

South Australia

Prevention of Cruelty to Animals Act 1985

An Act to discourage cruelty to animals; and for other purposes.

Contents

Part 1—Preliminary

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

Part 2—The Animal Welfare Advisory Committee

- 6 The Animal Welfare Advisory Committee
- 7 Term of office of members
- 8 Allowances and expenses
- 9 Conduct of business
- 10 Saving provision
- 11 The secretary
- 12 Functions of the Committee

Part 3—Cruelty to animals

- 13 Ill treatment of animals
- 14 Electrical devices for controlling animals not to be used in contravention of regulations
- 15 Prohibited medical or surgical procedures

Part 4—Teaching and research involving animals

Division 1—Licences for teaching and research involving animals

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

Division 2—Animal Ethics Committees

- 23 Animal ethics committees
- 24 Procedure
- 25 Functions of animal ethics committees

Division 3—Appeals

- 26 Appeals against decisions of animal ethics committees

27 Appeal against decisions of Minister

Part 5—Appointment and powers of inspectors

28 Inspectors

29 Powers of inspectors

30 Inspector or veterinary surgeon may kill animals in certain circumstances

30A Powers in relation to seized, surrendered or forfeited animals

31 Falsely representing to be an inspector

32 Immunity from liability

Part 6—Miscellaneous

33 Duty of person in charge of vehicle in case of accidents involving animals

34 Permits to hold rodeos

35 Power to provide food to neglected animals

36 Power of court to deprive convicted person of animal

37 Service of notices

38 Offences by bodies corporate

39 Continuing offences

40 Employers guilty of offence in some circumstances

42 Evidentiary provision

42A Codes of practice

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

44 Regulations

Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Prevention of Cruelty to Animals Act 1985*.

3—Interpretation

In this Act, unless the contrary intention appears—

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

(a) a human being; or

(b) a fish,

and includes any prescribed animal;

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

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

inspector means—

- (a) a member of the police force; or
- (c) a person holding an appointment as an inspector under Part 5;

owner includes—

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

pain includes suffering and distress;

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

the Society means the Royal Society for the Prevention of Cruelty to Animals (S.A.) Incorporated;

vehicle includes an aircraft or a vessel;

veterinary surgeon means a person who is registered as a veterinary surgeon under the *Veterinary Surgeons Act 1985*.

5—Act to bind Crown

This Act binds the Crown.

Part 2—The Animal Welfare Advisory Committee

6—The Animal Welfare Advisory Committee

- (1) The *Animal Welfare Advisory Committee* is established.
- (2) The Committee consists of 8 members appointed by the Governor, of whom—
 - (a) 1 is to be nominated by the Minister for Primary Industries, Natural Resources and Regional Development;
 - (b) 2 will be nominated by the South Australian Farmers Federation Incorporated;
 - (c) 1 will be nominated by the Society;
 - (d) 2 will be persons who, in the opinion of the Minister, are suitable to represent the interests of animal welfare organisations;
 - (e) 1 will be nominated by the Australian Veterinary Association;
 - (f) 1 will be engaged in research activities involving animals nominated by the Minister for Human Services.
- (3) Where the Minister, by notice in writing, requests—
 - (a) the South Australian Farmers Federation Incorporated; or
 - (b) the Society; or
 - (c) the Australian Veterinary Association,

to make a nomination for the purposes of this section, and the body to which the request is addressed fails to make such a nomination within the time allowed in the notice, the Minister may select a person for appointment as a member of the Committee, and a person so selected may then be appointed to the Committee as if nominated by the body to which the request was addressed.

- (4) The Governor may appoint a member of the Committee to be the presiding member of the Committee and another member to be the deputy presiding member of the Committee.
- (5) The Governor may appoint a suitable person to be the deputy of a member of the Committee (other than the presiding member), and the deputy may, in the absence of that member, act as a member of the Committee.

7—Term of office of members

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

8—Allowances and expenses

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

9—Conduct of business

- (1) The presiding member or, in his or her absence, the deputy presiding member will preside at a meeting of the Committee or, in the absence of both the presiding member and the deputy presiding member, the members present will decide who is to preside at the meeting.
- (3) Five members constitute a quorum of the Committee.
- (4) Each member present at a meeting of the Committee is entitled to 1 vote on a question arising for decision at that meeting.

- (5) A decision supported by the votes of not less than 5 members of the Committee is a decision of the Committee.
- (6) Subject to this Act, the Committee may conduct its business as it thinks fit.

10—Saving provision

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

11—The secretary

- (1) There will be a secretary to the Committee.
- (2) The secretary will be appointed under the *Public Sector Management Act 1995*.
- (3) The office of secretary to the Committee may be held in conjunction with any other office in the Public Service of the State.

12—Functions of the Committee

The functions of the Committee are—

- (a) to advise the Minister on any matter relating to the administration or enforcement of this Act; and
- (b) to consider, and report to the Minister on, legislative proposals affecting animal welfare; and
- (c) to examine proposed codes of practice relating to animals and report to the Minister on their likely effect upon animal welfare; and
- (ca) to develop, or assist in developing, codes of practice for animal welfare and to make recommendations to the Minister as to their adoption under the regulations; and
- (d) to investigate and report to the Minister on any matters referred by the Minister to the Committee for advice.

Part 3—Cruelty to animals

13—Ill treatment of animals

- (1) A person who ill treats an animal is guilty of an offence.
Maximum penalty: \$10 000 or imprisonment for 1 year.
- (2) Without limiting the generality of subsection (1), a person ill treats an animal if that person—
 - (a) deliberately or unreasonably causes the animal unnecessary pain; or
 - (b) being the owner of the animal—
 - (i) fails to provide it with appropriate, and adequate, food, water, shelter or exercise; or
 - (ii) fails to take reasonable steps to alleviate any pain suffered by the animal (whether by reason of age, illness or injury); or
 - (iii) abandons the animal; or

- (iv) neglects the animal so as to cause it pain; or
- (c) releases the animal from captivity for the purpose of it then being hunted or killed by another animal; or
- (d) causes the animal to be killed or injured by another animal; or
- (e) organises, participates in, or is present at, an event at which the animal is encouraged to fight with another animal; or
- (f) having injured the animal (not being an animal of which that person is the owner), fails to take reasonable steps to alleviate any pain suffered by the animal; or
- (g) kills the animal in a manner that causes the animal unnecessary pain; or
- (h) unless the animal is unconscious, kills the animal by a method that does not cause death to occur as rapidly as possible; or
- (i) ill treats the animal in any other manner prescribed by the regulations for the purposes of this section.

14—Electrical devices for controlling animals not to be used in contravention of regulations

A person must not use an electrical goad or fence or any other electrical device designed for the purpose of controlling an animal in contravention of the regulations.

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

15—Prohibited medical or surgical procedures

A person must not carry out a medical or surgical procedure on an animal in contravention of the regulations.

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

Part 4—Teaching and research involving animals

Division 1—Licences for teaching and research involving animals

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

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

without a licence under this Part.

Maximum penalty:

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

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

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

17—Application for a licence

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

18—Grant of licences

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

19—Conditions of licences

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

Prevention of Cruelty to Animals Act 1985—1.2.2000 to 30.6.2006

Part 4—Teaching and research involving animals

Division 1—Licences for teaching and research involving animals

- (3) The Minister may, by notice in writing given to the holder of a licence, vary or revoke a condition of the licence or impose a further condition.
- (4) A person who contravenes or fails to comply with a condition of a licence is guilty of an offence.

Maximum penalty:

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

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

20—Renewal of licences

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

21—Surrender of licences

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

22—Revocation of suspension of licences

- (1) Where the holder of a licence—
 - (a) has been found guilty of an offence against this Act; or
 - (b) has obtained the licence improperly; or
 - (c) has failed to comply with a condition of the licence,

the Minister may, by notice in writing addressed to the holder of the licence, revoke the licence, or suspend the licence for a period specified in the notice.

Division 2—Animal Ethics Committees

23—Animal ethics committees

- (1) The Minister may establish animal ethics committees for the purposes of this Act.
- (2) Where a licensee is required, as a condition of the licence, to establish an animal ethics committee, the licensee must establish an animal ethics committee in accordance with this section.
- (3) An animal ethics committee will consist of at least 5 members appointed by the Minister, of whom—
 - (a) at least 1 will be a veterinary surgeon; and

- (b) at least 1 will be a person who is engaged in teaching or research activities involving animals; and
 - (c) at least 1 will be a person who is responsible for the daily care of animals kept for use in teaching or research activities; and
 - (d) at least 1 will be a person with an established commitment to the welfare of animals.
- (4) In selecting persons for appointment to an animal ethics committee the Minister should act with a view to ensuring that the membership of the committee is, as nearly as possible, equally representative of each of the classes of person referred to in subsection (3).
- (5) The Minister will appoint a member of an animal ethics committee to be the presiding member of the committee.
- (6) A member of an animal ethics committee is entitled to receive—
- (a) in the case of an animal ethics committee established by the Minister—such allowances and expenses as the Governor may determine; and
 - (b) in the case of an animal ethics committee established by a licensee—such allowances and expenses as may be determined by agreement between the licensee and the member.
- (7) The term of office of a member of an animal ethics committee must not exceed 2 years, and on the expiration of a term of office, the member is eligible for reappointment.

24—Procedure

- (1) The quorum of an animal ethics committee consists of such number of members of the committee as may be determined by the Minister.
- (2) A decision carried by a majority of the votes cast by the members present at a meeting of an animal ethics committee is a decision of the committee.
- (3) Each member present at a meeting of an animal ethics committee is entitled to 1 vote on a question arising for decision at that meeting and, in the event of an equality of votes, the person presiding is entitled to a second, or casting, vote.
- (4) Subject to this Act, the business of an animal ethics committee may be conducted in accordance with the Code but otherwise in such manner as the committee determines.

25—Functions of animal ethics committees

- (1) Subject to this section, the functions of an animal ethics committee are—
 - (a) to determine matters required under this Act to be referred to an animal ethics committee by the holder of a licence; and
 - (b) to approve the use of animals for the purposes of teaching, research or experimentation proposed to be undertaken by the holder of a licence; and
 - (c) to approve the acquisition, by the holder of a licence, of animals for the purposes of teaching, research or experimentation; and

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

Maximum penalty:

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

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

Division 3—Appeals

26—Appeals against decisions of animal ethics committees

- (1) A right of appeal to the Minister lies against any decision of an animal ethics committee under this Part.
- (2) The appeal must be instituted within 1 month of the making of the decision appealed against, but the Minister may, if satisfied that in the circumstances it is just and reasonable to do so, extend the period within which an appeal may be instituted.
- (3) The Minister may not determine an appeal under this section unless the Committee has investigated, and furnished the Minister with a report upon, the appeal.
- (4) The Minister may, on the hearing of the appeal, confirm, vary or reverse the decision appealed against.

27—Appeal against decisions of Minister

- (1) A right of appeal to the Supreme Court lies against any decision of the Minister under this Part.
- (2) The appeal must be instituted within 1 month of the making of the decision appealed against, but the Supreme Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal should be so instituted.

- (3) The Supreme Court may, on the hearing of the appeal, do 1 or more of the following, according to the nature of the case:
 - (a) affirm, vary or quash the decision appealed against, or substitute, or make in addition, any decision or order that should have been made in the first instance;
 - (b) remit the subject matter of the appeal to the Minister for further consideration;
 - (c) make any further or other order as to costs or any other matter that the case requires.
- (4) The Minister must, if so required by any person affected by a decision, state in writing the reasons for that decision.
- (5) If the reasons of the Minister were not given in writing at the time of making a decision or order and the appellant then requested the Minister to state the reasons in writing, the time for instituting the appeal runs from the time when the appellant receives the written statement of those reasons.

Part 5—Appointment and powers of inspectors

28—Inspectors

- (1) The Minister may, by notice in the Gazette, appoint a person nominated by the Society to be an inspector for the purposes of this Act.
- (2) The Minister must provide each inspector appointed under this section with a certificate of identification in a form approved by the Minister.
- (2a) On ceasing to be an inspector, the former inspector must surrender the certificate to the Minister.

Maximum penalty: \$2 500.
- (3) An inspector must produce the certificate (or, in the case of a member of the police force not in uniform, his or her warrant card) at the request of any person in relation to whom the inspector is exercising powers or functions under this Act.

29—Powers of inspectors

- (1) Subject to this section, an inspector may—
 - (a) at any reasonable time, enter any premises that are—
 - (i) licensed under this Act; or
 - (ii) being used by the holder of a licence under this Act for the purposes of an activity for which the holder is required to be licensed under this Act; or
 - (iii) being used by the holder of an accreditation under the *Meat Hygiene Act 1994* for or in connection with meat processing within the meaning of that Act;
 - (b) at any reasonable time, enter any premises or vehicle that is being used for holding or confining animals that have been herded or collected together for sale, transport or any other commercial purposes;

- (c) where the inspector reasonably suspects that an offence has been committed in any premises or vehicle (including any premises or vehicle referred to in paragraph (a) or (b)), enter or break into the premises or stop and detain the vehicle and open or break into any part of the premises or vehicle, or anything in or on the premises or vehicle.
- (2) An inspector may, while in or on any premises or vehicle pursuant to this section—
 - (a) ask questions of any person in the premises or vehicle; and
 - (b) take copies of, or extracts from, documents or records in the premises or vehicle; and
 - (c) examine any animal in the premises or vehicle, and where the inspector suspects on reasonable grounds that the animal is suffering unnecessary pain, seize and remove the animal for treatment and care; and
 - (d) inspect any object in the premises or vehicle; and
 - (e) where the inspector suspects on reasonable grounds that an offence against this Act has been committed, seize and remove from the premises or vehicle any animal or object that may, in the opinion of the inspector, afford evidence of the offence; and
 - (f) take photographs, films or video, audio or other recordings; and
 - (g) require the holder of any licence or permit under this Act to produce that licence or permit for inspection.
- (3) An inspector must not exercise the powers conferred by subsection (1)(c) except on the authority of a warrant issued by a justice, unless the inspector believes, on reasonable grounds, that an animal in or on the premises or vehicle is suffering, or is in danger of suffering, unnecessary pain, and that urgent action is required.
- (4) A justice must not issue a warrant under subsection (3) unless satisfied, on information given on oath—
 - (a) that there are reasonable grounds to suspect that an offence against this Act has been committed; and
 - (b) that a warrant is reasonably required in the circumstances.
- (4a) The costs and expenses reasonably incurred by a person or the Crown in seizing, treating or caring for an animal pursuant to subsection (2)(c) may be recovered as a debt from the owner of the animal.
- (5) Where an inspector is of the opinion that the condition of an animal is such that an exercise of powers under this subsection is warranted, the inspector may by notice in writing—
 - (a) direct the owner of the animal to provide it with such food, water, shelter, rest or treatment as the inspector thinks necessary;
 - (b) require the owner to ensure that the animal is not worked or used for any purpose specified in the notice for such period as is specified in the notice;
 - (c) require the owner to ensure that the animal is exercised in accordance with the stipulations of the notice.

-
- (6) In the exercise of powers under this Act, an inspector may be accompanied by such persons as may be necessary or desirable in the circumstances.
- (7) A person must not hinder or obstruct an inspector, or a person accompanying an inspector, in the exercise by the inspector or the person accompanying the inspector, of the powers conferred by this Act.
Maximum penalty: \$1 250.
- (8) Subject to subsection (9), a person to whom a question is put under this section must not refuse or fail to answer that question to the best of the knowledge, information or belief of that person.
Maximum penalty: \$1 250.
- (9) A person is not required to answer a question if the answer would tend towards self-incrimination.
- (10) A person given a direction, or of whom a requirement is made, pursuant to this section must not refuse or fail to comply with the direction or requirement.
Maximum penalty: \$1 250.

30—Inspector or veterinary surgeon may kill animals in certain circumstances

- (1) Subject to this section, where, in the opinion of an inspector or a veterinary surgeon, the condition of an animal is, by reason of age, illness or injury, such that the animal is so weak or disabled, or in such pain, that it should be killed, the inspector or veterinary surgeon may kill the animal.
- (2) An inspector must not exercise a power under subsection (1) without the consent of the owner of the animal unless—
- (a) where the owner is not present—the inspector has been unable to contact the owner after taking reasonable steps to do so; or
 - (b) where the owner is present and refuses to consent to the killing of the animal—the inspector has obtained a warrant issued by a justice authorising the destruction of the animal.
- (3) A justice may not issue a warrant under subsection (2) unless satisfied, on information given on oath, that in the circumstances the animal to which the warrant relates should be destroyed.
- (4) An inspector who kills an animal in pursuance of the power conferred by this section does not incur any civil liability for the killing of the animal.

30A—Powers in relation to seized, surrendered or forfeited animals

- (1) An inspector may cause an animal to be killed, sold or otherwise disposed of in the following circumstances:
- (a) if a court has ordered the forfeiture of the animal to the Society pursuant to this Act; or
 - (b) if the animal has been seized and held under this Act but is no longer required to be so held and—
 - (i) the whereabouts of the animal's owner cannot, after reasonable inquiries, be ascertained; or

- (ii) the whereabouts of the animal's owner are known but the owner has failed, within 3 clear working days of being given written notice that the animal may be collected from a specified place, to collect the animal.
- (2) If an animal is disposed of under subsection (1) by sale, the proceeds of the sale are, subject to any order of a court to the contrary, the property of the Society.
- (3) In this section—
working day means any day except a Saturday, Sunday or public holiday.

31—Falsely representing to be an inspector

A person must not pretend, by words or conduct, to be an inspector appointed under this Act.

Maximum penalty: \$1 250.

32—Immunity from liability

- (1) No personal liability attaches to an inspector or a person accompanying and assisting an inspector for an act or omission, in good faith, in the exercise, or purported exercise, or the discharge, or purported discharge, of any power, function, duty or responsibility conferred or imposed under this Act.
- (2) A liability that would but for this section, lie against an inspector, or a person assisting an inspector, lies against the Crown.

Part 6—Miscellaneous

33—Duty of person in charge of vehicle in case of accidents involving animals

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

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

Maximum penalty: \$1 250.

34—Permits to hold rodeos

- (1) A person must not conduct a rodeo without a permit under this section.
Maximum penalty: \$1 250.
- (2) An application for a permit—
 - (a) must be made to the Minister; and
 - (b) must be made in the prescribed manner and in a form approved by the Minister; and
 - (c) must be accompanied by the prescribed fee.

- (3) The term for which a permit is issued under this section and the conditions (if any) on which the permit is granted must be specified in the permit.
- (4) A person who contravenes or fails to comply with a condition of a permit under this section is guilty of an offence.

Maximum penalty: \$1 250.

35—Power to provide food to neglected animals

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

36—Power of court to deprive convicted person of animal

- (1) Where the owner of an animal is convicted of an offence against this Act in respect of the animal, the court may make all or any of the following orders:
 - (a) an order directing the person to surrender the animal to an inspector;
 - (b) an order directing the person to surrender any other specified animal owned by the person to an inspector;
 - (c) an order directing that any animal owned by the person that has been surrendered or seized under this Act be forfeited to the Society;
 - (d) an order forbidding the person to acquire, or have custody of, any other animal or any other animal of a specified class, either until further order, or for the period specified in the order.

- (2) A person in relation to whom an order under subsection (1) is in force must comply with the order.

Maximum penalty: \$1 250.

37—Service of notices

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

38—Offences by bodies corporate

Where a body corporate is guilty of an offence against this Act, every member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the member could not by the exercise of reasonable diligence have prevented the commission of that offence.

39—Continuing offences

- (1) A person convicted of an offence against any provision of this Act in respect of a continuing act or omission—
 - (a) is liable, in addition to the penalty otherwise applicable to that offence, to a penalty for each day during which the act or omission continued of not more than one-tenth of the maximum penalty prescribed for that offence; and

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

40—Employers guilty of offence in some circumstances

- (1) Where a person commits an offence against this Act in the course of employment by another, the employer is guilty of an offence.
Maximum penalty: \$5 000.
- (2) It is a defence to a charge of an offence against this section to prove that the defendant could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the employee.

42—Evidentiary provision

In proceedings for an offence against this Act, an allegation in a complaint that, at a specified time—

- (a) a person was the owner of a specified animal; or
 - (b) a person was, or was not, the holder of a licence or a permit under this Act; or
 - (c) a licence or a permit was subject to specified conditions,
- will, in the absence of proof to the contrary, be proof of the matter so alleged.

42A—Codes of practice

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

- (a) a copy of the code must be kept available for inspection by members of the public, without charge and during normal office hours, at an office determined by the Minister; and
- (b) evidence of the contents of the code may be given in any legal proceedings by production of a copy of a document apparently certified by or on behalf of the Minister to be a true copy of the code.

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

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

44—Regulations

- (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.

- (2) Without limiting the generality of subsection (1), the regulations may—
- (a) regulate the slaughtering, trapping, snaring, catching, poisoning, caging or confining of animals;
 - (b) regulate medical or surgical procedures in relation to animals;
 - (c) require any specified class of persons or premises to be licensed for specified purposes;
 - (d) regulate—
 - (i) the hiring out of animals; or
 - (ii) the boarding of animals; or
 - (iii) the sale of animals; or
 - (iv) the transport of animals; or
 - (v) the husbandry of animals; or
 - (vi) the use of animals for entertainment;
 - (e) prescribe the form of any notice, application, permit, licence or other document given, made or granted under this Act;
 - (f) prescribe fees in respect of anything to be done under this Act;
 - (g) exempt, conditionally or unconditionally, any person or class of persons or any animal or class of animals from any provision of this Act;
 - (h) prescribe a fine not exceeding \$1 250 for contravention of, or non-compliance with, a regulation.
- (3) The regulations may incorporate (with or without modification) or operate by reference to any code of practice relating to animals as in force at a particular time or as amended from time to time by the authority responsible for its publication.
- (4) A regulation under this Act may be of general or limited application according to—
- (a) the classes of persons or animals; or
 - (b) the circumstances; or
 - (c) any other specified factor,
- to which the regulation is expressed to apply.

Legislative history

Notes

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

Legislation repealed by principal Act

The *Prevention of Cruelty to Animals Act 1985* repealed the following:

Prevention of Cruelty to Animals Act 1936

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1985	106	<i>Prevention of Cruelty to Animals Act 1985</i>	7.11.1985	1.8.1986 (<i>Gazette 24.7.1986 p322</i>)
1994	48	<i>Meat Hygiene Act 1994</i>	9.6.1994	1.12.1994 (<i>Gazette 1.12.1994 p1868</i>)
1999	85	<i>Prevention of Cruelty to Animals (Miscellaneous) Amendment Act 1999</i>	2.12.1999	1.2.2000 (<i>Gazette 27.1.2000 p502</i>)
2004	20	<i>Primary Produce (Food Safety Schemes) Act 2004</i>	1.7.2004	Sch 1 (cl 2)—1.7.2006 (<i>Gazette 8.6.2006 p1600</i>)

Provisions amended

New entries appear in bold.

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

Provision	How varied	Commencement
Long title	amended by 85/1999 s 18 (Sch)	1.2.2000
Pt 1		
s 2	<i>deleted by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
s 3		
<i>the Chief Inspector</i>	<i>deleted by 85/1999 s 3(a)</i>	<i>1.2.2000</i>
the Code	inserted by 85/1999 s 3(a)	1.2.2000
inspector	(b) deleted by 85/1999 s 3(b)	1.2.2000
veterinary surgeon	amended by 85/1999 s 18 (Sch)	1.2.2000
s 4	<i>deleted by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>

Pt 2		
s 6		
s 6(1) and (2)	substituted by 85/1999 s 18 (Sch)	1.2.2000
s 6(3)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 6(4)	substituted by 85/1999 s 18 (Sch)	1.2.2000
s 6(5)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 7		
s 7(1) and (4)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 8	amended by 85/1999 s 18 (Sch)	1.2.2000
s 9		
s 9(1)	substituted by 85/1999 s 18 (Sch)	1.2.2000
s 9(2)	<i>deleted by 85/1999 s 18 (Sch)</i>	<i>1.2.2000</i>
s 9(5)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 9(6)	substituted by 85/1999 s 18 (Sch)	1.2.2000
s 11		
s 11(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 11(2)	substituted by 85/1999 s 18 (Sch)	1.2.2000
s 12	amended by 85/1999 s 4	1.2.2000
Pt 3		
s 13		
s 13(1)	substituted by 85/1999 s 18 (Sch)	1.2.2000
s 13(2)	amended by 85/1999 s 5	1.2.2000
s 13(2)	(j)—(l) deleted by 85/1999 s 5	1.2.2000
ss 14 and 15	amended by 85/1999 s 18 (Sch)	1.2.2000
Pt 4		
s 16		
s 16(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 17		
s 17(2)	amended by 85/1999 s 6	1.2.2000
s 18		
s 18(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 18(2)	amended by 85/1999 ss 7, 18 (Sch)	1.2.2000
s 19		
s 19(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 19(4)	inserted by 85/1999 s 8	1.2.2000
s 20		
s 20(1), (3) and (4)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 23		
s 23(2)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 23(3)	amended by 85/1999 ss 9, 18 (Sch)	1.2.2000
s 23(5)—(7)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 24		
s 24(1)	amended by 85/1999 s 18 (Sch)	1.2.2000

Prevention of Cruelty to Animals Act 1985—1.2.2000 to 30.6.2006

Legislative history

s 24(4)	amended by 85/1999 ss 10, 18 (Sch)	1.2.2000
s 25		
s 25(1)	amended by 85/1999 s 11(a), (b)	1.2.2000
s 25(1a)	inserted by 85/1999 s 11(c)	1.2.2000
s 25(2)	amended by 85/1999 s 11(d)	1.2.2000
s 25(3)	amended by 85/1999 ss 11(e), 18 (Sch)	1.2.2000
s 25(4)	inserted by 85/1999 s 11(f)	1.2.2000
s 26		
s 26(1) and (3)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 27		
s 27(1), (4) and (5)	amended by 85/1999 s 18 (Sch)	1.2.2000
Pt 5		
s 28		
s 28(1)	substituted by 85/1999 s 12(a)	1.2.2000
s 28(2)	amended by 85/1999 ss 12(b), (c), 18 (Sch)	1.2.2000
s 28(2a)	inserted by 85/1999 s 12(d)	1.2.2000
s 28(3)	amended by 85/1999 ss 12(e), 18 (Sch)	1.2.2000
s 29		
s 29(1)	amended by 48/1994 Sch 2 cl 2	1.12.1994
s 29(2)	amended by 85/1999 ss 13(a), (b), 18 (Sch)	1.2.2000
s 29(3) and (4)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 29(4a)	inserted by 85/1999 s 13(c)	1.2.2000
s 29(5)	amended by 85/1999 s 13(d)—(h)	1.2.2000
s 29(7), (8) and (10)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 30		
s 30(2) and (3)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 30A	inserted by 85/1999 s 14	1.2.2000
s 31	amended by 85/1999 s 18 (Sch)	1.2.2000
s 32		
s 32(1) and (2)	amended by 85/1999 s 18 (Sch)	1.2.2000
Pt 6		
s 33	amended by 85/1999 s 18 (Sch)	1.2.2000
s 34		
s 34(1)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 34(2)	amended by 85/1999 s 15(a)	1.2.2000
s 34(3)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 34(4)	inserted by 85/1999 s 15(b)	1.2.2000
s 36		
s 36(1)	substituted by 85/1999 s 16	1.2.2000
s 36(2)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 38	amended by 85/1999 s 18 (Sch)	1.2.2000
s 39		
s 39(1) and (2)	amended by 85/1999 s 18 (Sch)	1.2.2000

s 40		
s 40(1) and (2)	amended by 85/1999 s 18 (Sch)	1.2.2000
s 41	<i>deleted by 85/1999 s 18 (Sch)</i>	1.2.2000
s 42	amended by 85/1999 s 18 (Sch)	1.2.2000
s 42A	inserted by 85/1999 s 17	1.2.2000
s 44		
s 44(2)	amended by 85/1999 s 18 (Sch)	1.2.2000

Historical versions

Reprint No 1—1.12.1994

Reprint No 2—1.2.2000