

NORTHERN TERRITORY OF AUSTRALIA

ANIMAL WELFARE REGULATIONS

As in force at 26 June 2013

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 26 June 2013

ANIMAL WELFARE REGULATIONS

Regulations under the *Animal Welfare Act*

Part 1 Preliminary

1 Citation

These Regulations may be cited as the *Animal Welfare Regulations*.

2 Definitions

In these Regulations, unless the contrary intention appears:

appointed member means a member appointed under regulation 6(j).

appointing body, for a representative member, means the body that appointed the member under any of regulation 6(a) to (i).

chairperson means the chairperson of the Advisory Committee elected under regulation 7.

code of practice means the publication entitled "Australian code of practice for the care and use of animals for scientific purposes", published by the National Health and Medical Research Council (or its successor), as revised and renamed from time to time.

infringement notice, see regulation 15.

infringement notice offence, see regulation 14(1).

member means a member of the Advisory Committee.

prescribed amount, see regulation 14(2).

representative member means a member appointed under any of regulation 6(a) to (i).

Part 2 Animal welfare

4 Authorised use etc. of electrical devices

- (1) For the purposes of section 19(2)(a) or (b) of the Act, a person is authorised to sell an electrical device or have an electrical device in his or her possession if the device is specified in column 1 of Schedule 1 and is made or adapted for the purpose specified opposite in column 2.
- (2) For the purposes of section 19(2)(c) of the Act, a person is authorised to use an electrical device specified in column 1 of Schedule 1 only if the device is made or adapted and used for the purpose specified opposite in column 2 and is used on an animal specified opposite in column 3 in accordance with the condition (if any) specified opposite in column 4.
- (3) Despite subregulation (2), a person must not use an electrical device on an animal by applying it to the face, udders or genitals of the animal.

Part 3 Teaching or research involving animals

4A Content of annual report

- (1) For section 34A(2)(a) of the Act, an annual report prepared by a licensee must contain the following information about the licensee:
 - (a) the licensee's name and licence number;
 - (b) details of each complaint received by the licensee about the licensee's use of animals in teaching or research during the year.
- (2) For section 34A(2)(b) of the Act, the annual report must contain the following information about the licensee's ethics committee:
 - (a) the name and contact details of the committee;
 - (b) the name of each member of the committee;
 - (c) how each member of the committee is qualified, under the code of practice, for membership;
 - (d) the following information about inspections of animal housing and laboratory areas at the licensed premises conducted by the committee during the year:
 - (i) the number of inspections conducted;

- (ii) each problem identified during an inspection;
 - (iii) the action taken to rectify the problem, and the outcome of the action.
- (3) For section 34A(2)(c) of the Act, the annual report must contain the following information about each permit holder employed or engaged by the licensee:
 - (a) the name and contact details of the permit holder;
 - (b) the following information about each project conducted by the permit holder within a teaching or research program during the year:
 - (i) the name of the project;
 - (ii) the purpose of the project;
 - (iii) the duration of the project;
 - (iv) a brief description of the teaching or research conducted during the project;
 - (v) the number of animals used in the project;
 - (vi) a description of the animals, including the class and species of the animals;
 - (vii) the source of the animals;
 - (viii) each place at which procedures were conducted on the animals;
 - (ix) each place at which the animals were housed;
 - (x) details of each complaint received by the licensee about the permit holder's use of the animals during the year.

5 Animal ethics committees

For the purposes of section 41 of the Act, an animal ethics committee:

- (a) is to be established, constituted and maintained in accordance with; and
- (b) has the powers and functions specified in, the code of practice.

Part 4 Animal Welfare Advisory Committee

6 Membership

For section 69(2) of the Act, the Advisory Committee is constituted by the following members:

- (a) one person appointed by RSPCA Darwin Regional Branch Incorporated;
- (b) one person appointed by the Australian Veterinary Association;
- (c) one person appointed by the Local Government Association of the Northern Territory;
- (d) one person appointed by the Agency responsible for administering this provision;
- (e) if the Agency mentioned in paragraph (d) is not the Agency primarily responsible for primary industry – one person appointed by that Agency;
- (f) one person appointed by the Northern Territory Cattlemen's Association;
- (g) one person appointed by Charles Darwin University;
- (h) one person appointed by the Parks and Wildlife Commission of the Northern Territory;
- (i) one person appointed by each additional body nominated by the Minister by *Gazette* notice;
- (j) any other person appointed by the Minister.

7 Chairperson

The Advisory Committee must elect a member to be the chairperson of the Committee.

8 Duration of appointment – representative member

- (1) A representative member holds office for the period determined by the appointing body.
- (2) A person ceases to be a representative member if:
 - (a) the person resigns by giving written notice to the appointing body; or

- (b) the person's appointment is terminated:
 - (i) by the appointing body; or
 - (ii) under regulation 9.
- (3) If there is a vacancy in the office of a representative member, the appointing body must make another appointment to the office.

8A Duration of appointment – appointed member

- (1) An appointed member holds office for the period (not exceeding 3 years) specified in the instrument of appointment and is eligible for reappointment.
- (2) A person ceases to be an appointed member if:
 - (a) the person resigns by giving written notice to the Minister; or
 - (b) the person's appointment is terminated under regulation 9.

9 Termination of appointment

- (1) The Minister may terminate the appointment of a member for inability, inefficiency, misbehaviour or physical or mental incapacity.
- (2) The Minister must terminate the appointment of a member who:
 - (a) is absent from 3 consecutive meetings of the Advisory Committee without the leave of the Committee; or
 - (b) becomes bankrupt.

11 Meetings

- (1) The Advisory Committee must hold at least 2 meetings each year.
- (2) The chairperson:
 - (a) may convene a meeting of the Advisory Committee at any time; and
 - (b) must convene a meeting of the Advisory Committee, as soon as practicable, if requested in writing to do so by the Minister or 4 other members.
- (3) The quorum at a meeting of the Advisory Committee is 4 members.
- (3A) If a representative member is unable to attend a meeting of the Advisory Committee, the appointing body may, in writing, appoint a person to attend the meeting as the member's proxy.

- (3B) If an appointed member is unable to attend a meeting of the Advisory Committee, the member may, in writing, appoint a person to attend the meeting as the member's proxy.
- (3C) A meeting of the Advisory Committee is presided over by:
 - (a) the chairperson; or
 - (b) in the absence of the chairperson, another member elected by the members present.
- (4) Subject to subregulation (5), the Advisory Committee may from time to time determine the procedures to be followed at or in connection with its meetings.
- (5) A question arising at a meeting of the Advisory Committee is to be decided by a majority of the members present and voting and the chairperson has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

12 Validity of actions

The exercise of a power or performance of a function by the Advisory Committee is not affected by reason only that:

- (a) there is a vacancy in the membership of the Committee; or
- (b) there is a defect in:
 - (i) the appointment of a member; or
 - (ii) the election of the chairperson; or
 - (iii) the election of a member to preside over a meeting under regulation 11(3C)(b); or
- (c) a person has acted in office after the termination of his or her appointment as a member.

13 Annual report

- (1) The Advisory Committee must submit an annual report to the Minister on or before 30 September each year in relation to the financial year ending on the preceding 30 June.
- (2) The annual report is to be in a form approved by the Minister.

Part 5 Infringement notices

14 Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 2.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 2.

15 When infringement notice may be given

If an inspector or officer reasonably believes a person has committed an infringement notice offence, the inspector or officer may give a notice (an ***infringement notice***) to the person.

16 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date, time and place of the infringement notice offence;
 - (d) a description of the offence;
 - (e) the prescribed amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to whom the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
 - (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;

(c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act*, including (but not limited to) action for the following:

- (i) suspending the person's licence to drive;
- (ii) seizing personal property of the person;
- (iii) deducting an amount from the person's wages or salary;
- (iv) registering a statutory charge on land owned by the person;
- (v) making a community work order for the person and imprisonment of the person if the person breaches the order.

(3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

17 Payment by cheque

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

18 Withdrawal of infringement notice

- (1) The Authority may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
 - (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the prescribed amount.

19 Application of Part

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Part does not:
 - (a) require an infringement notice to be given; or

- (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
 - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

Part 6 Transitional matters for Animal Welfare Amendment Regulations 2013

20 Definitions

In this Part:

commencement means the commencement of this regulation.

new, for a provision of these regulations, means the provision as in force immediately after commencement.

old, for a provision of these regulations, means the provision as in force immediately before commencement.

21 Members of Advisory Committee

- (1) This regulation applies to a person who was a member immediately before commencement.
- (2) If the person was appointed as a member to represent the interests of the body mentioned in old regulation 6(2)(a), the person continues to be a member as if the person had been appointed by the body mentioned in new regulation 6(a).
- (3) If the person was appointed as a member to represent the interests of a body mentioned in any of old regulation 6(2)(b) to (h), the person continues to be a member as if the person had been appointed by the body under any of new regulation 6(b) to (h).
- (4) If the person was appointed as a member to represent the interests of a body mentioned in old regulation 6(2)(j):
 - (a) the body is taken to have been nominated by the Minister under new regulation 6(i); and

- (b) the person continues to be a member as if the person had been appointed by the body under new regulation 6(i).
- (5) If the person was appointed as a member under old regulation 6(4), the person continues to be a member as if the person had been appointed by the Minister under new regulation 6(j).

22 Chairperson of Advisory Committee

The person appointed as the Chairperson of the Advisory Committee under old regulation 7(1) and holding that office immediately before commencement continues to hold office as chairperson as if the person had been appointed under new regulation 7(1).

Schedule 1

regulation 4

Column 1 Electrical device	Column 2 Purpose	Column 3 Animal	Column 4 Condition
Electric stock prod	Driving, herding, mustering or controlling animals	Cattle, buffalo, camels and swine	
	Controlling animals at a rodeo	Horses	
Electric stunning device	Electrical stunning of animals in abattoirs	Cattle, buffalo, sheep, goats and swine	
Electric training collar (excluding a collar operated by a remote control device)	Training of animals	Dogs	Only to be used strictly in accordance with the manufacturer's instructions in respect of the use of the collar
Electro-ejaculator	Collecting semen from conscious animals	Cattle, buffalo and sheep	
	Collecting semen from tranquillised or anaesthetised animals	All species of animal including cattle, buffalo and sheep	
Electro-immobiliser	Restraining animals	Cattle, buffalo and crocodiles	Not to be used as an alternative to analgesia or anaesthesia if one of those options is the preferred procedure under appropriate animal husbandry practices

Fence known as an invisible fence	Containment of animals	Dogs	Only to be used strictly in accordance with the manufacturer's instructions in respect of the use of the fence
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Schedule 2 Infringement notice offences and prescribed amounts

regulation 14

Provision of Act	Prescribed amount (penalty units)
section 18(2)	1
section 19(2)	1
section 20(1)	1
section 20(2)	1
section 21(1)	1
section 29(1)	2
section 76A(3)	1

ENDNOTES

1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION

Animal Welfare Regulations (SL No. 14, 2000)

Notified	27 March 2000
Commenced	27 March 2000

Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 Corporations Act 2001 (Cth Act No. 50, 2001) and Cth Gaz S285, 13 July 2001)

Amendments of Animal Welfare Regulations (SL No. 1, 2004)

Notified	28 January 2004
Commenced	28 January 2004

Animal Welfare Amendment Act 2004 (Act No. 24, 2004)

Assent date	28 April 2004
Commenced	28 April 2004

Statute Law Revision Act (No. 2) 2004 (Act No. 54, 2004)

Assent date	15 September 2004
Commenced	27 October 2004 (Gaz G34, 27 October 2004, p 3)

Animal Welfare Amendment Regulations 2013 (SL No. 23, 2013)

Notified	26 June 2013
Commenced	26 June 2013

3 LIST OF AMENDMENTS

r 2	amd No. 23, 2013, r 3
r 3	rep Act No. 24, 2004, s 5
r 4A	ins No. 23, 2013, r 4
r 5	amd No. 23, 2013, r 5
r 6	amd Act No. 17, 2001, s 22; Act No 54, 2004, s 8
	sub No. 23, 2013, r 6
rr 7 – 8	sub No. 23, 2013, r 6
r 8A	ins No. 23, 2013, r 6
r 9	amd No. 23, 2013, r 11
r 10	rep No. 23, 2013, r 8
r 11	amd No. 23, 2013, rr 7 and 11
r 12	amd No. 23, 2013, r 11
pt 5 hdg	sub No. 23, 2013, r 8
rr 14 – 19	sub No. 23, 2013, r 8
r 20	rep No. 23, 2013, r 8
pt 6 hdg	ins No. 23, 2013, r 9
rr 20 – 22	ins No. 23, 2013, r 9
sch 1	amd No. 1, 2004
sch 2	sub No. 23, 2013, r 10