

South Australia

Animal Welfare Variation Regulations 2009

under the *Animal Welfare Act 1985*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Animal Welfare Variation Regulations 2009*.

2—Commencement

- (1) Parts 1 and 2 of these regulations come into operation on the day on which they are made.
- (2) Subject to subregulations (3) and (4), Part 3 of these regulations will come into operation on 1 November 2009.
- (3) Regulations 25(5) and 26(1) and (2) (to be inserted into the *Animal Welfare Regulations 2000* by regulation 12 of these regulations) will come into operation on 1 March 2011.
- (4) Regulation 29(1) (to be inserted into the *Animal Welfare Regulations 2000* by regulation 12 of these regulations) will come into operation on 20 April 2012.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Animal Welfare Regulations 2000* to take effect immediately

4—Variation of Schedule 2—Codes of practice

- (1) Schedule 2 other than item 17—delete "as amended from time to time" wherever occurring and substitute in each case:

as in force on 20 May 2009
- (2) Schedule 2, item 17—delete "as amended from time to time" and substitute:

as in force on 19 April 2007

Part 3—Variation of *Animal Welfare Regulations 2000* to take effect on later dates

5—Substitution of regulation 5

Regulation 5—delete the regulation and substitute:

5—Inspectors

- (1) For the purposes of the definition of *qualified person* in section 28 of the Act, the following training is prescribed:
 - (a) a course of basic training for inspectors provided, from time to time, by the Minister;

- (b) a course of training that would, in the opinion of the Minister, qualify a person to be appointed as a member of a police force of the Commonwealth or a State or Territory of the Commonwealth;
 - (c) a course of training approved by the Minister provided by—
 - (i) the Royal Society for the Prevention of Cruelty to Animals (South Australia) (*RSPCA*) or an organisation corresponding to the *RSPCA* in another State or a Territory of the Commonwealth; or
 - (ii) a public sector agency of the Commonwealth or a State or Territory of the Commonwealth.
- (2) An inspector is authorised to give expiation notices for an alleged offence against the Act or these regulations.

5A—Codes of practice

- (1) A person described in an entry in Schedule 2 must, in carrying out an activity described in that entry, ensure compliance with the code of practice and any modifications specified in the entry.
Maximum penalty: \$2 500.
Expiation fee: \$210.
- (2) For the purposes of section 43 of the Act, each of the codes of practice specified in Schedule 2 is a prescribed code of practice.

6—Variation of regulation 8—Use of certain other electrical devices

- (1) Regulation 8(2)(b)(i)—delete subparagraph (i) and substitute:
- (i) the animal is a prescribed animal; and
- (2) Regulation 8—after subregulation (2) insert:
- (3) In this regulation—
- prescribed animal* means—
- (a) an animal of the genus *Bos* or *Bubalus*; or
 - (b) an animal of the genus *Sus* (other than a pig that is being kept in the course of the business of a piggery).

7—Revocation of heading to Part 3

Heading to Part 3—delete the heading

8—Revocation of regulation 10

Regulation 10—delete the regulation

9—Substitution of heading to Part 3A

Heading to Part 3A—delete the heading and substitute:

Part 3—Rodeos

10—Substitution of heading to Part 3B

Heading to Part 3B—delete the heading and substitute:

Part 3A—Domestic fowls

11—Variation of regulation 13N—Requirements relating to confining domestic fowls in cages

Regulation 13N(5)—after "Subregulation (4)" insert:

and this subregulation

12—Substitution of Part 5

Part 5—delete the Part and substitute:

Part 5—Pigs

Division 1—Preliminary

21—Interpretation

(1) In this Part—

boar means an uncastrated male pig over 9 months of age;

creep area means an area for housing piglets adjacent to a farrowing crate in which the piglets of the sow are protected from crushing and overlying by the sow;

farrowing means giving birth to piglets;

farrowing crate means an enclosure for housing a sow for the purposes of farrowing—

- (a) that closely corresponds to the sow's body size; and
- (b) in which the sow is unable to turn around; and
- (c) that has an adjacent creep area for any piglets of the sow;

farrowing pen means a pen for housing—

- (a) a sow for the purposes of farrowing; and
- (b) any piglets of the sow;

feeder means a trough, hopper or other equipment from which feed may be accessed by a pig;

gilt means a female pig (other than a sow) that has been selected for breeding;

herd health program, in relation to a pig, means a program, approved by the Minister, that identifies potential health and biosecurity risks to the pig and specifies action to prevent or minimise those risks;

pen means an enclosure for housing a pig or group of pigs in which the pig or pigs are able to turn around;

piglet, of a sow, includes any piglet that is dependent on the sow for milk;

sow means an adult female pig that has had 1 or more litters;

stall means an enclosure (other than a farrowing crate) for housing a single pig—

- (a) that closely corresponds to the pig's body size; and
- (b) in which the pig is unable to turn around;

suitably qualified—see subregulation (2);

waterer means a trough or other equipment from which drinking water may be accessed by a pig.

- (2) For the purposes of this Part, a person is suitably qualified if the person—
 - (a) is a veterinary surgeon; or
 - (b) holds a tertiary qualification approved by the Minister in the field of veterinary science or agriculture; or
 - (c) holds a Certificate III in Agriculture (Pig Production) from a college within the meaning of the *Technical and Further Education Act 1975*; or
 - (d) holds a qualification that is, in the opinion of the Minister, equivalent to the qualification referred to in paragraph (c); or
 - (e) satisfies the Minister that he or she has, during a period of at least 12 months, been responsible for the care of pigs in a business that has, during that period of responsibility, complied with a quality assurance program approved by the Minister relating to pig husbandry.

22—Application of Part

This Part applies in relation to a pig kept in the course of the business of a piggery.

23—Exemptions from Part

- (1) Subject to this regulation, the Minister may, by notice in writing—
 - (a) exempt a person, subject to such conditions as the Minister thinks fit and specifies in the notice, from specified provisions of this Part; or
 - (b) vary or revoke an exemption, or a condition of an exemption, under this regulation or impose a further condition.
- (2) An exemption under this regulation operates for a period (not exceeding 12 months) specified in the notice.

- (3) A person who contravenes a condition of an exemption is guilty of an offence.

Maximum penalty: \$2 500.

Expiation fee: \$210.

24—Keeping records

- (1) A person who keeps a pig must ensure that—

- (a) a written record is kept of—

- (i) any inspection of the pig required under this Part (including any concerns regarding the pig's health or welfare detected by the inspection); and
- (ii) any inspection of equipment required under this Part (including any equipment failure or malfunction detected by the inspection); and

- (b) the record—

- (i) is kept for 3 years from the day on which the record was made; and
- (ii) is readily available for inspection at all reasonable times by an inspector.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (2) For the purposes of subregulation (1), a record may be kept in electronic form.

Division 2—General requirements

25—Day-to-day care of pigs

- (1) A person who keeps a pig must ensure that the pig is provided with—

- (a) adequate food containing sufficient nutrients to ensure the pig's good health and vitality; and
- (b) adequate water to meet the pig's physiological needs.

Maximum penalty: \$2 500.

- (2) A person who keeps a pig must ensure that, within 24 hours after birth, the pig has received colostrum or an appropriate substitute.

Maximum penalty: \$2 500.

- (3) A person who keeps a pig must ensure that the pig is inspected at least once a day to assess the pig's health and well-being.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (4) A person who keeps a pig must ensure that—
- (a) reasonable steps are taken to avoid a build up of faeces and urine in the pig's housing; and
 - (b) the pig is not tethered; and
 - (c) the pig is not exposed to any dog unless—
 - (i) the dog is under the effective control of a person; and
 - (ii) in the case of a dog that has a history of biting humans or animals—the dog is wearing a muzzle.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (5) A person who keeps a pig must ensure that—
- (a) each person responsible for the care of the pig is a suitably qualified person or a person acting under the supervision of a suitably qualified person; and
 - (b) a herd health program is in place in relation to the pig.

Maximum penalty: \$2 500.

Note—

Subregulation (5) will come into operation on 1 March 2011.

26—Medical and surgical procedures

Note—

Subregulations (1) and (2) will come into operation on 1 March 2011.

- (1) A person who keeps a pig must ensure that—
- (a) any significant medical or surgical procedure is carried out in relation to the pig only by a suitably qualified person or by a person acting under the direct supervision of a suitably qualified person; and
 - (b) any simple medical or surgical procedure is carried out in relation to the pig only by a suitably qualified person or by a person acting under the supervision (whether or not direct supervision) of a suitably qualified person.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (2) However, subregulation (1) does not apply in relation to the destruction of a pig if, due to urgent circumstances—
- (a) the services of a suitably qualified person are not reasonably available; and
 - (b) destruction of the pig is necessary in order to prevent undue suffering by the pig.

- (3) A person who keeps a pig must ensure that a vasectomy or surgical castration is not performed on a pig over 21 days of age unless the pig is anaesthetised.
- Maximum penalty: \$2 500.
Expiation fee: \$210.
- (4) In this regulation—
- significant medical or surgical procedure***, in relation to a pig, means—
- (a) vasectomy or castration of the pig; or
 - (b) tusk trimming of the pig; or
 - (c) nose ringing of the pig; or
 - (d) destruction of the pig;
- simple medical or surgical procedure***, in relation to a pig, means—
- (a) administration to the pig of a veterinary product (including a drug, vaccine or other substance) whether intravenously, orally, topically or by any other means; or
 - (b) diagnosis of pregnancy of the pig; or
 - (c) docking of the pig's tail; or
 - (d) clipping of the pig's needle teeth; or
 - (e) measurement of the pig's backfat; or
 - (f) application to the pig of identification marks, tags or chips.
- (5) This regulation is in addition to and does not derogate from the operation of—
- (a) the *Agricultural and Veterinary Products (Control of Use) Act 2002* (for example, in relation to the treatment of an animal with a veterinary product within the meaning of that Act); or
 - (b) the *Livestock Act 1997* (for example, in relation to the supply or use of a vaccine); or
 - (c) the *Veterinary Practice Act 2003* (for example, in relation to the provision of veterinary treatment within the meaning of that Act).

Division 3—Keeping pigs in indoor housing

27—Application of Division

- (1) This Division does not apply in relation to a pig that is generally allowed to range freely in a paddock or outdoor yard and uses an enclosure (such as an ark or hut) for shelter, feeding or drinking.

- (2) A reference in this Division to a minimum area of floor space required for housing for a pig is a reference to the total floor space that is to be available to the pig in the housing and does not, unless otherwise specified, include any area occupied by fixtures or fittings.

28—Pigs in individual housing—minimum space and welfare requirements

- (1) The minimum floor space requirements for pigs in individual housing set out in subregulation (2) apply to new housing, or a substantial alteration to existing housing—
- (a) in respect of which an application for development approval is made under the *Development Act 1993* after the commencement of this regulation; or
 - (b) in respect of which—
 - (i) no application for development approval has been made under the *Development Act 1993*; and
 - (ii) the building work begins after the commencement of this regulation.
- (2) A person who keeps a pig in individual housing must ensure that—
- (a) in the case of a sow kept in a stall—the floor space of the stall is not less than 0.6 metres wide and not less than 2.2 metres long; and
 - (b) in the case of a sow kept in a farrowing pen—the floor space of the pen (which may include space occupied by a farrowing crate and creep area) is not less than 5.6 square metres; and
 - (c) in the case of a sow kept in a farrowing crate with an adjacent creep area (whether or not within a farrowing pen)—
 - (i) the floor space of the farrowing crate and creep area, when aggregated, is not less than 3.2 square metres; and
 - (ii) the floor space of the farrowing crate (which may include space occupied by a rear anti-crush rail, appropriately placed) is not less than 0.5 metres wide (when measured to within 0.45 metres of the floor of the crate) and not less than 2 metres long; and
 - (d) in the case of a boar kept in a stall—the floor space of the stall is not less than 0.7 metres wide and not less than 2.4 metres long; and

- (e) in the case of a boar kept in a pen—the floor space of the pen is not less than 6 square metres.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) A person who keeps a pig in individual housing must ensure that—
 - (a) the pig is managed in such a way as to avoid harm to the pig (including aggressive or threatening behaviour) from a pig in a neighbouring area; and
 - (b) the pig is able to stand and lie down without being obstructed by fixtures or fittings; and
 - (c) if the pig is kept in a stall—
 - (i) the pig is able to stand without simultaneously touching—
 - (A) opposite ends of the stall; or
 - (B) opposite sides of the stall; and
 - (ii) the pig is able to lie down without its snout and hindquarters simultaneously touching opposite ends of the stall; and
 - (iii) the pig's back does not touch any bars along the top face of the stall when standing or when it has its head down while feeding or drinking; and
 - (d) in addition—
 - (i) in the case of a sow kept in a farrowing crate—
 - (A) during and after farrowing, the sow and her piglets are provided with sufficient space to minimise the risk of the piglets being crushed, trapped or otherwise injured; and
 - (B) when lactating, the sow is able to lie and extend her limbs freely and position herself so that both sides of her udder are accessible to her piglets; and
 - (C) the sow is not confined in the farrowing crate for more than 6 weeks during any 1 reproductive cycle unless she is required to foster piglets (in which case, she may be confined 1 additional time during which period she must receive such extra nutrition and supervision as may be necessary in order to maintain good health and vitality); and

- (ii) in the case of a boar kept in a stall—the boar is released from the stall for mating or exercise at least twice a week.

Maximum penalty: \$2 500.

Expiation fee: \$210.

Note—

It is intended that, from 20 April 2017, it will be unlawful for a pregnant sow to be confined in a stall for more than 6 weeks during any 1 reproductive cycle unless she is convalescing or receiving other veterinary care.

29—Pigs in group housing—minimum space and welfare requirements

Note—

Subregulation (1) will come into operation on 20 April 2012.

- (1) A person who keeps a pig in group housing must ensure that—
 - (a) for each sow kept in the housing—the floor space of the housing is not less than 1.4 square metres;
 - (b) for each gilt weighing more than 100 kilograms kept in the housing—the floor space is not less than 1 square metre;
 - (c) in any other case—the floor space of the housing is not less than the number of square metres calculated in accordance with the following formula:

$$0.030 \times (P \times 0.67)$$

where—

P is the average weight in kilograms of each pig kept in the housing.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (2) A person who keeps a pig in group housing must ensure that the pig is managed in such a way as to avoid harm to the pig (including aggressive or threatening behaviour) from other pigs in the housing.

Maximum penalty: \$2 500.

Expiation fee: \$210.

30—Equipment in indoor housing

- (1) A person who keeps a pig in indoor housing that is ventilated by an electronically controlled ventilation system must ensure—
 - (a) that—
 - (i) inspections of the ventilation system are carried out at least twice a day; or
 - (ii) the housing is fitted with an alarm system,

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for the purpose of alerting a person responsible for the care of the pig to any failure or malfunction of the ventilation system; and

- (b) that the housing is provided with a backup system or equipment that may be relied on to ventilate the housing in the event of such failure or malfunction in order to maintain the health and vitality of the pig.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (2) A person who keeps a pig in indoor housing must ensure that the housing is equipped with—
 - (a) a feeder and waterer for the pig that—
 - (i) are kept in good working order; and
 - (ii) are designed and positioned so as not to pose a risk of injury to the pig; and
 - (b) backup equipment or a system that may be relied on to provide feed or water to the pig in the event of a failure or malfunction of a regular feeder or waterer.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) A person who keeps a pig in indoor housing must ensure that each feeder, waterer and ventilation system in the housing and any equipment that is essential to the proper functioning of such a feeder, waterer or ventilation system is, unless otherwise specified in this regulation, inspected at least once a day.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (4) A person who keeps a pig in indoor housing must ensure that electrical installations of mains voltage are properly earthed and inaccessible to the pig.

Maximum penalty: \$2 500.

Expiation fee: \$210.

13—Variation of Schedule 2—Codes of practice

Schedule 2, item 17—delete item 17

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

with the advice and consent of the Executive Council
on 13 August 2009

No 218 of 2009

EHCS09/0007