

ANIMAL WELFARE BILL

EXPLANATORY NOTE

THIS bill is designed to give effect to the public consultation and policy development process undertaken by the Government in 1990/92. It seeks to reflect accurately the outcome of that process, from which no legislation has hitherto eventuated.

It repeals and replaces the Animals Protection Act 1960, and its six amendments.

The bill is designed to achieve two distinct outcomes. The first is to provide for a duty of care to animals, and to outlaw specific acts of ill-treatment, neglect and use of animals, along with provisions for compliance, penalties and proceedings. The second is to provide a framework to which may be attached codes of animal welfare, codes of conduct and codes of ethical conduct. Many such codes are already developed under the guidance of the Animal Welfare Advisory Committee and the National Animal Ethics Advisory Committee. These two committees and the codes which are the outcome of their existence are given statutory effect under this bill.

Part 1, inter alia, defines that part of the animal kingdom to which the bill applies, binds the Crown, proposes a purpose that includes promotion of the "five freedoms", and defines territorial coverage so as to allow coverage of, for example, the fishing industry and live sheep export trade.

Part 2 begins with a duty of care to animals. It then outlines a cascade of offences involving cruelty and ill-treatment, the use of animals in entertainment, limits on surgery and mutilation, and then a list of specially prohibited, specially permitted, conditionally prohibited and conditionally permitted acts.

Clauses 15 and 16 are designed for enactment two years after the rest of the bill comes into force. Clause 15 is thus an incentive to produce codes within that period to codify activities pertaining to animals in a wild state and clause 16 allows a similar period of grace to develop a regulatory framework for the use of traps. The remainder of the Part deals with transport, road injury and parties to offences.

Part 3 concerns inspection and compliance. The Director-General of Agriculture is able to devolve compliance and inspection duties to competent bodies or persons. Powers of entry and seizure are defined. So too are the powers to mitigate suffering, destroy an animal, stop vehicles etc.

Part 4 determines offences and penalties.

Part 5 outlines proceedings, allows for any fine to be paid to the relevant compliance body at the Court's discretion, and allows the Court to disqualify a person from subsequent ownership or control of animals if convicted of specified offences.

Part 6 establishes the National Animal Welfare Advisory Committee and the National Animal Ethics Advisory Committee and their functions. Provisions applying to them are outlined in Schedule 2.

Part 7 provides for three types of code, and the development process they must undergo.

Part 8 provides for specified regulation making powers.

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Pete Hodgson

ANIMAL WELFARE

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A BILL INTITULED

An Act—

- (a) To reform the law relating to the welfare of animals in New Zealand; and
5 (b) To promote a duty of care towards animals; and
(c) To make better provision for the welfare of animals, the protection of animals from ill-treatment and neglect and the prevention of unreasonable pain and distress of animals

10 **1. Short Title and commencement**—(1) This Act may be cited as the Animal Welfare Act 1997.

(2) This Act, except sections 15 and 16, comes into force on 1 January 1998.

(3) Sections 15 and 16 come into force on 1 January 2000.

15

PART 1

PRELIMINARY

Interpretation

2. Interpretation—In this Act, unless the context otherwise requires,—

20 “Abandon” means—

(a) To permanently desert a domestic animal in circumstances where no provision is made for the care of the animal, or

25 (b) To deliberately release an animal from captivity or control in circumstances that are likely to result in the suffering of an animal,—

but does not include the release of a wild animal for the purpose of rehabilitating it back to the wild:

30 “Aggravated ill-treatment” means the wilful ill-treatment of an animal that results in the death or permanent disablement of the animal or that causes it to be so maimed, disabled, or injured that it becomes necessary to destroy the animal in order to terminate its suffering:

35 “Animal” means—

(a) Any live mammal including a marine mammal (but does not include a human being):

(b) Any live bird:

(c) Any live reptile or amphibian:

40 (d) Any live fish, octopus, squid, crab, lobster, or crayfish:

(e) Any other live animal that is declared by the Minister to be an animal by notice in the *Gazette*:

- “Assistant inspector” means an assistant inspector appointed under **section 22:**
- “Blister” means to apply chemical cautery to the legs of an equine animal creating tissue damage and an inflammatory reaction: 5
- “Bovine animal” means any live bull, cow, ox, steer, heifer, or calf:
- “Code of animal welfare” means a code of animal welfare made under **section 58:**
- “Code of conduct” means a code of conduct made under **section 59:** 10
- “Code of ethical conduct” means a code of ethical conduct made under **section 60:**
- “Committee” means the National Animal Welfare Advisory Committee or the National Animal Ethics Advisory Committee, as the case may be: 15
- “Compliance body” means a compliance body appointed under **section 21:**
- “Crop” means to surgically remove a section of the pinna of the ears of a dog to make the ears stand upright: 20
- “Debark” means to excise the vocal cords of a dog to reduce the noise it is capable of emitting:
- “Declaw” means to surgically remove the claws of a cat to alleviate behavioural problems:
- “Dehorn” means to remove the living horn of a bovine, ovine or caprine animal: 25
- “Department” has the same meaning as in the State Sector Act 1988:
- “Develvet” means to remove the growing antler that contains an abundant blood and nerve supply: 30
- “Device” means any prescribed object that is intended to be used, or is used, for trapping, snaring, holding, restraining, treating, or manipulating any animal:
- “Director-General” means the chief executive officer of the Ministry: 35
- “Disbud” means to destroy by caustic or chemical cautery the horn buds of a calf, lamb, or kid:
- “District” means a territorial authority district as defined in section 2 (1) of the Local Government Act 1974:
- “Domestic animal” means any mammal or bird that is kept in a state of domestication or that is farmed by extensive or intensive systems: 40
- “Employed” means to be carrying out duties under an employment contract or in an honorary capacity; and “employer” has a corresponding meaning: 45

- “Equine animal” means any live horse, donkey, ass, or mule:
- 5 “Fire” means to apply thermal cautery to the legs of an equine animal to create tissue damage and an inflammatory reaction:
- 10 “Ill-treat” means to beat, whip, kick, wound, maim, mutilate, abuse, worry, torment, torture, terrify, infuriate, or by any act or omission whatsoever inflict or cause pain or distress that in its kind or in its object or in the circumstances in which it is inflicted, is unreasonable or unnecessary:
- “Infringement offence” means an offence specified in **Schedule 1**:
- 15 “Inspector” means an inspector appointed under **section 22**:
- “Knick” means to cut the skin or ligaments of the tail of an equine animal to cause it to carry the tail in a raised position:
- 20 “Manipulation”, in relation to any animal, means interfering with the normal physiological, behavioural, or anatomical integrity of the animal by deliberately—
- (a) Exposing it to any parasite, micro-organism, drug, chemical, biological product, radiation, electrical stimulation, or environmental condition:
- 25 (b) Subjecting it to enforced activity, unusual restraint, abnormal nutrition, or surgical intervention:
- (c) Depriving it of usual care,—
- but does not include any therapy or prophylaxis necessary or desirable for the welfare of the animal or any veterinary appraisal:
- 30 “Marae” includes the area of land on which all buildings such as the wharehau (meeting house), the wharekai (dining room), ablution blocks, and any other associated buildings are situated:
- 35 “Minister” means the Minister of Agriculture:
- “Ministry” means the Ministry of Agriculture:
- “Neurectomy” means the surgical cutting or excision of a nerve or nerves in the lower part of the limb of an equine animal resulting in the desensitising of the
- 40 pastern and foot:
- “Occupier”,—
- (a) In relation to any place physically occupied by any person, means that person; and
- 45 (b) In relation to any other place, means the owner of the place; and

(c) In relation to any place, includes any agent, employee, or other person, acting or apparently acting in the general management or control of the place:

- “Rodeo” means any event open to the public that includes saddle bronc riding, bare-back riding, bull riding, steer busting, calf roping, or barrel racing and includes any rodeo school in which animals and riders are trained for a rodeo: 5
- “Territorial authority” has the same meaning as in section 2(1) of the Local Government Act 1974: 10
- “Trap” means a pitfall or any noose or mechanical device for trapping any animal, but does not include an enclosure or structure used to capture or confine any animal, provided the enclosure or structure has sufficient food and water to sustain any animal captured: 15
- “Veterinarian” means a person registered as a veterinarian under the Veterinarians Act 1994:
- “Veterinary appraisal” means an appraisal that is carried out by a veterinarian on an animal in his or her care or the care of another veterinarian, for diagnostic purposes, to assess the potential of a therapeutic agent, to assess methods of productivity, or to assess a therapy programme, where the appraisal does not cause or is not likely to cause unnecessary pain or distress. 20 25

Crown Bound

3. Act binds the Crown—This Act binds the Crown.

Purpose and Application of Act 30

- 4. Purpose of Act**—The purpose of this Act is to—
- (a) Reasonably minimise risks to animal welfare resulting from human acts and omissions; and
- (b) Promote the five freedoms of animals, that is to say, every owner or person in charge of an animal has a duty to ensure that the animal— 35
- (i) Is free from thirst, hunger, and malnutrition:
- (ii) Is provided with appropriate comfort and shelter:
- (iii) Is protected from, or receives rapid diagnosis and treatment of, any significant injury or disease: 40
- (iv) Is free from distress:

(v) Has the ability to display normal patterns of behaviour.

5. Application of Act—This Act applies to—

- 5 (a) New Zealand and so far as the outer limit of the exclusive economic zone of New Zealand (as defined by section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977); and
- (b) Any vessel or aircraft that leaves New Zealand with animals on board.

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PART 2

DUTY OF CARE TO ANIMALS, AND ILL-TREATMENT, NEGLECT,
AND USE OF ANIMALS

Duty of Care

15 **6. Duty of care to animals**—(1) Every owner and person in charge of an animal has a duty to care for that animal.

(2) Every person commits an offence who fails to comply with **subsection (1)**.

Aggravated Ill-treatment

20 **7. Aggravated ill-treatment**—Every person commits an offence who commits—

- (a) Aggravated ill-treatment; or
- (b) Bestiality; or
- (c) An act of indecency with an animal.

Ill-treatment and Neglect

25 **8. Ill-treatment and neglect causing death or disablement**—Every person commits an offence who, without reasonable excuse,—

- 30 (a) Ill-treats or neglects any animal resulting in the death or permanent disablement of the animal, or that causes it to be so sick, maimed, disabled, or injured that it becomes necessary to destroy the animal to terminate its suffering; or
- (b) Keeps alive any animal that is in such a condition that it will suffer unreasonable pain or distress if kept alive;
- 35 or
- (c) Sells, attempts to sell, or offers or exposes for sale, otherwise than for the express purpose of being slaughtered, any animal that is in such a condition that it will suffer unnecessary pain or distress if kept
- 40 alive.

- 9. Ill-treatment and neglect**—(1) Every person commits an offence who, without reasonable excuse,—
- (a) Ill-treats any animal; or
 - (b) Abandons any animal; or
 - (c) Kills any animal in such a manner or position as to cause it unreasonable pain or distress; or 5
 - (d) Throws, casts, drops, or lays any poison on any land or premises in such a manner as to endanger any domestic animal; or
 - (e) Administers to any animal any poisonous or injurious drug or substance, other than as prescribed by a veterinarian as therapy or prophylaxis necessary or desirable for the welfare of the animal, the proof of which prescription is on the person charged; or 10
 - (f) Throws over, or in any other way applies to any part of any animal, any acid or other corrosive substance. 15
- (2) Every person commits an offence who, being the owner or person in charge of an animal, without reasonable excuse,—
- (a) Omits to supply the animal with proper food and water sufficient to maintain the liveweight of that animal within the normal physiological range for its species, type, state, age, and sex so that it suffers unreasonable pain or distress; or 20
 - (b) Omits to provide the animal with proper and sufficient exercise or with sufficient space for such exercise and movement in accordance with the normal physiological needs for its species, type, age, and sex so that it suffers unreasonable pain or distress; or 25
 - (c) Neglects the animal so that it suffers unreasonable pain or distress. 30
- (3) Every person commits an offence who, being the owner or person in charge of an animal that is sick or injured, fails, without reasonable excuse, to arrange for or provide reasonable veterinary treatment to alleviate pain or distress.

Entertainment

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- 10. Animals used in entertainment**—Every person commits an offence who, without reasonable excuse,—
- (a) Causes or incites any animal to fight with another animal or human; or
 - (b) Keeps or uses any place for the purpose of causing or inciting any animal to fight or for the purpose of baiting or otherwise ill-treating any animal or manages, or assists in the management of, any such place; or 40

- (c) Is present for the purpose of witnessing the fighting or baiting of any animal at any place used or kept for that purpose; or
- 5 (d) In any manner encourages, aids, or assists in the fighting or baiting of any animal; or
- (e) Keeps any animal for the purpose of causing such an animal to fight, or for the purpose of baiting or otherwise ill-treating any animal, or training or assisting in the training of any such animal; or
- 10 (f) Promotes, arranges, conducts, assists in, is financially interested in, or takes part in, any meeting, competition, exhibition, pastime, practice, display, or any event whatsoever, at or in the course of which—
 - 15 (i) Live hares are coursed, pursued, or killed in any confined space or enclosure; or
 - (ii) Animals are released from captivity for the purpose of being shot or killed at the time of their release; or
 - 20 (iii) Animals are used in any bull fight, greasy pig contest, sheep or calf riding contest, or wild cow milking contest; or
- (g) Exhibits to the public, or supplies for exhibit, any motion picture or television production produced in New Zealand or elsewhere, if any scene in the motion picture or television production was organised or directed so as to involve the ill-treatment of any animal; or
- 25 (h) Competitively rides any equine animal on which has been performed a neurectomy.

30 *Surgery and Mutilation*

11. Surgery and mutilation of animals—Every person commits an offence who, without reasonable excuse,—

- 35 (a) Spays, or causes or procures to be spayed, any animal, unless the spaying is performed by or under the supervision of a veterinarian for veterinary teaching purposes; or
- (b) Castrates, or causes or procures to be castrated,—
 - 40 (i) Any bovine animal, sheep, goat, or pig, over an age declared by a code of animal welfare to be an age under which castration may be performed without an anaesthetic; or
 - (ii) Any animal other than a bovine animal, sheep, goat, or pig of any age unless the castration is

- performed by or under the supervision of a veterinarian for veterinary teaching purposes; or
- (c) Brands or mutilates any animal in such a manner or position as to cause the animal unreasonable pain or distress; or 5
- (d) Dehorns, or causes or procures to be dehorned, any animal over an age declared by a code of animal welfare to be an age under which dehorning may be performed without an anaesthetic, unless during the whole course of the operation, the animal is under the influence of a general or local anaesthetic of sufficient power to prevent its feeling pain; or 10
- (e) Disbuds, or causes or procures to be disbudded, any animal other than in accordance with procedures set out in a code of animal welfare; or 15
- (f) Develvets or causes to be develveted, any deer other than in accordance with procedures set out in a code of animal welfare; or
- (g) Being a veterinarian or a person acting under the supervision of a veterinarian for veterinary teaching purposes,— 20
- (i) Spays any animal; or
- (ii) Docks the tail of any equine animal; or
- (iii) Debarks any dog; or
- (iv) Declaws any cat; or 25
- (v) Castrates any bovine animal, sheep, goat, or pig over an age declared by a code of animal welfare to be an age under which castration may be performed without an anaesthetic; or
- (vi) Castrates any animal other than a bovine animal, sheep, goat, or pig of any age unless, during the whole course of the operation, the animal is under the influence of a general or local anaesthetic of sufficient power to prevent its feeling pain. 30

Prohibited and Permitted Acts 35

12. Prohibited acts—Every person commits an offence who, without reasonable excuse,—

- (a) Knicks or causes to be knicked, the tail of any equine animal; or
- (b) Crops, or causes to be cropped, the ear of any dog; or 40
- (c) Fires or blisters, or causes to be fired or blistered, any equine animal; or
- (d) Performs, or causes to be performed, any other surgical procedure or mutilation that is declared by

regulations made under **section 64** to be a prohibited act.

13. Conditionally prohibited acts—Every person commits an offence who, without reasonable excuse,—

- 5 (a) Docks, or causes to be docked, the tail of any equine animal; or
(b) Docks, or causes to be docked, the tail of any dog; or
(c) Debarks, or causes to be debarked, any dog; or
(d) Declaws or causes to be declawed, any cat—
10 unless the docking, debarking, or declawing was carried out by a veterinarian who is of the opinion, on reasonable grounds, that the operation was necessary for the welfare of the animal.

14. Conditionally permitted acts—Nothing in this Act renders unlawful,—

- 15 (a) The killing of any animal, where the killing of the animal is carried out without the infliction of unreasonable suffering;
(b) Subject to regulations made pursuant to **section 64 (2)**, any
20 research, experimental, diagnostic, toxicity or potency testing work, or any work carried out for the purpose of producing antisera or other biological agents, involving the manipulation of any animal, or any teaching involving the manipulation of any animal.

25 **15. Acts permitted under code of conduct**—Nothing in this Act renders unlawful any act or omission,—

- (a) In the pursuit of the hunting, fishing, shooting, trapping, or capturing of any animal in a wild state; or
(b) Under the authority of the Biosecurity Act 1993, the
30 Conservation Act 1987, the Fisheries Act 1983, the Marine Mammals Protection Act 1978, the Wild Animal Control Act 1977, the Wildlife Act 1953, or any other Act, or any regulation made under any such Act,—
35 if the act or omission complies with a code of conduct made under **section 59**.

Traps

16. Approved traps—Every person commits an offence who, without reasonable excuse, for the purpose of trapping or
40 catching any animal, sets or causes to be set any trap, other

than a trap approved under regulations made under **section 64 (1) (b)**.

17. Use of traps—(1) Any person who, for the purpose of trapping or catching any animal, sets or causes to be set any trap, shall, at least once within the period of 8 hours after sunrise on the day following the day on which the trap is set, inspect, or cause to be inspected by some competent person, the trap, and shall remove, or cause to be removed, from the trap, at the time of the inspection, any animal found trapped therein.

(2) Any person who removes any animal from any trap that is so injured that it is suffering pain or distress, must forthwith destroy the animal or cause it to be destroyed.

(3) Every person who fails to comply with any provision of **subsections (1) or (2)** commits an offence.

Transport

18. Transport and handling of animals—(1) Every person in charge of any vehicle, aircraft or vessel must ensure that any animal conveyed in it is provided with reasonably comfortable and secure accommodation.

(2) The consignor of any animal confined in a vehicle, aircraft, or vessel must arrange for the supply to the animal of proper and sufficient food and water, and, except when the animal is conveyed in an aircraft or vessel, must arrange that, where necessary and practicable, the animal is off-loaded to enable such a supply to be made.

(3) Every person commits an offence who, without reasonable excuse,—

(a) Fails to comply with any provision of **subsections (1) or (2)**; or
 (b) Being the owner or person in charge of any animal,—

(i) Permits it to be driven or led on any road, or permits it to be ridden; or

(ii) Permits it to be conveyed on any highway or railway, or conveyed in the air, or on any river, lake, harbour, fiord, sea, or ocean,—

while the condition or health of the animal is such as to render it unfit to be so driven, led, ridden, or conveyed, unless the animal is being driven, led, ridden, or conveyed for the purpose of being impounded under the Impounding Act 1955 or the Dog Control Act 1996, or has been seized under the provisions of **section 29**, or is being conveyed to a veterinarian for treatment, or becomes unfit to be

- driven, led, ridden, or conveyed because of a deterioration in the condition or health of the animal arising from any cause whatsoever while the animal is en route to a slaughterhouse; or
- 5 (c) Confines, conveys, or carries any animal in such a manner or position as to cause the animal unnecessary pain or distress.

Injury on Road

10 **19. Injury to animal by vehicle on road**—(1) Where any domestic animal is struck by any vehicle on any road and is so injured as to be disabled, the driver or rider of the vehicle must forthwith stop the vehicle where practicable and render assistance to the animal, or convey the animal to a veterinarian for treatment, or report the accident to the owner or person in

15 charge of the animal or to an inspector or assistant inspector, unless the driver is incapable of doing so by reason of injuries.

(2) Every person commits an offence who fails to comply with any provision of **subsection (1)**.

Parties

20 **20. Parties to offences**—Without limiting the provisions of section 66 of the Crimes Act 1961 (which relates to persons aiding or abetting the actual offender or counselling or procuring the commission of an offence), every person commits an offence who, without reasonable excuse,—

- 25 (a) Counsels, procures, aids, or abets any other person to do any act or refrain from doing any act as a result of which unnecessary pain or suffering is caused to any animal; or
- 30 (b) Being the parent or a person in charge of any child under the age of 16 years, permits the child to commit an offence against **this Part**, or fails to prevent the child from committing or continuing such an offence; or
- 35 (c) Being the owner or a person in charge of any animal, permits an offence against **this Part** to be committed in respect of that animal, or fails to prevent the commission or continuation of such an offence; or
- 40 (d) Being the occupier of any land, permits an offence against **this Part** to be committed on that land, or fails to prevent the commission or continuation of such an offence on it.

PART 3

APPOINTMENT OF COMPLIANCE BODIES AND INSPECTORS, AND
POWERS OF INSPECTORS*Compliance Bodies*

- 21. Compliance bodies**—(1) The Director-General may 5
appoint—
- (a) Any division of the Ministry or other Department; or
 - (b) Any State enterprise; or
 - (c) Any national incorporated society or other national body 10
corporate; or
 - (d) Any territorial authority—
to be a compliance body.
- (2) Before appointing a compliance body the Director-
General shall be satisfied that the division, State enterprise, 15
national incorporated society, body corporate or territorial
authority—
- (a) Has as part of its function or objects the promotion of
animal welfare and the enforcement of animal
welfare legislation:
 - (b) Is competent to provide for the training of its inspectors 20
and assistant inspectors to standards determined by
the Director-General:
 - (c) Has quality assurance systems in place that ensure the
control of compliance and law enforcement activities 25
and the activities of any inspector or assistant
inspector appointed under **this Part**.
- (3) Every compliance body appointed under **subsection (1)** is
appointed for a period not exceeding 5 years and may be
reappointed.
- (4) The Director-General may cancel the appointment of any 30
compliance body where he or she is satisfied that the
compliance body has persistently failed to meet the conditions
of **subsection (2)**.

Appointments

- 22. Appointment of inspector**—(1) The Director-General 35
may, on the nomination of a compliance body, appoint any
suitable person to be an inspector or assistant inspector for the
purposes of this Act.
- (2) Every inspector and assistant inspector appointed under
subsection (1)— 40
- (a) Is appointed for such term, not exceeding 3 years, as the
Director-General thinks fit, and may be reappointed:

(b) May at any time be removed from office by the Director-General for incapacity, neglect of duty, or misconduct:

5 (c) May resign his or her office by notice in writing addressed to the chief executive officer of his or her compliance body.

(3) The appointment of any inspector or assistant inspector appointed under this section terminates if and when he or she ceases to be employed for any reason by his or her compliance
10 body.

(4) Every constable is by virtue of his or her office deemed to be an inspector.

(5) No person appointed under this section to be an inspector or assistant inspector is by virtue of that appointment deemed
15 to be employed in the service of Her Majesty for the purposes of the State Sector Act 1988.

23. Lawful directions—Every compliance body, inspector, assistant inspector, and veterinarian must comply with any
20 lawful direction or instruction given by the Director-General in relation to the exercise and performance of the powers, duties, and functions conferred or imposed on such compliance body, inspector, assistant inspector or veterinarian by this Act.

Powers

24. Power to enter premises—(1) Any inspector has power
25 to enter at any reasonable time, by force if necessary, into or upon any vehicle, aircraft, or vessel, or upon or into any land or premises, for the purpose of inspecting any animal, where he or she is satisfied on reasonable grounds that an offence against this Act is being, or has been, committed in respect of any
30 animal:

Provided that no inspector may enter upon or into any dwellinghouse or marae, unless he or she is so authorised by a Justice in accordance with the provisions of **section 27**.

(2) Any inspector may enter upon or into any land or
35 premises at any reasonable time the land or premises are open to the public, for the purpose of inspecting any animal that is offered for sale in any pet shop or saleyard, or displayed for public view in any circus, zoological garden, animal park, rodeo, agricultural show, or animal show:

40 Provided that no inspector may enter into or upon any dwellinghouse or marae, unless he or she is so authorised by a Justice in accordance with the provisions of **section 27**.

Mitigate Suffering

25. Power to mitigate suffering—Where any inspector is satisfied that undue suffering is being caused to any animal by reason of overcrowding or insufficient water, food, or shelter, or insanitary conditions, or otherwise, there must be taken by the inspector or, if the inspector so requires in writing, by the owner or person in charge or appearing to be in charge of the animal, all such reasonable steps as the inspector considers are necessary or desirable to prevent or mitigate the suffering of the animal.

26. Supply to animals—Where any animal is kept on any land or premises, or is confined in any shed or other building or in any kennel, cage, pen, hut, or other like structure, or in any conveyance, and without access to proper and sufficient food and water for more than 24 consecutive hours, it is lawful for any inspector to enter at all reasonable times into or upon the land or premises where the animal is tied up or confined, or into the conveyance in which the animal is confined, and supply the animal with proper and sufficient food and water for so long as it is necessary:

Provided that an inspector must not enter into or upon any dwellinghouse or marae for the purpose of exercising his or her powers under this subsection, unless he or she is so authorised in writing by a Justice in accordance with the provisions of **section 27**.

Warrant to Enter

27. Warrant to enter—Any Justice who is satisfied upon application made in writing on oath that there is probable cause to suspect that an offence against this Act has been, or is being, committed in a dwellinghouse or marae or that any animal has been confined in any dwellinghouse or on any marae and has been without access to proper and sufficient food and water for more than 24 consecutive hours, may in writing authorise an inspector to enter any dwellinghouse or marae, by force if necessary, at any reasonable time for the purpose of inspecting any animal confined or kept in it.

28. Production of authority—(1) Every inspector exercising a power of entry under **sections 24 or 26** must have with him or her due evidence of his or her appointment and, if the case requires, any warrant, and must produce that evidence and, if the case requires, that warrant to the occupier or, as the

case may be, person in charge of the vehicle, vessel, or aircraft,—

- (a) If practicable, on first entering on the land or premises or into the vehicle or on board the vessel or aircraft; and
 - 5 (b) Whenever subsequently reasonably required to do so by that occupier or person in charge.
- (2) If an inspector exercises a power under this section, written advice of the entry and the purpose of the entry must be given to the occupier or, as the case may be, person in
- 10 charge of the vehicle, vessel, or aircraft as soon as practicable after that entry where—
 - (a) No prior notice or agreement of the entry was given or made; and
 - (b) That occupier or person in charge was not present at the
 - 15 time of the entry.

Seizure

29. Seizure of animals—(1) Any inspector may obtain and maintain possession, by force if necessary, of any animal in respect of which he or she has reasonable cause to believe that

- 20 an offence against this Act is being, or has been, committed and convey the animal to some place of safety, and there hold the animal until such time as the animal is forfeited to the Crown or to a compliance body pursuant to **section 48** or a District Court Judge orders that the animal be delivered to the
- 25 owner of it or to the person charged.

(2) Where any inspector has seized an animal under the provisions of **subsection (1)** and the owner is unknown or, after reasonable inquiries have been made to locate the owner, the owner cannot be found within a reasonable time, the animal is

- 30 forfeited to the compliance body employing the inspector and the animal may be sold or otherwise disposed of as the chief executive officer of the compliance body thinks fit.

30. Seizure of evidence—Any inspector may, by force if necessary,—

- 35 (a) Obtain and maintain possession of any object or document that may, in the opinion of the inspector, afford evidence of the offence; and
- (b) Inspect, or exhume for inspection, the carcass of any
- 40 animal in respect of which he or she believes an offence has been committed and remove the carcass for post mortem examination or require a post mortem examination to be performed at the place where the carcass was inspected or exhumed—

until the information in respect of the offence has been heard and determined, or such time as a District Court Judge orders that the object, document, or carcass be disposed of or be delivered to the owner of it or to the person charged.

Assistance

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31. Power to require assistance—(1) When it is necessary to do so, an inspector may request any person to assist that inspector in carrying out the provisions of this Act or regulations made under this Act.

(2) Any person requested to assist an inspector under **subsection (1)** may enter and be in or on any place, vehicle, aircraft, or vessel that the inspector may lawfully enter or be in or on. 10

Identification

32. Identification of offenders—(1) An inspector who has identified himself or herself by producing evidence of his or her appointment may require any person to give his or her full name, occupation, date of birth, and actual place of residence if the inspector has reasonable grounds for believing that the person has committed an offence against this Act. 15

(2) Every person commits an offence who, after being so required, fails to give any particulars required under **subsection (1)** or gives such a description of his or her place of abode as is illusory for the purposes of discovery. 20

Stopping Vehicles

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33. Stopping and detention of vehicles—(1) Any inspector who has reasonable grounds for believing that any animal contained in a vehicle, vessel, or aircraft is suffering or is not being conveyed in reasonably comfortable, safe, or secure accommodation, may stop and detain the vehicle, vessel, or aircraft for a reasonable period while the inspector inspects the animal and, if necessary, any suffering is mitigated. 30

(2) Where any constable arrests any person on a charge of an offence under this Act committed by that person in respect of any animal drawing or being conveyed in any vehicle of which he or she is for the time being in charge, the constable may take possession of the vehicle or animal or both, and may lodge the same in some place of safe custody until the information in respect of the offence has been heard and determined, or until such time as a District Court Judge orders that the vehicle or 40

the animal or both be delivered to the owner of it or to the person charged.

Destruction

34. Destruction of injured or suffering animals—

5 (1) Where any inspector finds any animal, not being a bird or marine mammal, severely injured or sick and, in his or her opinion, the animal would not respond to reasonable treatment so that it may live without suffering, he or she must,—

10 (a) If the owner of the animal is not known, or is absent, or cannot be found within a reasonable time, forthwith destroy the animal or cause it to be destroyed; or

15 (b) If the owner refuses to destroy the animal or to consent to the animal being destroyed, summon a veterinarian as soon as is reasonably practical, and, if the veterinarian certifies in writing that the animal would not respond to reasonable treatment so that it may live without suffering, the inspector must destroy the animal or cause it to be destroyed.

20 (2) Where any veterinarian examines any animal, not being a bird or marine mammal, that is severely injured or sick and, in his or her opinion, the animal would not respond to reasonable treatment so that it may live without suffering, he or she must,—

25 (a) If the owner of the animal is not known, or is absent, or cannot be found within a reasonable time, forthwith destroy the animal or cause it to be destroyed, and may, if it is convenient for him or her to do so, dispose of the carcass in any manner he or she thinks fit; or

30 (b) If the owner refuses to destroy the animal or to consent to the animal being destroyed, summon another veterinarian as soon as is reasonably practical, and, if that veterinarian certifies in writing that the animal would not respond to reasonable treatment so that it may live without suffering, the veterinarian must
35 destroy the animal or cause it to be destroyed, and may, if it is convenient for him or her to do so, dispose of the carcass in any manner he or she thinks fit.

40 (3) Where any assistant inspector finds any animal, not being a bird or marine mammal, severely injured or sick and, in his or her opinion, the animal would not respond to reasonable treatment and it would suffer unreasonable or unnecessary

pain or distress if kept, and an inspector or veterinarian cannot be found within a reasonable time, he or she must,—

(a) If the owner of the animal is not known, or is absent, or cannot be found within a reasonable time, forthwith destroy the animal or cause it to be destroyed; or 5

(b) If the owner refuses to destroy the animal or to consent to the animal being destroyed, summon a veterinarian as soon as is reasonably practical, and, if that veterinarian certifies in writing that the animal would not respond to reasonable treatment so that it may live without suffering, the veterinarian must destroy the animal or cause it to be destroyed. 10

(4) Notwithstanding anything in the Wildlife Act 1953, where any inspector, assistant inspector, or veterinarian finds any bird severely injured or sick and, in his or her opinion, the bird would not respond to reasonable treatment and it would suffer unreasonable pain or distress, he or she must forthwith destroy the bird or cause it to be destroyed, and may dispose of the carcass in any manner he or she thinks fit: 15

Provided that, where the bird is a protected bird under the provisions of the Wildlife Act 1953, he or she must dispose of the carcass at the direction of a warranted officer under the Conservation Act 1987. 20

(5) Where any inspector or assistant inspector finds any marine mammal that appears to the inspector or assistant inspector to be stranded, aged, sick, distressed, or troublesome, he or she must forthwith report the matter to a warranted officer under the Conservation Act 1987 to be dealt with pursuant to the Marine Mammals Protection Act 1978. 25

(6) Notwithstanding anything in this section, where any inspector or veterinarian certifies in writing that any animal impounded in any public pound under the provisions of the Impounding Act 1955 or any pound under the provisions of the Dog Control Act 1996, or in any animal shelter operated by a compliance body, is so diseased, injured, or disabled that it is in a state of continual suffering, the territorial authority having jurisdiction over the pound, or compliance body having jurisdiction over the animal shelter, must arrange for the animal to be destroyed. 30 35

(7) Where, pursuant to this section, an inspector, assistant inspector, or veterinarian destroys any animal or causes it to be destroyed and cannot conveniently dispose of the carcass, he or she must forthwith report its destruction to the territorial authority in whose district the animal was destroyed, and the 40

territorial authority must take immediate steps to dispose of the carcass in any manner it thinks fit.

Obstruction

5 **35. Obstruction and personation**—Every person commits an offence who, without reasonable excuse,—

- (a) Threatens, assaults, obstructs, or hinders an inspector, assistant inspector or veterinarian in the exercise of his or her powers or in the exercise of his or her duties under this Act; or
- 10 (b) Personates or falsely represents himself or herself to be an inspector or assistant inspector.

15 **36. Failing to obey inspector's order**—Every person commits an offence who fails to comply with a lawful direction given to that person in accordance with and for the purposes of this Act by an inspector.

PART 4

OFFENCES AND PENALTIES

Offences

20 **37. Offences**—(1) Every person commits an offence against this Act who, without reasonable excuse, acts in contravention of or fails to comply with the provisions of this Act or any regulations for the time being in force under this Act.

(2) Any offence against **sections 6, 16, 19, 32, or 36** is a strict liability offence.

25 **38. Offences to be tried summarily**—Every offence against this Act or against regulations under this Act, other than offences that are proceeded against by way of infringement notice, is punishable on summary conviction before a District Court Judge alone.

30 *Infringement Offences*

39. Infringement offences—Where any person is alleged to have committed an infringement offence, that person may either—

- (a) Be proceeded against summarily for the offence; or
- 35 (b) Be served with an infringement notice as provided in **section 40**.

40. Infringement notices—(1) Where an inspector has reasonable cause to believe that any person has committed an

infringement offence under this Act, an infringement notice may be issued to that person by the inspector.

(2) Any infringement notice may be served—

(a) By delivering it personally to the person who appears to have committed the infringement offence; or 5

(b) By sending it by post addressed to the person at the person's last known place of residence or business.

(3) For the purposes of the Summary Proceedings Act 1957, an infringement notice sent to a person by post pursuant to **subsection (2) (b)** is deemed to have been served on the person when it was so posted. 10

(4) Every infringement notice must be in the prescribed form and must contain the following particulars:

(a) Such details of the alleged infringement offence as are sufficient fairly to inform the person of the time, place, and nature of the alleged offence: 15

(b) The amount of the infringement fee specified in respect of that offence in **Schedule 1**:

(c) The address or addresses at which the infringement fee may be paid: 20

(d) The time within which the infringement fee may be paid:

(e) A summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:

(f) A statement of the right of the person served with the notice to request a hearing: 25

(g) A statement of the consequences if the person served with the notice does not pay the infringement fee:

(h) Such other particulars as are prescribed.

(5) Where an infringement notice has been issued under this section, proceedings in respect of the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957, and in that case the provisions of that section, with the necessary modifications, apply. 30

(6) All infringement fees are payable to the Director-General; and the Director-General must pay all infringement fees received into the Crown Bank Account. 35

Penalties

41. Penalties—(1) Every person who commits an offence against this Act or any regulations for the time being in force under this Act is liable,— 40

(a) In the case of an offence against any of **sections 6, 16, 19, 32 or 36** that is proceeded against by way of information, or

any offence for which no penalty is otherwise provided for, to a fine not exceeding \$1,000:

- (b) In the case of an offence against any of **sections 9, 10, 11, 12, 18, 20, or 35** or against any regulations made under this Act, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$10,000 or to both:
- (c) In the case of an offence against **section 8**, to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$20,000 or to both:
- (d) In the case of an offence against **section 7**, to imprisonment for a term not exceeding 3 years or to a fine not exceeding \$50,000 or to both.
- (2) Where a body corporate is convicted of any offence against this Act the maximum penalty is a fine 10 times the fine prescribed.

PART 5

PROCEEDINGS

Proceedings

42. Who may conduct proceedings—Where an information has been laid by an inspector, any other inspector employed by the same compliance body as the informant may appear and conduct the proceedings on the informant's behalf.

43. Time for laying information—Notwithstanding anything in the Summary Proceedings Act 1957, any information in respect of any offence against **Part 2 or section 47 (3)** may be laid at any time within 12 months from the time when the matter of the information arose.

44. Evidence in proceedings—(1) Subject to **subsection (5)**, in any proceedings for an offence against this Act or against any regulations made under this Act, a document to which **subsection (2)** applies—

- (a) Shall be admissible in evidence; and
- (b) Shall, in the absence of proof to the contrary, be sufficient evidence of the matters stated in it.
- (2) **Subsection (1)** applies to any certificate purporting to be signed by the Director-General stating that a person specified in the certificate is—
- (a) A compliance body appointed under **section 21**; or
- (b) An inspector or assistant inspector appointed under **section 22**.

(3) The production of a document purporting to be a certificate to which **subsection (2)** applies is prima facie evidence

that it is such a certificate, without proof of the signature of the person purporting to have signed it.

(4) A certificate to which **subsection (2)** applies is not admissible in evidence unless,—

(a) At least 14 days before the hearing at which the certificate is to be tendered, a copy is served, by or on behalf of the informant, on the defendant or the defendant's counsel, and that person is at the same time informed in writing that the informant does not propose to call the person who signed the certificate as a witness at the hearing; and

(b) The Court has not, on the application of the defendant made not less than 7 days before the hearing, ordered, not less than 4 days before the hearing (or such lesser period as the Court in the special circumstances of the case thinks fit), that the certificate should not be admissible as evidence in the proceedings.

(5) The Court must not make an order under **subsection (4) (b)** unless it is satisfied that there is a reasonable doubt as to the accuracy or validity of a certificate.

Damage

45. Liability for damage caused through offence—

(1) On the conviction of any person for any offence against this Act, the Court may order the offender to pay to any person such sum as it thinks fit by way of compensation for any loss of property suffered by that person through or by means of the offence.

(2) Any order for payment under this section may be enforced in the same manner as a fine.

(3) An order under this section does not affect the right of any person to recover by civil proceedings any sum in excess of the amount paid under the order.

Fines

46. Fines to be paid to compliance body—(1) Subject to **subsection (2)**, where a person is convicted of an offence under this Act and the Court imposes a fine, the Court may, if the information for that offence was laid on behalf of a compliance body, order that the fine be paid to the compliance body.

(2) There is to be deducted from every amount payable to a compliance body under **subsection (1)** a sum equal to 10% of it, which is to be credited to the Crown Bank Account.

(3) Notwithstanding anything in **subsection (2)**, where any money awarded by a Court in respect of any loss or damage is recovered as a fine, and that fine is ordered to be paid to a compliance body under **subsection (1)**, no deduction may be made under **subsection (2)** in respect of that money.

(4) Subject to **subsection (2)**, an order of the Court made under **subsection (1)** is sufficient authority for the Registrar receiving the fine to pay it to the compliance body entitled to it.

Disqualification and Forfeiture

10 **47. Power to disqualify persons convicted of ill-treating animals**—(1) A Court that convicts a person of an offence against **Part 2** or **subsection (3)** may, in addition to or in substitution of any other penalty, disqualify the person, for any period it thinks fit, from having custody or control of, or exercising
15 authority in respect of, the animal, or any animal or animals of a particular kind or description.

(2) Any person who is disqualified by an order made under **subsection (1)** may, at any time after the expiration of 12 months from the date of the order and from time to time, apply to the
20 Court by which the order was made for removal of the disqualification, and at the hearing of the application the Court may, as it thinks fit, having regard to the character of the applicant, his or her conduct since the making of the order, the nature of the offence of which he or she was convicted, and
25 any other circumstances of the case—

(a) Order that, as from a date to be specified in the order, the disqualification be removed or the order of disqualification be so varied as to apply only to animals of a kind specified in the first-mentioned
30 order; or

(b) Refuse the application:

Provided that, where on any such application, the Court orders the variation of the order of disqualification or refuses the application, a further application under this subsection shall
35 not be entertained if made within 12 months after the date of the order of variation or the refusal.

(3) Every person commits an offence who has custody or control of, or exercises authority in respect of, any animal, or any animal or animals of a particular kind or description, in
40 contravention of an order made under **subsection (1)** (including an order varied under **subsection (2)**).

48. Court may order that certain animals be forfeited—

(1) Where the owner of any animal is convicted of an offence

against this Act in respect of that animal, the Court may, if it thinks it desirable for the protection of the animal and in addition to or in substitution for any other penalty, order that the animal be forfeited to the Crown or to a compliance body.

(2) Any animal forfeited to the Crown pursuant to this section may be sold or otherwise disposed of as the Minister thinks fit. 5

(3) Any animal forfeited to a compliance body pursuant to this section may be sold or otherwise disposed of as the chief executive officer of the compliance body thinks fit. 10

Expenses and Protection

49. Expenses incurred by inspectors, constables, etc.—

(1) All expenses reasonably incurred by any inspector, assistant inspector, veterinarian, or constable in exercise of any of the powers conferred by this Act are recoverable from the owner or person in charge or appearing to be in charge of the animal. 15

(2) All veterinary expenses reasonably incurred by any inspector, assistant inspector, veterinarian, or constable in exercise of any of the powers conferred by this Act in respect of any dog that is found in a public place and the owner is not known or cannot be found are recoverable from the territorial authority in whose district the dog was found. 20

(3) All expenses reasonably incurred by any territorial authority in disposing of the carcass of any animal under **section 34** are recoverable from the owner or person in charge or appearing to be in charge of the animal. 25

(4) Those expenses are recoverable as a debt or, where the person from whom they are recoverable is convicted of an offence against this Act in respect of the animal, may be assessed by the Court and be recoverable from the defendant in the same manner as a fine. 30

(5) Any expenses that are recoverable under this section include the cost of any investigation, prosecution, inspection, examination, veterinary treatment, and care and feeding of any animal reasonably required. 35

50. Protection of persons acting under authority of Act—Any person who does any act in pursuance or intended pursuance of any of the provisions of this Act is not under any civil or criminal liability in respect of it, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he or she has acted in bad faith or without reasonable care. 40

5 **51. Certain offences against Dog Control Act 1996 deemed to be offences against this Act**—For the purpose of sections 24, 25, 26, 29, 30, 31, 32, 42, 43, 44, 45, 46, 47, 48, and 49, an offence against section 54 of the Dog Control Act 1996 is deemed to be an offence against this Act.

PART 6

ADMINISTRATION

National Animal Welfare Advisory Committee

10 **52. Appointment of National Animal Welfare Advisory Committee**—(1) The Minister must appoint a committee to be known as the National Animal Welfare Advisory Committee.

(2) The National Animal Welfare Advisory Committee must consist of not fewer than 7 and not more than 11 members, including any *ex officio* member and the chairperson.

15 (3) The chairperson of the National Animal Ethics Advisory Committee is *ex officio* a member of the National Animal Welfare Advisory Committee.

(4) In appointing members of the National Animal Welfare Advisory Committee, the Minister must—

20 (a) Take notice of, but is not bound by, any nomination made by any interested organisation:

(b) Ensure that the committee in balance has members with knowledge of animal welfare organisations, animal welfare law, animal welfare science, animal production, veterinary science, farming interests, conservation and pest management, regulatory functions, and consumer interests.

30 **53. Functions of National Animal Welfare Advisory Committee**—The functions of the National Animal Welfare Advisory Committee are to—

(a) Advise the Minister on all matters relating to the welfare of animals other than those matters that fall within the jurisdiction of the National Animal Ethics Advisory Committee:

35 (b) Review legislation as it relates to animal welfare and advise the Minister on any changes required:

(c) Develop and review codes of animal welfare and review codes of conduct:

40 (d) Evaluate any device and advise the Minister whether or not any device so evaluated should be prohibited from use, sale or importation, or permitted under specified conditions:

- (e) Recommend specific areas where research into animal welfare matters is required:
- (f) Advise the Minister of the development of techniques, procedures, acts or devices that may have a positive or negative effect on animal welfare: 5
- (g) Advise the Minister on the declaration of other animals to be animals for the purposes of this Act:
- (h) Consider and make recommendations to the Minister on any other matter that is provided for by this Act or any regulations made under this Act: 10
- (i) Undertake such other activities as may be requested by the Minister pertaining to the administration of this Act other than those matters pertaining to the administration of **sections 54, 55, and 60.**

National Animal Ethics Advisory Committee 15

54. Appointment of National Animal Ethics Advisory Committee—(1) The Minister must appoint a committee to be known as the National Animal Ethics Advisory Committee.

(2) The National Animal Ethics Advisory Committee must consist of not fewer than 7 and not more than 11 members, including the chairperson. 20

(3) In appointing members of the National Animal Ethics Advisory Committee, the Minister must—

- (a) Take notice of, but is not bound by, any nomination made by any interested organisation: 25
- (b) Ensure that the committee in balance has members with knowledge of Institutional Animal Ethics Committees, ethics, animal welfare organisations, physiology, veterinary science and research, medical science and research, conservation and pest management, regulatory functions, consumer interests, and education. 30

55. Functions of National Animal Ethics Advisory Committee—The functions of the National Animal Ethics Advisory Committee are to— 35

- (a) Advise the Minister on all matters relating to any research, experimental, diagnostic, toxicity, or potency testing work, or any work carried out for the purpose of producing antisera or other biological agents, or any teaching that involves the manipulation of any animal: 40

- (b) Advise the Minister on the content of regulations to be made under **section 64 (2)**, in particular on matters to be incorporated in any code of ethical conduct:
- 5 (c) Review and negotiate any desirable modifications to codes of ethical conduct prior to recommending approval under **section 60**:
- (d) Advise the Director-General on information that should be collated and available on the use of animals in research, testing or teaching:
- 10 (e) Advise the Minister on any matters it believes appropriate in the interests of enhancing the welfare and humane treatment of animals in research, testing, or teaching:
- (f) Undertake such other activities as may be requested by the Minister pertaining to the administration of
- 15 **sections 54, 55, and 60.**

Term of Office

56. Term of office of members of committees—Every member appointed under **section 52 or section 54**—

- 20 (a) Is appointed for a term of 3 years or such lesser term as may be determined by the Minister:
- (b) Is eligible for reappointment:
- (c) May at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct:
- 25 (d) May resign by notice in writing addressed to the Minister.

Other Administrative Provisions

57. Further provisions applying in respect of committees—The provisions in **Schedule 2** apply in respect of the National Animal Welfare Advisory Committee and the

30 National Animal Ethics Advisory Committee.

PART 7

CODES

58. Codes of animal welfare—(1) Codes of animal welfare that govern the responsibilities and activities of persons in

35 relation to domestic animals or captive animals in their ownership, care, or control may be made by the National Animal Welfare Advisory Committee.

(2) No code of animal welfare has any force or effect until it has been approved by the Minister:

Provided that the Minister must not approve a code except on the recommendation of the National Animal Welfare Advisory Committee.

(3) The Minister must not approve a code unless—

- (a) He or she is satisfied that those persons affected by the code, or the representatives of those persons, have been consulted and have had the opportunity to consider the possible effects of the code and to comment on those effects to the committee; and 5
- (b) The committee has considered any such comments made to it. 10

59. Codes of conduct—(1) Codes of conduct that govern the specific activities of persons in relation to animals may be made by the National Animal Welfare Advisory Committee.

(2) No code of conduct has any force or effect until it has been approved by the Minister: 15

Provided that the Minister must not approve a code except on the recommendation of the National Animal Welfare Advisory Committee.

(3) The Minister must not approve a code unless— 20

- (a) He or she is satisfied that those persons affected by the code, or the representatives of those persons, have been consulted and have had the opportunity to consider the possible effects of the code and to comment on those effects to the committee; and 25
- (b) The committee has considered any such comments made to it.

60. Codes of ethical conduct—(1) Codes of ethical conduct may be made by or on behalf of any person, laboratory, commercial enterprise, body corporate, or teaching or research institution, or any kind or kinds of them together. 30

(2) No code of ethical conduct has any force or effect until it has been approved by the Minister:

Provided that the Minister must not approve a code of ethical conduct except on the recommendation of the National Animal Ethics Advisory Committee. 35

(3) Where the committee has changed the content of a code of ethical conduct from that originally proposed, the Minister must not approve the code unless—

- (a) He or she is satisfied that those persons affected by the changes, or the representatives of those persons, have been consulted and have had the opportunity to 40

- consider the possible effects of the changes and to comment on those effects to the committee; and
- (b) The committee has considered any such comments made to it.

5

Approval

61. Approval of codes—(1) When the Minister approves a code of animal welfare, code of conduct, or code of ethical conduct, he or she must publish a notice of his or her approval in the *Gazette*, which notice is conclusive proof that the requirements of this Act have been complied with in respect of the approval specified in the notice.

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(2) Copies of every code of which notice of approval has been published under **subsection (1)** must be made available by the secretary to the National Animal Welfare Advisory Committee or the National Animal Ethics Advisory Committee (as the case may be) for public inspection without fee and for purchase at a reasonable price during ordinary office hours at the office of the secretary and at such other places as are notified in the *Gazette*.

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Failure to Comply

62. Failure to comply with code—Where any person is charged with an offence in respect of a failure to comply with, or an act in contravention of, any provision or any regulation made under it, and it is proved that there was in existence at the time of the alleged failure or act in contravention, a code of animal welfare, a code of conduct, or a code of ethical conduct relating to matters of the kind to which that provision relates, evidence that that code of animal welfare, code of conduct, or code of ethical conduct was in one or more relevant respects not complied with is rebuttable evidence that the person failed to comply with that provision.

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Revocation

63. Revocation and expiry of codes—(1) Every code of animal welfare, code of conduct, and code of ethical conduct expires 5 years after the date on which it was notified in the *Gazette* but may be renewed in accordance with **section 58 (3)**, **section 59 (3)**, or **section 60 (3)**, as the case may be.

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(2) Notwithstanding anything in **subsection (1)**, the Minister may, on the recommendation of a committee, revoke any code of animal welfare, code of conduct, or code of ethical conduct where he or she is satisfied that—

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- (a) The code is no longer in the public interest; or

- (b) In respect of any code of ethical conduct, the person or organisation to which the code applies—
- (i) Is no longer manipulating animals; or
 - (ii) Has applied to have the code revoked; or
 - (iii) Has persistently failed to comply with the code; 5
- or
- (iv) Being in a position of executive control over the company, has been convicted of any offence against this Act.

PART 8

10

REGULATIONS

64. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Providing for the prohibition of any surgical procedure or mutilation on the recommendation of the National Animal Welfare Advisory Committee: 15
- (b) Providing for the prohibition of the import, sale, or use of any device on the recommendation of the National Animal Welfare Advisory Committee: 20
- (c) Providing for the approval and conditions of approval of the import, sale, or use of any device on the recommendation of the National Animal Welfare Advisory Committee:
- (d) Providing for the registration of zoological parks, animal parks, circuses, rodeos, commercial aquaria, commercial stables, riding schools, equine animal hire establishments, commercial breeding kennels, animal boarding establishments, animal pounds, and animal shelters: 25
- (e) Prescribing the standards and conditions under which establishments referred to in **paragraph (d)** may operate: 30
- (f) Providing for and prescribing conditions that must or may be attached to permits, registrations, approvals, and exemptions issued under regulations made under this Act: 35
- (g) Prescribing standards relating to the operators of any of the establishments referred to in **paragraph (d)**:
- (h) Prescribing standards of competence, experience, and qualifications relating to the appointment of compliance authorities, inspectors, and assistant inspectors: 40

- (i) Prescribing procedures to be followed and standards to be met by inspectors and assistant inspectors engaged in the exercise of powers and the performance of duties under this Act:
- 5 (j) Prescribing the standards to be met prior to and during the killing of domestic animals, whether commercially or privately, for human food, animal food, or other by-products:
- (k) Providing for the approval and conditions of approval of methods of euthanasia:
- 10 (l) Providing for the recovery of costs from persons seeking approval of any code of conduct, code of ethical conduct, device, or any other matter that requires approval under this Act or any regulations made under this Act:
- 15 (m) Providing for the recovery of the costs of administering this Act in respect of any slaughterhouse, kennels, pound and animal shelter, zoological garden, animal park, safari park, and any other facility that uses, displays, or exhibits animals:
- 20 (n) Prescribing the conditions under which animals may be conveyed on any road or railway, or conveyed in the air, or on any river, lake, harbour, fiord, sea or ocean:
- (o) Prescribing the conditions under which live animals may be exported:
- 25 (p) Prescribing the forms, notices, and other documents for the purposes of this Act, and requiring the use of such forms, notices, or other documents.
- (2) Regulations may be made under this section prohibiting—
- 30 (a) Any research, experimental, diagnostic, toxicity, or potency testing work, or any work carried out for the purpose of producing antisera or other biological agents, that involves the manipulation of any animal;
- 35 or
- (b) Any teaching that involves the manipulation of any animal, unless that work or teaching is carried out in accordance with a code of ethical conduct relating to the welfare and humane treatment of the animal involved.
- 40 (3) Any regulations made for the purpose specified in subsection (2) must prescribe the matters to be incorporated in any code of ethical conduct, being matters that relate to the welfare and humane treatment of any animal upon which is
- 45 carried out any research, experimental, diagnostic, toxicity, or

potency testing work, or which is used for the production of antisera or other biological agents, or in teaching, or are matters incidental thereto, including the provision for an institutional animal ethics committee.

- (4) No regulations may be made under **subsection (1)** except on the recommendation of the Minister, who must be satisfied that the National Animal Welfare Advisory Committee— 5
- (a) Has consulted with persons or their representatives who may be affected by the regulations and have had the opportunity to consider the effects of the proposed regulations; and 10
 - (b) The committee has considered any comments made to it; and
 - (c) There are no significant reasonable objections to the proposed regulations unresolved. 15
- (5) No regulations may be made under **subsection (2)** except on the recommendation of the Minister, who must be satisfied that the National Animal Ethics Advisory Committee—
- (a) Has consulted with persons, or their representatives who may be affected by the regulations and have had the opportunity to consider the effects of the proposed regulations; and 20
 - (b) The committee has considered any comments made to it; and
 - (c) There are no significant reasonable objections to the proposed regulations unresolved. 25

PART 9

REPEALS, SAVINGS, AND TRANSITIONAL PROVISIONS

65. Savings—Without limiting the provisions of the Acts Interpretation Act 1924, it is declared that the repeal of any provision by this Act does not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of repeal and could have been made or done under this Act, continues and has effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done. 30 35

66. Transitional provision concerning inspectors and their employers—(1) Every person duly appointed and holding office as an inspector under the Animals Protection Act 1960 is deemed to have been appointed an inspector under and 40

for the purposes of this Act for 1 year after the day on which this Act comes into force.

- 5 (2) Every compliance body employing inspectors appointed under the Animals Protection Act 1960 on the day this Act comes into force is deemed to be a compliance body for the purposes of this Act for 1 year after the day on which this Act comes into force, notwithstanding that the compliance body has not met the conditions set out in **section 21**.

67. Transitional provision concerning committees—

- 10 (1) The Animal Welfare Advisory Committee is deemed to have been appointed as the National Animal Welfare Advisory Committee under and for the purposes of this Act, and the members of that committee continue in office until such time as the Minister exercises his or her powers under **section 52**.

- 15 (2) The National Animal Ethics Advisory Committee appointed under the Animals Protection Act 1960 is deemed to have been appointed under and for the purposes of this Act, and the members of that committee continue in office until such time as the Minister exercises his or her powers under
20 **section 54**.

68. Transitional provisions concerning certain offences—Paragraph (x), paragraph (y), and paragraph (z) (iii) of section 3 of the Animals Protection Act 1960 continue in force until—

- 25 (a) 1 January 2000; or
(b) Codes of animal welfare making provision for the castration or dehorning of any animal have been made under **section 58**,—
whichever is the earlier.

- 30 **69. Transitional continuance of regulations—**Every regulation specified in **Schedule 3**, so far as is not inconsistent with this Act, is deemed to have been lawfully made by the Governor-General in Council under this Act and continues in force until it is revoked by regulation made under this Act or
35 until the expiry of 2 years after that day, whichever is the earlier, and then expires.

70. Consequential amendments—The enactments specified in **Schedule 4** are amended in the manner indicated in that Schedule.

71. Repeals—The enactments specified in **Schedule 5** are repealed.

SCHEDULES

SCHEDULE 1

Section 39

INFRINGEMENT OFFENCES AND FEES

Section	Brief description of offence	Infringement fee
6 (2)	Failure to provide for the care of an animal	\$500
16 (2)	Offences related to traps	\$500
19 (2)	Failure to render assistance to injured animal on a road	\$500
32 (2)	Failure to supply particulars of identification	\$500
36	Failure to obey an inspector's instruction	\$500

Section 57

SCHEDULE 2

PROVISIONS APPLYING IN RESPECT OF NATIONAL ANIMAL WELFARE ADVISORY COMMITTEE AND NATIONAL ANIMAL ETHICS ADVISORY COMMITTEE

1. Chairperson and deputy chairperson—(1) The Minister appoints an independent chairperson for a term of 3 years and may reappoint that person.

(2) At its first meeting in the year commencing with 1 January 1998, and at its first meeting in every subsequent year, the committee elects one of its members to be its deputy chairperson.

(3) The chairperson presides at all meetings of the committee at which he or she is present.

(4) Every person appointed as chairperson or elected as deputy chairperson, unless he or she sooner resigns or vacates office as a member of the committee, holds office until his or her successor is appointed or elected under this clause, and is eligible for reappointment or re-election.

(5) If any person who is for the time being holding office as deputy chairperson vacates office as a member of the committee, an election to fill the vacancy in the office of chairperson or deputy chairperson is held at the meeting of the committee held after the vacancy on the committee has been filled.

(6) Where the office of the deputy chairperson becomes vacant in any other case, the committee elects one of its members to fill that vacancy as soon as practicable after its occurrence.

(7) During every vacancy in the office of chairperson, or while the chairperson is for any reason unable to perform the functions, powers, and duties of the chairperson, the deputy chairperson performs the functions, powers, and duties of the chairperson.

2. Secretary—The Director-General appoints the secretary to the committee.

3. Subcommittees—(1) The committee may from time to time—

(a) Appoint subcommittees, consisting of 2 or more people (of whom at least one is a member of the committee) as the committee thinks fit, to inquire into and report to the committee on such matters within the scope of its functions as are referred to them by the committee:

(b) Delegate to any subcommittee the exercise or performance of any of the committee's functions and powers, either generally, or in relation to a particular case or cases of a particular kind or description.

(2) Unless the committee otherwise determines, the committee appoints the chairperson of every subcommittee appointed under this clause.

(3) Every subcommittee appointed under this clause is subject in all things to the control of the committee, and may at any time be discharged, altered, or reconstituted by the committee.

(4) Subject to any general or special directions given or conditions imposed by the committee, the subcommittee to which any function or power is delegated may exercise that function or power in the same manner and with the same effect as if it had been conferred directly by this Act and not by delegation.

(5) Every subcommittee purporting to act pursuant to any delegation under this clause is presumed to be acting in accordance with the terms of the delegation, in the absence of proof to the contrary.

SCHEDULE 2—*continued*

PROVISIONS APPLYING IN RESPECT OF NATIONAL ANIMAL WELFARE ADVISORY
COMMITTEE AND NATIONAL ANIMAL ETHICS ADVISORY COMMITTEE—
continued

(6) Any delegation under this clause may be revoked at any time.

(7) No delegation under this clause prevents the exercise of any function or power by the committee.

4. Meetings—(1) The first meeting of the committee after 1 January 1998 is held at such time and place as the Minister appoints.

(2) Subsequent meetings of the committee are held at such times and places as the committee or its chairperson from time to time appoints.

(3) At all meetings of the committee the quorum necessary for the transaction of business is 6 members.

(4) Every question before the committee is determined by a majority of the votes of the members present at the meeting of the committee.

(5) The chairperson has a deliberative vote, and, in the case of an equality of votes, also has a casting vote.

(6) No member of the committee is entitled to vote or otherwise participate in the capacity of a member of the committee at any part of a meeting of the committee where the member has a direct pecuniary interest in the matter being considered.

5. Assent to resolution without a meeting—A resolution in writing signed or assented to by letter, facsimile, or electronic mail message by all members of the committee who are for the time being in New Zealand is as valid and effectual as if it had been passed at a meeting of the committee duly called and constituted.

6. Procedure—Subject to the provisions of this Act, the committee may regulate its procedure in such manner as it thinks fit.

7. Fees and allowances—(1) The committee, and every subcommittee appointed by the committee, are statutory boards within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There may be paid out of the Ministry's funds to members of the committee and any subcommittee appointed by the committee remuneration by way of fees or allowances and travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly.

Section 69

SCHEDULE 3
REGULATIONS CONTINUING IN FORCE

Title of Regulation	Statutory Regulations Serial Number
The Animals Protection (Code of Ethical Conduct) Regulations 1987	1987/12
The Animals Protection (Code of Ethical Conduct) Regulations 1987, Amendment No. 2 ...	1987/389
The Animals Protection (Docking of Tails) Regulations 1972	1972/45
The Animals Protection (Docking of Tails) Regulations 1972, Amendment No. 1	1976/10

SCHEDULE 4
ENACTMENTS AMENDED

Section 70

Enactment	Amendment
1957, No. 87—The Summary Proceedings Act 1957 (R.S. Vol. 9, p. 583)	By inserting in the definition of the term “infringement notice” in section 2 (1), after paragraph (f), the following paragraph: “(fa) Section 40 of the Animal Welfare Act 1997.”.
1996, No. 13—The Dog Control Act 1996	By omitting from the definition of the term “owner” in section 2 the words “Animal Protection Act 1960”, and substituting the words “Animal Welfare Act 1997”. By omitting from section 21 the words “section 3 or section 4 of the Animals Protection Act 1960”, and substituting the words “Part 2 of the Animal Welfare Act 1997”. By omitting from section 25 the words “section 3 or section 4 of the Animals Protection Act 1990”, and substituting the words “Part 2 of the Animal Welfare Act 1997”. By omitting paragraph (e) from section 35 (1), and substituting the following paragraph: “(e) Any inspector or assistant inspector under the Animal Welfare Act 1997; or”. By omitting from section 35 (5) (a) the words “Animal Protection Act 1960”, and substituting the words “Animal Welfare Act 1997”. By repealing so much of the Second Schedule as relates to the Animal Protection Act 1960.

Section 71**SCHEDULE 5****ENACTMENTS REPEALED**

- 1960, No. 30—The Animals Protection Act 1960. (R.S. Vol. 6, p. 1.)
1962, No. 55—The Animals Protection Amendment Act 1962. (R.S. Vol. 6,
p. 18.)
1971, No. 48—The Animals Protection Amendment Act 1972. (R.S. Vol. 6,
p. 19.)
1978, No. 63—The Animals Protection Amendment Act 1978. (R.S. Vol. 6,
p. 20.)
1983, No. 141—The Animals Protection Amendment Act 1983.
1987, No. 20—The Animals Protection Amendment Act 1987.
1993, No. 19—The Animals Protection Amendment Act 1993.
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