

**Authorised Version No. 087**  
**Prevention of Cruelty to Animals Act 1986**  
**No. 46 of 1986**

Authorised Version incorporating amendments as at  
23 December 2015

**TABLE OF PROVISIONS**

<i>Section</i>	<i>Page</i>
<b>Part 1—Preliminary</b>	<b>1</b>
1 Purpose	1
2 Commencement	1
3 Definitions	1
4 Binding of Crown	11
6 Application of Act	11
7 Codes of Practice	13
<b>Part 2—Protection of animals</b>	<b>15</b>
<b>Division 1—Cruelty</b>	<b>15</b>
8 Definitions	15
9 Cruelty	16
10 Aggravated cruelty	19
11 Defences to cruelty or aggravated cruelty	19
11A Further prohibited procedure offences	20
12 Court orders for disqualification from or conditions on ownership etc. of animal	21
12AA Court may authorise seizure and disposal of animal kept in contravention of order	22
12AB Orders must not be made in relation to certain persons	22
12AC Order may be suspended	23
12AD Person subject to order may apply for variation etc.	23
12AE Control orders to operate consecutively	24
12AF Person must comply with control order	25
12A Registration of interstate orders	25
12B Governor in Council may declare corresponding law	27
13 Baiting and luring	28
14 Trap-shooting	31
15 Selling traps	31
15AB Setting or using traps	32
15A Dogs on moving vehicles	33
15B Offence under section 15A to be operator onus offence	34
15C Breeding of animals with heritable defects	34

<i>Section</i>	<i>Page</i>
<b>Division 2—Rodeos</b>	<b>35</b>
16 Offence to operate rodeos without a licence or permit	35
17 Grant of rodeo licences	36
17A Duration of licences	36
17B Issue of rodeo permits and rodeo school permits	36
17C Application for a rodeo licence, a rodeo permit or a rodeo school permit	36
17D Grounds on which Department Head may refuse to grant or issue licence or permit	37
17E Conditions on licences and permits	38
17F Variation of licences and permits	39
17G Notice of proposal to cancel a rodeo licence or permit or rodeo school licence	39
17H Making of submissions on proposal to cancel	39
17I Cancellation of a rodeo licence, a rodeo permit or rodeo school permit	40
<b>Division 3—POCTA Inspectors</b>	<b>41</b>
18 General inspectors	41
18A Specialist inspectors	42
19 Identification certificates of POCTA inspectors	43
20 Offence to impersonate etc. POCTA inspectors	43
20A Department Head may declare animals at risk due to an emergency	43
<b>Part 2A—Enforcement</b>	<b>45</b>
<b>Division 1—Preliminary</b>	<b>45</b>
21 Definitions	45
<b>Division 1A—Monitoring of persons subject to control orders or interstate control orders</b>	<b>45</b>
21A Court may authorise monitoring of person when making control order	45
21B POCTA inspector may apply for order to monitor compliance with control orders or interstate control orders	46
21C Powers to enter premises and monitor compliance with control orders or interstate control orders	47
<b>Division 2—Emergency powers to deal with animals</b>	<b>49</b>
22 Power to seize abandoned animals in public places	49
23 Emergency powers of entry in relation to animals	49
24 Emergency power to enter and seize or destroy abandoned, distressed or disabled animals	51
24AA Emergency power to enter and seize animals used for fighting, blooding or as a lure or kill	52

<i>Section</i>	<i>Page</i>
24A	53
24B	53
24C	53
24D	54
<b>Division 3—Search for and seizure of animals, warrants and authorisations</b>	<b>55</b>
24E	55
24F	56
24FA	57
24FB	59
24FC	60
24FD	60
24G	60
24H	63
<b>Division 4—Search for and seizure of things</b>	<b>63</b>
24I	63
24J	63
24K	64
24KA	65
24L	66
<b>Division 5—General provisions as to search warrants</b>	<b>67</b>
24M	67
24N	67
24O	67
24P	68
24Q	69
<b>Division 6—Duties and powers as to seized animals</b>	<b>70</b>
24R	70
24S	71
24T	73
24U	75
24V	77

<i>Section</i>	<i>Page</i>	
24W	Power to dispose of animal at risk not claimed by owner or person in charge	77
24X	Court orders as to costs and disposal of animals	79
24Y	Methods of disposal of animals	81
24Z	Power to destroy diseased or distressed animals	82
24ZAA	Forfeiture and disposal of animals seized under section 24AA	82
24ZA	Disposal of animal by sale	83
24ZB	Costs and proceeds of sold animals	84
24ZC	Costs and proceeds of destroyed animals	85
24ZD	Forfeiture of seized animal	86
<b>Division 7—Duties and powers as to seized things (that are not animals)</b>		<b>86</b>
24ZE	Definition	86
24ZF	Receipt must be given for any thing seized	86
24ZG	Copies of certain seized things to be given	87
24ZH	Access to seized things	87
24ZI	Return of seized thing before commencement of proceedings	88
24ZJ	Return of seized things	89
24ZK	Magistrates' Court may extend retention period	90
24ZL	Dispute as to person entitled to return of seized thing	90
24ZM	Unclaimed seized thing may be sold or destroyed	91
24ZN	Forfeiture of seized things	92
<b>Division 8—Samples</b>		<b>92</b>
24ZO	Provisions relating to the taking and keeping of samples	92
<b>Division 9—Further miscellaneous powers, duties and offences</b>		<b>93</b>
24ZP	Notice to comply	93
24ZQ	Requirement to give information to inspector during entry	94
24ZQA	Requirement to muster, yard or secure animals	95
24ZR	Offences as to inspectors	95
24ZS	Offences as to veterinary practitioners etc.	96
24ZT	Offence to fail to provide name and address	96
24ZTA	Requirement to make documents available for inspection	98
24ZU	POCTA inspectors must identify themselves	99
24ZV	Protection against self-incrimination	99
24ZW	Power to file charges	99
24ZX	Conduct of proceedings	100
24ZY	Court to take judicial notice	100
<b>Part 3—Scientific procedures</b>		<b>101</b>
<b>Division 1—Preliminary</b>		<b>101</b>
25	Definitions	101

<i>Section</i>	<i>Page</i>
<b>Division 2—Offences</b>	<b>103</b>
26 Offences relating to scientific procedures carried out at scientific premises	103
27 Offences relating to scientific procedures carried out outside scientific premises	104
28 Offences relating to breeding of specified animals for use in scientific procedures	107
<b>Division 3—Scientific procedures premises licences</b>	<b>108</b>
29 Grant of a scientific procedures premises licence	108
30 Application for a scientific procedures licence	108
31 Duration of scientific procedures premises licences	109
32 Conditions on scientific procedures premises licences	109
<b>Division 4—Scientific procedures field work licences</b>	<b>110</b>
32A Grant of a scientific procedures field work licence	110
32B Application for a scientific procedures field work licence	111
32C Duration of scientific procedures field work licences	111
32D Conditions on scientific procedures field work licences	111
<b>Division 5—Specified animals breeding licences</b>	<b>112</b>
32E Grant of a specified animals breeding licence	112
32F Application for a specified animals breeding licence	112
32G Duration of specified animals breeding licence	113
32H Conditions on specified animals breeding licence	113
<b>Division 6—General licensing provisions</b>	<b>114</b>
32I Power of Department Head to renew licences	114
32J Application to renew a licence	114
32K Power of the Department Head to vary licences	115
32L Variation of licence on the motion of the Department Head	115
32M Application to vary a licence	116
32N Suspension of licence and notice of proposal to cancel	116
32O Making of submissions on suspension	117
32P Power of the Department Head to cancel a licence	117
32Q Notice of Department Head's decision	118
32R Coming into effect of cancellation	118
<b>Division 7—Miscellaneous</b>	<b>118</b>
33 Review by Victorian Civil and Administrative Tribunal	118
34 Peer Review Committees	119
35 Authorised officers	120
35A Offences as to authorised officers	122
36 Offences	123

<i>Section</i>	<i>Page</i>
<b>Part 3AA—Enforcement for Part 3</b>	<b>124</b>
36A Entry to monitor compliance	124
36B Application for search warrant	126
36C Search warrant	127
36D Seizure and samples of things not mentioned in the warrant	128
36E Requirements for search warrants	129
36F Requirements for seizure of things and taking samples	130
36G Notice to comply	130
36H Notice as to treatment, destruction etc. of animal	132
36I Commencement of proceeding not prevented	133
36J Department Head may take action where notice not complied with	133
36K Court may make adverse publicity order	133
36L Action Department Head may take on finding of contempt	135
36M Department Head may give notice of intent to act on failure to comply with order	135
36N Action to be taken if response to notice not satisfactory	136
36O Action for contempt	136
36P Recovery of costs	136
36Q Requirement to give information to authorised officer during entry	136
36R Protection against self-incrimination	137
36S Power to file charges	138
36T Power to prepare compliance report	138
36U Imposing fees for compliance reports	138
36V Payment of fee	138
<b>Part 3A—Infringement notices</b>	<b>140</b>
37A Power to serve a notice	140
37B Form of notice	141
<b>Part 4—Miscellaneous</b>	<b>142</b>
38 Delegation	142
39 Evidence	142
40 Neglect to prosecute	143
41 Liability for offences	143
41AA Offences by bodies corporate	144
41AB Conduct by officers, employees or agents	144
41AC Time for charging certain offences under this Act	146
41A Council employees etc. not subject to offence for giving information	146
42 Regulations	147

<i>Section</i>	<i>Page</i>
<b>Part 5—Transitionals</b>	<b>153</b>
43 Prevention of Cruelty to Animals (Amendment) Act 2000	153
44 Primary Industries and Food Legislation Amendment Act 2012	153
45 Prevention of Cruelty to Animals Amendment Act 2015— Transitional provisions	153
<b>Schedule</b>	<b>155</b>
<hr/> <hr/>	
<b>Endnotes</b>	<b>156</b>
1 General information	156
2 Table of Amendments	158
3 Amendments Not in Operation	164
4 Explanatory details	170

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**Authorised Version 087**  
**Prevention of Cruelty to Animals Act 1986**  
**No. 46 of 1986**

Authorised Version incorporating amendments as at  
23 December 2015

**The Parliament of Victoria enacts as follows:**

**Part 1—Preliminary**

**1 Purpose**

The purpose of this Act is to—

- (a) prevent cruelty to animals; and
- (b) to encourage the considerate treatment of animals; and
- (c) to improve the level of community awareness about the prevention of cruelty to animals.

**2 Commencement**

This Act comes into operation on a day or days to be proclaimed.

**3 Definitions**

- (1) In this Act—

*adverse publicity order* means an order under section 36K;

S. 3  
amended by  
No. 77/1995  
s. 4(1)(a).

S. 3(1) def. of  
*adverse  
publicity order*  
inserted by  
No. 60/2015  
s. 4(2).



Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 1—Preliminary

---

S. 3(1) def. of  
*animal*  
substituted by  
No. 77/1995  
s. 4(1)(b),  
repealed by  
No. 65/2007  
s. 77(1)(b).

\* \* \* \* \*

S. 3(1) def. of  
*animal ethics committee*  
inserted by  
No. 103/2003  
s. 31.

*animal ethics committee* means a committee, the principal function of which is to determine the ethical practices that are to apply to the carrying out of scientific procedures;

S. 3(1) def. of  
*Code of Practice*  
amended by  
No. 11/2000  
s. 4(1).

*Code of Practice* means a Code of Practice made and published and as varied from time to time under section 7;

S. 3(1) def. of  
*Chief General Manager*  
repealed by  
No. 77/1995  
s. 4(1)(c).

\* \* \* \* \*

S. 3(1) def. of  
*compliance report*  
inserted by  
No. 60/2015  
s. 4(2).

*compliance report* means a report required to be prepared by or under a licence under Part 3 or regulations made under Part 3 as to compliance by the holder of a licence under Part 3 with all or any of the following—

- (a) the licence; or
- (b) Part 3; or
- (c) regulations made under Part 3;

S. 3(1) def. of  
*control order*  
inserted by  
No. 60/2015  
s. 4(2).

*control order* means an order under section 12;

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 1—Preliminary

---

***Department*** means the Department of Environment and Primary Industries;

S. 3(1) def. of *Department* inserted by No. 77/1995 s. 4(1)(e), amended by Nos 46/1998 s. 7(Sch. 1), 56/2003 s. 11(Sch. item 17.1), 70/2013 s. 4(Sch. 2 item 39.1).

***Department Head*** means the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department;

S. 3(1) def. of *Department Head* inserted by No. 76/1998 s. 27(a)(ii), amended by No. 108/2004 s. 117(1) (Sch. 3 item 160.1).

***dock***, in relation to the tail of a dog or a horse, means the amputation, removal or shortening of the tail of the animal, other than the shortening of the tail hairs of the animal;

S. 3(1) def. of *dock* inserted by No. 65/2007 s. 77(1)(a).

***farm animal*** means—

S. 3(1) def. of *farm animal* amended by No. 71/2014 s. 3(a).

- (a) if kept for or used in connection with primary production—cattle, sheep, pigs, poultry, goats and deer; and
- (b) horses other than horses kept for or used in connection with sporting events, equestrian competitions, pony clubs, riding schools, circuses or rodeos;

***general inspector*** means a person who is a general inspector under section 18;

S. 3(1) def. of *general inspector* inserted by No. 65/2007 s. 77(1)(a).

S. 3(1) def. of  
*identification  
certificate*  
inserted by  
No. 60/2015  
s. 4(2).

*identification certificate*—

- (a) in relation to a POCTA inspector,  
means an identification certificate  
issued to the inspector under  
section 19(1); and
- (b) in relation to an authorised officer,  
means an identification certificate  
issued to the officer under  
section 35(4);

S. 3(1) def. of  
*interstate  
control order*  
inserted by  
No. 60/2015  
s. 4(2).

*interstate control order* means an interstate order,  
within the meaning of section 12A, that is  
registered under section 12A;

S. 3(1) def. of  
*municipality*  
repealed by  
No. 77/1995  
s. 4(1)(c).

\* \* \* \* \*

S. 3(1) def. of  
*person in  
charge of*  
inserted by  
No. 76/2005  
s. 26.

*person in charge of* in relation to an animal or  
thing, includes—

- (a) a person who has the animal or thing in  
the person's possession or custody, or  
under the person's care, control or  
supervision; and
- (b) any employee or agent of the owner of  
the animal or thing if a person referred  
to in paragraph (a) is bound to comply  
with the directions of that employee or  
agent in respect of the animal or thing;

S. 3(1) def. of  
*POCTA  
inspector*  
inserted by  
No. 65/2007  
s. 77(1)(a).

*POCTA inspector* means a general inspector or a  
specialist inspector;

***police officer*** has the same meaning as in the  
**Victoria Police Act 2013;**

S. 3(1) def. of  
*police officer*  
inserted by  
No. 37/2014  
s. 10(Sch.  
item 129.1).

***premises*** includes—

- (a) a building or part of a building; and
- (b) a tent, stall or other structure, whether permanent or temporary; and
- (c) land, whether or not appurtenant to a building; and
- (ca) a vehicle, vessel or aircraft; and
- (d) any other place;

S. 3(1) def. of  
*premises*  
amended by  
No. 77/1995  
s. 4(1)(d).

***prescribed*** means prescribed by the regulations;

***prohibited procedure*** means any of the  
following—

- (a) the procedure of cropping the ears of a dog, unless the procedure is done by a veterinary practitioner for the purpose of having a therapeutic effect on the dog; or
- (b) the procedure of debarking a dog, unless the procedure is done by a veterinary practitioner and in accordance with the Code of Practice as to the debarking of dogs; or
- (c) the procedure of docking the tail of a dog or horse, unless the procedure is done by a veterinary practitioner for the purpose of having a therapeutic effect on the dog or horse; or

S. 3(1) def. of  
*prohibited procedure*  
inserted by  
No. 65/2007  
s. 77(1)(a),  
amended by  
Nos 65/2007  
s. 77(2),  
60/2015  
s. 4(1).

- (d) the procedure of grinding, clipping or trimming the teeth of a sheep using an electrical or motorised device, unless the procedure is done by a veterinary practitioner for the purpose of having a therapeutic effect on the sheep; or
- (e) the procedure of removing the claws of a cat, unless the procedure is done by a veterinary practitioner for the purpose of having a therapeutic effect on the cat; or
- (f) the procedure of removing the venom sacs of a reptile, unless the procedure is done by a veterinary practitioner for the purpose of having a therapeutic effect on the reptile; or
- (g) the procedure of thermocautery or firing of a horse; or
- (h) the procedure of spaying an animal unless the procedure is done by a veterinary practitioner;

**regulations** means regulations made under this Act;

**rodeo licence** means a licence granted under section 17;

**rodeo permit** means a permit issued under section 17B(1);

**rodeo school permit** means a permit issued under section 17B(2);

S. 3(1) def. of *rodeo licence* inserted by No. 65/2007 s. 77(3).

S. 3(1) def. of *rodeo permit* inserted by No. 65/2007 s. 77(3).

S. 3(1) def. of *rodeo school permit* inserted by No. 65/2007 s. 77(3).

*scientific premises* means a premises ordinarily used for scientific research, teaching or testing;

S. 3(1) def. of *scientific premises* inserted by No. 103/2003 s. 31.

*scientific procedure* means any procedure, test, experiment, inquiry, investigation or study which is carried out on or in connection with an animal in the course of which—

S. 3(1) def. of *scientific procedure* inserted by No. 103/2003 s. 31, amended by No. 71/2014 s. 3(b).

- (a) an animal is subjected to—
  - (i) surgical, medical, psychological, biological, chemical or physical treatment; or
  - (ii) conditions of heat, cold, light, dark, confinement, noise, isolation or overcrowding to which an animal of that species is not accustomed; or
  - (iii) abnormal dietary conditions; or
  - (iv) electric shock or radiation treatment; or
- (b) any tissue, material or substance is extracted or derived from the body of an animal—

and which is for—

- (c) the purpose of acquiring, demonstrating or developing knowledge in the field of medical, dental, veterinary, agricultural, behavioural or biological science or in any other field of science; or
- (d) the purpose of acquiring, demonstrating, exercising or developing techniques used in the practice of medical, dental, veterinary, agricultural, behavioural or biological

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 1—Preliminary

---

science or in any other field of science;  
or

- (e) the purpose of developing or testing the use, hazards, safety or efficiency of vaccines, substances, drugs, materials or appliances intended for use in, on or in connection with human beings or animals; or
- (f) any other purpose prescribed for the purposes of this paragraph—

but does not include—

- (g) the treatment of an animal for the purpose of promoting its health or welfare by or in accordance with the instructions of a veterinary practitioner; or
- (h) the conduct of animal husbandry carried out in accordance with a Code of Practice; or
- (i) the collection, taking, banding and marking of wildlife within the meaning of and in accordance with the **Wildlife Act 1975**; or
- (j) any or any type of procedure, test, experiment, inquiry, investigation or study prescribed for the purposes of this paragraph;

S. 3(1) def. of  
*scientific  
procedures  
field work  
licence*  
inserted by  
No. 103/2003  
s. 31,  
amended by  
No. 60/2015  
s. 4(3).

*scientific procedures field work licence* means a  
licence granted under section 32A;

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 1—Preliminary

---

<p><i>scientific procedures premises licence</i> means a licence granted under section 29;</p>	<p>S. 3(1) def. of <i>scientific procedures premises licence</i> inserted by No. 103/2003 s. 31, amended by No. 60/2015 s. 4(3).</p>
<p>* * * * *</p>	<p>S. 3(1) def. of <i>Secretary</i> inserted by No. 77/1995 s. 4(1)(e), repealed by No. 76/1998 s. 27(a)(i).</p>
<p><i>spaying</i> in relation to an animal, means the procedure of surgically interfering with the anatomical integrity of the ovaries, fallopian tubes or uterus of the animal;</p>	<p>S. 3(1) def. of <i>spaying</i> inserted by No. 60/2015 s. 4(2).</p>
<p><i>specialist inspector</i> means a person appointed as a specialist inspector under section 18A;</p>	<p>S. 3(1) def. of <i>specialist inspector</i> inserted by No. 65/2007 s. 77(1)(a).</p>
<p><i>specified animals breeding licence</i> means a licence granted under section 32E;</p>	<p>S. 3(1) def. of <i>specified animals breeding licence</i> inserted by No. 103/2003 s. 31, amended by No. 60/2015 s. 4(3).</p>
<p><i>veterinary practitioner</i> means a veterinary practitioner registered under the <b>Veterinary Practice Act 1997</b>;</p>	<p>S. 3(1) def. of <i>veterinary practitioner</i> inserted by No. 58/1997 s. 96(Sch. item 7.1).</p>



Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 1—Preliminary

---

S. 3(1) def. of  
*veterinary  
surgeon*  
repealed by  
No. 58/1997  
s. 96(Sch.  
item 7.1).

\* \* \* \* \*

S. 3(1A)  
inserted by  
No. 60/2015  
s. 4(4).

(1A) In Parts 1, 3, 3AA, 3B and 4—

*authorised officer* means a person appointed to be  
an authorised officer under section 35.

S. 3(2)  
inserted by  
No. 77/1995  
s. 4(2),  
amended by  
Nos 46/1998  
s. 7(Sch. 1),  
56/2003  
s. 11(Sch.  
item 17.2),  
108/2004  
s. 117(1)  
(Sch. 3  
item 160.2),  
70/2013  
s. 4(Sch. 2  
item 39.2).

(2) If under the **Public Administration Act 2004** the  
name of the Department of Environment and  
Primary Industries is changed, a reference to that  
Department in the definition of *Department* in  
subsection (1) must, from the date when the name  
is changed, be taken to be a reference to the  
Department by its new name.

S. 3(3)  
inserted by  
No. 65/2007  
s. 77(4).

(3) In this Act, other than Part 3, *animal* means—

(a) a live member of a vertebrate species  
including any—

(i) fish or amphibian that is capable of  
self-feeding; or

(ii) reptile, bird or mammal, other than any  
human being or any reptile, bird or  
other mammal that is below the normal  
mid-point of gestation or incubation for  
the particular class of reptile, bird or  
mammal; or

(b) a live adult decapod crustacean, that is—

(i) a lobster; or

(ii) a crab; or

(iii) a crayfish.

#### 4 Binding of Crown

This Act binds the Crown, not only in right of the State of Victoria but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

\* \* \* \* \*

S. 5  
repealed by  
No. 65/2007  
s. 78(1).

#### 6 Application of Act

(1) This Act does not apply to—

S. 6  
amended by  
No. 77/1995  
s. 5(1).

- (a) the slaughter of animals in accordance with the **Meat Industry Act 1993** or any Commonwealth Act<sup>1</sup>; or
- (b) except to the extent that it is necessary to rely upon a Code of Practice as a defence to an offence under this Act, the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching, trapping, netting, marking, care, use, husbandry or management of any animal or class of animals (other than a farm animal or class of farm animals) which is carried out in accordance with a Code of Practice; or
- (c) any act or practice with respect to the farming, transport, sale or killing of any farm animal which is carried out in accordance with a Code of Practice; or
- (d) anything done in accordance with the **Catchment and Land Protection Act 1994**; or

S. 6(1)(a)  
amended by  
No. 77/1995  
s. 5(2)(3).

S. 6(1)(b)  
amended by  
No. 60/2012  
s. 31.

S. 6(1)(d)  
amended by  
Nos 52/1994  
s. 97(Sch. 3  
item 23.1),  
69/2004  
s. 48(1).

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 1—Preliminary

---

S. 6(1)(e)  
amended by  
Nos 77/1995  
s. 5(4),  
58/1997  
s. 96(Sch.  
item 7.2).

(e) the treatment of any animal for the purpose of promoting its health or welfare by or in accordance with the instructions of a veterinary practitioner; or

S. 6(1)(f)  
inserted by  
No. 77/1995  
s. 5(4),  
amended by  
No. 77/1995  
s. 5(5).

(f) the slaughter of a farm animal on a farm if—  
(i) it is slaughtered for consumption on that farm; and  
(ii) it is slaughtered in a humane manner; and  
(iii) it is not slaughtered for sale; and  
(iv) it is not slaughtered for use in the preparation of food for sale; and  
(v) it is not removed from that farm; or

S. 6(1)(g)  
inserted by  
No. 77/1995  
s. 5(5),  
substituted by  
No. 26/1998  
s. 8.

(g) any fishing activities authorised by and conducted in accordance with the **Fisheries Act 1995**<sup>2</sup>.

S. 6(1)(h)  
inserted by  
No. 77/1995  
s. 5(5),  
repealed by  
No. 26/1998  
s. 8.

\* \* \* \* \*

S. 6(1A)  
inserted by  
No. 103/2003  
s. 32,  
amended by  
No. 65/2007  
s. 78(2),  
repealed by  
No. 35/2009  
s. 106(1).

\* \* \* \* \*

- (1B) This Act, except Part 3, does not apply to anything done in accordance with the **Wildlife Act 1975**. S. 6(1B) inserted by No. 69/2004 s. 48(2).
- (2) In subsection 6(1)(f) *farm* has the same meaning as in the **Meat Industry Act 1993**. S. 6(2) inserted by No. 77/1995 s. 5(7).
- (3) For the purpose of determining whether or not subsection (1) or (1B) applies to a particular case, a specialist inspector may exercise a power set out in Part 2A. S. 6(3) inserted by No. 35/2009 s. 106(2).

## 7 Codes of Practice

- (1) The Governor in Council, on the recommendation of the Minister, may make, vary or revoke Codes of Practice—
- (a) specifying procedures for the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching, trapping, netting, marking, care, use, husbandry or management of any animal or class of animals; or
- (b) about the premises, facilities, equipment or conditions at any premises to which licences granted under Part 3 apply; or
- (c) the constitution, procedures and processes of animal ethics committees. S. 7(1)(b) substituted by No. 103/2003 s. 33. S. 7(1)(c) inserted by No. 103/2003 s. 33.
- (2) A Code of Practice may apply, adopt or incorporate (with or without modification) any matter contained in any document, code, standard, rule, specification or method issued, formulated, prescribed, adopted or published by any authority or body as issued, formulated, prescribed, adopted or published at the time the Code is made or at any time before then.

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 1—Preliminary

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S. 7(3)  
amended by  
No. 11/2000  
s. 4(3),  
repealed by  
No. 60/2012  
s. 32(1).

\* \* \* \* \*

S. 7(4)  
repealed by  
No. 60/2012  
s. 32(1).

\* \* \* \* \*

(5) A Code of Practice or a variation or revocation of a Code of Practice takes effect on the date of its publication in the Government Gazette or such later date as is specified in the Code, variation or revocation.

S. 7(5A)  
inserted by  
No. 60/2012  
s. 32(2).

(5A) The power to make, vary or revoke a Code of Practice under subsection (1) is subject to the Code of Practice or the variation or revocation of a Code of Practice being disallowed by either House of the Parliament.

(6) If any Code of Practice applies, adopts or incorporates matter under subsection (2) or a variation of a Code of Practice varies a Code so as to apply, adopt or incorporate such matter in the Code—

(a) that Code or variation must specify a place at which copies of that matter may be obtained; and

(b) the Minister must lay or cause to be laid a copy of that matter before the Legislative Council and the Legislative Assembly as soon as is practicable after the Code or variation is published in the Government Gazette.

## Part 2—Protection of animals

### Division 1—Cruelty

#### 8 Definitions

(1) In this Part—

*baiting* means encouraging an animal to fight another animal;

\* \* \* \* \*

\* \* \* \* \*

*rodeo* means an event which includes any exhibition of or competition in buck-jumping, rough-riding, animal dogging, roping or tying;

*rodeo school* means the activity of training or schooling persons in buck-jumping, rough-riding, animal dogging, roping or tying;

\* \* \* \* \*

S. 8 amended by No. 103/2003 s. 34 (ILA s. 39B(1)).

S. 8(1) def. of *inspector* repealed by No. 65/2007 s. 79(2).

S. 8(1) def. of *permit* amended by No. 69/2004 s. 49(1), repealed by No. 65/2007 s. 79(2).

S. 8(1) def. of *rodeo school* substituted by No. 65/2007 s. 79(1).

S. 8(1) def. of *specialist inspector* inserted by No. 77/1995 s. 6, repealed by No. 65/2007 s. 79(2).

*trap-shooting* means shooting at a bird—

- (a) which is released or projected from a box, trap, cage or other contrivance used for holding the bird; or
- (b) which is released or projected after being held in captivity whether held by mechanical means or by hand.

S. 8(2)  
inserted by  
No. 103/2003  
s. 34,  
repealed by  
No. 65/2007  
s. 79(3).

\* \* \* \* \*

S. 9  
amended by  
No. 77/1995  
s. 7(1)(a)(f).

## 9 Cruelty

S. 9(1)  
amended by  
Nos. 65/2007  
s. 80(b)(c),  
75/2011 s. 25,  
60/2015  
s. 5(2).

(1) A person who—

(a) wounds, mutilates, tortures, overrides, overdrives, overworks, abuses, beats, worries, torments or terrifies an animal; or

S. 9(1)(b)  
amended by  
No. 77/1995  
s. 7(1)(b),  
substituted by  
No. 76/2005  
s. 27(a).

(b) loads, crowds or confines an animal where the loading, crowding or confinement of the animal causes, or is likely to cause, unreasonable pain or suffering to the animal; or

S. 9(1)(c)  
substituted by  
No. 76/2005  
s. 27(b).

(c) does or omits to do an act with the result that unreasonable pain or suffering is caused, or is likely to be caused, to an animal; or

S. 9(1)(d)  
amended by  
No. 77/1995  
s. 7(1)(c).

(d) drives, conveys, carries or packs an animal in a manner or position or in circumstances which subjects or subject, or is likely to subject, it to unnecessary pain or suffering; or

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 2—Protection of animals

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- (e) works, rides, drives or uses an animal when it is unfit for the purpose with the result that unreasonable pain or suffering is caused to an animal; or **S. 9(1)(e) substituted by No. 76/2005 s. 27(c).**
- (f) is the owner or the person in charge of an animal which is confined or otherwise unable to provide for itself and fails to provide the animal with proper and sufficient food, drink or shelter; or **S. 9(1)(f) amended by No. 77/1995 s. 7(1)(d), substituted by No. 76/2005 s. 27(d).**
- (g) sells, offers for sale, purchases, drives or conveys an animal that appears to be unfit (because of weakness, emaciation, injury or disease) to be sold, purchased, driven or conveyed; or **S. 9(1)(g) substituted by No. 60/2015 s. 5(1).**
- (h) abandons an animal of a species usually kept in a state of confinement or for a domestic purpose; or
- (i) is the owner or the person in charge of a sick or injured animal and unreasonably fails to provide veterinary or other appropriate attention or treatment for the animal; or **S. 9(1)(i) amended by No. 77/1995 s. 7(1)(e), substituted by No. 76/2005 s. 27(e).**
- (j) other than in accordance with the **Catchment and Land Protection Act 1994**, the **Wildlife Act 1975** or the **Drugs, Poisons and Controlled Substances Act 1981**, intentionally administers to an animal or lays a bait for the animal containing— **S. 9(1)(j) amended by No. 52/1994 s. 97(Sch. 3 item 23.2).**
- (i) a poison; or
- (ii) any other substance which, when administered to that type of animal, has a harmful effect on the animal; or
- (k) uses spurs with sharpened rowels on an animal; or



Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 2—Protection of animals

---

S. 9(1)(l)  
amended by  
Nos 68/1987  
s. 26(a),  
74/2000  
s. 3(Sch. 1  
item 101),  
substituted by  
No. 65/2007  
s. 80(a).

(l) carries out a prohibited procedure on an animal—

S. 9(1)(la)  
inserted by  
No. 68/1987  
s. 26(b),  
amended by  
No. 11/2002  
s. 3(Sch. 1  
item 54),  
repealed by  
No. 65/2007  
s. 80(a).

\* \* \* \* \*

S. 9(1)(m)  
amended by  
No. 74/2000  
s. 3(Sch. 1  
item 101),  
repealed by  
No. 65/2007  
s. 80(a).

\* \* \* \* \*

commits an act of cruelty upon that animal and is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 250 penalty units or imprisonment for 12 months or, in the case of a body corporate, 600 penalty units.

S. 9(2)  
inserted by  
No. 77/1995  
s. 7(2).

(2) It is a defence to a charge under subsection (1) against an owner of an animal to prove that, at the time of the alleged offence, the owner had entered into an agreement with another person by which the other person agreed to care for the animal.

## 10 Aggravated cruelty

- (1) A person who commits an act or acts of cruelty on any animal, which result in the death or serious disablement of the animal, commits aggravated cruelty on that animal and is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 500 penalty units or imprisonment for 2 years or, in the case of a body corporate, 1200 penalty units.
- (2) A person who is guilty of an offence under subsection (1) may be liable to the penalty for that offence in addition to or instead of any other penalty to which the person is liable under section 9.

S. 10(1)  
amended by  
Nos 77/1995  
s. 8, 65/2007  
s. 81, 75/2011  
s. 26,  
substituted by  
No. 60/2015  
s. 6.

## 11 Defences to cruelty or aggravated cruelty

- (1) In any proceedings against a person in relation to an act of cruelty under section 9, or an act of aggravated cruelty under section 10, it is a defence if the person—
  - (a) acted reasonably; or
  - (b) reasonably omitted to do an act—  
in defending himself or herself or any other person against an animal or against any threat of attack by an animal.
- (2) It is a defence to a prosecution for an offence under section 9 or 10 in relation to an activity if the person charged was carrying out the activity in accordance with a code of practice prescribed for the purposes of this subsection (other than a Code of Practice made under section 7) that regulates that activity.

S. 11  
(Heading)  
inserted by  
No. 60/2012  
s. 33(1).

S. 11  
amended by  
No. 60/2012  
s. 33(2) (ILA  
s. 39B(1)).

S. 11(2)  
inserted by  
No. 60/2012  
s. 33(2).

S. 11A  
inserted by  
No. 65/2007  
s. 82.

## 11A Further prohibited procedure offences

S. 11A(1)  
amended by  
No. 60/2015  
s. 7.

- (1) The owner or person in charge of an animal must not allow a prohibited procedure to be carried out on the animal.

Penalty: 250 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

- (2) The owner or person in charge of an animal on which a prohibited procedure has been carried out must not—

- (a) show or exhibit the animal; or
- (b) allow another person to show or exhibit the animal—

unless the prohibited procedure was carried out—

- (c) before the commencement of section 80 of the **Animals Legislation Amendment (Animal Care) Act 2007**; or
- (d) in a jurisdiction other than Victoria, in accordance with the law of that jurisdiction, and the animal was not, at any time on or before the procedure was carried out, resident in Victoria.

Penalty: 20 penalty units.

(3) In this section—

*exhibit*, in relation to an animal, means the general or public display of the animal (whether or not for sale purposes);

*show*, in relation to an animal, means causing the animal to participate in any competition, performance or entertainment.

**12 Court orders for disqualification from or conditions on ownership etc. of animal**

S. 12  
amended by  
Nos 77/1995  
s. 9, 76/2005  
s. 28, 65/2007  
s. 83, 60/2012  
s. 34,  
substituted by  
No. 60/2015  
s. 8.

(1) If, in a proceeding in a court, a person is convicted, found guilty or found not guilty because of mental impairment of an offence under this Act, the court, if it thinks fit, may by order—

- (a) disqualify the person from owning or being in charge of an animal of a kind or class specified in the order for—
  - (i) if subparagraph (ii) does not apply to the person, up to 10 years; or
  - (ii) if the person is or has previously been subject to an order under this section or an interstate control order, permanently or for any period (including a period of more than 10 years); or
- (b) apply conditions that the person must comply with, whenever the person owns or is in charge of an animal of a kind or class specified in the order, permanently or for any period (including a period of more than 10 years).

(2) An order under subsection (1) may be made in addition to or instead of any other penalty.

- (3) The court, in making an order under this section, must consider whether or not to authorise the monitoring of compliance with the order under section 21A.

**Note**

After an order is made under subsection (1), a POCTA inspector may apply under Division 1A of Part 2A to a court in certain circumstances for an order authorising the monitoring of a person's compliance with an order made under subsection (1).

S. 12AA  
inserted by  
No. 60/2015  
s. 8.

**12AA Court may authorise seizure and disposal of animal kept in contravention of order**

- (1) If a court making a control order is satisfied by the evidence, on oath or affidavit, of a POCTA inspector that there are reasonable grounds to believe that the person in respect of whom the control order is being made is holding an animal on premises, including a dwelling, in circumstances that would be in contravention of the proposed order, the court may, by order, authorise the inspector—
- (a) to enter the premises; and
  - (b) to search for and seize the animal; and
  - (c) to dispose of the animal in accordance with Division 6 of Part 2A.
- (2) Part 2A applies to an order under subsection (1) as if it were a search warrant for the animal issued under section 24G.

S. 12AB  
inserted by  
No. 60/2015  
s. 8.

**12AB Orders must not be made in relation to certain persons**

- (1) A court must not make a control order in a proceeding in relation to an offender who is not the owner of an animal concerned in the proceeding if the offender proves—

- (a) that, as to the conduct constituting the offence, the offender acted both on the instructions and in the presence or under the supervision of—
  - (i) the owner or the person in charge of the animal; or
  - (ii) a person who was the employer of the offender or who had engaged the offender to do work; and
- (b) if the offence was a continuing one, that the offender had no reasonable opportunity in the circumstances of preventing the offence from continuing.

(2) In this section—

*offender* in relation to a proceeding in a court, means a person who has been convicted, found guilty or found not guilty because of mental impairment of an offence in the proceeding.

**12AC Order may be suspended**

A court which has made a control order may suspend the order—

- (a) for any period which the court considers necessary to make arrangements for the custody of any animal of a kind or class specified in the order; or
- (b) pending the determination of an appeal against the order.

S. 12AC  
inserted by  
No. 60/2015  
s. 8.

**12AD Person subject to order may apply for variation etc.**

- (1) A person who is the subject of a control order may, after 12 months after the date of the order, apply to the court that made the order for the variation, suspension or revocation of the order.

S. 12AD  
inserted by  
No. 60/2015  
s. 8.

- (2) A court to which an application is made under subsection (1) may—
- (a) direct that from a specified date the control order—
    - (i) be varied as to the kind or class of animal to which it applies; or
    - (ii) be varied in any other way as specified in the direction; or
    - (iii) be suspended as specified in the direction; or
    - (iv) be revoked as specified in the direction; or
  - (b) refuse the application.
- (3) In deciding an application under subsection (2), the court may have regard to the following—
- (a) the applicant's character;
  - (b) the applicant's conduct since the making of the order;
  - (c) the nature of the offence or offences under this Act on which the order was based;
  - (d) any other relevant circumstances.
- (4) If a court under subsection (2)(a) directs that a control order be varied or refuses an application under subsection (2)(b), the applicant must not make another application under subsection (1) until 12 months after that direction or refusal.

S. 12AE  
inserted by  
No. 60/2015  
s. 8.

### **12AE Control orders to operate consecutively**

If a person is disqualified under a control order from owning or being in charge of an animal and, during the period of disqualification, a court makes a further control order disqualifying the person from owning or being in charge of an animal, the further order takes effect immediately

after the end of the period of disqualification fixed by the initial order.

**12AF Person must comply with control order**

S. 12AF  
inserted by  
No. 60/2015  
s. 8.

A person who is subject to a control order must comply with the order.

Penalty: 500 penalty units or imprisonment for 2 years.

**12A Registration of interstate orders**

S. 12A  
inserted by  
No. 50/2005  
s. 3.

(1) In this section—

*corresponding law* means a provision of a law of another State or Territory declared by an Order of the Governor in Council under section 12B to be a corresponding law for the purposes of this section;

*interstate minister* means the minister responsible for administering a corresponding law;

*interstate order* means a court order made under a corresponding law;

*register* means a register kept for the purposes of this section.

- (2) On the written request of an interstate minister, the Minister may register an interstate order.
- (3) The Minister must not register an interstate order under this section unless the interstate minister has provided the Minister with a copy, or an extract of the operative provisions, of the order.
- (4) On registering an interstate order under this section, the Minister must ensure that any details specified in the regulations relating to the registration of interstate orders under this section are recorded on the copy or extract of the order and in the register (as the case requires).



- (5) As soon as possible after registering an interstate order, the Minister must ensure that a notice is served on the person who is the subject of the order either personally or by registered post at the last known address of that person.
- (6) The notice must inform the person—
- (a) that the relevant interstate order has been registered under this section; and
  - (b) that the registration of the order does not take effect until 14 days after the notice is served on the person; and
  - (c) that from the time the registration takes effect, a contravention of the order in Victoria is an offence under subsection (8).
- (7) The registration of an interstate order registered under this section takes effect 14 days after notice is served in accordance with subsection (5) on the person who is the subject of the order.
- (8) A person who is the subject of an interstate order, that is registered under this section, must comply with the order.

Penalty: 500 penalty units or imprisonment for 2 years.

**Note**

A POCTA inspector may apply under Division 1A of Part 2A to a court in certain circumstances for an order authorising the monitoring of a person's compliance with an order registered under this section.

- (9) Subsection (8) applies even if the order is varied after it is registered.
- (10) However, if an interstate order is varied after it is registered to create a new obligation on the person to whom the order relates, proceedings against the person in respect of a contravention of that obligation must not be started unless the person

S. 12A(8)  
substituted by  
No. 65/2007  
s. 84,  
amended by  
No. 60/2015  
s. 9(1).

Note to  
s. 12A(8)  
inserted by  
No. 60/2015  
s. 9(2).

had notice of the obligation before the contravention occurred.

- (11) In proceedings for an alleged offence against subsection (8)—
- (a) production of a certificate signed by the Minister stating that an interstate order was registered on a specified date is prima facie evidence of the registration under this section of the order; and
  - (b) production of a certificate signed by the interstate minister setting out the terms of the interstate order at a particular date is prima facie evidence of the terms of the order on that date.
- (12) All courts and tribunals, and any person acting judicially, must take judicial notice of—
- (a) the signature of the person who is or was the Minister, and of the fact that the person is or was the Minister; and
  - (b) the signature of the person who is or was the interstate minister, and of the fact that the person is or was the interstate minister.

**12B Governor in Council may declare corresponding law**

S. 12B  
inserted by  
No. 50/2005  
s. 3.

- (1) The Governor in Council may, by Order published in the Government Gazette, declare a provision of a law of another State or a Territory to be a corresponding law for the purposes of section 12A if that provision substantially corresponds with section 12.
- (2) An Order under subsection (1) has effect as from the date the Order is published or from any later date specified in the Order.

### 13 Baiting and luring

S. 13(1)  
amended by  
Nos 77/1995  
s. 10(1),  
65/2007  
s. 85(1),  
71/2014 s. 4,  
substituted by  
No. 60/2015  
s. 10(1).

- (1) A person must not keep, use or assist in the management of premises for the purpose of causing an animal to fight or for the baiting or maltreating of an animal.

Penalty: 500 penalty units or imprisonment for 2 years, in the case of a natural person.  
1200 penalty units, in the case of a body corporate.

S. 13(1A)  
inserted by  
No. 60/2015  
s. 10(1).

- (1A) A person must not allow or encourage an animal to fight with another animal whether or not of the same species.

Penalty: 500 penalty units or imprisonment for 2 years, in the case of a natural person.  
1200 penalty units, in the case of a body corporate.

S. 13(1B)  
inserted by  
No. 60/2015  
s. 10(1).

- (1B) A person must not cause or procure the release of an animal in circumstances where it will or is likely to be pursued, injured or killed by a dog.

Penalty: 500 penalty units or imprisonment for 2 years, in the case of a natural person.  
1200 penalty units, in the case of a body corporate.

S. 13(1C)  
inserted by  
No. 60/2015  
s. 10(1).

- (1C) A person must not cause, procure or permit an animal in captivity to be injured or killed by a dog.

Penalty: 500 penalty units or imprisonment for 2 years, in the case of a natural person.  
1200 penalty units, in the case of a body corporate.

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 2—Protection of animals

---

- (1D) A person must not use an animal as a lure or kill—
- (a) for the purpose of blooding a greyhound; or
  - (b) in connection with the training or racing of any coursing dog.
- Penalty: 500 penalty units or imprisonment for 2 years, in the case of a natural person.  
1200 penalty units, in the case of a body corporate.
- (1E) A person must not keep or have the custody, care or control of an animal for use as a lure or kill—
- (a) for the purpose of blooding a greyhound; or
  - (b) in connection with the training or racing of any coursing dog.
- Penalty: 500 penalty units or imprisonment for 2 years, in the case of a natural person.  
1200 penalty units, in the case of a body corporate.
- (1F) A person must not attend an event at which an animal is allowed or encouraged to fight with another animal, whether or not of the same species.
- Penalty: 120 penalty units.
- (1G) A person, without reasonable excuse, must not attend an event or place where a person is using an animal as a lure or kill—
- (a) for the purpose of blooding a greyhound; or
  - (b) in connection with the training or racing of any coursing dog.
- Penalty: 120 penalty units.

S. 13(1D)  
inserted by  
No. 60/2015  
s. 10(1).

S. 13(1E)  
inserted by  
No. 60/2015  
s. 10(1).

S. 13(1F)  
inserted by  
No. 60/2015  
s. 10(1).

S. 13(1G)  
inserted by  
No. 60/2015  
s. 10(1).

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 2—Protection of animals

---

S. 13(2)  
amended by  
Nos 77/1995  
s. 10(2),  
74/2000  
s. 3(Sch. 1  
item 101),  
103/2003 s. 35,  
60/2015  
s. 10(2).

(2) In any prosecution under subsection (1), (1A), (1B), (1C), (1D) or (1E), evidence in writing by a veterinary practitioner who is employed, or who practises on his or her own behalf, as a veterinary pathologist that an animal was alive at the time of its attack by a dog is prima facie evidence that the animal was alive at the time of that attack.

S. 13(3)  
amended by  
No. 60/2015  
s. 10(3).

(3) In any prosecution under subsection (1D)—

S. 13(3)(a)  
amended by  
Nos 68/2009  
s. 97(Sch.  
item 95.1),  
60/2015  
s. 10(3).

(a) evidence that the accused had the custody, care or control of an animal which appeared to have been used as a lure or kill in the manner referred to in subsection (1D) is prima facie evidence that the accused used the animal as a lure or kill in that manner; and

(b) it is a defence if the person charged proves that—

S. 13(3)(b)(i)  
amended by  
No. 60/2015  
s. 10(3).

(i) the animal was used as a lure or kill in the manner referred to in subsection (1D) without that person's knowledge or consent; or

S. 13(3)(b)(ii)  
amended by  
No. 60/2015  
s. 10(3).

(ii) that person took all reasonable steps to prevent the animal being used as a lure or kill in the manner referred to in subsection (1D).

S. 13(4)  
inserted by  
No. 83/2001  
s. 3,  
amended by  
No. 65/2007  
s. 85(2),  
substituted by  
No. 60/2015  
s. 10(4).

(4) In any prosecution under subsection (1E), evidence that the accused kept or had the custody, care or control of a prohibited animal (either alive or dead) at a place used for training or racing of any coursing dog is evidence, in the absence of evidence to the contrary, that the accused kept or had the custody, care or control of the animal for use as a lure or kill—

- (a) for the purpose of bleeding a greyhound; or
  - (b) in connection with the training or racing of any coursing dog.
- (5) In subsection (4) *prohibited animal* means an animal of one of the following kinds—
- (a) rabbits;
  - (b) possums;
  - (c) piglets;
  - (d) cats (other than a cat registered under the **Domestic Animals Act 1994** by the person who is being prosecuted or by the owner of the place used for training or racing of any coursing dog);
  - (e) any other prescribed kind or class of animal.

S. 13(5)  
inserted by  
No. 60/2015  
s. 10(4).

#### 14 Trap-shooting

A person who—

- (a) engages in; or
- (b) keeps or uses any premises for the purposes of—

the trap-shooting of birds is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 240 penalty units or imprisonment for 2 years or, in the case of a body corporate, 1200 penalty units.

S. 14  
amended by  
Nos 77/1995  
s. 11, 65/2007  
s. 86.

#### 15 Selling traps

- (1) A person must not sell a trap that is not of a kind prescribed by regulations under this Act.

Penalty: 240 penalty units or imprisonment for 2 years, in the case of a natural person.  
1200 penalty units, in the case of a body corporate.

S. 15  
amended by  
Nos 35/1988  
s. 24, 77/1995  
s. 12,  
substituted by  
No. 65/2007  
s. 87.

- (2) A person who sells a trap of a kind prescribed by regulations under this Act must do so in accordance with those regulations.

Penalty: 240 penalty units or imprisonment for 2 years, in the case of a natural person.

Penalty: 1200 penalty units, in the case of a body corporate.

- (3) Subsections (1) and (2) do not apply to the sale of traps to a museum or collector of traps.

S. 15AB  
inserted by  
No. 65/2007  
s. 87.

### **15AB Setting or using traps**

- (1) A person must not set or use a trap that is not of a kind prescribed by regulations under this Act.

Penalty: 240 penalty units or imprisonment for 2 years, in the case of a natural person.

1200 penalty units, in the case of a body corporate.

- (2) A person who sets or uses a trap that is of a kind prescribed by regulations under this Act must do so in accordance with those regulations.

Penalty: 240 penalty units or imprisonment for 2 years, in the case of a natural person.

1200 penalty units, in the case of a body corporate.

- (3) A person must not set or use a large leghold trap of a prescribed kind in Victoria unless the person does so in an area that is declared by the Minister to be an area in which the setting or using of large leghold traps of that kind is permitted.

Penalty: 240 penalty units or imprisonment for 2 years, in the case of a natural person.

1200 penalty units, in the case of a body corporate.

S. 15AB(3)  
amended by  
No. 35/2009  
s. 107.

- (4) A declaration of the Minister under subsection (3)—
- (a) must be made by instrument published in the Government Gazette; and
  - (b) may identify an area by reference to a map, plan or diagram; and
  - (c) may be revoked in the same manner as that in which it is made.

**15A Dogs on moving vehicles**

- (1) In this section—

*highway* has the same meaning as in the **Road Safety Act 1986**;

*motor vehicle* has the same meaning as in the **Road Safety Act 1986**;

*trailer* has the same meaning as in the **Road Safety Act 1986**;

*tray* means a part of a motor vehicle behind the cabin that is an open compartment and is principally constructed to carry a load.

- (2) Subject to subsection (3), a person must not drive on a highway—

(a) a motor vehicle with a tray; or

(b) a motor vehicle to which a trailer is attached—

if a dog is in or on the tray or trailer (as the case requires) and the dog is not secured in such a way as to prevent it from—

S. 15A  
inserted by  
No. 77/1995  
s. 13.

S. 15A(1)  
def. of  
*motor vehicle*  
inserted by  
No. 11/2000  
s. 5(1).

S. 15A(1)  
def. of  
*tray*  
inserted by  
No. 11/2000  
s. 5(1).

S. 15A(2)  
amended by  
Nos 11/2000  
s. 5(2)(b),  
65/2007 s. 88.

S. 15A(2)(a)  
substituted by  
No. 11/2000  
s. 5(2)(a).



S. 15A(2)(c)  
substituted by  
No. 11/2000  
s. 5(2)(c).

(c) falling off or out of, or from, or moving off,  
the tray or trailer (as the case requires); or

S. 15A(2)(d)  
amended by  
No. 11/2000  
s. 5(2)(d).

(d) being injured from the movement of the  
motor vehicle or trailer.

Penalty: 10 penalty units.

(3) Subsection (2) does not apply to a dog which is  
being used to assist in the movement of livestock.

S. 15B  
inserted by  
No. 65/2007  
s. 89.

**15B Offence under section 15A to be operator onus  
offence**

An offence under section 15A is an operator onus  
offence for the purposes of Part 6AA of the **Road  
Safety Act 1986**.

S. 15C  
inserted by  
No. 65/2007  
s. 89.

**15C Breeding of animals with heritable defects**

(1) A person must not, intentionally or recklessly,  
allow an animal with a heritable defect to breed.

Penalty: 60 penalty units, in the case of a natural  
person.

300 penalty units, in the case of a body  
corporate.

(2) A person must not sell or dispose of an animal  
with a heritable defect, if the person knows or is  
reckless as to whether the animal has a heritable  
defect, unless the person who sells or disposes of  
the animal advises the person to whom the animal  
is sold or disposed of (before the sale or disposal)  
that the animal has the heritable defect.

Penalty: 60 penalty units, in the case of a natural  
person.

300 penalty units, in the case of a body  
corporate.

(3) In this section—

*heritable defect*, in relation to a species of animal set out in Column 1 of the Table in the Schedule, means a heritable defect that is known to cause the disease set out opposite the species of animal in Column 2 of the Table in the Schedule.

## **Division 2—Rodeos**

Pt 2 Div. 2  
(Heading and  
ss 16, 17)  
amended by  
Nos 77/1995  
ss 14, 15,  
76/1998  
s. 27(b),  
69/2004  
s. 49(2)–(4),  
76/2005 s. 29,  
substituted as  
Pt 2 Div. 2  
(Heading and  
ss 16–17) by  
No. 65/2007  
s. 90.

### **16 Offence to operate rodeos without a licence or permit**

S. 16  
substituted by  
No. 65/2007  
s. 90.

(1) A person must not operate a rodeo unless the person is the holder of a rodeo licence or a rodeo permit.

Penalty: 120 penalty units, in the case of a natural person.  
600 penalty units, in the case of a body corporate.

(2) A person must not operate a rodeo school unless the person is the holder of a rodeo school permit.

Penalty: 120 penalty units, in the case of a natural person.  
600 penalty units, in the case of a body corporate.

S. 17  
substituted by  
No. 65/2007  
s. 90.

## **17 Grant of rodeo licences**

The Department Head may license a person to operate rodeos.

S. 17A  
inserted by  
No. 65/2007  
s. 90.

### **17A Duration of licences**

A rodeo licence remains in force for the period specified in the licence, which must not be more than 12 months.

S. 17B  
inserted by  
No. 65/2007  
s. 90.

### **17B Issue of rodeo permits and rodeo school permits**

- (1) The Department Head may issue a permit to a person to operate the rodeo specified in the permit.
- (2) The Department Head may issue a permit to a person to operate the rodeo school specified in the permit.

S. 17C  
inserted by  
No. 65/2007  
s. 90.

### **17C Application for a rodeo licence, a rodeo permit or a rodeo school permit**

- (1) A person may apply to the Department Head for the grant of a rodeo licence or the issue of a rodeo permit or a rodeo school permit.
- (2) An application under subsection (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant must give the Department Head any further information relating to the application that the Department Head requests.

**17D Grounds on which Department Head may refuse to grant or issue licence or permit**

S. 17D  
inserted by  
No. 65/2007  
s. 90.

The Department Head may refuse to grant or issue a licence or permit under this Division if—

- (a) he or she is not satisfied that the applicant is the person who intends to supply the stock to be used at any rodeo or rodeo school authorised under the licence or permit; or
- (b) in the case of an application for a rodeo licence, the application is not lodged at least 28 days before the day on which the first rodeo to which the licence is to relate is to be held; or
- (c) in the case of an application for a rodeo permit or rodeo school permit, the application is not lodged at least 28 days before the day that the rodeo or rodeo school to which the permit relates is to be held; or
- (d) the application for the licence or permit does not include the prescribed particulars for that licence or permit; or
- (e) the applicant has been found guilty of—
  - (i) an offence against section 9, 10(1) or 11A; or
  - (ii) any other offence under this Act or regulations under this Act in connection with the operation of a rodeo or a rodeo school; or
- (f) the applicant has been served with an infringement notice in respect of an offence against this Act or regulations under this Act—
  - (i) that has not been withdrawn in accordance with the **Infringements Act 2006**; and

- (ii) in respect of which the applicant has paid the penalty in accordance with the **Infringements Act 2006**; or
- (g) the applicant does not agree to operate the rodeo or the rodeo school in accordance with the conditions for the proposed licence or permit; or
- (h) the animals and the facilities and conditions to be provided for animals at the rodeo or rodeo school do not conform to the prescribed minimum requirements.

S. 17E  
inserted by  
No. 65/2007  
s. 90.

#### **17E Conditions on licences and permits**

- (1) Each licence and permit under this Division is subject to any conditions that the Department Head imposes on the licence or permit or the class of licence or permit.
- (2) The holder of a licence under this Division must comply with the conditions on the licence imposed by the Department Head under subsection (1).

Penalty: 120 penalty units, in the case of a natural person.

600 penalty units, in the case of a body corporate.

- (3) The holder of a permit under this Division must comply with the conditions on the permit imposed by the Department Head under subsection (1).

Penalty: 120 penalty units, in the case of a natural person.

600 penalty units, in the case of a body corporate.

- (4) Each licence and permit under this Division is subject to any conditions prescribed by regulations under this Act for the licence or permit or the class of licence or permit to which the licence or permit belongs.

**17F Variation of licences and permits**

S. 17F  
inserted by  
No. 65/2007  
s. 90.

- (1) The Department Head may, by instrument, vary a licence or permit under this Division.
- (2) An instrument under subsection (1) must be served on the holder of the licence or permit, either personally or by post.

**17G Notice of proposal to cancel a rodeo licence or permit or rodeo school licence**

S. 17G  
inserted by  
No. 65/2007  
s. 90.

- (1) If the Department Head is satisfied that there may be grounds under section 17I for cancelling a rodeo licence, a rodeo permit or rodeo school permit, the Department Head must serve notice that he or she proposes to cancel the licence or permit on the licence or permit holder either personally or by post.
- (2) A notice under subsection (1) must—
- (a) state that the Department Head is satisfied that there may be grounds for the cancellation of the licence or permit; and
  - (b) set out those grounds; and
  - (c) set out the time within which written submissions on the proposed cancellation of the licence or permit must be made to the Department Head.

**17H Making of submissions on proposal to cancel**

S. 17H  
inserted by  
No. 65/2007  
s. 90.

- (1) The holder of a rodeo licence, a rodeo permit or rodeo school permit who has been given a notice under section 17G may make written submissions on the proposal to cancel the licence or permit.

S. 171  
inserted by  
No. 65/2007  
s. 90.

- (2) Submissions made under subsection (1) must be made within the time fixed by the Department Head under section 17G(2)(c).

**17I Cancellation of a rodeo licence, a rodeo permit or rodeo school permit**

- (1) If, after considering any submissions made within the time fixed for making submissions under section 17G(2)(c), the Department Head is satisfied that—
- (a) the licence or permit holder has failed to comply with a condition of the licence or permit; or
  - (b) the licence or permit holder has been found guilty of an offence against this Act or regulations under this Act; or
  - (c) that the licence or permit holder has been served with an infringement notice in respect of an offence against this Act or regulations under this Act—
    - (i) that has not been withdrawn in accordance with the **Infringements Act 2006**; and
    - (ii) in respect of which the licence or permit holder has paid the penalty in accordance with the **Infringements Act 2006**—the Department Head may—
  - (d) cancel the licence or permit; or
  - (e) require the licence holder or permit holder to take the action specified by the Department Head.

- (2) The Department Head must give notice to the licence holder or permit holder of his or her decision under subsection (1) and set out reasons for that decision in the notice.
- (3) A notice under subsection (2) must be served on the licence holder or permit holder within 28 days after the expiry of the date for the making of submissions under section 17G(2)(c).
- (4) Cancellation of a rodeo licence, a rodeo permit or rodeo school permit by the Department Head has effect from the date on which notice of the cancellation is served on the holder of the licence or permit.

### **Division 3—POCTA Inspectors**

Pt 2 Div. 3  
(Heading)  
substituted by  
No. 65/2007  
s. 91.

#### **18 General inspectors**

S. 18  
(Heading)  
inserted by  
No. 65/2007  
s. 92(1).

- (1) The following persons are general inspectors—

S. 18(1)  
amended by  
No. 65/2007  
s. 92(2).

- (a) any police officer; and

S. 18(1)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 129.2).

- (b) any person who is—

- (i) employed under Part 3 of the **Public Administration Act 2004**; or

S. 18(1)(b)(i)  
amended by  
No. 68/1987  
s. 27,  
substituted by  
Nos 115/1994  
s. 142(Sch. 2  
item 6),  
60/2012  
s. 35(1).



S. 18(1)(b)(ii)  
amended by  
No. 69/2004  
s. 50.

(ii) a full-time or part-time officer of the Royal Society for the Prevention of Cruelty to Animals—

and who is approved as a general inspector by the Minister in writing; and

S. 18(1)(c)  
amended by  
Nos 77/1995  
s. 16, 22/1996  
s. 18(a)(b),  
65/2007  
s. 92(3)(4),  
60/2012  
s. 35(2).

(c) any person who is an authorised officer under section 72 of the **Domestic Animals Act 1994** and who is approved as a general inspector by the Minister in writing, but only in respect of an alleged offence committed or a circumstance occurring in the municipal district for which that person is an authorised officer; and

S. 18(1)(d)  
inserted by  
No. 60/2012  
s. 35(3).

(d) any person appointed as a general inspector under a declaration made under section 20A.

S. 18(2)  
amended by  
No. 65/2007  
s. 92(5).

(2) An approval as a general inspector remains in force for a period—

(a) specified in the approval; and

(b) of not more than three years expiring on 30 June in the year that it ceases to have force.

S. 18(3)  
amended by  
No. 65/2007  
s. 92(5).

(3) The Minister may cancel an approval as a general inspector.

S. 18A  
inserted by  
No. 77/1995  
s. 17.

## 18A Specialist inspectors

S. 18A(1)  
amended by  
No. 60/2012  
s. 36.

(1) The Minister may, by instrument in writing, appoint any person whom the Minister considers to have appropriate qualifications to be a specialist inspector for the purposes of this Act.

- (2) The appointment of a specialist inspector remains in force for a period not exceeding 3 years specified in the instrument of appointment and expiring on 30 June.
- (3) The Minister may cancel the appointment of a specialist inspector.

### **19 Identification certificates of POCTA inspectors**

S. 19  
(Heading)  
inserted by  
No. 65/2007  
s. 93(1).

- (1) The Minister must issue every POCTA inspector (other than a police officer) with an identification certificate in the prescribed form.

S. 19(1)  
amended by  
Nos 77/1995  
s. 18, 65/2007  
s. 93(2),  
37/2014  
s. 10(Sch.  
item 129.2).

- (2) When on duty a POCTA inspector (other than a police officer) must on demand produce that certificate.

S. 19(2)  
amended by  
Nos 77/1995  
s. 18, 65/2007  
s. 93(3),  
37/2014  
s. 10(Sch.  
item 129.2).

### **20 Offence to impersonate etc. POCTA inspectors**

A person who impersonates a POCTA inspector named in an identification certificate or falsely pretends to be a POCTA inspector is guilty of an offence.

Penalty: 20 penalty units.

S. 20  
(Heading)  
inserted by  
No. 65/2007  
s. 94(1).

S. 20  
amended by  
Nos 77/1995  
s. 19, 65/2007  
s. 94(2).

### **20A Department Head may declare animals at risk due to an emergency**

S. 20A  
inserted by  
No. 60/2012  
s. 37.

- (1) The Department Head may, by notice published in the Government Gazette, declare that the welfare of any class or classes of animal is at risk due to an existing emergency.

- (2) The declaration must state when it ceases to have effect and the nature of the emergency.
- (3) The Department Head must revoke the declaration by a notice published in the Government Gazette as soon as possible after being satisfied that the emergency no longer exists.
- (4) The declaration ceases to have effect 30 days after the notice is published under subsection (1), unless earlier revoked under subsection (3).
- (5) If a declaration is made under this section, the Department Head may, by instrument in writing, appoint any person whom the Department Head considers to have the appropriate qualifications to be a general inspector for the purposes of any provision or provisions of this Act.
- (6) The Department Head may appoint a general inspector for the period specified in the instrument, which must not exceed the duration of the declaration.
- (7) The appointment of a general inspector remains in force until the earlier of the following—
  - (a) the declaration ceases to have effect or is revoked under subsection (3);
  - (b) the appointment is revoked by the Department Head.
- (8) In this section *emergency* has the same meaning as in section 3 of the **Emergency Management Act 2013**.

S. 20A(8)  
amended by  
No. 73/2013  
s. 100.

## Part 2A—Enforcement

### Division 1—Preliminary

Ss 21–24Q  
amended by  
Nos 77/1995  
ss 20–25,  
58/1997  
s. 96(Sch.  
items 7.3–7.6),  
46/1998  
s. 7(Sch. 1),  
83/2001 ss 4–6,  
103/2003 s. 36,  
69/2004  
ss 51–53,  
50/2005 ss 4–9,  
76/2005  
ss 30–37,  
substituted as  
Pt 2A  
(Heading and  
ss 21–24ZW)  
by No. 65/2007  
s. 95.

#### 21 Definitions

In this Part—

*ruminant* means any animal which is capable of  
chewing its cud;

*sample*, in relation to a dead animal, includes the  
whole of the carcass of the animal.

S. 21  
substituted by  
No. 65/2007  
s. 95.

#### Division 1A—Monitoring of persons subject to control orders or interstate control orders

Pt 2A Div. 1A  
(Heading and  
ss 21A–21C)  
inserted by  
No. 60/2015  
s. 11.

#### 21A Court may authorise monitoring of person when making control order

S. 21A  
inserted by  
No. 60/2015  
s. 11.

- (1) The court, in making a control order, may  
authorise any POCTA inspector to monitor  
compliance with the order by any person subject  
to the order.

- (2) The court, when deciding whether to authorise monitoring of compliance with a control order under subsection (1) may have regard to the following—
- (a) the nature of the offence on which the order is based;
  - (b) whether the person is or has been the subject of another control order or an interstate control order;
  - (c) whether the person has previously been convicted, found guilty or found not guilty because of mental impairment of any other offence under this Act;
  - (d) any other factor the court considers relevant.
- (3) If the court authorises the monitoring of compliance under subsection (1), the court must specify in the control order—
- (a) the period for which the monitoring may be carried out, which may be for the length of the control order; and
  - (b) any other conditions of the monitoring.

S. 21B  
inserted by  
No. 60/2015  
s. 11.

**21B POCTA inspector may apply for order to monitor compliance with control orders or interstate control orders**

- (1) A POCTA inspector may apply to a court for an order authorising the monitoring of the compliance of a person with a control order or an interstate control order if the inspector believes on reasonable grounds that the person is not complying with the order or is not likely to comply with the order.
- (2) If the court is satisfied that there are reasonable grounds to believe that a person subject to a control order or an interstate control order is not complying with the order or is not likely to

comply with the order, the court may by order authorise the monitoring of the person's compliance with the order.

- (3) In deciding whether to authorise the monitoring of compliance under subsection (2), the court may have regard to the following—
- (a) the nature of the offence or offences on which the control order was based;
  - (b) whether the person is or has been the subject of another control order or an interstate control order;
  - (c) whether the person has previously been convicted, found guilty or found not guilty because of mental impairment of any other offence under this Act;
  - (d) any other factor the court considers relevant.
- (4) If the court authorises the monitoring of compliance under subsection (2), the court must specify in the order authorising the monitoring—
- (a) the period for which the monitoring may be carried out, which may be for the length of the control order or interstate control order; and
  - (b) any other conditions of the monitoring.

**21C Powers to enter premises and monitor compliance with control orders or interstate control orders**

S. 21C  
inserted by  
No. 60/2015  
s. 11.

- (1) If a POCTA inspector has been authorised under section 21A or 21B to monitor a person's compliance with a control order or an interstate control order, a POCTA inspector may, with any assistance that is necessary—
- (a) enter premises (other than any part of the premises that is a person's dwelling); and

- (b) search for an animal of a kind or class specified in the order; and
  - (c) seize an animal in or on the premises of a kind or class specified in the order; and
  - (d) retain possession of an animal seized under paragraph (c); and
  - (e) examine an animal in or on the premises of a kind or class specified in the order; and
  - (f) take samples from an animal in or on the premises of a kind or class specified in the order or any thing in or on the premises relating to a condition specified in the order; and
  - (g) take and keep photographs or digital recordings of an animal in or on the premises of a kind or class specified in the order.
- (2) A POCTA inspector may not exercise a power under subsection (1) that is contrary to an order of a court.
- (3) If an occupier is present at premises where a power of entry is exercised by a POCTA inspector under this section, the inspector must—
- (a) give identification to the occupier by producing the inspector's identification certificate; and
  - (b) inform the occupier of the purpose of the entry.
- (4) If a POCTA inspector exercises a power of entry under this section without the occupier being present, the officer must—
- (a) on leaving the premises, leave a notice setting out the following matters—
    - (i) the time of entry;

- (ii) the purpose of entry;
  - (iii) a description of all things done while on the premises;
  - (iv) the time of departure;
  - (v) the procedure for contacting the inspector for further details of the entry; and
- (b) post a copy of that notice—
- (i) to the owner of the premises, if the identity and address of the owner are known to the inspector; and
  - (ii) to the occupier of the premises, if the identity and address of the occupier are known to the inspector.

## **Division 2—Emergency powers to deal with animals**

### **22 Power to seize abandoned animals in public places**

If a POCTA inspector finds an animal in a public place and the inspector reasonably believes that the animal is abandoned the inspector may seize the animal.

S. 22  
substituted by  
No. 65/2007  
s. 95.

### **23 Emergency powers of entry in relation to animals**

- (1) If a POCTA inspector suspects on reasonable grounds that on any premises (that is not a person's dwelling) baiting, trap-shooting or the use of animals as lures is occurring, the inspector may, with any assistance that is necessary—
- (a) enter the premises;
  - (b) inspect and examine any animals, plant, equipment or facility that the inspector reasonably believes is being used for baiting, trap-shooting or luring.

S. 23  
substituted by  
No. 65/2007  
s. 95.



- (2) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling)—
- (a) any animals that are ruminants that have been confined without food or water for more than 36 hours; or
  - (b) any animals, being mammals (other than ruminants) or birds that have been confined without food or water for more than 24 hours—

the inspector may, with any assistance that is necessary, enter the premises and may feed and water the animals.

- (3) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling) an animal that is in an entanglement, tether or bog or that is showing signs of pain or suffering as a result of any injury or disease, the inspector may, with any assistance that is necessary enter the premises and—
- (a) free any animal on the premises that is in an entanglement, tether or bog, from the entanglement, tether or bog, without removing it from its housing or the premises on which it is located; or
  - (b) if any animal on the premises is showing signs of pain or suffering as a result of injury or disease, inspect the animal in order to determine whether the animal requires treatment by a veterinary practitioner.
- (4) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling) an animal that is behaving in such a manner and there are such circumstances that it is likely that the animal will cause death or serious injury to any person or another animal, the

inspector may, with any assistance that is necessary enter the premises and—

- (a) contain any animal in or on the premises; or
- (b) destroy any animal in or on the premises—

that is behaving in such a manner and there are such circumstances that it is likely that the animal will cause death or serious injury to any person or other animal.

**24 Emergency power to enter and seize or destroy abandoned, distressed or disabled animals**

S. 24  
(Heading)  
amended by  
No. 60/2015  
s. 12.

- (1) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling) an animal that is abandoned, distressed or disabled the inspector may, with any assistance that is necessary—

S. 24  
substituted by  
No. 65/2007  
s. 95.

- (a) enter the premises;
- (b) if the inspector finds any animal on the premises that the inspector reasonably believes is abandoned, distressed or disabled—
  - (i) destroy the animal, if the inspector reasonably believes that the animal's condition is such that it would continue to suffer if it remained alive; or
  - (ii) immediately seize the animal, if the inspector reasonably believes that the animal's welfare is at risk; or
  - (iii) leave notice at the premises that the inspector intends to seize the animal at the end of two days after the giving of the notice, if the inspector is not contacted by the owner or person in charge of the animal within that period.

- (2) If an inspector has left a notice at premises under subsection (1)(b)(iii), and if, on the expiry of the two day period specified in the notice, the inspector has not been contacted by the owner or person in charge of the animal the inspector may, with any assistance that is necessary—
- (a) enter the premises;
  - (b) search for and seize the animal.

S. 24AA  
inserted by  
No. 60/2015  
s. 13.

**24AA Emergency power to enter and seize animals used for fighting, bleeding or as a lure or kill**

If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling) any animal in respect of which a contravention of section 13(1A), (1D) or (1E) is likely to occur, is occurring or has occurred (*relevant animal*), the inspector may, with any assistance that is necessary—

- (a) enter the premises; and
- (b) search for any relevant animal; and
- (c) examine or inspect any relevant animal; and
- (d) as to any relevant animal on the premises—
  - (i) destroy the animal, if the inspector reasonably believes that the animal's condition is such that it would continue to suffer if it remained alive; or
  - (ii) immediately seize the animal; and
- (e) retain possession of any animal that is seized under paragraph (d)(ii), either at the premises where the animal is seized or elsewhere; and
- (f) feed, water and otherwise care for any animal that is seized under paragraph (d)(ii), if the animal remains on the premises, and for this purpose may use any equipment on the premises.

**24A Additional powers that may be exercised on emergency entry**

S. 24A  
substituted by  
No. 65/2007  
s. 95.

A POCTA inspector who enters premises under this Division may—

- (a) inspect and take photographs (including video recordings), or make sketches of the premises or any animal or thing in or on the premises;
- (b) take and keep samples of or from any animal or thing in or on the premises;
- (c) open any container at the premises for the purpose of inspecting, or taking a sample of, its contents but must reseal the container after the inspection is made or the sample is taken.

**24B Powers to recover certain costs**

S. 24B  
substituted by  
No. 65/2007  
s. 95.

A POCTA inspector may, on behalf of a person who provided food or water to an animal by or under the authority of a POCTA inspector under section 23(2), recover from the owner of the animal the reasonable costs of the food and water in any court of competent jurisdiction as a civil debt recoverable summarily.

**24C Obtaining veterinary treatment**

S. 24C  
substituted by  
No. 65/2007  
s. 95.

- (1) If a POCTA inspector reasonably believes that treatment by a veterinary practitioner is necessary for the welfare of an animal, subject to subsection (2), the inspector may arrange for a veterinary practitioner to treat the animal.
- (2) If a POCTA inspector has formed a belief under subsection (1) that an animal requires treatment by a veterinary practitioner and the owner or person in charge of the animal can be contacted, after reasonable enquiry, the inspector must, before arranging veterinary treatment under

subsection (1), give the owner or person an opportunity to arrange for a veterinary practitioner of his or her choice to undertake the required treatment.

- (3) The inspector may recover the costs of veterinary treatment of an animal arranged under subsection (1) from the owner or the person in charge of the animal treated in a court of competent jurisdiction as a civil debt recoverable summarily.

S. 24D  
substituted by  
No. 65/2007  
s. 95.

#### **24D Emergency powers of veterinary practitioners and superintendents of saleyards**

- (1) A veterinary practitioner may, with any assistance that is necessary, destroy any animal—
- (a) that is behaving in such a manner and there are such circumstances that the veterinary practitioner reasonably believes that the animal is likely to cause death or serious injury to any person or another animal; or
  - (b) that is abandoned, distressed or disabled if the veterinary practitioner reasonably believes that the animal's condition is such that it would continue to suffer if it remained alive.
- (2) A superintendent of a saleyard may, with any assistance that is necessary, destroy any animal in any saleyard in the municipal district in respect of which the superintendent is appointed—
- (a) that is behaving in such a manner and there are such circumstances that the superintendent reasonably believes that the animal is likely to cause death or serious injury to any person or another animal; or
  - (b) that is abandoned, distressed or disabled if the superintendent reasonably believes that the animal's condition is such that it would continue to suffer if it remained alive.

- (3) In this section, *superintendent of a saleyard* means the person in charge of a livestock saleyard.

### **Division 3—Search for and seizure of animals, warrants and authorisations**

#### **24E Notice of intent to seize distressed etc. animals**

- (1) If the Minister believes on reasonable grounds that an animal is in such a condition, or, in such circumstances, that the animal is likely to become distressed or disabled, the Minister may serve notice that the Minister intends to authorise seizure of the animal.

S. 24E  
(Heading)  
substituted by  
No. 60/2015  
s. 14.

S. 24E  
substituted by  
No. 65/2007  
s. 95.

- (2) A notice under subsection (1) must—
- (a) be in writing; and
  - (b) be served by—
    - (i) giving it personally to the owner of the animal; or
    - (ii) if the identity of the owner cannot be readily established or the owner cannot be readily contacted, giving it personally to the person in charge of the animal; or
    - (iii) leaving it or sending it by post to the last known residential or business address of the owner or the person in charge of the animal; and
  - (c) set out the action that may be taken under section 24F.

S. 24F  
(Heading)  
substituted by  
No. 60/2015  
s. 15(1).

S. 24F  
substituted by  
No. 65/2007  
s. 95,  
amended by  
No. 60/2015  
s. 15(2)(4)  
(ILA s. 39B(1)).

S. 24F(1)(a)  
substituted by  
No. 60/2015  
s. 15(3).

S. 24F(2)  
inserted by  
No. 60/2015  
s. 15(4).

**24F Seizure of distressed etc. animals after service of notice of intent to seize**

- (1) If, on the expiration of 7 days after the service of a notice under section 24E, the Minister is not satisfied that action has been or is being taken to remove the likelihood of the animal becoming distressed or disabled, the Minister may authorise a specialist inspector, with any assistance that is necessary—
  - (a) enter the premises at which the animal is kept (other than any part of the premises that is a person's dwelling) and seize the animal; and
  - (b) to dispose of the animal in the manner determined by the Minister, or otherwise in accordance with Division 6.
- (2) A specialist inspector who seizes an animal under subsection (1) may—
  - (a) retain possession of the animal, either at the premises where the animal is seized or elsewhere, until the animal is disposed of; and
  - (b) feed, water and otherwise care for the animal if the animal remains on the premises and for this purpose—
    - (i) may use any equipment on the premises; and
    - (ii) obtain any necessary assistance from another person.

**24FA Seizure and disposal of distressed etc. animals  
without notice of intent to seize**

S. 24FA  
inserted by  
No. 60/2015  
s. 16.

- (1) The Minister may issue to a specialist inspector an authorisation to seize and dispose of any animal on a premises if the Minister believes on reasonable grounds that—
  - (a) the animal is in such a condition, or, in such circumstances, that it is likely to become distressed or disabled; and
  - (b) any action required to remove the likelihood of the animal becoming distressed or disabled is unlikely to occur because of one or more of the circumstances set out in subsection (4); and
  - (c) it is reasonable to dispose of the animal having regard to all the factors set out in subsection (5).
- (2) An animal must not be seized under an authorisation under this section unless the notice under section 24FB has been served in accordance with that section.
- (3) An animal may be seized under an authorisation under this section—
  - (a) immediately after service of the notice under section 24FB; or
  - (b) during any period after service of the notice under section 24FB that is specified in that notice.
- (4) For the purpose of subsection (1)(b), the circumstances are the following—
  - (a) a significant interruption to the provision of food or water to the animal has occurred or is likely to occur;



- (b) there is likely to be a welfare risk to the animal because—
    - (i) there is a failure of environmental systems relating to the animal; or
    - (ii) there is a failure or imminent failure to appropriately manage or treat the animal;
  - (c) the animal cannot be transported to normal slaughter or market because of an extreme climate event, emergency event or market failure;
  - (d) the animal has been abandoned;
  - (e) the owner or person in charge of the animal is unable or unwilling to care for the animal or act to resolve a welfare risk to the animal because of a physical, financial or mental incapacity.
- (5) For the purposes of subsection (1)(c), the factors are the following—
- (a) there are a number of animals at the premises that are likely to become distressed or disabled;
  - (b) the likely cost of holding and caring for the animal;
  - (c) the physical state of the animal or the stage of production of the animal;
  - (d) whether it is reasonable or practicable for the Department Head or any other person or body to retain possession of the animal.
- (6) In this section—

*environmental system* means a system that regulates the conditions under which animals are housed or confined, including regulation of temperature, light, ventilation, provision

of water or feed, accommodation or barriers and any other environment or climatic factor on which animals are dependent for their survival and welfare;

*market failure* means the inability to access an appropriate market for the sale or processing of livestock or livestock products and includes supply chain interruptions and suspensions to market access;

*stage of production*, in relation to an animal, includes whether the animal is lactating, pregnant, at a particular stage of growth or in some other stage of production.

**24FB Notice to seize and dispose of animal**

S. 24FB  
inserted by  
No. 60/2015  
s. 16.

- (1) If the Minister authorises a specialist inspector to seize and dispose of an animal under section 24FA, the Minister must serve written notice of the seizure and disposal.
- (2) A notice under subsection (1) must be served by—
  - (a) giving it personally to the owner of the animal; or
  - (b) if the identity of the owner cannot be readily established or the owner cannot be readily contacted, giving it personally to the person in charge of the animal; or
  - (c) leaving it or sending it by post to the last known residential or business address of the owner or the person in charge of the animal.
- (3) A notice under subsection (1) must state—
  - (a) that a specialist inspector has been authorised by the Minister under section 24FA to enter the premises and to seize and dispose of the animal; and

(b) when seizure is to occur.

S. 24FC  
inserted by  
No. 60/2015  
s. 16.

**24FC Actions that may be taken under authorisation  
under section 24FA**

An authorisation under section 24FA authorises the specialist inspector named in the authorisation, with any assistance that is necessary—

- (a) to enter any premises at which the animal is kept (other than any part of the premises that is a person's dwelling); and
- (b) to seize the animal; and
- (c) to dispose of the animal; and
- (d) to retain possession of the animal, either on the premises where the animal is seized or elsewhere, until the animal is disposed of; and
- (e) to feed, water and otherwise care for the animal while the animal remains on the premises, and for this purpose to use any equipment on the premises.

S. 24FD  
inserted by  
No. 60/2015  
s. 16.

**24FD Method of disposal of animal seized under  
authorisation under section 24FA**

Any animal seized under an authorisation under section 24FA may be disposed of—

- (a) in the manner determined by the Minister; or
- (b) otherwise in accordance with Division 6.

S. 24G  
(Heading)  
amended by  
No. 60/2015  
s. 17(1).

**24G Search warrants for at risk animals on premises**

S. 24G  
substituted by  
No. 65/2007  
s. 95.

- (1) A POCTA inspector, with the written approval of the Department Head, may apply to a magistrate for the issue of a search warrant in relation to premises (including residential premises), if the inspector believes on reasonable grounds that there is in or on the premises—

- (a) an abandoned, diseased, distressed or disabled animal; or
  - (b) an animal, the welfare of which the inspector believes on reasonable grounds is at risk; or
  - (c) an animal, in respect of which a contravention of section 9, 10(1), 11A, 13(1) or regulations under this Act is occurring or has occurred; or
  - (d) an animal, in respect of which the person in charge is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section.
- (2) If a magistrate is satisfied, by the evidence, on oath or by affidavit, of the POCTA inspector that there are reasonable grounds to believe that there is in or on the premises—
- (a) an abandoned, diseased, distressed or disabled animal; or
  - (b) an animal, the welfare of which the inspector believes on reasonable grounds is at risk; or
  - (c) an animal, in respect of which a contravention of section 9, 10(1), 11A, 13(1) or regulations under this Act is occurring or has occurred; or
  - (d) an animal, in respect of which the person in charge is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section—

the magistrate may issue a search warrant in accordance with the **Magistrates' Court Act 1989**.

**S. 24G(3)**  
amended by  
**Nos 37/2014**  
**s. 10(Sch.**  
**item 129.2),**  
**60/2015**  
**s. 17(2).**

- (3) A search warrant issued under this section may authorise a POCTA inspector named in the warrant, or another POCTA inspector who is acting on behalf of that inspector, together with any police officer or any other person or persons named or otherwise identified in the warrant and with any necessary equipment—
- (a) to enter the premises specified in the warrant; and
  - (b) to search for an animal, or an animal of a particular kind, named or referred to in the warrant; and
  - (c) to seize an animal, or an animal of a particular kind, named or referred to in the warrant, and to take the animal to any place that the inspector thinks fit; and
  - (d) to retain possession of any animal seized for the time specified in the warrant; and
  - (e) to examine or inspect an animal, or an animal of a particular kind, named or referred to in the warrant, that is found in or on the premises, to determine if the animal requires treatment by a veterinary practitioner; and
  - (f) to feed and water an animal, or an animal of a particular kind, named or referred to in the warrant, that is found in or on the premises; and
  - (g) to free an animal, or an animal of a particular kind, named or referred to in the warrant, from an entanglement, tether or bog in or on the premises; and
  - (h) to take and keep samples of or from an animal, or an animal of a particular kind, named or referred to in the warrant; and

- (i) to take photographs (including video recordings) or make sketches of an animal, or an animal of a particular kind, named or referred to in the warrant, or other thing on the premises; and
- (j) to open any container at the premises for the purpose of inspecting, or taking a sample of, its contents, but must reseal the container after the inspection is made or the sample is taken.

**24H Magistrates' Court may extend period of warrant under section 24G**

S. 24H substituted by No. 65/2007 s. 95.

- (1) A POCTA inspector to whom a warrant under section 24G has been issued may apply to the Magistrates' Court, before the expiration of the time specified in the warrant for which possession of the animal may be retained, for an extension of that period.
- (2) The Magistrates' Court may order such an extension if it is satisfied that the retention of the animal is necessary for its welfare.
- (3) The Magistrates' Court may adjourn an application to enable notice of the application to be given to any person.

**Division 4—Search for and seizure of things**

**24I Definition**

In this Division *thing* includes animal.

S. 24I substituted by No. 65/2007 s. 95.

**24J Seizure of things**

If a POCTA inspector finds—

- (a) in a public place; or

S. 24J substituted by No. 65/2007 s. 95.

(b) on premises that the inspector is otherwise authorised to enter under this Part—

a thing that he or she reasonably believes has been used in connection with the commission of an offence against this Act or regulations under this Act, the inspector may do one or more of the following—

- (c) seize the thing;
- (d) inspect or examine the thing;
- (e) measure the thing;
- (f) take photographs (including video recordings) of the thing.

S. 24K  
substituted by  
No. 65/2007  
s. 95.

#### **24K Search warrants for premises**

- (1) A POCTA inspector, with the written approval of the Department Head, may apply to a magistrate for the issue of a search warrant in relation to premises (including residential premises), if the inspector believes on reasonable grounds that there is in or on the premises a thing or things of a particular kind connected with a contravention of this Act or regulations under this Act.
- (2) If a magistrate is satisfied, by the evidence, on oath or by affidavit, of the inspector that there are reasonable grounds to believe that there is a thing or things of a particular kind connected with a contravention of this Act or regulations under this Act in or on any premises, the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**, authorising a POCTA inspector named in the warrant, or another POCTA inspector who is acting on behalf of that inspector, together with any other person or persons named or otherwise identified in the warrant and with any necessary equipment—

S. 24K(2)  
amended by  
No. 60/2015  
s. 18.

- (a) to enter the premises specified in the warrant; and
- (b) to do all or any of the following—
  - (i) search for;
  - (ii) seize;
  - (iii) secure against interference;
  - (iv) examine, inspect and take and keep samples of or from;
  - (v) take photographs (including video recordings) of—

a thing or things of a particular kind named or described in the warrant and which the inspector believes, on reasonable grounds, to be connected with the alleged contravention.

**24KA Search warrant for premises if non-compliance with section 24ZTA**

S. 24KA  
inserted by  
No. 60/2012  
s. 38.

- (1) A POCTA inspector, with the written approval of the Department Head, may apply to a magistrate for the issue of a search warrant in relation to premises (including residential premises), if—
  - (a) a person at the premises has not complied with a notice under section 24ZTA to produce or make a document available within the time specified in the notice; and
  - (b) the inspector believes on reasonable grounds that the document is in or on the premises and that it is relevant to determining whether another person has committed an offence against the Act or the regulations.
- (2) If a magistrate is satisfied, by the evidence, on oath or by affidavit, of the inspector that there are reasonable grounds to believe that there is a document in or on the premises that is relevant to determining whether a person has committed an

S. 24KA(2)  
amended by  
No. 60/2015  
s. 19.



offence against the Act or the regulations, the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**, authorising a POCTA inspector named in the warrant, or another POCTA inspector who is acting on behalf of that inspector, together with any other person or persons named or otherwise identified in the warrant and with any necessary equipment—

- (a) to enter the premises specified in the warrant; and
- (b) to do all or any of the following—
  - (i) search for;
  - (ii) secure against interference;
  - (iii) examine, inspect and take a copy or make an extract of—

the document named or described in the warrant and which the inspector believes, on reasonable grounds, to be relevant to determining whether a person has committed an offence against the Act or the regulations.

S. 24L  
substituted by  
No. 65/2007  
s. 95.

#### **24L Additional power of entry for specialist inspectors**

A specialist inspector may, for the purposes of Part 2, this Part or regulations under this Act, and with the prior written authority of the Minister—

- (a) enter premises (that is not a person's dwelling), in or on which an animal or animals are housed or grouped for any purpose; and
- (b) inspect any animal, plant, equipment or structure on the premises; and
- (c) observe any practice being conducted in connection with the management of an animal or animals on the premises.

## **Division 5—General provisions as to search warrants**

### **24M Provisions as to search warrants**

S. 24M  
substituted by  
No. 65/2007  
s. 95.

A search warrant issued under this Part must state—

- (a) the purpose for which the warrant is required and, in the case of a warrant under Division 4, the nature of any alleged contravention; and
- (b) any conditions to which the warrant is subject; and
- (c) whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and
- (d) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.

### **24N Application of Magistrates' Court Act 1989**

S. 24N  
substituted by  
No. 65/2007  
s. 95.

- (1) Despite section 79 of the **Magistrates' Court Act 1989**, a search warrant under this Part must not authorise an inspector to arrest a person.
- (2) Except as provided by this Part, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this Part.

### **24O Announcement before entry**

S. 24O  
substituted by  
No. 65/2007  
s. 95.

- (1) On executing a search warrant issued under this Part the inspector executing the warrant—
  - (a) must announce that he or she is authorised by the warrant to enter the premises; and
  - (b) if the inspector has been unable to obtain unforced entry, must give any person at the premises or, if the premises is a vehicle,

vessel or aircraft, in or in charge of the vehicle, vessel or aircraft an opportunity to allow entry to the premises, vehicle, vessel or aircraft.

- (2) An inspector need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure—
- (a) the safety of any person; or
  - (b) that the effective execution of the search warrant is not frustrated.

S. 24P  
substituted by  
No. 65/2007  
s. 95.

**24P Details of warrant to be given to occupier**

- (1) If the occupier is present at the premises or, if the premises is a vehicle, vessel or aircraft, a person is in or in charge of the vehicle, vessel or aircraft when a search warrant issued under this Part is being executed, the inspector must—
- (a) identify himself or herself to the occupier or person; and
  - (b) give to the occupier or person a copy of the warrant.
- (2) If the occupier is not present at the premises when a search warrant issued under this Part is being executed, the inspector must, if there is a person present at the premises, identify himself or herself to the person and give the person a copy of the warrant.

**24Q Seizure of things not mentioned in the warrant and taking of samples**

S. 24Q  
substituted by  
No. 65/2007  
s. 95.

(1) A search warrant issued under this Part other than under section 24KA authorises an inspector executing the warrant, in addition to the seizure of any animal or other thing of the kind described in the warrant, to seize—

S. 24Q(1)  
amended by  
No. 60/2012  
s. 39.

- (a) any animal that is not described in the warrant or that is not of a kind described in the warrant, if the inspector believes, on reasonable grounds—
  - (i) that the welfare of the animal is at risk; or
  - (ii) that the person in charge of the animal is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section; or
  - (iii) that the animal is of a kind that could have been included in a search warrant issued under this Part and that will afford evidence of a contravention of this Act or regulations made under this Act; or
  - (iv) that it is necessary to seize the animal in order to prevent its concealment, loss or destruction or the contravention of this Act or regulations under this Act;
- (b) any thing (that is not an animal) which is not of the kind described in the warrant if the inspector believes, on reasonable grounds—
  - (i) that the thing is of a kind that could have been included in a search warrant issued under this Part and that will

afford evidence about the contravention of this Act or regulations under this Act; and

- (ii) that it is necessary to seize that thing in order to prevent its concealment, loss or destruction or its use in the contravention of this Act or regulations under this Act.
- (2) A search warrant issued under this Part authorises an inspector executing the warrant, in addition to seizing a thing of the kind described in the warrant, to take a sample of or from any thing that is not of the kind described in the warrant if the inspector believes, on reasonable grounds, that the thing is of a kind—
- (a) that could have been included in a search warrant issued under this Part; and
  - (b) that will afford evidence about the contravention of this Act or regulations under this Act.

## **Division 6—Duties and powers as to seized animals**

### **24R Duty to take steps to identify owner**

If an animal has been seized under this Part and the identity of both the owner and the person in charge of the animal are not known to the person who seized the animal, the person who seized the animal must take reasonable steps to identify and contact the owner or person in charge of the animal.

S. 24R  
inserted by  
No. 65/2007  
s. 95.

**24S Steps to be taken where welfare of animal not at risk**

- (1) If an animal has been seized under this Part and—
- (a) if after taking all reasonable steps under section 24R, either the owner or the person in charge of the animal is able to be contacted; and
  - (b) neither the owner nor person in charge of the animal is suspected of committing an offence against this Act or regulations under this Act; and
  - (c) the person who seized the animal reasonably believes that the welfare of the animal would not be at risk if the animal were returned to the owner or person in charge of the animal; and
  - (d) application has not been made and is not proposed to be made under section 24X—
- the inspector who seized the animal must serve a notice of seizure under this section on the person who is able to be contacted, or cause such a notice to be served in accordance with subsection (2).
- (2) For the purposes of subsection (1) the notice must—
- (a) be served either personally or by post; and
  - (b) if the animal has been seized under a warrant issued under section 24G, be served on or before the expiry of the time for which possession of the animal may be retained under the warrant.
- (3) If an animal has been seized under this Part and—
- (a) if, after taking all reasonable steps under section 24R, both the owner and person in charge of the animal are not able to be

S. 24S  
inserted by  
No. 65/2007  
s. 95.

S. 24S(1)(c)  
amended by  
No. 60/2015  
s. 20(a).

S. 24S(3)(c)  
amended by  
No. 60/2015  
s. 20(b).

- contacted (whether or not the identity of the owner and person in charge are known); and
- (b) neither the owner nor person in charge of the animal is suspected of committing an offence against this Act or regulations under this Act; and
  - (c) the person who seized the animal reasonably believes that the welfare of the animal would not be at risk if the animal were returned to the owner or person in charge of the animal; and
  - (d) application has not been made and is not proposed to be made under section 24X—
- the person who seized the animal must serve a notice of seizure in accordance with subsection (4).
- (4) For the purposes of subsection (3), the notice must—
    - (a) if an animal has been seized from premises, be left at the premises from which the animal has been seized or sent by post to those premises; and
    - (b) (whether the animal has been seized from premises or in a public place) be sent by post to any last known address of the owner and of the person in charge of the animal; and
    - (c) if the animal has been seized under a warrant under section 24G, be sent on or before the expiry of the time for which possession of the animal may be retained under the warrant.
  - (5) For the purposes of this section, a notice of seizure is a notice in writing that sets out—
    - (a) a description of the animal; and

- (b) the name of the inspector who seized the animal, the inspector's contact details and the reason why the animal has been seized; and
- (c) if the notice is served under subsections (1) and (2)—
  - (i) that the animal may be recovered within 7 days after service of the notice; and
  - (ii) that, if the animal is not recovered within 7 days after service of the notice, the animal may be disposed of in accordance with this Division; and
- (d) if the notice is left at or sent to premises under subsections (3) and (4)—
  - (i) that the animal may be recovered within 14 days after the leaving or sending of the notice and the place where the animal may be recovered; and
  - (ii) that, if the animal is not recovered within 14 days after the leaving or sending of the notice, the animal may be disposed of in accordance with this Division.

**24T Provision for recovery or disposal of animals that are not at risk**

S. 24T  
inserted by  
No. 65/2007  
s. 95.

- (1) The owner or person in charge of an animal on whom a notice of seizure has been served under section 24S(1) and 24S(2) may recover the animal if, within 7 days of service of the notice—
  - (a) the owner or person in charge pays the amount determined by the person or body that is retaining the animal for the reasonable costs and expenses incurred in seizing and retaining the animal until its recovery; and



- (b) the person or body retaining the animal reasonably believes that the animal will not be at risk on being returned to the owner or person in charge.
- (2) The owner or person in charge of an animal in respect of which a notice of seizure has been left at or sent to premises under section 24S(3) and 24S(4) may recover the animal if, within 14 days of notice being left at or sent to premises—
- (a) the owner or person in charge pays the amount determined by the person or body that is retaining the animal for the reasonable costs and expenses incurred in seizing and retaining the animal until its recovery; and
  - (b) the person or body retaining the animal reasonably believes that the animal will not be at risk on being returned to the owner or person in charge.
- (3) If a notice of seizure has been left at or sent to premises under section 24S and the animal is not recovered under subsection (1) or (2), the animal may be disposed of in accordance with this Division.
- (4) If an animal has been seized in a public place, and—
- (a) the welfare of the animal is not reasonably believed to be at risk; and
  - (b) it is not possible to send a notice to the last known address of the owner or person in charge under section 24S because both the owner and person in charge of the animal are not able to be contacted (whether or not the identity of the owner and the person in charge of the animal are known); and

- (c) neither the owner nor the person in charge of the animal has recovered the animal within 14 days of the seizure of the animal—

the animal may be disposed of in accordance with this Division.

**24U Steps to be taken where welfare of animal is at risk**

S. 24U  
inserted by  
No. 65/2007  
s. 95.

- (1) If an animal has been seized under this Part and—

- (a) if, after taking all reasonable steps under section 24R, either the owner or the person in charge of the animal is able to be contacted; and
- (b) the person who seized the animal reasonably believes that the welfare of the animal would be at risk if the animal were returned to the owner or person in charge of the animal; and
- (c) application has been or is proposed to be made under section 24X—

S. 24U(1)(b)  
amended by  
No. 60/2015  
s. 21(a).

the person who seized the animal must serve a notice of seizure under this section on the person who is able to be contacted, or cause such a notice to be served in accordance with subsection (2).

- (2) For the purposes of subsection (1), the notice must—

- (a) be served either personally or by post; and
- (b) if the animal has been seized under a warrant under section 24G, be served on or before the expiry of the time for which possession of the animal may be retained under the warrant.

- (3) If an animal has been seized under this Part and—

- (a) if, after taking all reasonable steps under section 24R, both the owner and person in charge of the animal are not able to be contacted (whether or not the identity of the

S. 24U(3)(b)  
amended by  
No. 60/2015  
s. 21(b).

owner and person in charge of the animal are known); and

- (b) the person who seized the animal reasonably believes that the welfare of the animal would be at risk if the animal were returned to the owner or person in charge of the animal; and
- (c) application has been or is proposed to be made under section 24X—

the person who seized the animal must serve a notice of seizure in accordance with subsection (4).

- (4) For the purposes of subsection (3), the notice must—
  - (a) if the animal has been seized from premises, be left at the premises from which the animal was seized or be sent by post to those premises; and
  - (b) (whether the animal has been seized from premises or in a public place) be sent by post to any last known address of the owner and of the person in charge of the animal; and
  - (c) if the animal has been seized under a warrant under section 24G, be sent on or before the expiry of the time for which possession of the animal may be retained under the warrant.
- (5) For the purposes of this section, a notice of seizure is a notice in writing that sets out—
  - (a) a description of the animal; and
  - (b) the name of the inspector who seized the animal, the inspector's contact details and the reason why the animal has been seized; and

- (c) that the animal will be disposed of in accordance with this Division if the owner or person in charge of the animal does not contact the inspector within 14 days after the notice is left at or sent to the premises.

**24V Power to retain animal for purposes of application under section 24X**

S. 24V  
inserted by  
No. 65/2007  
s. 95.

For the purposes of making an application under section 24X, an animal that has been seized under a warrant under section 24G, may continue to be held under the warrant, despite the expiry of the time for which possession of the animal may be retained under the warrant, if notice has been served, left or sent in accordance with section 24U.

**24W Power to dispose of animal at risk not claimed by owner or person in charge**

S. 24W  
inserted by  
No. 65/2007  
s. 95.

- (1) If an animal has been seized from premises, and the welfare of the animal is reasonably believed to be at risk, and if within 14 days of—
- (a) a notice being served on the owner or person in charge of the animal under section 24U(1) and 24U(2); or
  - (b) a notice being—
    - (i) left at the premises or sent to the premises under section 24U(3) and 24U(4); or

- (ii) sent by post to the last known address of the owner or person in charge of the animal under section 24U(3) and 24U(4) (where the address is known)—

whichever is the later—

the owner or person in charge of the animal has not contacted the inspector identified in the notice, the animal may be disposed of in accordance with this Division.

- (2) If an animal has been seized in a public place, and the welfare of the animal is reasonably believed to be at risk, and—
  - (a) a notice has been served on the owner of the animal under section 24U(1) and 24U(2) and neither the owner nor person in charge of the animal has contacted the inspector identified in the notice, within 7 days of service of the notice, the animal may be disposed of in accordance with this Division; or
  - (b) a notice has been sent by post to the last known address of the owner or person in charge of the animal under section 24U(3) and 24U(4), and neither the owner nor person in charge of the animal has contacted the inspector identified in the notice, within 14 days of the sending of the notice, the animal may be disposed of in accordance with this Division.
- (3) If an animal has been seized in a public place, and—
  - (a) the welfare of the animal is reasonably believed to be at risk; and
  - (b) it is not possible to send a notice to the last known address of the owner or person in charge under section 24U because both the

owner and person in charge of the animal are not able to be contacted (whether or not the identity of the owner and the person in charge of the animal are known); and

- (c) neither the owner nor the person in charge of the animal has contacted the inspector who seized the animal within 14 days of the seizure—

the animal may be disposed of in accordance with this Division.

**24X Court orders as to costs and disposal of animals**

S. 24X  
inserted by  
No. 65/2007  
s. 95.

- (1) If an animal has been seized under this Part and—

(a) the owner or person in charge of the animal has been charged with an offence against this Act or regulations under this Act in relation to the animal; or

(b) proceedings for an offence against this Act or regulations under this Act have commenced, in relation to the animal, against the owner or person in charge of the animal; or

(c) the owner or person in charge of the animal has been found guilty of an offence against this Act or regulations under this Act in relation to any animal within the preceding 10 years; or

S. 24X(1)(c)  
amended by  
No. 60/2012  
s. 40.

(d) the person who seized the animal reasonably believes that the welfare of the animal would be at risk if the animal were returned to the owner or person in charge of the animal—

S. 24X(1)(d)  
amended by  
No. 60/2015  
s. 22(a).

the person who seized the animal may apply to the Magistrates' Court, or cause an application to be made to the Magistrates' Court for an order under this section.

- (2) On application under subsection (1), the Magistrates' Court may make an order as to one or more of the following—
- (a) if the animal is not being returned to the owner or person in charge of the animal because there are proceedings against the owner or person in charge of the animal for an offence against this Act or regulations under this Act in relation to the animal, that—
    - (i) the owner or person in charge of the animal pay—
      - (A) a bond or security to the applicant to provide for the care and maintenance of the animal; or
      - (B) any identified costs for the care and maintenance of the animal—  
for the whole or any part of the period of time during which the proceedings are being prosecuted; and
    - (ii) any money left over from any payment made under paragraph (a)(i) at the end of the proceedings be repaid to the person who paid the bond or security;
  - (b) in any case where the Court has ordered a payment under paragraph (a), that the animal be disposed of in accordance with this Division if the payment is not made in accordance with the order;
  - (c) that the animal be disposed of in accordance with this Division if the owner or person in charge of the animal is or has been found guilty of an offence against this Act or regulations under this Act within the preceding 10 years;

- (d) that the animal be disposed of in accordance with this Division if the Court reasonably believes that the welfare of the animal would be at risk if the animal were returned to the owner or person in charge of the animal;
  - (e) that the animal be disposed of in accordance with this Division if the Court reasonably believes that the owner or person in charge of the animal is holding the animal in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section.
- (3) If the Court is not satisfied that an order should be made under subsection (2), the Court may order that the animal be returned to the owner or person in charge of the animal.
- (4) If the Court orders that the animal be returned to the owner or person in charge of the animal under subsection (3)—
- (a) the owner or person in charge of the animal may recover the animal within 7 days after the making of the order; and
  - (b) if the animal is not recovered within 7 days after the making of the order, the animal may be disposed of in accordance with this Division.

S. 24X(2)(d)  
amended by  
No. 60/2015  
s. 22(b).

#### **24Y Methods of disposal of animals**

- (1) If an animal is authorised to be disposed of under this Part, the animal may be disposed of—
- (a) if a court has ordered the manner of disposal of the animal, in that manner; or
  - (b) if the Minister has authorised the manner of disposal of the animal under this Part, in that manner;

S. 24Y  
inserted by  
No. 65/2007  
s. 95.



- (c) in any case to which paragraph (a) or (b) does not apply—
- (i) by being sold; or
  - (ii) by being destroyed; or
  - (iii) by being given to a domestic animal business operating from a premises which is registered for the purposes of that business under the **Domestic Animals Act 1994**.

S. 24Y(1)(c)(iii)  
amended by  
No. 65/2007  
s. 109.

- (2) Ownership in any animal given to a domestic animal business under subsection (1)(c) passes to that business when the business takes possession of the animal.

S. 24Z  
inserted by  
No. 65/2007  
s. 95.

#### **24Z Power to destroy diseased or distressed animals**

Despite anything to the contrary in this Part, an inspector may destroy an animal seized under this Part at any time after its seizure if—

- (a) a veterinary practitioner has certified that the animal should be immediately destroyed on humane grounds; or
- (b) an inspector under the **Livestock Disease Control Act 1994** knows or reasonably suspects that the animal is diseased or infected with disease.

S. 24ZAA  
inserted by  
No. 60/2015  
s. 23.

#### **24ZAA Forfeiture and disposal of animals seized under section 24AA**

- (1) Despite anything to the contrary in this Division, if a cock or dog is seized under section 24AA because of a suspected contravention of section 13(1A), the Department Head may, in accordance with this section, declare that the cock or dog—
- (a) is forfeited to the Crown; and

- (b) is to be disposed of—
  - (i) in the manner determined by the Department Head; or
  - (ii) in accordance with this Division.
- (2) Before making a declaration under subsection (1), the Department Head must have regard to a report prepared by a POCTA inspector.
- (3) A POCTA inspector who prepares a report for the purposes of subsection (2), must consider the following—
  - (a) the nature of the cock or dog;
  - (b) the condition of the cock or dog;
  - (c) whether the cock or dog is of a breed or type usually bred or used for fighting;
  - (d) whether the owner or person in charge of the cock or dog has been identified or is likely to be identified;
  - (e) any other relevant factor.
- (4) If the owner or person in charge of a cock or dog seized under section 24AA has been identified and the cock or dog has been forfeited to the Crown under this section, the Department Head must, as soon as is reasonable, cause written notice of the forfeiture to be served on the owner or person in charge.
- (5) A notice under subsection (4) must be served either personally or by post.

**24ZA Disposal of animal by sale**

- (1) An animal that is to be disposed of by sale must be offered for sale by public auction or public tender.

**S. 24ZA  
inserted by  
No. 65/2007  
s. 95.**

- (2) The person who is selling the animal must give public notice that he or she intends to sell the animal by public auction or public tender, at least 14 days before the sale.
- (3) A notice under subsection (2) must include—
  - (a) details of the location where the animal was seized;
  - (b) the kind of animal;
  - (c) if the animal is branded, where and how it is branded;
  - (d) the sex and colour of the animal and any other descriptive marks;
  - (e) the time and place of the auction, or date and time by which written tenders must be submitted.

S. 24ZB  
inserted by  
No. 65/2007  
s. 95.

#### **24ZB Costs and proceeds of sold animals**

S. 24ZB(1),  
amended by  
No. 60/2015  
s. 24(a).

- (1) The proceeds of sale of an animal that is sold under this Division—
  - (a) must first be applied to the costs incurred in any maintenance, care, removal, transport and sale of the animal; and
  - (b) if any balance is then remaining, it must be paid—
    - (i) if the animal is not subject to forfeiture to the Crown, to the owner of the animal, if the owner is not a person who is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A in respect of that animal, that is registered under section 12A; or

S. 24ZB  
(1)(b)(i)  
amended by  
No. 60/2015  
s. 24(b).

(ii) in any other case to the Consolidated Fund.

- (2) If the proceeds of the sale of an animal sold under this Division are not enough to satisfy the costs incurred in any maintenance, care, removal, transport and sale of the animal, the outstanding amount may be recovered from the owner of the animal in a court of competent jurisdiction as a civil debt recoverable summarily.

S. 24ZB(2)  
amended by  
No. 35/2009  
s. 108.

**24ZC Costs and proceeds of destroyed animals**

S. 24ZC  
inserted by  
No. 65/2007  
s. 95.

- (1) Subject to subsection (2), a person who destroys an animal under this Division may recover the costs of any maintenance, care, removal, transport and destruction of the animal from the owner of the animal in a court of competent jurisdiction as a civil debt recoverable summarily.
- (2) Any proceeds derived from the destruction of an animal seized under this Part, that is not subject to forfeiture to the Crown—
- (a) must first be applied to the costs incurred in any maintenance, care, removal, transport and destruction of the animal; and
  - (b) if any balance is then remaining, it must be paid—
    - (i) to the owner of the animal, if the owner is not a person who is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A in respect of that animal, that is registered under section 12A; or
    - (ii) in any other case to the Consolidated Fund.

S. 24ZD  
inserted by  
No. 65/2007  
s. 95.

### **24ZD Forfeiture of seized animal**

- (1) If a person is found guilty by a court of an offence against this Act or regulations under this Act, the court may, in addition to imposing any other penalty, order that any animal seized under this Part in relation to the offence be forfeited to the Crown if the person who has been found guilty of the offence is the owner or person in charge of the animal.
- (2) If a forfeited animal is destroyed or sold, the costs associated with any maintenance, care, removal and transport of the animal and the sale or destruction of the animal must be deducted before any amount remaining is paid into the Consolidated Fund.

## **Division 7—Duties and powers as to seized things (that are not animals)**

S. 24ZE  
inserted by  
No. 65/2007  
s. 95.

### **24ZE Definition**

In this Division *thing* does not include animal.

S. 24ZF  
inserted by  
No. 65/2007  
s. 95.

### **24ZF Receipt must be given for any thing seized**

- (1) An inspector may not seize a thing under this Part that is apparently in the possession or custody of a person, unless the inspector makes out and tenders to the person a receipt for the thing seized that—
  - (a) identifies the thing; and
  - (b) states the name of the inspector and the reason why the thing is being seized.
- (2) If an inspector is unable to discover the identity of the owner or custodian of any thing seized from premises, the inspector must leave the receipt with, or post it to, the owner of the premises from which the thing was seized.

**24ZG Copies of certain seized things to be given**

S. 24ZG  
inserted by  
No. 65/2007  
s. 95.

- (1) If an inspector seizes under this Part—
  - (a) a document; or
  - (b) a thing that can be readily copied; or
  - (c) a storage device that contains information that can be readily copied—  
the inspector must, before finishing the search, give—
    - (d) a copy of the information, thing or device;  
and
    - (e) a receipt for the thing—

to the owner or custodian of the document.

- (2) Subsection (1) does not apply if the inspector is unable to discover the identity of the owner or custodian of the document, thing or device.
- (3) If it is not practicable to comply with subsection (1)(d) or (1)(e) in respect of a thing before the inspector finishes the search, the inspector must do so as soon as practicable after finishing the search.
- (4) In the case of a paper document, the inspector must certify on any copy of the document given to a person under this section that the copy is an accurate copy of the document.
- (5) A copy of a document certified under subsection (4) is to be received in all courts and tribunals as evidence of equal validity to the original.

**24ZH Access to seized things**

S. 24ZH  
inserted by  
No. 65/2007  
s. 95.

- (1) If a thing is seized under this Part, the inspector who seized the thing must, if practicable, allow the person who would normally be entitled to possession of the thing reasonable access to it

while it remains in the possession, or under the control, of the inspector.

- (2) This section does not apply—
- (a) if the inspector has given the person an accurate copy of the thing; or
  - (b) if the possession, use or setting of the thing is an offence against this Act or regulations under this Act.

S. 24ZI  
inserted by  
No. 65/2007  
s. 95.

**24ZI Return of seized thing before commencement of proceedings**

- (1) If a thing has been seized by an inspector under this Part and proceedings have not been commenced against a person for the commission of an offence in relation to which the thing was seized, any person who claims to be entitled to possession of the thing may apply in writing to the Magistrates' Court for an order directing the inspector to return the thing to the person.
- (2) If an application is made to the Magistrates' Court the applicant must, as soon as possible after filing the application at the Court, give a copy of the application to the inspector.
- (3) After hearing an application, the Magistrates' Court may make an order directing the inspector to return the thing to the applicant—
- (a) if the Court is satisfied that the thing is reasonably required by the applicant to carry on the applicant's business or occupation; and
  - (b) the Court has considered whether the thing is reasonably likely to be tendered as evidence in proceedings for an offence against this Act or regulations under this Act.

- (4) The Court may include any conditions in the order that it considers appropriate including that the thing be returned for the purposes of proceedings for an offence against this Act or regulations under this Act.
- (5) This section does not apply to a thing, the possession, use, setting or sale of which is an offence against this Act or regulations under this Act.

**24ZJ Return of seized things**

S. 24ZJ  
inserted by  
No. 65/2007  
s. 95.

If an inspector seizes a thing under this Part that is not a thing—

- (a) the possession, use, setting or sale of which is an offence against this Act or regulations under this Act; or
- (b) that is forfeited to the Crown under section 24ZN—

the inspector must take reasonable steps to return the thing to the person from whom it was seized—

- (c) within 60 days after the day on which it was seized; or
- (d) when the reason for its seizure no longer exists; or
- (e) if proceedings have commenced within 60 days after the day on which the thing was seized or any extended period under section 24ZK, the completion of those proceedings (including any appeal); or
- (f) on the expiry of any court order under section 24ZK that has extended the period during which the thing may be retained by the inspector—

whichever is the later.



S. 24ZK  
inserted by  
No. 65/2007  
s. 95.

**24ZK Magistrates' Court may extend retention period**

- (1) Subject to subsection (2), an inspector may apply to the Magistrates' Court within 60 days after seizing a thing under this Part, or within any period extended by the Court under this section, for an extension of the period during which the inspector may retain the thing.
- (2) The Court may order an extension if it is satisfied that retention of the thing is necessary for the purposes of the investigation in relation to which the thing was seized.
- (3) The Court may adjourn an application to enable notice of the application to be given to any person.
- (4) In ordering an extension the Court must ensure that the period during which a thing may be retained by an inspector does not exceed 12 months after the day that it was seized.

S. 24ZL  
inserted by  
No. 65/2007  
s. 95.

**24ZL Dispute as to person entitled to return of seized thing**

- (1) If a dispute arises as to whom a thing seized by an inspector under this Part should be returned, any person seeking possession of the thing may apply to the Magistrates' Court for an order that the thing be given to that person.
- (2) The person making the application must give notice of the application to the inspector and to every other person that the person should reasonably be aware claims, or may have a claim to, possession or ownership of the thing.
- (3) On receiving notice of an application relating to a thing, the inspector who seized the thing must retain possession of the thing until the application is determined, abandoned or withdrawn.

- (4) After hearing an application, the Magistrates' Court may order the inspector to give the thing to a particular person if it is satisfied—
  - (a) that at the time of making the order, the person has a better claim to the possession of the thing than any other person; and
  - (b) that every other person whom the Court reasonably believes may have had a claim for possession or ownership of the thing was given notice of the application.
- (5) The inspector must comply with the order.
- (6) Subsection (4) applies regardless of whether or not the particular person was the applicant.

**24ZM Unclaimed seized thing may be sold or destroyed**

- (1) Any thing seized under this Part, that is not subject to forfeiture to the Crown, may be destroyed or sold under the following circumstances—
  - (a) if the identity of the person from whom the thing was seized is known, that person—
    - (i) has been notified in writing after the end of the period during which the thing may be retained under this Division that the thing may be claimed; and
    - (ii) has not claimed the thing within 12 months after that notice is given; or
  - (b) if the identity of the person from whom the thing was seized is not known, reasonable steps to identify that person have been taken and no person entitled to possession of the thing has been located within 12 months after the end of the period during which the thing may be retained under this Division.

S. 24ZM  
inserted by  
No. 65/2007  
s. 95.

- (2) The proceeds from any sale of a thing under subsection (1), less the costs associated with any maintenance, care, removal, transport and sale of the thing, are to be paid into the Consolidated Fund.

S. 24ZN  
inserted by  
No. 65/2007  
s. 95.

#### **24ZN Forfeiture of seized things**

- (1) If a person is found guilty by a court of an offence against this Act or regulations under this Act, the court may, in addition to imposing any other penalty, order that any thing seized under this Part that was used by the person in connection with the offence be forfeited to the Crown.
- (2) If a forfeited thing is sold, the costs associated with any maintenance, care, removal, transport and sale of the thing must be deducted before any amount remaining is paid into the Consolidated Fund.

### **Division 8—Samples**

S. 24ZO  
inserted by  
No. 65/2007  
s. 95.

#### **24ZO Provisions relating to the taking and keeping of samples**

- (1) If an inspector proposes to take a sample of or from an animal or a thing under this Part, the inspector must—
- (a) advise the owner or person in charge of the animal or thing, if possible before taking the sample—
- (i) that the sample is to be taken for the purpose of examination or analysis; and
- (ii) that the owner or person in charge of the animal or thing, subject to subsection (2), has a right to be given a part of the sample in accordance with paragraph (b) if the owner or person so requests; and

- (b) if the sample is taken for the purpose of analysis and the owner or person in charge of the animal or thing requests to be given a part of the sample, divide the sample into 3 parts and give one part to the owner or person in charge, one part to the analyst and keep one part untouched for future comparison.
- (2) Despite subsection (1)(b), a sample taken from an animal for analysis must not be divided up into parts if the inspector has been advised by a veterinary practitioner or a pathologist that division of the sample is not practicable or will adversely affect the analysis.

### **Division 9—Further miscellaneous powers, duties and offences**

#### **24ZP Notice to comply**

S. 24ZP  
inserted by  
No. 65/2007  
s. 95.

- (1) If a POCTA inspector reasonably believes that an animal is in a situation where an offence under Part 2 or regulations under this Act is being or is about to be committed, the inspector may issue a notice to the person in charge of the animal, whether or not the person is the owner of the animal, requiring that person to ensure that the offence is not committed or that the commission of the offence ceases (as the case requires).
- (2) A person to whom a notice has been issued under subsection (1) must comply with the notice.

S. 24ZP(1)  
substituted by  
No. 60/2015  
s. 25(1).

Penalty: 120 penalty units.

- (3) A notice issued under subsection (1) must—
  - (a) be in writing; and
  - (b) state that it is an offence not to comply with the notice; and
  - (c) set out the maximum penalty for the offence.
- (4) In this section a reference to the regulations under this Act does not include any regulations made under Part 3.

S. 24ZP(4)  
inserted by  
No. 60/2015  
s. 25(2).

S. 24ZQ  
inserted by  
No. 65/2007  
s. 95.

**24ZQ Requirement to give information to inspector during entry**

- (1) To the extent that is reasonably necessary to determine whether an offence against this Act or regulations under this Act has been or is about to be committed, a POCTA inspector exercising a power of entry under this Part who produces his or her identity card for inspection by the occupier of the premises or an agent or employee of the occupier—
  - (a) may require that person to give information to the inspector, orally or in writing;
  - (b) if the power is being exercised under a warrant, may require that person to produce anything named or referred to in the warrant;
  - (c) if the power is being exercised under section 23(1), may, on production of his or her identity card for inspection to any person in or on the premises, require the person to give such information as the inspector requests in relation to the suspected baiting, trap-shooting or luring and to answer any questions put to that person by the inspector in relation to the suspected baiting, trap-shooting or luring.

- (2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement of an inspector under subsection (1).

Penalty: 60 penalty units.

- (3) A person must not, when giving information to a inspector under subsection (1) give information that is false or misleading.

Penalty: 60 penalty units.

**24ZQA Requirement to muster, yard or secure animals**

S. 24ZQA  
inserted by  
No. 60/2015  
s. 26.

A POCTA inspector may, for the purposes of exercising any power conferred on the inspector by this Part, require the owner or person in charge of an animal—

- (a) to muster, yard or secure that animal; or  
(b) to provide adequate facilities and assistance to allow the safe and efficient handling of the animal during seizure, examination or inspection of the animal or the taking of samples from the animal.

**24ZR Offences as to inspectors**

S. 24ZR  
inserted by  
No. 65/2007  
s. 95.

- (1) A person must not assault, obstruct, hinder, threaten, abuse, insult, intimidate or attempt to obstruct or intimidate a POCTA inspector in the discharge of the inspector's powers under this Part.

Penalty: 60 penalty units.

- (2) A person must not refuse admission to a POCTA inspector exercising a power of entry or a person assisting a POCTA inspector in exercising a power of entry under this Part.

Penalty: 60 penalty units.

S. 24ZR(3)  
amended by  
No. 60/2015  
s. 27.

- (3) A person must not, without reasonable excuse, contravene or fail to comply with any direction or requirement of a POCTA inspector who is acting in the discharge of the inspector's powers under this Part.

Penalty: 60 penalty units.

S. 24ZS  
inserted by  
No. 65/2007  
s. 95.

**24ZS Offences as to veterinary practitioners etc.**

- (1) A person must not assault, obstruct, hinder, threaten, abuse, insult, intimidate or attempt to obstruct or intimidate a veterinary practitioner or superintendent of a saleyard (within the meaning of section 24D) in the discharge of that practitioner's or superintendent's powers under this Part.

Penalty: 60 penalty units.

- (2) A person must not contravene or fail to comply with any direction or requirement of a veterinary practitioner or superintendent of a saleyard (within the meaning of section 24D) who is acting in the discharge of that practitioner's or superintendent's powers under this Part.

Penalty: 60 penalty units.

S. 24ZT  
inserted by  
No. 65/2007  
s. 95.

**24ZT Offence to fail to provide name and address**

- (1) If a POCTA inspector believes, on reasonable grounds, that a person has committed an offence against this Part or Part 2, the inspector may ask the person to state his or her name and ordinary place of residence or business.
- (2) In making a request under subsection (1), the inspector must inform the person of the grounds for his or her belief that the person has not complied with the requirement.

- (3) A person must not—
- (a) refuse or fail to comply with a request under subsection (1) without a reasonable excuse for doing so; or
  - (b) in response to a request under subsection (1)—
    - (i) state a name that is false in a material particular; or
    - (ii) state an address that is not the full and correct address of his or her ordinary place of residence or business.

Penalty: 10 penalty units.

- (4) If a person states a name and address in response to a request under subsection (1) and the inspector suspects, on reasonable grounds, that the stated name and address may be false, the inspector may request the person to produce evidence of the correctness of the name and address.

- (5) A person to whom a request under subsection (4) is made must comply with the request, unless he or she has a reasonable excuse for not doing so.

Penalty: 10 penalty units.

- (6) It is not an offence for a person to fail to comply with a request under subsection (1) or (4)—
- (a) if the inspector did not inform the person, at the time the request was made, that it is an offence to fail to comply with the request; or
  - (b) if the inspector did not identify himself or herself in accordance with section 24ZU before making the request.



S. 24ZTA  
inserted by  
No. 60/2012  
s. 41.

**24ZTA Requirement to make documents available for inspection**

- (1) A POCTA inspector, with the written approval of the Department Head, may serve a notice on a person requiring the person to produce or make available for inspection a document in the custody or possession of the person which the inspector believes on reasonable grounds to be relevant to determining whether another person has committed an offence against this Act or the regulations.
- (2) A notice under subsection (1) must—
  - (a) specify a time within which the person must produce or make the document available for inspection that is not less than 14 days after service of the notice; and
  - (b) inform the person that it is an offence to fail to comply with the notice unless subsection (4) applies; and
  - (c) must be served on a person either personally or by registered post at the last known address of that person.
- (3) The inspector may inspect, take a copy of, or make an extract of, any document produced or made available under subsection (1).
- (4) A person served with a notice under subsection (1) must comply with the notice within the time for compliance specified in the notice unless, in the case of a natural person, compliance with the notice would tend to incriminate the person.  
  
Penalty: 20 penalty units.
- (5) Section 24ZV(2) does not apply to the requirement to comply with a notice under subsection (1).

**24ZU POCTA inspectors must identify themselves**

S. 24ZU  
inserted by  
No. 65/2007  
s. 95.

A POCTA inspector must produce proof of his or her identity and official status—

- (a) before exercising a power under section 24ZT; and
- (b) at any time during the exercise of a power under section 24ZT, if asked to do so.

**24ZV Protection against self-incrimination**

S. 24ZV  
inserted by  
No. 65/2007  
s. 95.

- (1) It is a reasonable excuse for a natural person to refuse or fail to give information or do any other thing that the person is required to do by or under this Part, if the giving of the information or the doing of that other thing would tend to incriminate the person.
- (2) Despite subsection (1), it is not a reasonable excuse for a natural person to refuse or fail to produce a document that the person is required to produce by or under this Part, if the production of the document would tend to incriminate the person.

**24ZW Power to file charges**

S. 24ZW  
inserted by  
No. 65/2007  
s. 95.

- (1) A charge-sheet charging an offence under this Part or Part 2 or an offence under regulations under this Act relating to this Part or Part 2 may only be filed by—
  - (a) a police officer; or
  - (b) a person who is authorised for that purpose by the Minister in writing and who is—
    - (i) employed under Part 3 of the **Public Administration Act 2004**; or

S. 24ZW(1)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 95.2).

S. 24ZW(1)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 129.2).

- (ii) an officer of a council (but only in respect of an alleged offence committed in the municipal district of the council of which that person is an officer); or
  - (iii) a full-time officer of the Royal Society for the Prevention of Cruelty to Animals.
- (2) An authorisation under subsection (1)(b)—
- (a) must not be for a period of more than 3 years; and
  - (b) remains in force until 30 June in the year specified in the authorisation as the year in which it ceases to have effect.
- (3) The Minister may cancel an authorisation under subsection (1)(b).

S. 24ZX  
inserted by  
No. 60/2012  
s. 42.

#### **24ZX Conduct of proceedings**

If a charge-sheet charging an offence is filed by a person authorised to do so under section 24ZW(1)(b), the proceedings for the offence may be conducted before a court by any other person authorised under that section to file a charge-sheet for such an offence.

S. 24ZY  
inserted by  
No. 60/2012  
s. 42.

#### **24ZY Court to take judicial notice**

All courts must take judicial notice of the fact that a person has valid authority to file a charge-sheet charging an offence under section 24ZW(1) or to conduct proceedings for an offence under section 24ZX.

## Part 3—Scientific procedures

### Division 1—Preliminary

Pt 3 Div. 1  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

#### 25 Definitions

In this Part—

S. 25  
amended by  
Nos 65/1994  
s. 5(1),  
58/1997  
s. 96(Sch.  
item 7.7),  
83/2001 s. 7,  
substituted by  
No. 103/2003  
s. 37.

*animal* means—

S. 25 def. of  
*animal*  
inserted by  
No. 65/2007  
s. 96,  
amended by  
No. 60/2015  
s. 28(a).

- (a) a live member of a vertebrate species including any—
  - (i) fish or amphibian that is capable of self-feeding; or
  - (ii) reptile, bird or mammal, other than any human being or any reptile, bird or other mammal that is below the normal mid-point of gestation or incubation for the particular class of reptile, bird or mammal; or
- (b) a live adult decapod crustacean, that is—
  - (i) a lobster; or
  - (ii) a crab; or
  - (iii) a crayfish; or

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 3—Scientific procedures

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(c) a live adult cephalopod including—

- (i) an octopus; or
- (ii) a squid; or
- (iii) a cuttlefish; or
- (iv) a nautilus;

S. 25 def. of  
*authorised  
officer*  
substituted as  
*authorized  
officer* by  
No. 60/2012  
s. 72(7),  
substituted as  
*authorised  
officer* by  
No. 71/2014  
s. 5,  
repealed by  
No. 60/2015  
s. 28(b).

\* \* \* \* \*

***Peer Review Committee*** means a Peer Review  
Committee established under section 34;

***program of scientific procedures*** means a series  
of scientific procedures each of which is  
being carried out in conjunction with the  
others;

***specified animal*** means—

- (a) guinea pig; and
- (b) rat, mouse or rabbit, other than a rat,  
mouse or rabbit bred in its native  
habitat; and
- (c) non-human primate.

## Division 2—Offences

Pt 3 Div. 2  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

### 26 Offences relating to scientific procedures carried out at scientific premises

S. 26  
amended by  
Nos 68/1987  
s. 28, 65/1994  
s. 5(2)(3),  
77/1995 s. 26,  
76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 37.

- (1) A person who occupies a scientific premises must not cause or allow scientific procedures to be carried out on those premises unless that person holds a scientific procedures premises licence for that premises that authorises the carrying out of those procedures.

S. 26(1)  
amended by  
No. 65/2007  
s. 97.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

- (2) A person who occupies a premises at which scientific procedures are carried out or are proposed to be carried out must nominate a natural person to be responsible for any procedures carried out on those premises.

S. 26(2)  
amended by  
Nos 65/2007  
s. 97, 60/2012  
s. 43(1).

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

S. 26(3)  
amended by  
Nos 65/2007  
s. 97, 60/2012  
s. 43(2).

- (3) A person nominated under subsection (2) must not cause or allow scientific procedures to be carried out at the premises for which he or she has been nominated unless the nominated person reasonably believes that the occupier of the premises is the holder of a scientific procedures premises licence for that premises that authorises the carrying out of those procedures.

Penalty: 120 penalty units or imprisonment for 12 months.

S. 26(4)  
amended by  
No. 65/2007  
s. 97.

- (4) A person must not carry out a scientific procedure at a scientific premises unless the person carrying out the procedure reasonably believes that the occupier of the premises is the holder of a scientific procedures premises licence for that premises that authorises the carrying out of those procedures.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

S. 27  
amended by  
No. 77/1995  
s. 27,  
substituted by  
No. 103/2003  
s. 37.

## **27 Offences relating to scientific procedures carried out outside scientific premises**

S. 27(1)  
amended by  
No. 65/2007  
s. 98.

- (1) A person must not—
- (a) carry out a scientific procedure or a program of scientific procedures; or
  - (b) cause or allow a scientific procedure or program of scientific procedures to be carried out on that person's behalf—

at any place that is not a scientific premises unless the person is—

- (c) the holder of a scientific procedures field work licence; or
- (d) the holder of a scientific procedures premises licence that authorises the carrying out of that work.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

- (1A) A person who holds a scientific procedures field work licence must not—
  - (a) carry out a scientific procedure or a program of scientific procedures; or
  - (b) cause or allow another to carry out a scientific procedure or a program of scientific procedures on that person's behalf—

**S. 27(1A)**  
inserted by  
**No. 60/2015**  
s. 29.

at any place that is not a scientific premises unless the person nominates a natural person to be responsible for any procedures carried out under the licence.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

- (1B) A person nominated under subsection (1A) (*nominee*) must not carry out any scientific procedure or program of scientific procedures or cause or allow any scientific procedure or program of scientific procedures to be carried out at a place that is not a scientific premises unless the nominee reasonably believes the person who nominated the nominee holds a scientific

**S. 27(1B)**  
inserted by  
**No. 60/2015**  
s. 29.



procedures field work licence that authorises the nominating person to—

- (a) carry out the scientific procedure or program of scientific procedures at that place; or
- (b) cause or allow the scientific procedure or program of scientific procedures to be carried out at that place.

Penalty: 120 penalty units or imprisonment for 12 months.

S. 27(2)  
amended by  
No. 65/2007  
s. 98.

(2) A person must not—

- (a) carry out a scientific procedure or a program of scientific procedures; or
- (b) allow a scientific procedure or program of scientific procedures to be carried out—

on another person's behalf at any place that is not a scientific premises unless the person who so carries out or allows procedures to be carried out reasonably believes that the person on whose behalf the procedure or program is being carried out is—

- (c) the holder of a scientific procedures field work licence; or
- (d) the holder of a scientific procedures premises licence that authorises the carrying out of the procedure or program.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

**28 Offences relating to breeding of specified animals  
for use in scientific procedures**

S. 28  
amended by  
Nos 77/1995  
s. 28, 76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 37.

- (1) A person who occupies premises must not cause or allow specified animals to be bred on the premises for the purposes of use in scientific procedures, unless the person is the holder of a specified animals breeding licence.

S. 28(1)  
amended by  
No. 65/2007  
s. 99.

Penalty: 20 penalty units, in the case of a natural person.

120 penalty units, in the case of a body corporate.

- (1A) A person who occupies premises must not cause or allow specified animals to be bred on the premises for the purposes of use in scientific procedures unless the person nominates a natural person to be responsible for the breeding of those animals.

S. 28(1A)  
inserted by  
No. 60/2015  
s. 30.

Penalty: 20 penalty units, in the case of a natural person.

120 penalty units, in the case of a body corporate.

- (1B) A person nominated under subsection (1A) (*nominee*) must not cause or allow specified animals to be bred for the purpose of use in scientific procedures on the premises for which the nominee has been nominated unless the nominee reasonably believes that the person who nominated the nominee holds a specified animals breeding licence that authorises specified animals to be bred on those premises for the purposes of use in scientific procedures.

S. 28(1B)  
inserted by  
No. 60/2015  
s. 30.

Penalty: 20 penalty units.

S. 28(2)  
amended by  
No. 65/2007  
s. 99.

- (2) A person must not breed specified animals on any premises for the purposes of use in scientific procedures unless the person who breeds the animals reasonably believes that the occupier of the premises is the holder of a specified animals breeding licence.

Penalty: 20 penalty units, in the case of a natural person.

120 penalty units, in the case of a body corporate.

- (3) This section does not apply to breeding of specified animals at any scientific premises if the breeding is being carried out for the purposes of scientific procedures being carried out at that premises under a scientific procedures premises licence.

Pt 3 Div. 3  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

### **Division 3—Scientific procedures premises licences**

S. 29  
amended by  
Nos 77/1995  
s. 29, 76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 37.

#### **29 Grant of a scientific procedures premises licence**

The Department Head may licence a person who occupies a scientific premises to cause or allow scientific procedures to be carried out—

- (a) on those premises; or  
(b) on behalf of the holder of the licence, at any other place specified in the licence.

S. 30  
amended by  
No. 77/1995  
s. 30(1)(a)(b),  
substituted by  
No. 103/2003  
s. 37.

#### **30 Application for a scientific procedures licence**

- (1) A person who is the occupier of a scientific premises may apply to the Department Head for the grant of a scientific procedures premises licence.

- (2) An application under subsection (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant must give the Department Head any further information relating to the application that the Department Head requests.

**31 Duration of scientific procedures premises licences**

S. 31  
repealed by  
No. 65/1994  
s. 4, new s. 31  
inserted by  
No. 103/2003  
s. 37.

- (1) A scientific procedures premises licence remains in force for the period that is specified in the licence, which must not be more than 3 years from the issue or renewal of the licence.
- (2) A scientific procedures premises licence expires on 30 June in the year that it ceases to have force.

**32 Conditions on scientific procedures premises licences**

S. 32  
amended by  
Nos 65/1994  
s. 5(4),  
77/1995  
s. 30(2),  
substituted by  
No. 103/2003  
s. 37.

- (1) A scientific procedures premises licence is subject to any conditions—
  - (a) that are prescribed; and
  - (b) that the Department Head imposes on the licence.
- (2) A licence holder must comply with the conditions to which the licence is subject.

S. 32(2)  
amended by  
No. 65/2007  
s. 100.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.  
600 penalty units, in the case of a body corporate.

S. 32(3)  
amended by  
No. 65/2007  
s. 100.

- (3) A person who is carrying out a scientific procedure under a scientific procedures premises licence must comply with the conditions to which the licence is subject.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

S. 32(4)  
inserted by  
No. 60/2015  
s. 33.

- (4) A person nominated under section 26(2) in respect of a scientific procedures premises licence must take all reasonable steps to ensure that any scientific procedure that is carried out under the licence is carried out in compliance with the licence conditions.

Penalty: 120 penalty units or imprisonment for 12 months.

Pt 3 Div. 4  
(Heading and  
ss 32A–32D)  
inserted by  
No. 103/2003  
s. 37.

#### **Division 4—Scientific procedures field work licences**

S. 32A  
inserted by  
No. 103/2003  
s. 37.

##### **32A Grant of a scientific procedures field work licence**

The Department Head may licence a person—

- (a) to carry out a scientific procedure or a program of scientific procedures; or
- (b) to cause or allow a scientific procedure or a program of scientific procedures to be carried out—

outside scientific premises.

**32B Application for a scientific procedures field work licence**

S. 32B  
inserted by  
No. 103/2003  
s. 37.

- (1) A person may apply to the Department Head for the grant of a scientific procedures field work licence.
- (2) An application under subsection (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant must give the Department Head any further information relating to the application that the Department Head requests.

**32C Duration of scientific procedures field work licences**

S. 32C  
inserted by  
No. 103/2003  
s. 37.

- (1) A scientific procedures field work licence remains in force for the period that is specified in the licence, which must not be more than 3 years from the issue or renewal of the licence.
- (2) A scientific procedures field work licence expires on 30 June in the year that it ceases to have force.

**32D Conditions on scientific procedures field work licences**

S. 32D  
inserted by  
No. 103/2003  
s. 37.

- (1) A scientific procedures field work licence is subject to any conditions—
  - (a) that are prescribed; and
  - (b) that the Department Head imposes on the licence.
- (2) A licence holder must comply with the conditions to which the licence is subject.

S. 32D(2)  
amended by  
No. 65/2007  
s. 101.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.  
600 penalty units, in the case of a body corporate.

S. 32D(3)  
amended by  
No. 65/2007  
s. 101.

- (3) A person who is carrying out a scientific procedure under a scientific procedures field work licence must comply with the conditions to which the licence is subject.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.

S. 32D(4)  
inserted by  
No. 60/2015  
s. 36.

- (4) A person nominated under section 27(1A) in respect of a scientific procedures field work licence must take all reasonable steps to ensure that any scientific procedure that is carried out under the licence is carried out in compliance with the licence conditions.

Penalty: 120 penalty units or imprisonment for 12 months.

Pt 3 Div. 5  
(Heading and  
ss 32E–32H)  
inserted by  
No. 103/2003  
s. 37.

## **Division 5—Specified animals breeding licences**

S. 32E  
inserted by  
No. 103/2003  
s. 37.

### **32E Grant of a specified animals breeding licence**

The Department Head may licence a person who occupies premises to cause or allow specified animals to be bred on the premises for the purposes of use in scientific procedures.

S. 32F  
inserted by  
No. 103/2003  
s. 37.

### **32F Application for a specified animals breeding licence**

- (1) A person who is the occupier of a premises may apply to the Department Head for the grant of a specified animals breeding licence.
- (2) An application under subsection (1)—
- (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.

- (3) An applicant must give the Department Head any further information relating to the application that the Department Head requests.

**32G Duration of specified animals breeding licence**

S. 32G  
inserted by  
No. 103/2003  
s. 37.

- (1) A specified animals breeding licence remains in force for the period that is specified in the licence, which must not be more than 3 years from the issue or renewal of the licence.
- (2) A specified animals breeding licence expires on 30 June in the year that it ceases to have force.

**32H Conditions on specified animals breeding licence**

S. 32H  
inserted by  
No. 103/2003  
s. 37.

- (1) A specified animals breeding licence is subject to any conditions—
- (a) that are prescribed; and
- (b) that the Department Head imposes on the licence.

- (2) A licence holder must comply with the conditions to which the licence is subject.

S. 32H(2)  
amended by  
No. 65/2007  
s. 102.

Penalty: 20 penalty units, in the case of a natural person.

120 penalty units, in the case of a body corporate.

- (3) A person who is breeding specified animals under a specified animals breeding licence must comply with the conditions to which the licence is subject.

S. 32H(3)  
amended by  
No. 65/2007  
s. 102.

Penalty: 20 penalty units, in the case of a natural person.

120 penalty units, in the case of a body corporate.

- (4) A person nominated under section 28(1A) in respect of a specified animals breeding licence must take all reasonable steps to ensure that any breeding of specified animals that is carried out

S. 32H(4)  
inserted by  
No. 60/2015  
s. 39.



under the licence is carried out in compliance with the licence conditions.

Penalty: 120 penalty units or imprisonment for 12 months.

Pt 3 Div. 6  
(Heading and  
ss 32I–32R)  
inserted by  
No. 103/2003  
s. 37.

## **Division 6—General licensing provisions**

S. 32I  
inserted by  
No. 103/2003  
s. 37.

### **32I Power of Department Head to renew licences**

On the expiration of a licence granted under this Part, the Department Head may renew the licence.

S. 32J  
inserted by  
No. 103/2003  
s. 37.

### **32J Application to renew a licence**

- (1) Before a licence granted under this Part expires, the holder may apply to the Department Head for the renewal of the licence.
- (2) An application under subsection (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant under this section must give to the Department Head any further information relating to the application that the Department Head requests.
- (4) A licence that was in force on the making of an application under this section, but which expires before the Department Head makes the decision as to whether or not to renew the licence, is taken to continue in force, despite that expiry, until the Department Head makes the decision.

S. 32J(4)  
inserted by  
No. 60/2015  
s. 41.

**32K Power of the Department Head to vary licences**

S. 32K  
inserted by  
No. 103/2003  
s. 37.

The Department Head may, either on the application of the holder of a licence issued under this Part, or on the Department Head's own motion—

- (a) vary such a licence; or
- (b) vary a condition on such a licence, other than a prescribed condition.

**32L Variation of licence on the motion of the Department Head**

S. 32L  
inserted by  
No. 103/2003  
s. 37.

- (1) Before—
  - (a) varying a licence issued under this Part; or
  - (b) varying a condition on such a licence—  
of his or her own motion under section 32K, the Department Head must—
  - (c) notify the holder of the licence; and
  - (d) allow the holder an opportunity to make written submissions.
- (2) Submissions under subsection (1) must be made within the time period specified in the notice.
- (3) In making a decision as to whether or not to vary a licence under section 32K, the Department Head must—
  - (a) have regard to submissions made within the period for making submissions; and
  - (b) notify the holder of his or her decision.
- (4) A variation to which subsection (1) applies has effect from the time specified in the notice under subsection (3).

S. 32M  
inserted by  
No. 103/2003  
s. 37.

### **32M Application to vary a licence**

- (1) The holder of a licence issued under this Part may apply to the Department Head for—
  - (a) variation of the licence; or
  - (b) variation of a condition of the licence.
- (2) An application under subsection (1)—
  - (a) must include the prescribed particulars; and
  - (b) must be accompanied by the prescribed fee.
- (3) An applicant under subsection (1) must give to the Department Head any further information relating to the application that the Department Head requests.

S. 32N  
inserted by  
No. 103/2003  
s. 37.

### **32N Suspension of licence and notice of proposal to cancel**

- (1) If the Department Head is satisfied that there may be grounds for cancelling a licence issued under this Part, the Department Head may suspend that licence.
- (2) The Department Head must serve notice of the suspension of the licence on the holder of the licence either personally or by post.
- (3) A notice under subsection (2) must—
  - (a) state that the licence is suspended; and
  - (b) state that the Department Head is satisfied that there are grounds for the cancellation of the licence; and
  - (c) set out those grounds; and
  - (d) set out the time within which written submissions on the proposed cancellation of the licence may be made to the Department Head.

- (4) A suspension under this section remains in force until—
- (a) if the Department Head decides to cancel the licence, the coming into effect of that cancellation; or
  - (b) if the Department Head decides not to cancel the licence, the making of that decision.
- (5) The holder of a licence whose licence is suspended under this section is deemed not to be the holder of a licence for the period of the suspension.

**32O Making of submissions on suspension**

- (1) The holder of a licence issued under this Part whose licence has been suspended under section 32N may make written submissions on the proposal to cancel the licence.
- (2) Submissions made under subsection (1) must be made within the time fixed by the Department Head under section 32N(3)(d).

S. 32O  
inserted by  
No. 103/2003  
s. 37.

**32P Power of the Department Head to cancel a licence**

If, after considering any submissions made within the time fixed for making submissions under section 32N(3)(d), the Department Head is satisfied that—

- (a) in the case of a licence holder who is a natural person, the licence holder is not a fit and proper person to hold the licence; or
- (b) in the case of a licence holder who is a body corporate, any director or officer of the body corporate who does or may exercise control over the activities carried out under the licence is not a fit and proper person to be a director or officer of such a licence holder;  
or

S. 32P  
inserted by  
No. 103/2003  
s. 37.

S. 32P(b)  
amended by  
No. 60/2015  
s. 43.

- (c) the licence holder has failed to comply with a condition of the licence; or
- (d) the licence holder has been found guilty of an offence against this Act or the regulations—

the Department Head may cancel the licence.

S. 32Q  
inserted by  
No. 103/2003  
s. 37.

### **32Q Notice of Department Head's decision**

- (1) The Department Head must give notice to the holder of a licence that has been suspended under section 32N of the Department Head's decision under section 32P and set out reasons for that decision in the notice.
- (2) A notice under subsection (1) must be served on the licence holder within 28 days after the expiry of the date for the making of submissions under section 32N(3)(d).

S. 32R  
inserted by  
No. 103/2003  
s. 37.

### **32R Coming into effect of cancellation**

Cancellation of a licence by the Department Head has effect from the time at which notice of the cancellation is served on the licence holder.

Pt 3 Div. 7  
(Heading)  
inserted by  
No. 103/2003  
s. 37.

## **Division 7—Miscellaneous**

S. 33  
amended by  
Nos 65/1994  
s. 5(5)(a)(b),  
77/1995  
s. 31,  
substituted by  
No. 52/1998  
s. 311(Sch. 1  
item 75).

### **33 Review by Victorian Civil and Administrative Tribunal**

- (1) A person whose interests are affected by the relevant decision, may apply to the Victorian Civil and Administrative Tribunal for review of—
- (a) a decision refusing to grant or renew a scientific procedures premises licence, scientific procedures field work licence or a specified animals breeding licence; or
  - (b) a decision to impose conditions on such a licence; or
  - (c) a decision to cancel or suspend such a licence.
- (2) An application for review must be made within 28 days after the later of—
- (a) the day on which the decision is made;
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

S. 33(1)  
amended by  
No. 76/1998  
s. 27(b),  
substituted by  
No. 103/2003  
s. 38.

#### 34 Peer Review Committees

- (1) The Minister may establish and determine terms of reference for a Peer Review Committee to review any aspect of any scientific procedure, scientific research or animal breeding that is being or is proposed to be carried out under a licence under Part 3.
- (2) The Minister may appoint not less than 5 persons as members of the Committee of whom—
- (a) one must be a person with experience in the area of animal welfare; and

S. 34  
amended by  
No. 103/2003  
s. 39,  
substituted by  
No. 60/2015  
s. 44.

- (b) the remainder must be persons, each of whom has expert skill or knowledge in an area which is relevant to the procedure, research or breeding being reviewed.
- (3) A person must not obstruct or fail to give any reasonable assistance to—
  - (a) a Peer Review Committee when the Committee is exercising its functions; or
  - (b) a member of a Committee when the member is exercising the member's functions as a member of the Committee.

Penalty: 20 penalty units, in the case of a natural person.  
100 penalty units, in the case of a body corporate.

### **35 Authorised officers**

S. 35  
(Heading)  
amended by  
No. 71/2014  
s. 6(1).

S. 35(1)  
amended by  
No. 71/2014  
s. 6(2).

- (1) The Minister may in writing appoint any person whom the Minister considers to have appropriate qualifications to be an authorised officer for the purposes of this Part generally or for any specific purpose under this Part specified in the instrument of appointment.

S. 35(2)  
amended by  
No. 71/2014  
s. 6(2).

- (2) The appointment of an authorised officer remains in force for a period—
  - (a) specified in the instrument of appointment; and
  - (b) of not more than three years expiring on 30 June in the year that it ceases to have force.

S. 35(3)  
amended by  
No. 71/2014  
s. 6(2).

- (3) The Minister may cancel the appointment of an authorised officer.

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 3—Scientific procedures

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| (4) The Minister must issue every authorised officer with an identification certificate in the prescribed form.   | S. 35(4)<br>amended by<br>No. 71/2014<br>s. 6(2).  |
| (5) When on duty an authorised officer must on demand produce that certificate.   | S. 35(5)<br>amended by<br>No. 71/2014<br>s. 6(2).  |
| (6) A person who impersonates an authorised officer named in an identification certificate or falsely pretends to be an authorised officer is guilty of an offence. | S. 35(6)<br>amended by<br>No. 71/2014<br>s. 6(3).  |
| Penalty: 10 penalty units.  |  |
| * * * * *   | S. 35(7)<br>amended by<br>Nos 57/1989<br>s. 3(Sch.<br>item 161.1),<br>103/2003 s. 40,<br>68/2009<br>s. 97(Sch.<br>item 95.3),<br>71/2014<br>s. 6(4),<br>repealed by<br>No. 60/2015<br>s. 45. |
| * * * * *   | S. 35(8)<br>amended by<br>Nos 57/1989<br>s. 3(Sch.<br>item 161.2),<br>68/2009<br>s. 97(Sch.<br>item 95.4),<br>71/2014<br>s. 6(4),<br>repealed by<br>No. 60/2015<br>s. 45.                    |



### **35A Offences as to authorised officers**

**S. 35A**  
(Heading)  
amended by  
No. 71/2014  
s. 7(1).

**S. 35A**  
inserted by  
No. 60/2012  
s. 44.

**S. 35A(1)**  
amended by  
No. 71/2014  
s. 7(2).

- (1) A person must not, without reasonable excuse, obstruct or hinder or attempt to obstruct or hinder an authorised officer in the discharge of his or her powers, duties or functions under this Part.

Penalty: 60 penalty units.

**S. 35A(2)**  
amended by  
No. 71/2014  
s. 7(3).

- (2) For the purposes of subsection (1), a reasonable excuse includes the failure of the authorised officer to inform the person of the existence of the offence before the authorised officer attempted to exercise the power or carry out the duty or function under this Part.

**S. 35A(3)**  
amended by  
No. 71/2014  
s. 7(3).

- (3) A person must not, without reasonable excuse, refuse admission to an authorised officer exercising a power of entry or a person assisting an authorised officer in exercising a power of entry under this Part.

Penalty: 60 penalty units.

**S. 35A(4)**  
amended by  
No. 71/2014  
s. 7(4).

- (4) A person must not, without reasonable excuse, contravene or fail to comply with any direction or requirement of an authorised officer who is acting in the discharge of his or her powers under this Part.

Penalty: 60 penalty units.

### 36 Offences

- (1) A person who does or omits to do any act with the result that unreasonable pain or suffering is caused to any animal kept at a premises in respect of which a licence has been issued under this Part or used for the purpose of carrying out a scientific procedure, is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 240 penalty units or imprisonment for 12 months, or, in the case of a body corporate, 600 penalty units.
- (2) A person who carries out any surgical operation on an animal unless—
- (a) during the entire length of the operation, the animal is under the influence of an anaesthetic so as to be insensible to any pain it might otherwise have suffered; and
  - (b) the operation is carried out in accordance with any relevant Code of Practice—
- is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 240 penalty units or imprisonment for 12 months, or, in the case of a body corporate, 600 penalty units.
- (3) If an animal has been so injured in the course of a scientific procedure that it would seriously suffer if it remained alive, a person who fails to destroy the animal painlessly is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 500 penalty units or imprisonment for 2 years, or, in the case of a body corporate, 1200 penalty units.

S. 36(1)  
amended by  
Nos 77/1995  
s. 30(3),  
103/2003 s. 41,  
65/2007  
s. 103(1),  
60/2012 s. 45,  
60/2015  
s. 46(1).

S. 36(2)  
amended by  
Nos 77/1995  
s. 30(3),  
65/2007  
s. 103(2),  
60/2015  
s. 46(2).

S. 36(3)  
amended by  
Nos 77/1995  
s. 30(3),  
65/2007  
s. 103(3),  
60/2015  
s. 46(3).

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S. 37  
repealed by  
No. 65/2007  
s. 104.

Pt 3AA  
(Headings  
and ss 36A–  
36V)  
inserted by  
No. 60/2015  
s. 47.

## **Part 3AA—Enforcement for Part 3**

### **Division 1—Monitoring compliance**

S. 36A  
inserted by  
No. 60/2015  
s. 47.

#### **36A Entry to monitor compliance**

- (1) For the purpose of monitoring compliance with Part 3, regulations made under Part 3, an order made by a court or tribunal under Part 3 or regulations made under Part 3 or a licence granted under Part 3 an authorised officer may enter and search any premises—
  - (a) specified in a licence under Part 3 or connected with scientific procedures or programs to which the licence relates; or
  - (b) at which the authorised officer believes on reasonable grounds that a person is keeping a record or document that—
    - (i) is required to be kept by Part 3 or regulations made under Part 3; or
    - (ii) may show whether or not Part 3 or regulations made under Part 3 are being complied with; or
  - (c) which the authorised officer suspects on reasonable grounds are used—
    - (i) for the carrying out of any scientific procedure; or
    - (ii) for the breeding of specified animals.
- (2) An authorised officer may enter and search premises under subsection (1) with the assistance of any person necessary to provide assistance to the authorised officer.

- (3) An authorised officer who enters and searches premises under subsection (1) may do all or any of the following—
- (a) examine and inspect any animal found on the premises;
  - (b) examine and test the premises and any equipment or any other thing found on the premises that is of a kind used in connection with any activity required to be licensed under Part 3;
  - (c) observe any practice being conducted in connection with the management of animals on the premises;
  - (d) seize any thing (that is not an animal) found on the premises or secure any thing found on the premises against interference, if the authorised officer believes on reasonable grounds that the thing is connected with a contravention of Part 3 or regulations made under Part 3;
  - (e) in the case of any document on the premises, do all or any of the following—
    - (i) require the document to be produced for examination;
    - (ii) examine, make copies of or take extracts from the document, or arrange for the making of copies or the taking of extracts;
    - (iii) remove the document for so long as is reasonably necessary to make copies or take extracts from the document;
  - (f) make any still or moving image or audio-visual recording;

- (g) take and keep samples of any thing found on the premises, if the authorised officer believes on reasonable grounds that the thing is connected with a contravention of Part 3 or regulations made under Part 3;
  - (h) bring any equipment onto the premises that the authorised officer believes on reasonable grounds is necessary for the examination or processing of things (including documents) found at the premises in order to determine whether they are things that may be seized under this section.
- (4) A power under this section—
- (a) must not be exercised on any part of the premises that is a person's dwelling; and
  - (b) must not be exercised at a time that is unreasonable.
- (5) If a power under this section is being exercised for the purpose of preparing a compliance report, the power must not be exercised unless the authorised officer has given the licence holder at least 24 hours written notice of the exercise of the power.

## **Division 2—Searches and seizure under warrant**

### **36B Application for search warrant**

- (1) An authorised officer may apply to a magistrate for the issue of a search warrant in relation to premises if the authorised officer believes on reasonable grounds that there is on the premises any thing, or kind of thing, connected with a contravention of Part 3 or regulations made under Part 3.

S. 36B  
inserted by  
No. 60/2015  
s. 47.

- (2) An application under subsection (1) must be made with the written approval of the Department Head.

**36C Search warrant**

S. 36C  
inserted by  
No. 60/2015  
s. 47.

- (1) If a magistrate is satisfied by the evidence, on oath or by affidavit, that there is on the premises specified in an application under section 36B any thing, or kind of thing, connected with a contravention of Part 3 or regulations made under Part 3, the magistrate may issue the search warrant applied for in accordance with the **Magistrates' Court Act 1989**.
- (2) A search warrant issued under subsection (1) may authorise a person authorised in the warrant to execute the warrant to do any of the following—
- (a) to enter the premises specified in the warrant;
  - (b) to search for any thing, or kind of thing, named or described in the warrant;
  - (c) to seize any thing, or kind of thing, (other than an animal) named or described in the warrant which the authorised officer believes, on reasonable grounds, to be connected with the alleged contravention;
  - (d) to do all or any of the following in relation to any thing that is, or is of a kind, named or described in the warrant and which the authorised officer believes, on reasonable grounds, to be connected with the alleged contravention—
    - (i) secure the thing against interference;
    - (ii) examine, inspect and take and keep samples of or from the thing;

- (e) in the case of any document, or document of a particular kind, named or described in the warrant, if the authorised officer believes, on reasonable grounds, that the document is connected with the alleged contravention—
    - (i) require the document to be produced for inspection;
    - (ii) examine, make copies or take extracts from the document, or arrange for the making of copies or the taking of extracts;
    - (iii) remove the document for so long as is reasonably necessary to make copies or take extracts from the document;
  - (f) make any still or moving image or audio-visual recording of any thing of a particular kind named or described in the warrant, if the authorised officer believes on reasonable grounds that it is connected with the alleged contravention.
- (3) A search warrant issued under subsection (1)—
- (a) may authorise an authorised officer to execute the warrant; and
  - (b) may authorise any other person named or otherwise identified in the warrant to assist the authorised officer to execute the warrant.

S. 36D  
inserted by  
No. 60/2015  
s. 47.

**36D Seizure and samples of things not mentioned in the warrant**

- (1) A search warrant issued under this Division authorises an authorised officer executing the warrant, in addition to seizing any thing or kind of thing named or described in the warrant, to seize any thing that is not an animal if the authorised officer believes on reasonable grounds—

- (a) that the thing is of a kind that could have been included in a search warrant issued under this Division and that will afford evidence about a contravention of Part 3 or regulations made under Part 3; and
  - (b) that it is necessary to seize the thing in order to prevent its concealment, loss or destruction or its use in the contravention of Part 3 or regulations made under Part 3.
- (2) A search warrant issued under this Division authorises an authorised officer executing the warrant, in addition to seizing any thing or kind of thing named or described in the warrant, to take a sample of or from any thing (including from an animal), if the authorised officer believes, on reasonable grounds, that—
- (a) the thing is of a kind that could have been included in a search warrant issued under this Division; and
  - (b) the sample will afford evidence about a contravention of Part 3 or regulations made under Part 3.

### **Division 3—Duties and powers as to seized things**

#### **36E Requirements for search warrants**

Sections 24M, 24N, 24O and 24P apply to a search warrant issued under Division 2 as if a reference in those sections—

- (a) to a warrant issued under Division 4 of Part 2A (however described) were a reference to a warrant issued under Division 2; and
- (b) to an inspector were a reference to an authorised officer.

S. 36E  
inserted by  
No. 60/2015  
s. 47.



S. 36F  
inserted by  
No. 60/2015  
s. 47.

### **36F Requirements for seizure of things and taking samples**

- (1) Division 7 of Part 2A applies to the seizure of a thing under this Part as if a reference in that Division—
  - (a) to Part 2A (however described) were a reference to this Part; and
  - (b) to an inspector were a reference to an authorised officer.
- (2) Division 8 of Part 2A applies to a proposal by an authorised officer to take a sample from an animal or thing under this Part as if a reference in that Division—
  - (a) to that Division or to Part 2A (however described) were a reference to this Part; and
  - (b) to an inspector were a reference to an authorised officer.

### **Division 4—Notices**

#### **36G Notice to comply**

S. 36G  
inserted by  
No. 60/2015  
s. 47.

- (1) If an authorised officer reasonably believes that a person is committing or is likely to commit an offence under Part 3 or regulations made under Part 3, the authorised officer may give a notice to the person requiring the person not to commit the offence or to cease committing the offence.
- (2) A person to whom a notice has been given under subsection (1) must comply with the notice.

Penalty: 120 penalty units in the case of a natural person;  
600 penalty units, in the case of a body corporate.

- (3) A notice under subsection (1) must—
- (a) be in writing; and
  - (b) state that it is an offence not to comply with the notice and set out the maximum penalty for the offence; and
  - (c) set out the nature of the offence that it is reasonably believed is being or is about to be committed including any provisions of Part 3, regulations made under Part 3, any licence condition or any code of practice that wholly or partly constitutes the offence; and
  - (d) set out—
    - (i) any action that the person to whom the notice is directed must take or cause to be taken in relation to the offence or apprehended offence; and
    - (ii) the time within which the action must be taken; and
  - (e) set out any other action that must be taken by the person to whom the notice is issued, whether as to the condition of animals, premises or other things under the custody or control of the person, so as to ensure the person complies with any of the following that the person is required to comply with—
    - (i) any provision of Part 3;
    - (ii) any regulations made under Part 3;
    - (iii) any licence condition;
    - (iv) any code of practice; and
  - (f) set out any action the Department Head may take under this Division if the notice is not complied with within the specified time.

S. 36H  
inserted by  
No. 60/2015  
s. 47.

### **36H Notice as to treatment, destruction etc. of animal**

(1) On or after entering a premises under this Part, an authorised officer may give a notice to the person in charge of an animal on the premises, if the authorised officer reasonably believes that it is necessary to do so, requiring the person to do any of the following that is necessary to the animal—

- (a) destroy the animal;
- (b) treat the animal;
- (c) house and feed the animal as required by the regulations.

(2) A person to whom a notice has been given under subsection (1) must comply with the notice.

Penalty: 120 penalty units in the case of a natural person.

600 penalty units, in the case of a body corporate.

(3) A notice under subsection (1) must—

- (a) be in writing; and
- (b) state that it is an offence not to comply with the notice and set out the maximum penalty for the offence; and
- (c) set out—
  - (i) the action that the person is required to take; and
  - (ii) the time within which the action must be taken; and
- (d) set out any action the Department Head may take under this Division if the notice is not complied with within the specified time.

**36I Commencement of proceeding not prevented**

The issue of a notice under this Division does not prevent a proceeding being commenced or continued in relation to an offence set out in the notice.

S. 36I  
inserted by  
No. 60/2015  
s. 47.

**36J Department Head may take action where notice not complied with**

- (1) The Department Head may do anything necessary to carry out any action that a person is directed to take by a notice under this Division, if the person fails to take the action within the time specified in the notice.
- (2) The Department Head may recover, from the person to whom the notice was directed, any reasonable costs of taking action under subsection (1) as a debt due to the Crown in a court of competent jurisdiction.

S. 36J  
inserted by  
No. 60/2015  
s. 47.

**Division 5—Adverse publicity orders**

**36K Court may make adverse publicity order**

- (1) If a court convicts a person or finds a person guilty of an offence against section 32(2), 32D(2) or 32H(2), the court may make an order requiring the person to take all or any of the following actions—
  - (a) to publicise, in the way specified in the order—
    - (i) the offence; and
    - (ii) any consequences of the offence; and
    - (iii) any penalty imposed or other order made on the conviction or finding of guilt of the offence; and

S. 36K  
inserted by  
No. 60/2015  
s. 47.

- (iv) if any information as to any work or procedures related to the offence has been published, an erratum or corrigendum as to that work;
  - (b) to notify, in the way specified in the order, any person or class of person of the matters listed in paragraph (a);
  - (c) to require the person to review the carrying out of any procedure, research or process of a kind that was the subject of the offence.
- (2) The court must not make an order under subsection (1) unless it is satisfied that the costs of complying with the order do not exceed the maximum penalty amount that the court may impose on the offender for the offence concerned.
- (3) The court may make an order under subsection (1) in addition to or instead of—
  - (a) imposing a penalty on the offender; or
  - (b) making any other order that the court may make in relation to the offence.
- (4) In an order under subsection (1) the court—
  - (a) may specify the time within which any action required by the order must be taken; and
  - (b) may specify any other requirement that is necessary or expedient for the order to be effective.
- (5) The court may make an order under subsection (1) on its own initiative or on the application of the person bringing the proceeding.

**36L Action Department Head may take on finding of contempt**

S. 36L  
inserted by  
No. 60/2015  
s. 47.

- (1) If a person is found in contempt of court for failing to comply with an adverse publicity order, the Department Head may—
  - (a) do anything that is necessary or expedient to give effect to the order, if it is practicable to do so; and
  - (b) publicise the failure of the person to comply with the order.
- (2) The Department Head must not take any action specified under subsection (1) if the court has ordered the Department Head not to do so.

**36M Department Head may give notice of intent to act on failure to comply with order**

S. 36M  
inserted by  
No. 60/2015  
s. 47.

- (1) If a person fails to comply with an adverse publicity order within the time specified in the order, the Department Head may give the person written notice advising the person that the Department Head intends to take action to give effect to the order.
- (2) A notice under subsection (1) must specify—
  - (a) the action that is needed to give effect to the order; and
  - (b) a time within which the person must respond to the notice; and
  - (c) the effect of and process required under section 36N.
- (3) This section does not apply if section 36L applies.

S. 36N  
inserted by  
No. 60/2015  
s. 47.

**36N Action to be taken if response to notice not satisfactory**

If the person either—

- (a) does not give a response to the notice under section 36M to the Department Head within 14 days of receiving the notice; or
- (b) does give a response as required under paragraph (a), but does not act as agreed on when responding—

the Department Head may—

- (c) take the action specified in the notice, if it is practicable to do so; and
- (d) publicise the failure of the person to comply with the order.

S. 36O  
inserted by  
No. 60/2015  
s. 47.

**36O Action for contempt**

Nothing in sections 36M and 36N prevents contempt of court proceedings from being commenced or continued against a person who has failed to comply with an adverse publicity order.

S. 36P  
inserted by  
No. 60/2015  
s. 47.

**36P Recovery of costs**

The Department Head may recover from the person required to comply with the adverse publicity order any reasonable costs incurred in taking action under section 36L(1)(a) or (b) or 36N(c) or (d) in any court of competent jurisdiction as a debt due to the Crown.

**Division 6—Further offences and powers**

S. 36Q  
inserted by  
No. 60/2015  
s. 47.

**36Q Requirement to give information to authorised officer during entry**

- (1) To the extent that is reasonably necessary to determine whether Part 3 or regulations made under Part 3 have been, are being or are about to

be contravened, an authorised officer exercising a power of entry of premises under this Part, who produces the authorised officer's identification certificate for inspection by a person at the premises—

- (a) may require that person to give information to the authorised officer, orally or in writing; and
  - (b) if the power is being exercised under a warrant, may require that person to produce any thing that is or is of a kind named or described in the warrant.
- (2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement of an authorised officer under subsection (1).

Penalty: 60 penalty units.

- (3) A person must not, when giving information to an authorised officer under subsection (1), give information that is false or misleading.

Penalty: 60 penalty units.

### **36R Protection against self-incrimination**

- (1) It is a reasonable excuse for a natural person to refuse or fail to give information or do any other thing that the person is required to do by or under Part 3 or this Part, if the giving of the information or the doing of that other thing would tend to incriminate the person.
- (2) Despite subsection (1), it is not a reasonable excuse for a natural person to refuse or fail to produce a document that the person is required to produce by or under Part 3 or this Part, if the production of the document would tend to incriminate the person.

S. 36R  
inserted by  
No. 60/2015  
s. 47.



S. 36S  
inserted by  
No. 60/2015  
s. 47.

### **36S Power to file charges**

- (1) Subject to the purposes specified in the instrument of appointment of an authorised officer, the officer has the power to file a charge-sheet charging an offence under this Part or Part 3 or an offence under the regulations made under those Parts.
- (2) Only an authorised officer may file a charge-sheet charging an offence under this Part or Part 3 or an offence under the regulations made under those Parts.

## **Division 7—Preparation of and fees for compliance reports**

S. 36T  
inserted by  
No. 60/2015  
s. 47.

### **36T Power to prepare compliance report**

The Department Head may prepare a compliance report in respect of the holder of a licence under Part 3.

S. 36U  
inserted by  
No. 60/2015  
s. 47.

### **36U Imposing fees for compliance reports**

- (1) The Department Head may impose on the holder of a licence under Part 3 a fee for—
  - (a) the carrying out of an entry and search under section 36A for the purpose of preparing a compliance report; and
  - (b) the preparation of such a report.
- (2) A fee imposed under subsection (1) must be of an amount that is prescribed or of an amount that is determined in the prescribed manner.

S. 36V  
inserted by  
No. 60/2015  
s. 47.

### **36V Payment of fee**

- (1) A fee imposed under section 36U is payable within 60 days after the day on which the compliance report is given to the licence holder.

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 3AA—Enforcement for Part 3

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- (2) A fee imposed under section 36U may be recovered in any court of competent jurisdiction as a debt due to the Crown.

## Part 3A—Infringement notices

Pt 3A  
(Heading and  
ss 37A–37H)  
inserted by  
No. 103/2003  
s. 42.

### 37A Power to serve a notice

S. 37A  
inserted by  
No. 103/2003  
s. 42.

- (1) An authorised officer may serve an infringement notice on any person that he or she has reason to believe has committed—
  - (a) an offence against section 15A(2); or
  - (b) a prescribed offence against the regulations.
- (2) In this Part a reference to an "authorised officer" is a reference to—
  - (a) in the case of an offence relating to a scientific procedure (within the meaning of Part 3) an authorised officer, within the meaning of section 25; and
  - (b) in any other case, a POCTA inspector.
- (3) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006** and the penalty for that offence is the prescribed infringement penalty in respect of that offence.

S. 37A(2)(a)  
amended by  
Nos 60/2012  
s. 72(8),  
71/2014  
s. 8(1).

S. 37A(2)(b)  
substituted by  
No. 71/2014  
s. 8(2).

S. 37A(3)  
substituted by  
No. 32/2006  
s. 94(Sch.  
item 39(1)).

**37B Form of notice**

For the purposes of section 37A, an infringement notice must be in the form required by the **Infringements Act 2006** and may contain any additional information approved by the Department Head.

\* \* \* \* \*

S. 37B  
inserted by  
No. 103/2003  
s. 42,  
substituted by  
No. 32/2006  
s. 94(Sch.  
item 39(2)).

Ss 37C–37H  
inserted by  
No. 103/2003  
s. 42,  
repealed by  
No. 32/2006  
s. 94(Sch.  
item 39(3)).

## Part 4—Miscellaneous

### 38 Delegation

S. 38(1)  
amended by  
No. 65/2007  
s. 105.

- (1) The Minister may by instrument of delegation delegate to any person any power, duty or function of the Minister under this Act or regulations under this Act other than this power of delegation.

S. 38(2)  
amended by  
Nos 77/1995  
s. 32, 76/1998  
s. 27(b),  
65/2007 s. 105.

- (2) The Department Head may by instrument of delegation delegate to any person any power, duty or function of the Department Head under this Act or regulations under this Act other than this power of delegation.

### 39 Evidence

In any legal proceedings under this Act—

- (a) the production of a copy of the Government Gazette containing any matters required by or under this Act to be published in the Government Gazette is conclusive evidence of those matters; and
- (b) in the absence of evidence to the contrary, proof is not required of—

S. 39(b)(i)  
substituted by  
No. 71/2014  
s. 9(a).

- (i) the approval of a person as a POCTA inspector; or

S. 39(b)(ii)  
amended by  
Nos 77/1995  
s. 33, 46/1998  
s. 7(Sch. 1).

- (ii) the appointment of any other employee in the Department for the purposes of this Act; or

S. 39(b)(iii)  
amended by  
Nos 71/2014  
s. 9(b),  
60/2015 s. 49.

- (iii) the authority of any authorised officer to take proceedings for an offence of a class referred to in that section; or

- (iv) the authority of any person authorised under section 24ZW to take proceedings for an offence of a class referred to in that section.

S. 39(b)(iv)  
amended by  
No. 71/2014  
s. 9(c).

#### 40 Neglect to prosecute

If a person who filed a charge-sheet charging an offence under this Act or the regulations does not appear at the hearing or in any other way fails to proceed with the prosecution, the court hearing the alleged offence may authorise another person to take or continue the proceedings for that offence, whether upon that charge-sheet or not.

S. 40  
amended by  
Nos 57/1989  
s. 3(Sch. item  
161.3(a)(b)),  
68/2009  
s. 97(Sch.  
item 95.5),  
71/2014 s. 10.

#### 41 Liability for offences

- (1) If two or more persons are guilty of an offence under this Act or the regulations each of those persons is liable to the penalty for that offence without affecting the liability of any other person.
- (2) Any person who aids or abets the commission of an offence under this Act or the regulations is guilty of the offence.

\* \* \* \* \*

S. 41(3)(4)  
repealed by  
No. 65/2007  
s. 106.

- (5) If this Act provides or the regulations provide that a person, being a partnership or an unincorporated body, is guilty of an offence, that reference to a person is to be construed as a reference to each member of the partnership or of the committee of management of the unincorporated body (as the case may be).

\* \* \* \* \*

S. 41(6)  
amended by  
No. 57/1989  
s. 3(Sch. item  
161.4(a)(b)),  
repealed by  
No. 65/2007  
s. 106.

S. 41AA  
inserted by  
No. 65/2007  
s. 107.

#### **41AA Offences by bodies corporate**

- (1) If a body corporate contravenes any provision of this Act, each officer of the body corporate is deemed to have contravened the same provision if the officer knowingly authorised or permitted the contravention.
- (2) A person may be proceeded against and convicted under a provision in accordance with subsection (1) whether or not the body corporate has been proceeded against under that provision.
- (3) Nothing in this section affects any liability imposed on a body corporate for an offence committed by the body corporate against this Act.

S. 41AB  
inserted by  
No. 65/2007  
s. 107.

#### **41AB Conduct by officers, employees or agents**

- (1) If, in any proceedings under this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show—
  - (a) that the conduct was engaged in by an officer of that body corporate within the scope of the officer's actual or apparent authority and the officer had that state of mind; or
  - (b) that the conduct was engaged in by an agent of the body corporate and—
    - (i) the agent acted at the specific direction or with the specific consent or agreement of the body corporate; and
    - (ii) the agent had that state of mind; and
    - (iii) the body corporate was aware of the agent's state of mind when the conduct was engaged in.
- (2) For the purposes of any proceedings under this Act, any conduct engaged in on behalf of a body corporate is deemed to have been engaged in also

by the body corporate if the conduct was engaged in by—

- (a) an officer of the body corporate within the scope of the officer's actual or apparent authority; or
  - (b) any other person at the specific direction or with the specific consent or agreement of an officer of the body corporate, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the officer.
- (3) If, in any proceedings under this Act, it is necessary to establish the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show—
- (a) that the conduct was engaged in by an employee of that person within the scope of the employee's actual or apparent authority and the employee had that state of mind; or
  - (b) that the conduct was engaged in by an agent of the person and—
    - (i) the agent acted at the specific direction or with the specific consent or agreement of the person; and
    - (ii) the agent had that state of mind; and
    - (iii) the person was aware of the agent's state of mind when the conduct was engaged in.
- (4) For the purposes of any proceedings under this Act, any conduct engaged in on behalf of a person other than a body corporate (*the principal*) is deemed to have been engaged in also by the principal if the conduct was engaged in by—



- (a) an employee of the principal within the scope of the employee's actual or apparent authority; or
  - (b) any other person at the specific direction or with the specific consent or agreement of an employee of the principal, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the employee.
- (5) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the intention, opinion, belief or purpose.

S. 41AC  
(Heading)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 95.6)  
S. 41AC  
inserted by  
No. 65/2007  
s. 107,  
amended by  
No. 68/2009  
s. 97(Sch.  
item 95.7).

#### **41AC Time for charging certain offences under this Act**

Despite anything to the contrary in section 7(1) of the **Criminal Procedure Act 2009**, proceedings for any offence under section 9, section 10, Part 3 or any regulations relating to Part 3 may be commenced within the period of three years after the date on which the alleged offence was committed.

S. 41A  
inserted by  
No. 103/2003  
s. 43.

#### **41A Council employees etc. not subject to offence for giving information**

- (1) If—
- (a) an officer, employee or contractor of a Council gives the name and address of an owner of land or of an animal to a POCTA inspector or an authorised officer for the purposes of enabling the inspector or authorised officer to exercise a power under this Act; and

S. 41A(1)(a)  
amended by  
No. 60/2015  
s. 50.

- (b) the officer, employee or contractor has obtained that information in the course of his or her employment with the Council or under his or her contract with the Council (as the case requires)—

the officer, employee or contractor does not commit any offence under the **Local Government Act 1989**, regulations or local laws made under that Act or any other law in so doing.

- (2) In this section *Council* has the same meaning as in the **Local Government Act 1989**.

## 42 Regulations

- (1) The Governor in Council may make regulations for or with respect to any of the following matters—

- (a) prescribing forms (including the form of an identification certificate of a POCTA inspector or an authorised officer and the form of orders to be issued by authorised officers requiring the destruction, treatment, housing or feeding of any animal);

S. 42(1)(a)  
amended by  
Nos 77/1995  
s. 34(a),  
71/2014  
s. 11(1),  
60/2015  
s. 51(1).

- (b) traps, including but not limited to the following—

S. 42(1)(b)  
substituted by  
No. 65/2007  
s. 108(1)(a).

- (i) the nature, dimensions and features of traps;
- (ii) the use of traps;
- (iii) the purposes for which and the places in which traps may be used;
- (c) the conditions under which animals may be kept in captivity, including the sizes of enclosures and cages;

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 4—Miscellaneous

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- S. 42(1)(d)  
amended by  
No. 69/2004  
s. 49(5),  
substituted by  
No. 65/2007  
s. 108(1)(b).
- (d) rodeo licences, rodeo school permits and rodeo permits, including, but not limited to—
- (i) granting or issuing licences or permits; or
  - (ii) conditions on licences or permits; or
  - (iii) applications for licences or permits;
- S. 42(1)(da)  
inserted by  
No. 65/2007  
s. 108(1)(b).
- (da) the conduct of rodeos or the operation of rodeo schools, including, but not limited to obligations imposed on persons who—
- (i) participate in; or
  - (ii) conduct or operate; or
  - (iii) assist in the conduct or operation of; or
  - (iv) are otherwise involved in—
- rodeos or rodeo schools;
- S. 42(1)(e)  
substituted by  
No. 103/2003  
s. 44(1)(a).
- (e) applications for and the grant of licences under Part 3, including requirements to be satisfied before the grant of such licences;
- S. 42(1)(ea)  
inserted by  
No. 103/2003  
s. 44(1)(a).
- (ea) standards for—
- (i) facilities and equipment at; and
  - (ii) scientific procedures to be carried out at—
- any premises to which a licence granted under Part 3 applies; and
- S. 42(1)(eb)  
inserted by  
No. 103/2003  
s. 44(1)(a).
- (eb) conditions on licences granted under Part 3;
- S. 42(1)(f)  
amended by  
Nos 77/1995  
s. 34(b),  
76/1998  
s. 27(b).
- (f) the particulars to be contained in any records, reports or returns for the purposes of this Act and the intervals at which a copy of any such record, report or return must be sent to the Department Head;

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 4—Miscellaneous

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|---|--|
| (g) regulating the lighting, ventilation, air temperature, cleaning, drainage, water supply, maintenance and management of any premises to which a licence granted under Part 3 applies and the cleansing and maintenance of all fixtures, appliances, instruments and utensils at or any other things connected or used with those things at any premises to which a licence granted under Part 3 applies; | S. 42(1)(g) amended by No. 103/2003 s. 44(1)(b).   |
| (h) the minimum requirements for the training, experience and academic qualifications of a person in charge of any premises to which a licence granted under Part 3 applies;  | S. 42(1)(h) substituted by No. 103/2003 s. 44(1)(c).                                       |
| * * * * *   | S. 42(1)(i) repealed by No. 65/1994 s. 5(6).   |
| * * * * *   | S. 42(1)(j) substituted by No. 103/2003 s. 44(1)(d), repealed by No. 65/2007 s. 108(1)(c). |
| (k) membership of animal ethics committees and the operation of such committees;  | S. 42(1)(k) substituted by No. 103/2003 s. 44(1)(e).                                       |
| (l) prohibiting absolutely or in part certain scientific procedures or imposing conditions on or regulating the carrying out of the whole or part of any such procedures;   | S. 42(1)(l) amended by No. 103/2003 s. 44(1)(f).   |
| (m) prescribing—  | S. 42(1)(m) amended by No. 103/2003 s. 44(1)(g).   |
| (i) purposes for the purposes of paragraph (f); and   |  |

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Part 4—Miscellaneous

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- (ii) any or any type of procedure, test, experiment, inquiry, investigation or study for the purposes of paragraph (j)—

of the definition of *scientific procedure* in section 3;

S. 42(1)(n)  
repealed by  
No. 103/2003  
s. 44(1)(h).

\* \* \* \* \*

S. 42(1)(na)  
inserted by  
No. 83/2001  
s. 8,  
substituted by  
No. 103/2003  
s. 44(2).

- (na) prohibiting or regulating—
- (i) any medical or veterinary procedure conducted on animals; or
- (ii) any method of capture of animals; or
- (iii) any method or procedure of transport of animals—

that may cause injury, suffering or distress to animals;

S. 42(1)(nb)  
inserted by  
No. 83/2001  
s. 8,  
substituted by  
No. 103/2003  
s. 44(2),  
amended by  
No. 60/2015  
s. 51(2).

- (nb) prohibiting or regulating the possession or use of any implement, equipment, device or thing that may cause injury, suffering or distress in an animal;

S. 42(1)(nc)  
inserted by  
No. 83/2001  
s. 8,  
repealed by  
No. 103/2003  
s. 44(2) new  
s. 42(1)(nc)  
inserted by  
No. 60/2015  
s. 51(3).

- (nc) fees for the grant, issue or renewal of licences or permits under this Act, which may include fees—
- (i) for the cost of administration of licences or permits; and
- (ii) for the provision of services in relation to licences or permits; and

- (iii) for the performing of functions or the carrying out of duties in relation to licences or permits;
- (nd) fees—
  - (i) for the carrying out of entries and searches under section 36A for the purpose of preparing compliance reports; and
  - (ii) for the preparation of compliance reports;
- (ne) fees for anything else done under this Act or the regulations;
- (o) generally prescribing any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
  - (a) may be of general or limited application; and
  - (b) may differ according to differences in time, place or circumstance; and
  - (c) may impose penalties not exceeding 20 penalty units for a contravention of or an offence under the regulations; and
  - (d) may apply, adopt or incorporate (with or without modification)—
    - (i) the provisions of any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether as formulated, issued, prescribed or published at the time the

S. 42(1)(nd)  
inserted by  
No. 60/2015  
s. 51(3).

S. 42(1)(ne)  
inserted by  
No. 60/2015  
s. 51(3).

S. 42(2)(c)  
amended by  
Nos 103/2003  
s. 44(3),  
65/2007  
s. 108(2).

regulations are made, or at any time before then; or

(ii) the provisions of any Act of the Commonwealth or of another State or of a Territory or the provisions of any subordinate instrument under any such Act, whether as in force at a particular time or from time to time; and

(e) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by the Minister; and

(f) may confer powers or impose duties in connection with the regulations on the Minister.

S. 42(2)(f)  
amended by  
No. 71/2014  
s. 11(2).

S. 42(2A)  
inserted by  
No. 60/2015  
s. 51(4).

(2A) As to fees under subsections (1)(nc), (nd) and (ne), the regulations may provide for—

(a) maximum or minimum fees or no fee in different cases or different classes of case; and

(b) different fees for different cases or different classes of case; and

(c) pro rata fees; and

(d) a method of determining any fee or class of fee, whether by prescribed hourly rates or otherwise.

(3) The regulations do not apply to any act or practice with respect to the farming, transport, sale or killing of any farm animal if that act or practice is carried out in accordance with a Code of Practice.

## Part 5—Transitionals

Pt 5 (Heading  
and s. 43)  
inserted by  
No. 11/2000  
s. 6.

### 43 Prevention of Cruelty to Animals (Amendment) Act 2000

S. 43  
inserted by  
No. 11/2000  
s. 6.

A Code of Practice prepared by the Minister and published under section 7 as in force immediately before the date of commencement of section 4 of the **Prevention of Cruelty to Animals (Amendment) Act 2000** is, on that commencement, deemed to be a Code of Practice made by the Governor in Council and published under section 7 as amended by section 4 of that Act and may be varied or revoked accordingly.

### 44 Primary Industries and Food Legislation Amendment Act 2012

S. 44  
inserted by  
No. 60/2012  
s. 46.

Section 12 as amended by section 34 of the **Primary Industries and Food Legislation Amendment Act 2012** applies to a person in respect of an offence under this Act committed by the person or, in the case of a person found not guilty because of mental impairment, that would have been committed by the person, before, on or after the commencement of section 34 of the **Primary Industries and Food Legislation Amendment Act 2012**.

### 45 Prevention of Cruelty to Animals Amendment Act 2015—Transitional provisions

S. 45  
inserted by  
No. 60/2015  
s. 52.

- (1) On the commencement of Division 1A of Part 2A, Division 1A applies to—
- (a) a control order in force immediately before that commencement; and
  - (b) an interstate control order in force immediately before that commencement.



- (2) Despite the repeal of section 31(2) by section 32 of the amending Act, a scientific procedures premises licence that was in force immediately before that repeal is taken to continue in force until the 30 June next following that repeal, subject to the provisions of this Act as to variation, suspension and cancellation of scientific procedures premises licences.
- (3) Despite the repeal of section 32C(2) by section 35 of the amending Act, a scientific procedures field work licence that was in force immediately before that repeal is taken to continue in force until the 30 June next following that repeal, subject to the provisions of this Act as to variation, suspension and cancellation of scientific procedures field work licences.
- (4) Despite the repeal of section 32G(2) by section 38 of the amending Act, a specified animals breeding licence that was in force immediately before that repeal is taken to continue in force until the 30 June next following that repeal, subject to the provisions of this Act as to variation, suspension and cancellation of specified animals breeding licences.
- (5) In this section *amending Act* means **Prevention of Cruelty to Animals Amendment Act 2015**.

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Schedule

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**Schedule**

Section 15C

Sch.  
substituted by  
No. 65/2007  
s. 110(Sch. 2).

**Table of diseases caused by heritable defects**

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<i>Column 1</i> <i>Species</i>	<i>Column 2</i> <i>Disease</i>
Dogs	Von Willebrand's Disease (VWD) Progressive Retinal Atrophy (PRA) Neuronal Ceroid Lipofuscinosis (NCL) Collie Eye Anamoly (CEA/CH) Hereditary Cataract (HC)
Cats	Polycystic Kidney Disease (PKD) Mutations causing aplasia or hypoplasia of any long bone Folded ears due to osteochondrodysplasia

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

*Minister's second reading speech—*

*Legislative Council: 28 November 1985*

*Legislative Assembly: 8 May 1986*

The long title for the Bill for this Act was "A Bill to make changes to the law relating to the prevention of cruelty to animals, to repeal the **Protection of Animals Act 1966** and for other purposes."

The **Prevention of Cruelty to Animals Act 1986** was assented to on 20 May 1986 and came into operation as follows:

Sections 2, 3, 7 on 15 October 1986: Government Gazette 15 October 1986 page 3953; sections 1, 4–6, 8–25, 26 (*except* (2)(h)), 27–41, 42 (*except* (1)(n)) on 4 March 1987: Government Gazette 7 January 1987 page 5; sections 26(2)(h), 42(1)(n) on 7 December 1988: Government Gazette 7 December 1988 page 3659.

### INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

#### Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

#### References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

#### Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Endnotes

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a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Endnotes

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## 2 Table of Amendments

This publication incorporates amendments made to the **Prevention of Cruelty to Animals Act 1986** by Acts and subordinate instruments.

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### **Agricultural Acts (Further Amendment) Act 1987, No. 68/1987**

*Assent Date:* 24.11.87  
*Commencement Date:* S. 27 on 25.11.87: Government Gazette 25.11.87 p. 3215; s. 28 on 7.12.88: Government Gazette 7.12.88 p. 3659; s. 26 on 12.8.99: Government Gazette 29.7.99 p. 1738  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Agricultural Acts (Amendment) Act 1988, No. 35/1988**

*Assent Date:* 24.5.88  
*Commencement Date:* S. 24 on 1.6.88: Government Gazette 1.6.88 p. 1486  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217  
*Current State:* All of Act in operation

### **Meat Industry Act 1993, No. 40/1993**

*Assent Date:* 1.6.93  
*Commencement Date:* Sch. 2 item 9 on 30.6.93: Government Gazette 24.6.93 p. 1596  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Catchment and Land Protection Act 1994, No. 52/1994**

*Assent Date:* 15.6.94  
*Commencement Date:* S. 97(Sch. 3 items 23.1, 23.2) on 15.12.94: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

### **Agriculture (Registered Occupations) Act 1994, No. 65/1994**

*Assent Date:* 18.10.94  
*Commencement Date:* Ss 1, 2 on 18.10.94: s. 2(1); rest of Act on 1.12.94: Government Gazette 24.11.94 p. 3095  
*Current State:* All of Act in operation

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Endnotes

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**Livestock Disease Control Act 1994, No. 115/1994**

*Assent Date:* 20.12.94  
*Commencement Date:* S. 142(Sch. 2 item 6) on 20.12.95: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Prevention of Cruelty to Animals (Amendment) Act 1995, No. 77/1995**

(as amended by No. 26/1998)

*Assent Date:* 14.11.95  
*Commencement Date:* Ss 1, 2 on 14.11.95: s. 2(1); s. 5(2) on 1.6.93: s. 2(2); rest of Act on 14.5.96: s. 2(4)  
*Current State:* All of Act in operation

**Miscellaneous Acts (Omnibus Amendments) Act 1996, No. 22/1996**

*Assent Date:* 2.7.96  
*Commencement Date:* Pt 8 (s. 18) on 9.4.96: s. 2(2); s. 12 on 13.6.96: s. 2(3); s. 24 on 1.10.96: s. 2(4); rest of Act on 2.7.96: s. 2(1)  
*Current State:* All of Act in operation

**Veterinary Practice Act 1997, No. 58/1997**

*Assent Date:* 28.10.97  
*Commencement Date:* S. 96(Sch. item 7) on 17.3.98: Government Gazette 12.3.98 p. 520  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Agriculture Acts (Amendment) Act 1998, No. 26/1998**

*Assent Date:* 19.5.98  
*Commencement Date:* S. 8 on 1.4.98: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998**

*Assent Date:* 26.5.98  
*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998**

*Assent Date:* 2.6.98  
*Commencement Date:* S. 311(Sch. 1 item 75) on 1.7.98: Government Gazette 18.6.98 p. 1512  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Endnotes

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**Conservation, Forests and Lands (Miscellaneous Amendments) Act 1998,  
No. 76/1998**

*Assent Date:* 10.11.98  
*Commencement Date:* S. 27 on 15.12.98: s. 2(5)  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Prevention of Cruelty to Animals (Amendment) Act 2000, No. 11/2000**

*Assent Date:* 18.4.00  
*Commencement Date:* 19.4.00: s. 2  
*Current State:* All of Act in operation

**Statute Law Revision Act 2000, No. 74/2000**

*Assent Date:* 21.11.00  
*Commencement Date:* S. 3(Sch. 1 item 101) on 22.11.00: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Animals Legislation (Responsible Ownership) Act 2001, No. 83/2001**

*Assent Date:* 11.12.01  
*Commencement Date:* Ss 3–8 on 12.12.01: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Statute Law (Further Revision) Act 2002, No. 11/2002**

*Assent Date:* 23.4.02  
*Commencement Date:* S. 3(Sch. 1 item 54) on 24.4.02: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Fisheries (Amendment) Act 2003, No. 56/2003**

*Assent Date:* 16.6.03  
*Commencement Date:* S. 11(Sch. item 17) on 17.6.03: s. 2  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Animals Legislation (Animal Welfare) Act 2003, No. 103/2003**

*Assent Date:* 9.12.03  
*Commencement Date:* Ss 34–36, 42, 43, 44(2)(3) on 10.12.03: s. 2(1); s. 32  
on 22.1.04: Government Gazette 22.1.04 p. 137; ss 31,  
33, 37–41, 44(1) on 24.6.04: Government Gazette  
24.6.04 p. 1742  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Endnotes

---

**Primary Industries Legislation (Further Miscellaneous Amendments) Act 2004, No. 69/2004**

*Assent Date:* 19.10.04  
*Commencement Date:* Ss 48, 50–53 on 20.10.04: s. 2(1); s. 49 on 29.9.05: Government Gazette 29.9.05 p. 2171  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Public Administration Act 2004, No. 108/2004**

*Assent Date:* 21.12.04  
*Commencement Date:* S. 117(1)(Sch. 3 item 160) on 5.4.05: Government Gazette 31.3.05 p. 602  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Primary Industries Acts (Amendment) Act 2005, No. 50/2005**

*Assent Date:* 24.8.05  
*Commencement Date:* Ss 3–9 on 25.8.05: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Primary Industries Acts (Further Amendment) Act 2005, No. 76/2005**

*Assent Date:* 2.11.05  
*Commencement Date:* Ss 26–28, 30–37 on 3.11.05: s. 2(1); s. 29 on 1.12.05: Government Gazette 17.11.05 p. 2610  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006**

*Assent Date:* 13.6.06  
*Commencement Date:* S. 94(Sch. item 39) on 1.7.06: Government Gazette 29.6.06 p. 1315  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**

**Animals Legislation Amendment (Animal Care) Act 2007, No. 65/2007**

*Assent Date:* 11.12.07  
*Commencement Date:* Ss 77(1)(4), 78, 79(2)(3), 80–86, 88, 89, 91, 92(1)–(3)(5), 93–108, 110, Sch. 2 on 12.12.07: s. 2(1); s. 77(2) on 20.3.08: Special Gazette (No. 71) 18.3.08 p. 1; ss 77(3), 79(1), 87, 90 on 16.12.08: Special Gazette (No. 378) 16.12.08 p. 1; ss 92(4), 109 on 1.9.09: Special Gazette (No. 298) 1.9.09 p. 1  
*Current State:* This information relates only to the provision/s amending the **Prevention of Cruelty to Animals Act 1986**



Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Endnotes

---

**Primary Industries Legislation Amendment Act 2009, No. 35/2009**

*Assent Date:* 30.6.09  
*Commencement Date:* Ss 106, 108 on 1.7.09: s. 2(1); s. 107 on 1.9.09:  
Government Gazette 6.8.09 p. 2125  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Criminal Procedure Amendment (Consequential and Transitional Provisions)  
Act 2009, No. 68/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 97(Sch. item 95) on 1.1.10: Government Gazette  
10.12.09 p. 3215  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Domestic Animals Amendment (Puppy Farm Enforcement and Other Matters)  
Act 2011, No. 75/2011**

*Assent Date:* 13.12.11  
*Commencement Date:* Ss 25, 26 on 1.1.12: Special Gazette (No. 423)  
21.12.11 p. 2  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Primary Industries and Food Legislation Amendment Act 2012, No. 60/2012**

*Assent Date:* 23.10.12  
*Commencement Date:* S. 72(7)(8) on 24.10.12: s. 2(1); ss 31–46 on 1.12.12:  
Special Gazette (No. 399) 27.11.12 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Statute Law Revision Act 2013, No. 70/2013**

*Assent Date:* 19.11.13  
*Commencement Date:* S. 4(Sch. 2 item 39) on 1.12.13: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Emergency Management Act 2013, No. 73/2013**

*Assent Date:* 3.12.13  
*Commencement Date:* S. 100 on 1.7.14: Special Gazette (No. 148) 13.5.14  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

Prevention of Cruelty to Animals Act 1986  
No. 46 of 1986  
Endnotes

---

**Victoria Police Amendment (Consequential and Other Matters) Act 2014,  
No. 37/2014**

*Assent Date:* 3.6.14  
*Commencement Date:* S. 10(Sch. item 129) on 1.7.14: Special Gazette  
(No. 200) 24.6.14 p. 2  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Primary Industries Legislation Amendment Act 2014, No. 71/2014**

*Assent Date:* 30.9.14  
*Commencement Date:* Ss 3–11 on 11.4.15: Special Gazette (No. 66) 31.3.15  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

**Prevention of Cruelty to Animals Amendment Act 2015, No. 60/2015**

*Assent Date:* 18.11.15  
*Commencement Date:* Ss 4–30, 33, 36, 39, 41, 43–47, 49–52 on 23.12.15:  
Special Gazette (No. 426) 22.12.15 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Prevention of Cruelty to Animals  
Act 1986**

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### 3 Amendments Not in Operation

This publication does not include amendments made to the **Prevention of Cruelty to Animals Act 1986** by the following Act/s.

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#### **Prevention of Cruelty to Animals Amendment Act 2015, No. 60/2015**

<i>Assent Date:</i>	18.11.15
<i>Commencement Date:</i>	Ss 31, 32, 34, 35, 37, 38, 40, 42, 48 not yet proclaimed
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Prevention of Cruelty to Animals Act 1986</b>

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At the date of this publication, the following provisions amending the **Prevention of Cruelty to Animals Act 1986** were Not in Operation:

**Amending Act/s:**

#### **Prevention of Cruelty to Animals Amendment Act 2015, No. 60/2015**

##### **31 New section 29A inserted**

After section 29 of the Principal Act **insert**—

##### **"29A Considerations for grant of scientific procedures premises licence**

In granting a scientific procedures premises licence the Department Head may have regard to the following matters—

- (a) if the applicant is a natural person, whether or not the applicant is a fit and proper person to hold the licence;
- (b) if the applicant is a body corporate, whether or not each director or officer of the body corporate who does or may exercise control over the activities carried out under the licence is a fit and proper person to be a director or officer of such a licence holder;
- (c) whether or not the applicant has been convicted or found guilty of an offence under this Act or the regulations;

(d) any other relevant matter."

**32 Duration of scientific procedures premises licences**

- (1) In section 31(1) of the Principal Act, **omit** "(1)".
- (2) Section 31(2) of the Principal Act is **repealed**.

**34 New section 32AB inserted**

After section 32A of the Principal Act **insert**—

**"32AB Considerations for grant of scientific procedures field work licence**

In granting a scientific procedures field work licence the Department Head may have regard to the following matters—

- (a) if the applicant is a natural person, whether or not the applicant is a fit and proper person to hold the licence;
- (b) if the applicant is a body corporate, whether or not each director or officer of the body corporate who does or may exercise control over the activities carried out under the licence is a fit and proper person to be a director or officer of such a licence holder;
- (c) whether or not the applicant has been convicted or found guilty of an offence under this Act or the regulations;
- (d) any other relevant matter."

**35 Duration of scientific procedures field work licences**

- (1) In section 32C(1) of the Principal Act, **omit** "(1)".
- (2) Section 32C(2) of the Principal Act is **repealed**.

**37 New section 32EA inserted**

After section 32E of the Principal Act **insert**—

**"32EA Considerations for grant of specified animals breeding licence**

In granting a specified animals breeding licence the Department Head may have regard to the following matters—

- (a) if the applicant is a natural person, whether or not the applicant is a fit and proper person to hold the licence;
- (b) if the applicant is a body corporate, whether or not each director or officer of the body corporate who does or may exercise control over the activities carried out under the licence is a fit and proper person to be a director or officer of such a licence holder;
- (c) whether or not the applicant has been convicted or found guilty of an offence under this Act or the regulations;
- (d) any other relevant matter."

**38 Duration of specified animals breeding licence**

- (1) In section 32G(1) of the Principal Act, **omit** "(1)".
- (2) Section 32G(2) of the Principal Act is **repealed**.

**40 New section 32IA inserted**

After section 32I of the Principal Act **insert**—

**"32IA Considerations for renewal of licence**

In renewing a licence under this Part the Department Head may have regard to the following matters—

- (a) if the licence holder is a natural person, whether or not the licence holder is a fit and proper person to hold the licence;
- (b) if the licence holder is a body corporate, whether or not each director or officer of the body corporate who does or may exercise control over the activities carried out under the licence is a fit and proper person to be a director or officer of the body corporate that holds the licence;
- (c) whether or not the licence holder has been convicted or found guilty of an offence under this Act or the regulations;
- (d) whether or not the licence holder has failed to comply with a licence condition;
- (e) any other relevant matter."

**42 New section 32LA inserted**

After section 32L of the Principal Act **insert—**

**"32LA Considerations for variation of a licence on the motion of the Department Head**

In making a decision as to whether or not to vary a licence under section 32K, the Department Head may have regard to the following matters—

- (a) if the licence holder is a natural person, whether or not the licence holder is a fit and proper person to hold the licence as unvaried;
- (b) if the licence holder is a body corporate, whether or not each director or officer of the body corporate who does or may exercise control over the

activities carried out under the licence is a fit and proper person to be a director or officer of the body corporate that holds the licence as unvaried;

- (c) whether or not the licence holder has been convicted or found guilty of an offence under this Act or the regulations;
- (d) whether or not the licence holder has failed to comply with a licence condition;
- (e) any other relevant matter."

**48 New Part 3B inserted**

After Part 3A of the Principal Act **insert**—

**"Part 3B—Animals in Research and Teaching Welfare Fund**

**37C Animals in Research and Teaching Welfare Fund**

There is established in the Public Account as part of the Trust Fund an account to be known as the Animals in Research and Teaching Welfare Fund.

**37D Payments into the Fund**

There is to be paid into the Animals in Research and Teaching Welfare Fund—

- (a) any fee imposed by the Department Head under Division 7 of Part 3AA; and
- (b) any interest received on money in the Fund or investments made under section 37E; and

(c) any money appropriated for the purpose from the Consolidated Fund.

**37E Investment of money in the Fund**

Money in the Animals in Research and Teaching Welfare Fund may be invested in accordance with the **Trustee Act 1958** or in any other manner that the Treasurer directs.

**37F Payment of money out of the Fund**

On the recommendation of the Minister, money may be paid out of the Animals in Research and Teaching Welfare Fund for the purpose of an exercise of any power, a performance of any duty or a carrying out of any function by the Minister, Department Head or an authorised officer under Part 3, Part 3AA or Part 3A."



#### 4 Explanatory details

<sup>1</sup> S. 6(1)(a): The amendment proposed by Schedule 2 item 9 of the **Meat Industry Act 1993**, No. 40/1993 is not included in this publication due to an incorrect reference to the title of this Act.

<sup>2</sup> S. 6(1)(g): The amendment proposed by section 5(6) of the **Prevention of Cruelty to Animals (Amendment) Act 1995**, No. 77/1995 was repealed on 31 March 1998 by section 7 of the **Agriculture Acts (Amendment) Act 1998**, No. 26/1998.