committee will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with primary production generally, animal welfare organisations generally, veterinary practice generally or medical or biological research generally, or a substantial section of those engaged in or associated with any of those fields.

10—Saving provision

An act or proceeding of the Committee is not invalid by reason of a vacancy in its membership or a defect in an appointment.

11—Secretary

- (1) There will be a secretary to the Committee.
- (2) The secretary will be appointed under the *Public Sector Act 2009*.
- (3) The office of secretary to the Committee may be held in conjunction with any other office in the Public Service of the State.

12—Functions of the Committee

The functions of the Committee are—

- (a) to advise the Minister on any matter relating to the administration or enforcement of this Act; and
- (b) to consider, and report to the Minister on, legislative proposals affecting animal welfare; and
- (c) to examine proposed codes of practice relating to animals and report to the Minister on their likely effect upon animal welfare; and

- (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
- (d) to investigate and report to the Minister on any matters referred by the Minister to the Committee for advice.

Part 3—Animal welfare offences

13—Ill treatment of animals

- (1) If—
 - (a) a person ill treats an animal; and
 - (b) the ill treatment causes the death of, or serious harm to, the animal; and
 - (c) the person intends to cause, or is reckless about causing, the death of, or serious harm to, the animal,the person is guilty of an offence.
Maximum penalty: \$50 000 or imprisonment for 4 years.
- (2) A person who ill treats an animal is guilty of an offence.
Maximum penalty: \$20 000 or imprisonment for 2 years.
- (3) Without limiting the generality of subsection (1) or (2), a person ill treats an animal if the person—
 - (a) intentionally, unreasonably or recklessly causes the animal unnecessary harm; or
 - (b) being the owner of the animal—
 - (i) fails to provide it with appropriate, and adequate, food, water, living conditions (whether temporary or permanent) or exercise; or
 - (ii) fails to take reasonable steps to mitigate harm suffered by the animal; or
 - (iii) abandons the animal; or
 - (iv) neglects the animal so as to cause it harm; or
 - (c) having caused the animal harm (not being an animal of which that person is the owner), fails to take reasonable steps to mitigate the harm; or
 - (f) causes the animal to be killed or injured by another animal; or
 - (g) kills the animal in a manner that causes the animal unnecessary pain; or
 - (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) carries out a medical or surgical procedure on the animal in contravention of the regulations; or
 - (j) ill treats the animal in any other manner prescribed by the regulations for the purposes of this section.

- (4) A person charged with an offence against subsection (1) (the *aggravated offence*) may be convicted of an offence against subsection (2) (the *lesser offence*) if the court is not satisfied that the aggravated offence has been established beyond reasonable doubt but is satisfied that the lesser offence has been so established.
- (5) It is a defence to a charge of an offence against subsection (2) if the defendant proves that the offence did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.
- (6) In this section—
cause—a person's act or omission causes the death of, or harm to, an animal if the act or omission substantially contributes to the death or harm.

14—Prohibited activities

- (1) A person must not take part in a prohibited activity.
Maximum penalty: \$50 000 or imprisonment for 4 years.
- (2) A person must not be present in a place at which a prohibited activity is occurring.
Maximum penalty: \$20 000 or imprisonment for 2 years.
- (3) For the purposes of subsection (2), if a person is present in a place at which a prohibited activity has occurred within the preceding 2 hours, he or she will, in the absence of proof to the contrary, be taken to have been at the place at the time the prohibited activity occurred.
- (4) In proceedings for an offence against subsection (2), it is a defence for the defendant to prove that he or she did not know, and could not reasonably have been expected to have known, that a prohibited activity was occurring in the place.
- (5) For the purposes of this section, the following are *prohibited activities*:
 - (a) organised animal fights;
 - (b) live baiting;
 - (c) releasing an animal from captivity for the purpose of it then being hunted or killed (whether by a person or otherwise);
 - (d) selling or supplying an animal to a person for the purpose of the animal being used in an activity referred to in a preceding paragraph;
 - (e) keeping or preparing an animal for the purpose of using the animal in an activity referred to in a preceding paragraph.
- (6) For the purposes of this section, a person *takes part in a prohibited activity* if he or she does 1 or more of the following:
 - (a) organises the prohibited activity;
 - (b) promotes the prohibited activity;
 - (c) allows the prohibited activity to occur on premises, or in a place, owned or occupied by him or her;
 - (d) knowingly provides an animal or other thing used, or intended for use, in relation to the prohibited activity;

- (e) undertakes, without lawful excuse, any other activity relating to the prohibited activity.
- (7) For the purposes of this section, a reference to a part of an animal does not include a reference to a part of an animal that has been processed such that it no longer resembles a part of the relevant kind.

Note—

For example, the skin of an animal which has been processed into a leather product.

- (8) In this section—

live baiting means an activity in which—

- (a) a live animal is introduced into an area for the purpose of being chased by 1 or more dogs or training a dog to chase real or simulated animals; or
- (b) the carcass or any part of an animal is introduced into an area or moved around an area (or both) for the purpose of being chased by 1 or more dogs or training a dog to chase real or simulated animals,

but does not include an activity declared by the regulations to be excluded from the ambit of this definition.

14A—Possession of certain items prohibited

- (1) A person must not, without the approval of the Minister, have in his or her possession or control—
 - (a) a cock-fighting spur; or
 - (b) an implement, article or other thing made or adapted for attachment to an animal—
 - (i) for the purpose of training the animal to fight another animal; or
 - (ii) for the purpose of inciting or assisting the animal to fight another animal or to inflict injury on another animal during a fight; or
 - (iii) for the purpose of protecting the animal in a fight with another animal; or
 - (c) a drug (not being a drug supplied on the prescription of, and given to an animal in accordance with the directions of, a veterinary surgeon) to be administered to an animal for the purpose of inciting or assisting the animal to fight another animal, or to inflict injury on another animal during a fight; or
 - (d) a lure or bait (however described) consisting of or including the carcass or any part of an animal and used, or intended to be used, for the purpose of live baiting (within the meaning of section 14).

Maximum penalty: \$20 000 or imprisonment for 2 years.

- (2) For the purposes of subsection (1)(d), a reference to a part of an animal does not include a reference to a part of an animal that has been processed such that it no longer resembles a part of the relevant kind.

Note—

For example, the skin of an animal which has been processed into a leather product.

15—Electrical devices not to be used in contravention of regulations

A person must not, for the purpose of confining or controlling an animal, use an electrical device in contravention of the regulations.

Maximum penalty: \$10 000 or imprisonment for 1 year.

15A—Duty of person in charge of vehicle in case of accidents involving animals

Where an animal is injured in an accident involving a vehicle, the person in charge of the vehicle must—

- (a) take such steps as are reasonably practicable in the circumstances to inform the owner of the animal that the animal was injured; and
- (b) where, after taking such steps, that person has been unable to contact the owner—inform an inspector, within 24 hours of the accident occurring, of the circumstances of the accident.

Maximum penalty: \$5 000.

Expiation fee: \$315.

Part 4—Teaching and research involving animals

Division 1—Licences for teaching and research involving animals

16—Prohibition of use of animals for teaching or research unless licensed

- (1) Subject to subsection (2), a person must not use an animal for the purposes of—
 - (a) teaching any science; or
 - (b) research or experimentation,

without a licence under this Part.

Maximum penalty:

In relation to a body corporate—\$50 000.

In relation to a natural person—\$10 000.

- (2) A employee is not required to hold a licence under this Part in respect of anything done in the course of employment by a person who holds a licence under this Part.

17—Application for a licence

- (1) A person may apply to the Minister for a licence under this Part.
- (2) An application for a licence must—
 - (a) be made in the prescribed manner in a form approved by the Minister; and
 - (b) contain the prescribed information; and
 - (c) be accompanied by the prescribed application fee.

18—Grant of licences

- (1) Where application is made under this Part for a licence, the Minister must determine whether a licence should be granted having regard to—
 - (a) the suitability of the applicant to be granted the licence; and
 - (b) the adequacy of the applicant's premises and facilities for the care and handling of animals; and
 - (c) the adequacy of arrangements made by the applicant for the provision of veterinary attention to animals; and
 - (d) such other matters as may be prescribed.
- (2) On granting a licence, the Minister must forward to the applicant a licence in the form approved by the Minister.

19—Conditions of licence

- (1) A licence under this Part is subject to such conditions as the Minister may specify by notice in writing given to the holder of the licence.
- (2) Without limiting the matters with respect to which conditions may be imposed, the Minister may impose conditions—
 - (a) requiring the holder of the licence to establish an animal ethics committee in accordance with section 23; and
 - (b) requiring the holder of the licence to consult with an animal ethics committee in relation to specified matters; and
 - (c) requiring the holder of the licence to seek the approval of an animal ethics committee before—
 - (i) acquiring animals for the purposes of teaching, research or experimentation; or
 - (ii) using animals for the purposes of teaching, research or experimentation; and
 - (d) requiring the holder of the licence to provide an animal ethics committee with such information in relation to teaching, research or experimentation involving animals as the animal ethics committee may request; and
 - (e) requiring the holder of the licence to answer such questions in relation to teaching, research or experimentation involving animals as may be put by an animal ethics committee; and
 - (f) requiring the holder of the licence to comply with such provisions of the Code as may be specified in the conditions.
- (3) The Minister may, by notice in writing given to the holder of a licence, vary or revoke a condition of the licence or impose a further condition.
- (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.

20—Renewal of licences

- (1) Subject to this Part, a licence remains in force for a period of 2 years from the day on which it is granted and may be renewed for successive periods of 2 years.
- (2) An application for renewal—
 - (a) must be made in a manner and form determined by the Minister; and
 - (b) must be delivered to the Minister not less than 1 month before the licence is due to expire; and
 - (c) must be accompanied by the prescribed fee.
- (3) The Minister has a discretion to determine an application for renewal despite the fact that it is delivered out of time.
- (4) Where an application for renewal is made in accordance with this Act, the Minister must renew the licence of the applicant.

21—Surrender of licences

The holder of a licence may at any time surrender the licence to the Minister.

22—Revocation of suspension of licences

- (1) Where the holder of a licence—
 - (a) has been found guilty of an offence against this Act; or
 - (b) has obtained the licence improperly; or
 - (c) has failed to comply with a condition of the licence,the Minister may, by notice in writing addressed to the holder of the licence, revoke the licence, or suspend the licence for a period specified in the notice.

Division 2—Animal Ethics Committees

23—Establishment of animal ethics committees by licensee

- (2) Where a licensee is required, as a condition of the licence, to establish an animal ethics committee, the licensee must establish an animal ethics committee in accordance with this section.
- (3) An animal ethics committee will consist of at least 5 members appointed by the licensee, of whom—
 - (a) at least 1 will be a veterinary surgeon; and
 - (b) at least 1 will be a person who is engaged in teaching or research activities involving animals; and
 - (c) at least 1 will be a person who is responsible for the daily care of animals kept for use in teaching or research activities; and
 - (d) at least 1 will be a person with an established commitment to the welfare of animals; and

- (e) at least 1 will be a person who is independent of the licensee and has never been involved in teaching or research activities involving animals.
- (4) In selecting persons for appointment to an animal ethics committee the licensee should act with a view to ensuring that the membership of the committee is, as nearly as possible, equally representative of each of the classes of person referred to in subsection (3).
- (5) The licensee will appoint a member of an animal ethics committee to be the presiding member of the committee.
- (6) A member of an animal ethics committee is appointed on such terms and conditions as may be determined by the licensee.

23A—Approval of animal ethics committee by Minister

- (1) The Minister may approve a body as an animal ethics committee for the purposes of this Act.
- (2) The Minister may only approve a body under subsection (1) if satisfied that—
 - (a) the body is constituted in accordance with the membership requirements for an animal ethics committee (within the meaning of the Code) as laid down in the Code; and
 - (b) the body has appropriate procedures and standards in place to enable the body to comply with the Code in performing functions for the purposes of this Act; and
 - (c) the body is otherwise suitable to act as an animal ethics committee for the purposes of this Act.
- (3) An approval under subsection (1) may be conditional or unconditional.
- (4) The Minister may vary or revoke an approval under subsection (1).

24—Procedure

- (1) The quorum of an animal ethics committee established under this Act consists of 5 members of whom—
 - (a) 1 must be a member appointed under section 23(3)(a); and
 - (b) 1 must be a member appointed under section 23(3)(b); and
 - (c) 1 must be a member appointed under section 23(3)(c); and
 - (d) 1 must be a member appointed under section 23(3)(d); and
 - (e) 1 must be a member appointed under section 23(3)(e).
- (1a) The quorum for a body approved as an animal ethics committee under section 23A is to be determined in accordance with the Code unless the Minister specifies otherwise.
- (2) A decision carried by a majority of the votes cast by the members present at a meeting of an animal ethics committee is a decision of the committee.
- (3) Each member present at a meeting of an animal ethics committee is entitled to 1 vote on a question arising for decision at that meeting and, in the event of an equality of votes, the person presiding is entitled to a second, or casting, vote.

- (4) Subject to this Act, the business of an animal ethics committee may be conducted in accordance with the Code but otherwise in such manner as the committee determines.

25—Functions of animal ethics committees

- (1) Subject to this section, the functions of an animal ethics committee are—
- (a) to determine matters required under this Act to be referred to an animal ethics committee by the holder of a licence; and
 - (b) to approve the use of animals for the purposes of teaching, research or experimentation proposed to be undertaken by the holder of a licence; and
 - (c) to approve the acquisition, by the holder of a licence, of animals for the purposes of teaching, research or experimentation; and
 - (d) to ensure that animals involved in teaching, research or experimentation are treated humanely, and that the regulations relating to such activities are complied with; and
 - (e) to furnish annual reports in accordance with the regulations; and
 - (f) such other functions as are prescribed by the Code or the regulations.
- (1a) In performing its functions, an animal ethics committee must comply with the Code.
- (2) An animal ethics committee may, subject to and in accordance with the Code, approve the use of an animal for the purposes of teaching, research or experimentation, or the acquisition of animals for such purposes, unconditionally, or subject to such conditions as the committee thinks fit.
- (3) An animal ethics committee may not approve the use of an animal for the purposes of research or experimentation, or the acquisition of an animal for such purposes, unless it is satisfied that—
- (a) the use of the animal is essential for the particular purpose; and
 - (b) the person who proposes to use the animal has appropriate experience and qualifications.
- (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.

Division 3—Reviews

26—Reviews of decisions of animal ethics committees

- (1) A right of review lies from a decision of an animal ethics committee under this Part to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (2) An application for review may be made to the Tribunal within 1 month after the making of the relevant decision (or such longer period as the Tribunal may allow).

- (3) Before the Tribunal makes a decision on the review, the Committee must investigate the decision under review and furnish the Tribunal with a report on its investigations for consideration by the Tribunal.

27—Reviews of decisions of Minister

- (1) A right of review lies from a decision of the Minister under this Part to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (2) Subject to subsection (5), an application for review may be made to the Tribunal within 1 month after the making of the relevant decision (or such longer period as the Tribunal may allow).
- (4) The Minister must, if so required by any person affected by a decision, state in writing the reasons for that decision.
- (5) If the reasons of the Minister were not given in writing at the time of making a decision or order and the applicant for review then requests the Minister to state the reasons in writing, the time for making the application for review to the Tribunal runs from the time when the applicant receives the written statement of those reasons.

Part 5—Enforcement

Division 1—Appointment and identification of inspectors

28—Appointment of inspectors

- (1) The Minister may, by instrument in writing, appoint a qualified person to be an inspector for the purposes of this Act.
- (2) An appointment may be made subject to conditions specified in the instrument of appointment.
- (3) Without limiting the conditions that may be imposed under subsection (2), the conditions may include the following:
 - (a) a condition restricting the powers of the inspector;
 - (b) a condition requiring the inspector to undertake suitable training;
 - (c) a condition requiring compliance with prescribed protocols and operational procedures;
 - (d) any other condition that the Minister thinks fit.
- (4) The Minister may, at any time, revoke an appointment or vary, revoke or add a condition of an appointment.
- (5) In this section—

qualified person means a person who has successfully completed training as prescribed by the regulations.

29—Identification of inspectors

- (1) An inspector appointed under this Part must be issued with an identity card—
 - (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an inspector for the purposes of this Act.

- (2) If the powers of an inspector have been limited by conditions, the identity card issued to the inspector must contain a statement of the conditions imposed on the inspector's powers.
- (3) An inspector appointed under this Part must, at the request of a person in relation to whom the inspector intends to exercise powers under this or any other Act, produce for the inspection of the person his or her identity card.
- (4) If an inspector who is a police officer is not in uniform, the officer must, at the request of a person in relation to whom the officer intends to exercise powers under this Act, produce for the inspection of the person his or her warrant card.
- (5) If a person in possession of an identity card issued to the person under this section ceases to be an inspector, the person must immediately return the identity card to the Minister.

Maximum penalty: \$2 500.

Expiation fee: \$210.

Division 2—Powers of inspectors

30—General powers

- (1) An inspector may—
 - (a) enter and search and, if necessary, use reasonable force to break into or open—
 - (i) premises or a vehicle to which this section applies; or
 - (ii) part of, or anything in or on, premises or a vehicle to which this section applies; and
 - (b) give directions with respect to the stopping or movement of a vehicle to which this section applies; and
 - (c) require a person to produce a document, including a written record that reproduces in an understandable form information stored by computer, microfilm or other process; and
 - (d) examine, copy or take extracts from a document or information so produced or require a person to provide a copy of any such document or information; and
 - (e) take photographs, films or audio, video or other recordings; and
 - (f) seize and retain any animal or other thing that the inspector reasonably suspects has been used in, or may constitute evidence of, a contravention of this Act; and
 - (g) identify, by marking, tagging or otherwise, an animal or other property in respect of which powers have been exercised under this Act; and
 - (h) require a person who the inspector reasonably suspects has committed, is committing, or is about to commit, a contravention of this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity; and

- (i) require a person who the inspector reasonably suspects has knowledge of matters in respect of which information is required for the administration or enforcement of this Act to answer questions in relation to those matters; and
 - (j) require a person holding or required to hold a licence, permit or approval under this Act to produce it for inspection; and
 - (k) give a direction required in connection with the exercise of a power conferred by this Act or otherwise in connection with the administration or enforcement of this Act.
- (2) An inspector—
- (a) may only exercise the powers conferred by subsection (1) as reasonably required for the administration and enforcement of this Act; and
 - (b) may only exercise the power to use force under subsection (1)(a) on the authority of a warrant issued by a magistrate or in circumstances in which the inspector reasonably believes that urgent action is required in order to prevent or mitigate serious harm occurring to an animal.
- (3) An inspector may be assisted in the exercise of powers under this Act by such persons as the inspector considers necessary in the circumstances.
- (4) An inspector may require an occupier of premises or a person apparently in charge of a vehicle, animal or other thing to give to the inspector or a person assisting the inspector such assistance as is reasonably required by the inspector for the effective exercise of powers under this Act.
- (5) This section applies to the following premises and vehicles:
- (a) premises or a vehicle in or on which an inspector reasonably suspects that an offence against this Act has been, is being or is about to be, committed;
 - (b) premises or a vehicle in or on which an inspector reasonably suspects there is an animal that is being, or has been, harmed unnecessarily or that will, if urgent action is not taken, be harmed unnecessarily;
 - (c) premises or a vehicle subject to, or being used for the purposes of an activity that is the subject of, a licence, permit or approval under this Act;
 - (d) premises or a vehicle in or on which an inspector reasonably suspects there is an animal in respect of which an animal welfare notice or animal welfare order is in force;
 - (e) premises or a vehicle that an inspector reasonably suspects is being used for or in connection with a business, or organised event or activity, involving animals;
 - (f) premises or a vehicle in which an inspector reasonably suspects there may be records relating to a business or organised event or activity involving animals or an animal or other thing that has been used in, or may constitute evidence of, a contravention of this Act.

31—Routine inspections

- (1) Subject to this section, if, for the purposes of administering this Act, an inspector proposes to exercise powers under this Act to conduct a routine inspection of premises or a vehicle in circumstances where there is no suspicion of an offence, the inspector must—
 - (a) give the occupier of the premises or the owner of the vehicle reasonable notice of the proposed inspection; and
 - (b) give the following persons (as required) a reasonable opportunity to accompany the inspector throughout the inspection:
 - (i) the occupier of the premises or the owner of the vehicle;
 - (ii) a nominee of the occupier of the premises or the owner of the vehicle;
 - (iii) the occupier of the premises or the owner of the vehicle and a nominee of the occupier or owner; and
 - (c) take such steps as are necessary in the circumstances to minimise any adverse effect of the inspection on the business or activities of the occupier of the premises or the owner of the vehicle.
- (2) No notice is required to be given of a routine inspection of premises or a vehicle in or on which an inspector reasonably suspects there is an animal in respect of which an animal welfare notice or animal welfare order is in force.
- (3) Non-compliance with this section does not affect the validity of the exercise of powers by the inspector under this Act.

31A—Special powers relating to animals

- (1) An inspector may examine an animal and its living conditions and, if the inspector suspects on reasonable grounds that the animal is suffering or may if urgent action is not taken suffer unnecessary harm, do 1 or more of the following:
 - (a) provide treatment and care for the animal;
 - (b) cause the living conditions of the animal to be modified;
 - (c) seize and retain the animal for treatment and care.
- (2) For the purposes of subsection (1), an inspector has all of the powers conferred on an inspector by section 30.
- (3) The costs and expenses reasonably incurred by a person or the Crown in seizing, treating or caring for an animal, or in causing the living conditions of an animal to be modified, under this section may be recovered as a debt from the owner of the animal.
- (4) Subject to this section, an inspector may destroy an animal if of the opinion that the condition of the animal is such that the animal is so weak or disabled (whether physically or mentally), or in such pain, that it should be destroyed.
- (5) An inspector must not exercise a power under subsection (4) unless—
 - (a) the owner of the animal consents; or

- (b) the owner of the animal has refused or failed to give consent and a magistrate has, on application by an inspector, issued a warrant authorising the destruction of the animal; or
 - (c) the inspector has been unable to determine who owns the animal, or has been unable to contact the owner, after taking reasonable steps to do so; or
 - (d) the inspector is satisfied that the animal is wild.
- (6) An inspector who destroys an animal under this section does not incur any civil liability for the destruction.

31B—Animal welfare notices

- (1) If an inspector believes on reasonable grounds that the exercise of powers under this section is warranted because the welfare of an animal is being adversely affected, the inspector may, by written notice (an *animal welfare notice*) given to the owner of the animal—
- (a) direct the owner to provide the animal with such food, water, shelter, rest or treatment as the inspector thinks necessary;
 - (b) require the owner to ensure the animal is not worked or used for any purpose specified in the notice for such period as is specified in the notice;
 - (c) require the owner to ensure the animal is exercised in accordance with the stipulations of the notice;
 - (d) direct or require the owner to take any other action specified in the notice, within the time specified in the notice, that the inspector considers necessary for the improvement of the animal's welfare.
- (2) A person to whom an animal welfare notice has been given must not refuse or fail to comply with the direction or requirement set out in the notice.

Maximum penalty: \$2 500.

Expiation fee: \$210.

Division 3—Miscellaneous

31C—Dealing with seized animals and objects

- (1) The Minister may sell, destroy or otherwise dispose of an animal or object that has been seized under this Act but is no longer required to be retained if—
- (a) the whereabouts of the owner of the animal or object cannot, after reasonable inquiries, be ascertained; or
 - (b) the whereabouts of the owner are known but the owner has failed, within 3 clear working days of being given written notice that the animal or object may be collected from a specified place, to collect the animal or object.
- (2) If, on application by an inspector, a magistrate is satisfied that—
- (a) an animal has been seized and retained under this Act; and
 - (b) legal proceedings under this Act relating to the animal are pending; and

- (c) in the circumstances, it is impractical or unreasonable for the animal to continue to be retained until the proceedings have been concluded or otherwise terminated,

the magistrate may make an order authorising that the animal be sold, destroyed or otherwise disposed of as the Minister thinks fit.

- (3) If an animal is disposed of by sale under subsection (2), the proceeds of the sale are to be held by the Minister until the conclusion or termination of the proceedings when they are to be disbursed in accordance with a further order of the court.

- (4) In this section—

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

31D—Warrant procedures

- (1) A magistrate must not issue a warrant for the purposes of this Part unless satisfied that the warrant is reasonably required in the circumstances.
- (2) An application for a warrant may be made personally or, if, in the opinion of the applicant, the warrant is urgently required and there is not enough time to lodge a written application and appear before a magistrate, by fax or telephone.
- (3) The grounds of an application for a warrant must be verified by affidavit.
- (4) If an application for the issue of a warrant is made by fax transmission, the following provisions apply:
 - (a) the application must be in a form approved by the Chief Magistrate;
 - (b) the application must be accompanied (through fax transmission) by an affidavit made by the applicant verifying the facts referred to in the application;
 - (c) the applicant must be available to speak to the magistrate by telephone;
 - (d) the magistrate is entitled to assume, without further inquiry, that a person who identifies himself or herself as the applicant acting in the capacity of an inspector during a telephone conversation with the magistrate is indeed the applicant acting in that capacity;
 - (e) the magistrate may, on being satisfied as to the circumstances of urgency and the grounds for the issue of a warrant, make out and sign a warrant;
 - (f) the warrant is to be taken to have been issued, and comes into force, when signed by the magistrate;
 - (g) the magistrate must forward the warrant to the applicant by fax transmission.
- (5) If an application for a warrant is made by telephone, the following provisions apply:
 - (a) the applicant must inform the magistrate of the applicant's name and identify himself or herself as an inspector and the magistrate, on receiving that information, is entitled to assume its accuracy without further inquiry;
 - (b) the applicant must inform the magistrate of the purpose for which the warrant is required, the grounds on which it is sought and the circumstances giving rise to the urgency of the application;

- (c) the magistrate may, on being satisfied as to the circumstances of urgency and the grounds for the issue of the warrant, inform the applicant of the facts on which the magistrate relies as grounds for the issue of the warrant, and must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts;
 - (d) if the applicant gives such an undertaking, the magistrate may then make out and sign a warrant;
 - (e) the warrant is to be taken to have been issued, and comes into force, when signed by the magistrate;
 - (f) the magistrate must inform the applicant of the terms of the warrant;
 - (g) the applicant must fill out and sign a warrant form (the *duplicate warrant*) that—
 - (i) sets out the name of the magistrate who issued the original and the terms of the warrant; and
 - (ii) complies with any other prescribed requirements;
 - (h) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c) and a copy of the duplicate warrant.
- (6) A warrant, if not executed at the expiration of 1 month from the date of its issue, then expires.

31E—Offence to hinder etc inspectors

A person who—

- (a) hinders or obstructs an inspector, or a person assisting an inspector, in the exercise of powers under this Act; or
- (b) refuses or fails to comply with a requirement or direction of an inspector under this Act; or
- (c) when required by an inspector under this Act to answer a question, refuses or fails to answer the question to the best of the person's knowledge, information and belief; or
- (d) falsely represents, by words or conduct, that he or she is an inspector,

is guilty of an offence.

Maximum penalty: \$5 000.

32A—Court orders on finding of guilt etc

- (1) A court may, on finding a person guilty of an offence against this Act or on declaring a person charged with an offence against this Act liable to supervision under Part 8A of the *Criminal Law Consolidation Act 1935*, make 1 or more of the following orders:
 - (aa) an order requiring the person to care for any animal owned by the person (whether or not the subject of the offence) in accordance with the conditions of the order (which may include a condition that the care of any such animal be supervised or monitored by an inspector), either until further order, or for the period specified in the order;

- (a) an order directing the person to surrender an animal that is owned by the person and is the subject of the offence 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 Crown;
 - (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;
 - (e) an order forfeiting to the Crown an object that is the property of the person and is the subject of the offence or used by the person in the commission of the offence.
- (2) A person in relation to whom an order under subsection (1) is in force must comply with the order.
- Maximum penalty: \$5 000.
- (3) The Minister may sell, destroy or otherwise dispose of an animal or object that has been forfeited to the Crown.

Part 6—Miscellaneous

33—Delegation

- (1) The Minister may delegate to a body or person (including a person for the time being holding or acting in a specified office or position) a function or power of the Minister under this Act (except a prescribed function or power).
- (2) A delegation under this section—
- (a) must be by instrument in writing; and
 - (b) may be absolute or conditional; and
 - (c) does not derogate from the power of the delegator to act in any matter; and
 - (d) is revocable at will.

34—Permit to hold rodeos

- (1) A person must not conduct a rodeo without a permit under this section.
- Maximum penalty: \$5 000.
- (2) An application for a permit—
- (a) must be made to the Minister; and
 - (b) must be made in the prescribed manner and in a form approved by the Minister; and
 - (c) must be accompanied by the prescribed fee.
- (3) The term for which a permit is issued under this section and the conditions (if any) on which the permit is granted must be specified in the permit.

- (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: \$5 000.

34A—False or misleading statements

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in an application made, or information provided, under this Act.

Maximum penalty:

- (a) if the person made the statement knowing that it was false or misleading—\$10 000 or imprisonment for 2 years;
- (b) in any other case—\$5 000.

34B—Power of veterinary surgeons to destroy animals

A veterinary surgeon may destroy an animal if of the opinion that the condition of the animal is such that the animal is so weak or disabled (whether physically or mentally), or in such pain or distress, that it should be destroyed.

35—Power to provide food to neglected animals

Where a person believes on reasonable grounds that over a period of 24 hours or more an animal has not been provided with adequate food or water, the person may, with the authority of an inspector, enter the premises for the purpose of providing the animal with food and water.

37—Service of notices

A notice or document required or authorised to be given or served under this Act may be given or served personally or by post.

38—Offences by bodies corporate

- (1) If a body corporate is guilty of a prescribed offence, each member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless the member proves that he or she could not by the exercise of due diligence have prevented the commission of the offence.
- (2) If a body corporate is guilty of any other offence against this Act (other than an offence against the regulations), each member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence if the prosecution proves that—
 - (a) the member knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and
 - (b) the member was in a position to influence the conduct of the body corporate in relation to the commission of such an offence; and
 - (c) the member failed to exercise due diligence to prevent the commission of the offence.
- (3) Subsection (2) does not apply if the principal offence is—
 - (a) an offence against section 15A, 31B or 31E; or

- (b) an offence against section 40 that relates to such an offence.
- (3a) The regulations may make provision in relation to the criminal liability of members of the governing body of a body corporate that is guilty of an offence against the regulations.
- (4) In this section—
prescribed offence means—
 - (a) an offence against section 13(1) or (2) or section 14(1), (2) or (4); or
 - (b) an offence against section 40 that relates to such an offence.

39—Continuing offences

- (1) A person convicted of an offence against any provision of this Act in respect of a continuing act or omission—
 - (a) is liable, in addition to the penalty otherwise applicable to that offence, to a penalty for each day during which the act or omission continued of not more than one-tenth of the maximum penalty prescribed for that offence; and
 - (b) is, if the act or omission continues after conviction, guilty of a further offence against that provision and liable, in addition to the penalty otherwise applicable to that further offence, to a penalty for each day during which the act or omission continued after that conviction of not more than the amount equal to one-tenth of the maximum penalty prescribed for that offence.
- (2) Where an offence against a provision of this Act consists of an omission to do something that is required to be done, the omission will, for the purposes of subsection (1), be taken to continue for so long as the thing required or directed to be done remains undone after the expiration of the period for compliance with the requirement.

40—Vicarious liability of employers in certain circumstances

If a person commits an offence against this Act in the course of employment by another, the employer is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the employer could not by the exercise of reasonable diligence have prevented the commission of that offence.

42—Evidence

- (1) In proceedings, a certificate apparently executed by the Minister certifying as to a matter relating to—
 - (a) a licence, permit, approval, certificate or other authorisation under this Act; or
 - (b) the appointment of an inspector; or
 - (c) a delegation; or
 - (d) an application; or
 - (e) the receipt or non-receipt of information,under this Act constitutes proof, in the absence of proof to the contrary, of the matters so certified.

- (2) An allegation in a complaint or an information that—
- (a) an animal was an animal of a specified species; or
 - (b) a person was the owner of a specified animal,
- will be accepted as proved in the absence of proof to the contrary.

42A—Codes of practice

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.

43—Act does not render unlawful practices that are in accordance with prescribed code of animal husbandry practice

Nothing in this Act renders unlawful anything done in accordance with a prescribed code of practice relating to animals.

43A—Reports in respect of alleged contraventions

If a person reports to an inspector an alleged contravention of this Act, the inspector must, at the request of the person, inform the person if practicable of any action proposed to be taken under the Act in respect of the allegation.

43B—Victimisation

- (1) A person commits an act of victimisation against another person (the *victim*) if he or she causes detriment to the victim on the ground, or substantially on the ground, that the victim—
- (a) has disclosed or intends to disclose information; or
 - (b) has made or intends to make an allegation,
- that has given rise, or could give rise, to proceedings against the person under this Act.
- (2) An act of victimisation under this Act may be dealt with—
- (a) as a tort; or
 - (b) as if it were an act of victimisation under the *Equal Opportunity Act 1984*, but, if the victim commences proceedings in a court seeking a remedy in tort, he or she cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984* and, conversely, if the victim lodges a complaint under that Act, he or she cannot subsequently commence proceedings in a court seeking a remedy in tort.
- (3) Where a complaint alleging an act of victimisation under this Act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.

(4) In this section—

detriment includes—

- (a) injury, damage or loss; or
- (b) intimidation or harassment; or
- (c) discrimination, disadvantage or adverse treatment in relation to the victim's employment or business; or
- (d) threats of reprisal.

44—Regulations

- (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
 - (a) regulate the slaughtering, trapping, snaring, catching, poisoning, caging or confining of animals;
 - (b) regulate medical or surgical procedures in relation to animals;
 - (c) require a person to hold a certificate or other authorisation for specified purposes and provide for the issuing and cancellation of certificates and authorisations by the Minister, a specified body or a person or body approved by the Minister;
 - (d) regulate—
 - (i) the hiring out of animals; or
 - (ii) the boarding of animals; or
 - (iii) the sale of animals; or
 - (iv) the transport of animals; or
 - (v) the husbandry of animals; or
 - (vi) the use of animals for entertainment;
 - (e) prescribe the form of any notice, application, permit, licence or other document given, made or granted under this Act;
 - (f) prescribe fees in respect of anything to be done under this Act;
 - (g) exempt, conditionally or unconditionally, any person or class of persons or any animal or class of animals from any provision of this Act;
 - (h) impose fines, not exceeding \$5 000, for offences against the regulations;
 - (i) fix expiation fees, not exceeding \$315, for alleged offences against the regulations.
- (3) The regulations may incorporate (with or without modification) or operate by reference to any code of practice relating to animals as in force at a particular time or as amended from time to time by the authority responsible for its publication.
- (4) A regulation under this Act may be of general or limited application according to—
 - (a) the classes of persons or animals; or

- (b) the circumstances; or
 - (c) any other specified factor,
- to which the regulation is expressed to apply.
- (5) The regulations may leave a matter or thing to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, either generally or in a particular case or class of cases.
 - (6) The Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of the *Statutes Amendment (Boards and Committees—Abolition and Reform) Act 2015*.
 - (7) A provision of a regulation made under subsection (6) may, if the regulation so provides, take effect from the commencement of this subsection or from a later day.
 - (8) To the extent to which a provision takes effect under subsection (7) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Formerly

Prevention of Cruelty to Animals Act 1985

Legislation repealed by principal Act

The *Animal Welfare Act 1985* repealed the following:

Prevention of Cruelty to Animals Act 1936

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1985	106	<i>Prevention of Cruelty to Animals Act 1985</i>	7.11.1985	1.8.1986 (<i>Gazette</i> 24.7.1986 p322)
1994	48	<i>Meat Hygiene Act 1994</i>	9.6.1994	1.12.1994 (<i>Gazette</i> 1.12.1994 p1868)
1999	85	<i>Prevention of Cruelty to Animals (Miscellaneous) Amendment Act 1999</i>	2.12.1999	1.2.2000 (<i>Gazette</i> 27.1.2000 p502)
2004	20	<i>Primary Produce (Food Safety Schemes) Act 2004</i>	1.7.2004	Sch 1 (cl 2)—1.7.2006 (<i>Gazette</i> 8.6.2006 p1600)
2008	21	<i>Prevention of Cruelty to Animals (Animal Welfare) Amendment Act 2008</i>	26.6.2008	4.10.2008 (<i>Gazette</i> 18.9.2008 p4503)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 15 (ss 29 & 30)—1.2.2010 (<i>Gazette</i> 28.1.2010 p320)
2011	36	<i>Statutes Amendment (Directors' Liability) Act 2011</i>	22.9.2011	Pt 4 (s 6)—1.1.2012 (<i>Gazette</i> 15.12.2011 p4988)
2013	16	<i>Statutes Amendment (Directors' Liability) Act 2013</i>	23.5.2013	Pt 4 (s 7)—17.6.2013 (<i>Gazette</i> 6.6.2013 p2498)
2015	8	<i>Statutes Amendment (Boards and Committees—Abolition and Reform) Act 2015</i>	18.6.2015	Pt 3 (ss 14—24)—1.7.2015 (<i>Gazette</i> 25.6.2015 p3076)
2015	21	<i>Animal Welfare (Live Baiting) Amendment Act 2015</i>	17.9.2015	15.10.2015 (<i>Gazette</i> 15.10.2015 p4609)

2017 51 *Statutes Amendment (SACAT No 2) Act 2017* 28.11.2017 Pt 5 (ss 15 to 19)—14.12.2017 (*Gazette 12.12.2017 p4960*)

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 85/1999 s 18 (Sch) amended by 21/2008 s 4	1.2.2000 4.10.2008
Pt 1		
s 1	amended by 21/2008 s 5	4.10.2008
s 2	<i>deleted by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
s 3		
animal ethics committee	inserted by 8/2015 s 14	1.7.2015
animal welfare notice	inserted by 21/2008 s 6(1)	4.10.2008
animal welfare order	inserted by 21/2008 s 6(1)	4.10.2008
<i>the Chief Inspector</i>	<i>deleted by 85/1999 s 3(a)</i>	<i>1.2.2000</i>
the Code	inserted by 85/1999 s 3(a) amended by 21/2008 s 6(2)	1.2.2000 4.10.2008
electrical device	inserted by 21/2008 s 6(3)	4.10.2008
electroimmobiliser	inserted by 21/2008 s 6(3)	4.10.2008
harm	inserted by 21/2008 s 6(3)	4.10.2008
inspector	(b) <i>deleted by 85/1999 s 3(b)</i> amended by 21/2008 s 6(4)	1.2.2000 4.10.2008
organised animal fight	inserted by 21/2008 s 6(5)	4.10.2008
<i>pain</i>	<i>deleted by 21/2008 s 6(6)</i>	<i>4.10.2008</i>
rodeo	inserted by 21/2008 s 6(7)	4.10.2008
rodeo event	inserted by 21/2008 s 6(7)	4.10.2008
serious harm	inserted by 21/2008 s 6(7)	4.10.2008
the Society	amended by 21/2008 s 6(8)	4.10.2008
Tribunal	inserted by 51/2017 s 15	14.12.2017
vehicle	substituted by 21/2008 s 6(9)	4.10.2008
veterinary surgeon	amended by 85/1999 s 18 (Sch) amended by 21/2008 s 6(10)	1.2.2000 4.10.2008
s 4	<i>deleted by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
Pt 2		
s 6		
s 6(1)	substituted by 85/1999 s 18 (Sch)	1.2.2000
s 6(2)	substituted by 85/1999 s 18 (Sch)	1.2.2000

Animal Welfare Act 1985—14.12.2017

Legislative history

	amended by 21/2008 s 7(1), (2)	4.10.2008
	amended by 8/2015 s 15(1)—(3)	1.7.2015
s 6(3)	amended by 85/1999 s 18 (Sch)	1.2.2000
	amended by 8/2015 s 15(4)	1.7.2015
s 6(4)	substituted by 85/1999 s 18 (Sch)	1.2.2000
	amended by 8/2015 s 15(5)	1.7.2015
s 6(5)	amended by 85/1999 s 18 (Sch)	1.2.2000
	amended by 8/2015 s 15(6)	1.7.2015
s 7		
s 7(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
	amended by 8/2015 s 16	1.7.2015
s 7(2) and (3)	amended by 8/2015 s 16	1.7.2015
s 7(4)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 8	amended by 85/1999 s 18 (Sch)	1.2.2000
	amended by 8/2015 s 17	1.7.2015
s 9		
s 9(1)	substituted by 85/1999 s 18 (Sch)	1.2.2000
s 9(2)	<i>deleted by 85/1999 s 18 (Sch)</i>	1.2.2000
s 9(5)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 9(6)	substituted by 85/1999 s 18 (Sch)	1.2.2000
s 9A	inserted by 84/2009 s 29	1.2.2010
s 11		
s 11(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 11(2)	substituted by 85/1999 s 18 (Sch)	1.2.2000
	amended by 8/2015 s 18	1.7.2015
s 12	amended by 85/1999 s 4	1.2.2000
<i>Pt 3 before substitution by 21/2008</i>		
s 13		
s 13(1)	<i>substituted by 85/1999 s 18 (Sch)</i>	1.2.2000
s 13(2)	<i>amended by 85/1999 s 5</i>	1.2.2000
s 13(2)	<i>(j)—(l) deleted by 85/1999 s 5</i>	1.2.2000
ss 14 and 15	<i>amended by 85/1999 s 18 (Sch)</i>	1.2.2000
Pt 3	substituted by 21/2008 s 8	4.10.2008
s 13		
s 13(3)	(d), (e) deleted by 21/2015 s 4	15.10.2015
s 14	substituted by 21/2015 s 5	15.10.2015
s 14A	inserted by 21/2015 s 5	15.10.2015
s 15A	s 33 amended by 85/1999 s 18 (Sch)	1.2.2000
	s 33 amended and redesignated as s 15A by 21/2008 s 13(1), (2)	4.10.2008
Pt 4		
s 16		

s 16(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 17		
s 17(2)	amended by 85/1999 s 6	1.2.2000
s 18		
s 18(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 18(2)	amended by 85/1999 ss 7, 18 (Sch)	1.2.2000
s 19		
s 19(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 19(2)	amended by 21/2008 s 9	4.10.2008
s 19(4)	inserted by 85/1999 s 8	1.2.2000
s 20		
s 20(1), (3) and (4)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 23		
s 23(1)	<i>deleted by 8/2015 s 19(1)</i>	<i>1.7.2015</i>
s 23(2)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 23(3)	amended by 85/1999 ss 9, 18 (Sch)	1.2.2000
	amended by 21/2008 s 10	4.10.2008
	amended by 8/2015 s 19(2)	1.7.2015
s 23(4)	amended by 8/2015 s 19(2)	1.7.2015
s 23(5)	amended by 85/1999 s 18 (Sch)	1.2.2000
	amended by 8/2015 s 19(2)	1.7.2015
s 23(6)	amended by 85/1999 s 18 (Sch)	1.2.2000
	substituted by 8/2015 s 19(3)	1.7.2015
s 23(7)	<i>amended by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
	<i>deleted by 8/2015 s 19(3)</i>	<i>1.7.2015</i>
s 23A	inserted by 8/2015 s 20	1.7.2015
s 24		
s 24(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
	substituted by 8/2015 s 21	1.7.2015
s 24(1a)	inserted by 8/2015 s 21	1.7.2015
s 24(4)	amended by 85/1999 ss 10, 18 (Sch)	1.2.2000
s 25		
s 25(1)	amended by 85/1999 s 11(a), (b)	1.2.2000
	amended by 8/2015 s 22	1.7.2015
s 25(1a)	inserted by 85/1999 s 11(c)	1.2.2000
s 25(2)	amended by 85/1999 s 11(d)	1.2.2000
s 25(3)	amended by 85/1999 ss 11(e), 18 (Sch)	1.2.2000
s 25(4)	inserted by 85/1999 s 11(f)	1.2.2000
Part 4 Div 3		
heading	substituted by 51/2017 s 16	14.12.2017
<i>s 26 before substitution by 51/2017</i>		

Animal Welfare Act 1985—14.12.2017

Legislative history

<i>s 26(1) and (3)</i>	<i>amended by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
s 26	substituted by 51/2017 s 17	14.12.2017
<i>s 27</i>		
<i>s 27(1), (4) and (5)</i>	<i>amended by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
s 27(1) and (2)	substituted by 51/2017 s 18(1)	14.12.2017
<i>s 27(3)</i>	<i>deleted by 51/2017 s 18(1)</i>	<i>14.12.2017</i>
s 27(5)	substituted by 51/2017 s 18(2)	14.12.2017
Pt 5		
heading	substituted by 21/2008 s 11	4.10.2008
Pt 5 Div 1		
heading	inserted by 21/2008 s 11	4.10.2008
<i>s 28 before substitution by 21/2008</i>		
<i>s 28(1)</i>	<i>substituted by 85/1999 s 12(a)</i>	<i>1.2.2000</i>
<i>s 28(2)</i>	<i>amended by 85/1999 ss 12(b), (c), 18 (Sch)</i>	<i>1.2.2000</i>
<i>s 28(2a)</i>	<i>inserted by 85/1999 s 12(d)</i>	<i>1.2.2000</i>
<i>s 28(3)</i>	<i>amended by 85/1999 ss 12(e), 18 (Sch)</i>	<i>1.2.2000</i>
<i>s 29 before substitution by 21/2008</i>		
<i>s 29(1)</i>	<i>amended by 48/1994 Sch 2 cl 2</i>	<i>1.12.1994</i>
	<i>amended by 20/2004 Sch 1 cl 2</i>	<i>1.7.2006</i>
<i>s 29(2)</i>	<i>amended by 85/1999 ss 13(a), (b), 18 (Sch)</i>	<i>1.2.2000</i>
<i>s 29(3) and (4)</i>	<i>amended by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
<i>s 29(4a)</i>	<i>inserted by 85/1999 s 13(c)</i>	<i>1.2.2000</i>
<i>s 29(5)</i>	<i>amended by 85/1999 s 13(d)—(h)</i>	<i>1.2.2000</i>
<i>s 29(7), (8) and (10)</i>	<i>amended by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
ss 28 and 29	substituted by 21/2008 s 12	4.10.2008
<i>s 30 before substitution by 21/2008</i>		
<i>s 30(2) and (3)</i>	<i>amended by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
<i>s 30A before deletion by 21/2008</i>	<i>inserted by 85/1999 s 14</i>	<i>1.2.2000</i>
<i>s 31 before substitution by 21/2008</i>	<i>amended by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
Pt 5 Div 2	inserted by 21/2008 s 12	4.10.2008
Pt 5 Div 3	inserted by 21/2008 s 12	4.10.2008
<i>s 32 before deletion by 84/2009</i>		
<i>s 32(1) and (2)</i>	<i>amended by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
<i>s 32</i>	<i>deleted by 84/2009 s 30</i>	<i>1.2.2010</i>
<i>s 32A</i>		

s 32A(1)	s 36(1) substituted by 85/1999 s 16	1.2.2000
	s 36(1) amended and redesignated as s 32A(1) by 21/2008 s 17(1)—(5), (8)	4.10.2008
s 32A(2)	s 36(2) amended by 85/1999 s 18 (Sch)	1.2.2000
	s 36(2) amended and redesignated as s 32A(2) by 21/2008 s 17(6), (8)	4.10.2008
s 32A(3)	inserted by 21/2008 s 17(7)	4.10.2008
Pt 6		
s 33—see s 15A		
s 33	inserted by 21/2008 s 14	4.10.2008
s 34		
s 34(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
	amended by 21/2008 s 15(1)	4.10.2008
s 34(2)	amended by 85/1999 s 15(a)	1.2.2000
s 34(3)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 34(4)	inserted by 85/1999 s 15(b)	1.2.2000
	amended by 21/2008 s 15(2)	4.10.2008
ss 34A and 34B	inserted by 21/2008 s 16	4.10.2008
s 36—see s 32A		
s 38	amended by 85/1999 s 18 (Sch)	1.2.2000
	substituted by 36/2011 s 6	1.1.2012
s 38(2)	amended by 16/2013 s 7(1)	17.6.2013
s 38(3)	(c) deleted by 16/2013 s 7(2)	17.6.2013
s 38(3a)	inserted by 16/2013 s 7(3)	17.6.2013
s 39		
s 39(1) and (2)	amended by 85/1999 s 18 (Sch)	1.2.2000
<i>s 40 before substitution by 21/2008</i>		
s 40(1) and (2)	<i>amended by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
s 40	substituted by 21/2008 s 18	4.10.2008
s 41	<i>deleted by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
s 42	amended by 85/1999 s 18 (Sch)	1.2.2000
	substituted by 21/2008 s 19	4.10.2008
s 42A	inserted by 85/1999 s 17	1.2.2000
ss 43A and 43B	inserted by 21/2008 s 20	4.10.2008
s 44		
s 44(2)	amended by 85/1999 s 18 (Sch)	1.2.2000
	amended by 21/2008 s 21(1), (2)	4.10.2008
s 44(5)	inserted by 21/2008 s 21(3)	4.10.2008
s 44(6)—(8)	inserted by 8/2015 s 23	1.7.2015

Transitional etc provisions associated with Act or amendments

Statutes Amendment (Boards and Committees—Abolition and Reform) Act 2015

24—Transitional provisions

- (1) In this section—

principal Act means the *Animal Welfare Act 1985*;

relevant date means the day on which section 19(1) of this Act comes into operation.

- (2) Despite section 19(1) of this Act, an animal ethics committee established by the Minister under section 23 of the principal Act and in existence immediately before the relevant date continues as an animal ethics committee for the purposes of the principal Act until a date determined by the Minister (and the provisions of Part 4 Division 2 of the principal Act as in force immediately before the relevant date will continue to apply in relation to the committee).

Statutes Amendment (SACAT No 2) Act 2017

19—Transitional provisions

- (1) A right of appeal under section 26 of the principal Act in existence (but not yet exercised) before the relevant day, will be exercised as if this Part had been in operation before the right arose, so that proceedings may be commenced before the Tribunal rather than the Minister.
- (2) Nothing in this section affects any proceedings before the Minister commenced under section 26 of the principal Act before the relevant day.
- (3) A right of appeal under section 27 of the principal Act in existence (but not yet exercised) before the relevant day, will be exercised as if this Part had been in operation before the right arose, so that proceedings may be commenced before the Tribunal rather than the Supreme Court.
- (4) Nothing in this section affects any proceedings before the Supreme Court commenced under section 27 of the principal Act before the relevant day.
- (5) In this section—

principal Act means the *Animal Welfare Act 1985*;

relevant day means the day on which this Part comes into operation;

Tribunal means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

Historical versions

Reprint No 1—1.12.1994

Reprint No 2—1.2.2000

1.7.2006

4.10.2008

1.2.2010

1.1.2012

17.6.2013

1.7.2015

15.10.2015