

PREVENTION OF CRUELTY TO ANIMALS BILL, 1979

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are to provide for the prevention of cruelty to animals and to repeal the Prevention of Cruelty to Animals Act, 1901. Many provisions of the repealed Act are re-enacted, with or without substantial modification.

The Bill contains the following provisions:—

PART I.—PRELIMINARY.

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Arrangement of the proposed Act.

Clause 4. Interpretation.

PART II.—OFFENCES.

Clause 5 prohibits a person from committing an act of cruelty upon an animal.

Clause 6 prohibits a person from committing an act of aggravated cruelty upon an animal.

Clause 7 prohibits a person from conveying an animal in a manner which inflicts pain upon the animal.

Clause 8 requires the owner of an animal to provide the animal with food, drink and shelter.

Clause 9 requires the owner of an animal to provide the animal with adequate exercise.

Clause 10 prohibits a person from tethering an animal in an unreasonable manner.

Clause 11 prohibits a person from abandoning an animal.

Clause 12 prohibits a person from performing certain operations upon an animal.

Clause 13 prohibits a person from using an animal for a purpose for which the animal is unfit.

Clause 14 requires the driver of a motor vehicle which injures an animal to attend to the animal and to notify its owner or certain other persons that it has been injured.

- Clause 15 prohibits a person from poisoning an animal.
- Clause 16 prohibits a person from using an electrical device upon an animal.
- Clause 17 prohibits a person from keeping certain types of spur in his possession.
- Clause 18 prohibits a person from using premises for animal baiting.
- Clause 19 prohibits a person from taking part in the trap-shooting of an animal.
- Clause 20 prohibits a person from taking part in certain animal-catching activities.
- Clause 21 prohibits a person from using an animal for the purpose of its being chased by dogs.
- Clause 22 prohibits a person from selling severely injured animals.
- Clause 23 prohibits a person from setting certain types of traps in certain parts of New South Wales.
- Clause 24 provides certain defences to the offences created by Part II.

PART III.—MISCELLANEOUS.

- Clause 25 enables an officer (defined in clause 4 (1)) to enter certain premises for the purpose of inspecting those premises and any animals therein.
- Clause 26 confers certain powers upon an officer in relation to an animal, including the power to recover from the owner of the animal certain costs in respect of his exercise of those powers.
- Clause 27 enables a stipendiary magistrate to issue search warrants.
- Clause 28 makes it an offence to obstruct any person in the exercise of his powers under the proposed Act.
- Clause 29 enables a stipendiary magistrate to require the owner of an animal to produce the animal for the inspection of the court.
- Clause 30 enables a court, where it has convicted a person of an offence in relation to an animal and where the animal is severely injured, to order the destruction of the animal and to order the person to pay the costs of destroying the animal.
- Clause 31 enables a court, where it has convicted a person of an offence in relation to an animal, to dispose of the animal and, in certain circumstances, to order that the person shall not acquire any other animal within a specified period.
- Clause 32 enables the owner or lessee of a sale-yard to recover from the owner of an animal the reasonable costs incurred by him in complying with the provisions of the proposed Act in respect of the animal.
- Clause 33 enables a court to issue a summons against a person where it appears that the person may be guilty of an offence in respect of which proceedings against some other person are being heard.

Clause 34 enables proceedings for an offence against the proposed Act to be taken in a court of petty sessions, and, in the case of proceedings for the offence of aggravated cruelty and where the informant so elects, to be taken by way of indictment.

Clause 35 enables the Governor to make regulations under the proposed Act.

Clause 36 brings into effect Schedules 1 and 2.

Schedule 1 repeals the Prevention of Cruelty to Animals Act, 1901, and the Acts, or parts thereof, by which that Act has been amended.

Schedule 2 contains certain savings and transitional provisions.

Clause 34 enables proceedings for an offence against the proposed Act to be taken in a court of petty sessions and in the case of proceedings for the offence of aggravated cruelty and where the indictment so elects to be taken by way of indictment.

Clause 35 enables the Governor to make regulations under the proposed Act.

Clause 36 brings into effect Schedules 1 and 2.

Schedule 1 repeals the provisions of Chapter 1 of Animals Act, 1901, and the Act or parts thereof by which that Act has been amended.

Schedule 2 contains certain savings and transitional provisions.

PROOF

**PREVENTION OF CRUELTY TO ANIMALS
BILL, 1979**

No. , 1979.

A BILL FOR

An Act for the prevention of cruelty to animals.

[MR CRABTREE—7 November, 1979.]

PROOF

Prevention of Cruelty to Animals.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

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PART I.

PRELIMINARY.

1. This Act may be cited as the "Prevention of Cruelty to Animals Act, 1979". Short title.

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commencement.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 3. This Act is divided as follows :—

Arrange-
ment.

PART I.—PRELIMINARY—ss. 1-4.

PART II.—OFFENCES—ss. 5-24.

PART III.—MISCELLANEOUS—ss. 25-36.

SCHEDULE 1.—REPEALS.

20 SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-
tation.

25 "animal" means a vertebrate animal, including a mammal, bird, reptile, amphibian or fish, but does not include a human being;

Prevention of Cruelty to Animals.

“animal trade” means a trade, business or profession in the course of which any animal is kept or used for a purpose prescribed for the purposes of this definition;

“authorise” includes permit;

5 “cage” includes a pit, pen, kennel, hutch and any other similar receptacle;

“confine”, in relation to an animal, includes—

(a) keep the animal in captivity by means of a cage or by any other means;

10 (b) pinion, mutilate or maim the animal for the purpose of hindering, impeding or preventing the freedom of movement of the animal;

15 (c) subject the animal to a device or contrivance for the purpose of hindering, impeding or preventing the freedom of movement of the animal; and

(d) tether the animal by means of a rope, chain or cord or by any other means;

“court” means a court of petty sessions;

“dog” includes a bitch and a puppy;

20 “domestic animal” means an animal which is tame or which has been, or is being, sufficiently tamed to serve some purpose for the use of man, or which, although it neither has been nor is being nor is intended to be so tamed, is or has become in fact wholly or partly tame;

25 “horse” includes a stallion, gelding, mare, colt, filly, foal, pony, mule, donkey, ass and jenny;

“officer” means—

(a) a member of the police force; or

(b) an officer of—

30 (i) the Royal Society for the Prevention of Cruelty to Animals, New South Wales; or

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5 (ii) an organisation or association which has as one of its objects the promotion of the welfare of, or the prevention of cruelty to, animals, or any class of animals, and which is registered as a charity under the Charitable Collections Act, 1934,

who is a special constable within the meaning of the Police Offences Act, 1901;

“owner” includes a joint owner;

10 “pain” includes suffering and distress;

“person in charge”, in relation to an animal, includes—

(a) the owner of the animal;

(b) a person who has the animal in his possession or custody, or under his care, control or supervision;

15 (c) where a person referred to in paragraph (b) is bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal, that servant or agent, as the case may be; and

20 (d) where the animal, being a stock animal, is confined in a sale-yard—

(i) the owner of the sale-yard; or

(ii) where the sale-yard is the subject of a lease, the lessee of the sale-yard;

25 “premises” means any place which is not a public place;

“public place” means any place, including any road, to which the public has its own right to resort;

“regulation” means a regulation made under this Act;

30 “sale-yard” means any premises or public place used or established for use wholly or partly for the sale of stock animals;

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“stock animal” means an animal which belongs to the class of animals comprising cattle, horses, sheep, goats, swine, poultry and any other species of animal prescribed for the purposes of this definition;

5 “veterinary surgeon” has the meaning ascribed to that expression in section 3 of the Veterinary Surgeons Act, 1923;

“veterinary treatment”, in relation to an animal, means—

10 (a) medical treatment of a prophylactic or therapeutic nature carried out upon the animal by, or in accordance with directions given in respect of the animal by, a veterinary surgeon; or

15 (b) surgical treatment of a prophylactic or therapeutic nature, or sterilisation, carried out upon the animal by a veterinary surgeon.

(2) For the purposes of this Act, a person commits an act of cruelty upon an animal if he unreasonably, unnecessarily or unjustifiably—

20 (a) beats, kills, wounds, pinions, mutilates, maims, abuses, torments, tortures, terrifies or infuriates the animal;

(b) over-loads, over-works, over-drives, over-rides or over-uses the animal;

(c) exposes the animal to excessive heat or excessive cold; or

(d) inflicts pain upon the animal.

25 (3) For the purposes of this Act, a person commits an act of aggravated cruelty upon an animal if he commits an act of cruelty upon the animal which results in—

(a) the death, deformity or serious disablement of the animal; or

30 (b) the animal being so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive.

Prevention of Cruelty to Animals.

PART II.

OFFENCES.

5. (1) A person shall not—

Cruelty to animals.

(a) commit an act of cruelty upon an animal; or

5 (b) where the person is a person in charge of an animal—
authorise the commission of an act of cruelty upon the animal.

Penalty : \$1,000 or imprisonment for 6 months, or both.

10 (2) For the purposes of subsection (1) (b), if a person
in charge of an animal has failed at any time—

(a) to exercise such reasonable care, control or supervision
of the animal as would have prevented the commission
of an act of cruelty upon the animal;

15 (b) where pain has been inflicted upon the animal—to take
such reasonable steps as would have alleviated the pain;
or

(c) where it has been necessary that the animal be provided
with veterinary treatment for a period of time—to
provide it with that treatment for that period,

20 that person shall be deemed to have authorised the commission,
at that time, of an act of cruelty upon the animal.

6. (1) A person shall not commit an act of aggravated
cruelty upon an animal.

Aggravated
cruelty to
animals.

25 Penalty : Upon summary conviction, \$2,000 or imprisonment
for 1 year, or both; upon conviction on indictment, imprisonment
for 2 years.

(2) In any proceedings for an offence against subsection
(1), the court before which the proceedings are being taken may—

30 (a) where it is not satisfied that the person accused of the
offence is guilty of the offence; and

Prevention of Cruelty to Animals.

(b) where it is satisfied that that person is guilty of an offence against section 5 (1),
convict that person of an offence against section 5 (1).

7. A person shall not—

5 (a) carry or convey an animal; or

(b) where the person is a person in charge of an animal—
authorise the carriage or conveyance of the animal,

in a manner which unreasonably, unnecessarily or unjustifiably inflicts pain upon the animal.

10 Penalty : \$1,000 or imprisonment for 6 months, or both.

Carriage and conveyance of animals.

8. (1) A person in charge of an animal shall not fail to provide the animal with proper and sufficient food, drink and shelter.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Animals to be provided with food, drink and shelter.

15 (2) In any proceedings for an offence against subsection (1), evidence that an animal was not provided with food, drink or shelter during a period of 24 hours is evidence that the person accused of the offence has failed to provide the animal with proper and sufficient food, drink and shelter during that period.

20 9. (1) A person in charge of an animal which is confined (other than a stock animal or an animal of a species which is usually kept in captivity by means of a cage) shall not fail to provide the animal with adequate exercise.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Confined animals to be exercised.

25 (2) In any proceedings for an offence against subsection (1), evidence that an animal referred to in that subsection was not released from confinement during a period of 24 hours is evidence that the person accused of the offence has failed to provide the animal with adequate exercise during that period.

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(3) A person in charge of an animal (other than a stock animal) shall not confine the animal in a cage of which the height, length or breadth is insufficient to allow the animal a reasonable opportunity for adequate exercise.

5 Penalty : \$1,000 or imprisonment for 6 months, or both.

(4) In any proceedings for an offence against subsection (3) in respect of an animal, the person accused of the offence is not guilty of the offence if he satisfies the court before which the proceedings are being taken that he confined the animal—

10 (a) for the purpose of—

(i) carrying or conveying the animal; or

(ii) displaying the animal in a public exhibition or public competition,

15 in a manner that inflicted no unnecessary pain upon the animal; and

(b) for a period not exceeding 48 hours.

10. A person shall not—

Tethering
of animals.

(a) tether an animal; or

20 (b) where the person is a person in charge of an animal—
authorise the tethering of the animal,

for an unreasonable length of time or by means of an unreasonably heavy, or unreasonably short, rope, chain or cord.

Penalty : \$1,000 or imprisonment for 6 months, or both.

11. A person shall not abandon an animal.

Animals not
to be
abandoned.

25 Penalty : \$1,000 or imprisonment for 6 months, or both.

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12. A person shall not—

- (a) dock the tail of a horse;
- (b) crop the ears of a dog; or
- (c) operate upon a dog for the purpose of preventing the dog from being able to bark.

Certain operations not to be performed on animals.

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Penalty : \$1,000 or imprisonment for 6 months, or both.

13. A person shall not—

- (a) ride, drive, use, carry or convey an animal; or
- (b) where the person is a person in charge of an animal—authorise the riding, driving, using, carrying or conveying of the animal,

Certain animals not to be ridden, etc.

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if the animal is unfit for the purpose of its being so ridden, driven, used, carried or conveyed.

Penalty : \$1,000 or imprisonment for 6 months, or both.

14. The driver of a vehicle which strikes and injures an animal (other than a bird) shall not fail—

Injuries to animals to be reported.

- (a) where, in consequence of the injury, pain has been inflicted upon the animal—to take reasonable steps to alleviate the pain; and
- (b) where that driver believes, or ought reasonably to believe, that the animal is a domestic animal—to inform, as soon as practicable, an officer or a person in charge of the animal that the animal has been injured.

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Penalty : \$1,000 or imprisonment for 6 months, or both.

15. (1) In this section, “poison” includes any substance included in the list, as in force for the time being, proclaimed under section 8 of the Poisons Act, 1966.

Poisons, etc., not to be administered to animals.

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Prevention of Cruelty to Animals.

(2) A person shall not—

- (a) administer a poison, or a substance containing a poison, to a domestic animal; or
- 5 (b) with the intention of destroying or injuring a domestic animal, throw, cast, drop, leave or lay a poison, or a substance containing a poison, in any place.

Penalty : \$1,000 or imprisonment for 6 months, or both.

16. (1) In this section, “electrical device” means a device, article or appliance which is manufactured, adapted or used for the purpose of administering an electric shock upon an animal.

Electrical devices not to be used upon animals.

(2) A person shall not use an electrical device upon an animal.

Penalty : \$1,000 or imprisonment for 6 months, or both.

15 (3) Nothing in subsection (2) prevents a person from using an electrical device of a prescribed type upon an animal belonging to a prescribed species.

17. A person shall not keep in his possession or custody any spur, or any other similar appliance, which has sharpened rowels.

Certain spurs, etc., not to be kept.

Penalty : \$1,000 or imprisonment for 6 months, or both.

20 18. A person shall not—

- (a) use any premises, or manage or control any premises which are used;
- (b) where the person is an owner of premises—authorise the premises to be used; or
- 25 (c) receive money for the admission of another person to premises which are used,

Animal baiting prohibited.

for the purpose of baiting an animal or causing an animal to fight.

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Penalty : \$1,000 or imprisonment for 6 months, or both, and, in the case of a continuing offence, a further penalty not exceeding \$500 for each day the offence continues.

19. A person shall not promote or take part in a match, Trap-shooting prohibited.
5 competition or other activity in which an animal is released from confinement for the purpose of that person, or any other person, shooting at it.

Penalty : \$1,000 or imprisonment for 6 months, or both.

20. A person shall not promote or take part in a match, Certain animal-catching activities prohibited.
10 competition or other activity in which an animal belonging to a prescribed species is released from confinement for the purpose of that person, or any other person, chasing, catching or confining it.

Penalty : \$1,000 or imprisonment for 6 months, or both.

21. (1) A person shall not—
15 (a) promote or take part in an activity in which an animal Coursing, etc., prohibited. is used for the purpose of its being chased, caught or confined by a dog; or
(b) at a place used for the purpose of the activity referred to in paragraph (a)—keep an animal for the purpose
20 of using it in connection with that activity.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(2) In any proceedings for an offence against subsection (1) (b), evidence that the person accused of the offence, while at a place used for the purpose of an activity referred to in subsection (1) (a), had an animal belonging to a prescribed species in his possession or custody, or under his care, control or supervision, is evidence that that person kept the animal at that place and at that time for the purpose of his using it in connection with that activity.

Prevention of Cruelty to Animals.

(3) In any proceedings for an offence against subsection (1), the person accused of the offence is not guilty of the offence if he satisfies the court before which the proceedings are being taken that the act in respect of which the proceedings are being taken was done by that person in the course of, and for the purpose of, mustering stock animals.

22. (1) Subject to subsection (2), a person shall not purchase, acquire, keep or sell, or offer or expose for sale, an animal which is so severely injured, so diseased or in such a condition that it is 10 cruel to keep it alive. Severely injured animals not to be sold.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(2) In any proceedings for an offence against subsection (1), the person accused of the offence is not guilty of the offence if he satisfies the court before which the proceedings are being 15 taken that he purchased, acquired, kept or sold, or offered or exposed for sale, the animal referred to in that subsection for the purpose of causing it to be promptly destroyed.

(3) Where a person purchases or acquires an animal for the purpose of causing the animal to be promptly destroyed, the 20 person shall cause it to be promptly destroyed in a manner that causes it to die quickly and without unnecessary pain.

Penalty for an offence against this subsection : \$1,000 or imprisonment for 6 months, or both.

23. A person shall not, in a prescribed part of New South 25 Wales, set a trap of a prescribed type. Certain traps not to be set.

Penalty : \$1,000 or imprisonment for 6 months, or both.

24. In any proceedings for an offence against this Part or the regulations in respect of an animal, the person accused of the offence is not guilty of the offence if he satisfies the court before Certain defences.

Prevention of Cruelty to Animals.

which the proceedings are being taken that the act or omission in respect of which the proceedings are being taken was done, authorised to be done or omitted to be done by that person—

- 5 (a) where, at the time when the offence is alleged to have been committed, the animal was—
- (i) a stock animal—in the course of, and for the purpose of, ear-marking, ear-tagging or branding the animal;
 - 10 (ii) a stock animal of less than 6 months of age—in the course of, and for the purpose of, castrating the animal;
 - (iii) a stock animal of less than 12 months of age—in the course of, and for the purpose of, dehorning the animal; or
 - 15 (iv) a lamb—in the course of, and for the purpose of, tailing the animal or performing the Mules operation upon the animal,
- in a manner that inflicted no unnecessary pain upon the animal;
- 20 (b) in the course of, and for the purpose of—
- (i) hunting, shooting, snaring, trapping, catching or capturing the animal; or
 - (ii) destroying the animal, or preparing the animal for destruction, for the purpose of producing
- 25 food for human consumption,
- in a manner that inflicted no unnecessary pain upon the animal;
- (c) in the course of, and for the purpose of, destroying the animal, or preparing the animal for destruction—
- 30 (i) in accordance with the precepts of the Jewish religion or of any other religion prescribed for the purposes of this section; or
 - (ii) in compliance with any duty imposed upon that person by or under this or any other Act;

Prevention of Cruelty to Animals.

- (d) in the course of, and for the purpose of, providing the animal with veterinary treatment; or
- (e) in the course of, and for the purpose of, carrying out upon the animal—
- 5 (i) a surgical operation;
- (ii) an operation for the purpose of physiological or pathological investigation of the animal;
- (iii) an operation for the purpose of inoculating the animal; or
- 10 (iv) an operation for the purpose of conducting a feeding experiment upon the animal,
- in accordance with the regulations.

PART III.

MISCELLANEOUS.

- 15 **25.** (1) An officer who is the holder of a prescribed authority, together with any veterinary surgeon accompanying him, may—
- (a) enter premises—
- (i) which are used for the purpose of a sale-yard or an animal trade; or
- 20 (ii) in which an animal is being used, or kept for use, in connection with a trade, business or profession; and
- (b) inspect and examine—
- (i) the premises;
- 25 (ii) any animal which is in the premises; and
- (iii) any accommodation or shelter which is provided in the premises for any animal.

Powers of officers in respect of certain premises.

Prevention of Cruelty to Animals.

(2) A prescribed person who is the holder of a prescribed authority may—

- 5 (a) enter premises in which he suspects, on reasonable grounds, that an animal is being kept for the purpose of the carrying out upon the animal of an operation referred to in section 24 (e); and
- (b) inspect and examine—
- 10 (i) the premises;
- (ii) any animal which is in the premises; and
- (iii) any accommodation or shelter which is provided in the premises for any animal.

(3) Where an officer, or a prescribed person, who is the holder of a prescribed authority exercises a power conferred upon him by this section, he shall produce the authority, if requested to do so by an occupier of the premises, for inspection by that occupier.

(4) For the purposes of this section, “prescribed person” means—

- 20 (a) a medical officer of health or an assistant medical officer of health within the meaning of the Public Health Act, 1902;
- (b) a veterinary inspector within the meaning of the Pastures Protection Act, 1934; or
- 25 (c) a veterinary officer employed in the Department of Agriculture.

26. (1) Where an officer who is the holder of a prescribed authority suspects, on reasonable grounds, that an offence against Part II is being, has been or is about to be committed in respect of an animal, the officer may—

- 30 (a) take possession of the animal;
- (b) remove the animal to such place as he thinks fit; and

Powers of
officers,
generally.

Prevention of Cruelty to Animals.

(c) retain possession of the animal—

5 (i) except as provided in subparagraph (ii)—for a period not exceeding 7 days from the date upon which the officer takes possession of the animal under paragraph (a); or

10 (ii) where, within the period referred to in subparagraph (i), proceedings are commenced in respect of the offence, and unless the court before which the proceedings are being taken otherwise directs—until the proceedings are finally determined,

but nothing in this subsection limits the operation of subsections (2)–(5).

(2) Where, in the opinion of an officer who is the holder of a prescribed authority—

15 (a) an animal has not been provided with proper and sufficient food or drink during the previous 24 hours; and

(b) the animal is not being provided with that food or drink, the officer may—

20 (c) take possession of the animal;

(d) remove the animal to such place as he thinks fit; and

(e) retain possession of the animal for such period of time as may be necessary for it to be provided with that food or drink.

25 (3) Where, in the opinion of an officer who is the holder of a prescribed authority—

(a) an animal is so severely injured, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment; and

30 (b) the animal is not being provided with that treatment, the officer may—

(c) take possession of the animal;

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- (d) remove the animal to such place as he thinks fit; and
 - (e) retain possession of the animal for such period of time as may be necessary for it to be provided with that treatment.
- 5 (4) Where, in the opinion of an officer who is the holder of a prescribed authority—
- (a) an animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive; and
 - 10 (b) the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain upon the animal,
- the officer may—
- (c) take possession of the animal;
 - (d) remove the animal to such place as he thinks fit; and
 - 15 (e) destroy the animal, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.
- (5) Where an officer who is the holder of a prescribed authority suspects, on reasonable grounds, that—
- 20 (a) an offence against Part II is being, has been or is about to be committed in respect of an animal;
 - (b) an animal—
 - (i) has not been provided with proper and sufficient food or drink during the previous 24 hours; and
 - 25 (ii) is not being provided with that food or drink;

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(c) an animal—

(i) is so severely injured, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment; and

(ii) is not being provided with that treatment; or

(d) an animal—

(i) is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive; and

(ii) the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain upon the animal,

the officer may inspect and examine the animal.

(6) Where an officer who is the holder of a prescribed authority exercises a power conferred upon him by subsection (1)–(5) in respect of an animal, the officer shall produce the authority, if requested to do so by a person in charge of the animal, for inspection by that person.

(7) An officer who is the holder of a prescribed authority may, for the purpose of exercising a power conferred upon him by subsection (1)–(5), enter or remain in premises and, where he does so enter or remain, shall produce the authority, if requested to do so by an occupier of the premises, for inspection by that occupier.

(8) The reasonable costs incurred by an officer—

(a) in the exercise of the powers conferred upon the officer by this section in respect of an animal; and

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- (b) in complying with the duties imposed upon the officer by this Act or the regulations, in consequence of the exercise by the officer of those powers,
- 5 may be recovered from the owner of the animal as a debt in a court of competent jurisdiction by—
- (c) where the officer is a member of the police force—the officer or the Crown;
- (d) where the officer is an officer of the Royal Society for the Prevention of Cruelty to Animals, New South Wales
10 —the officer or any other officer of that society; or
- (e) where the officer is an officer of an organisation or association referred to in paragraph (b) (ii) of the definition of “officer” in section 4 (1)—the officer or any other officer of that organisation or association.
- 15 27. Upon complaint made on oath by a person that the person suspects, on reasonable grounds, that there is, in any premises, an animal in respect of which an offence against this Act or the regulations—
Search warrants.
- (a) is, or is suspected of, being committed;
- 20 (b) has, or is suspected of having, been committed; or
- (c) is, or is suspected of being, about to be committed,
- a stipendiary magistrate may issue a warrant authorising an officer or officers named in the warrant, together with any person or persons so named (each of whom may, if the warrant so provides,
25 be accompanied by one or more members of the police force), at any time or times within 14 days after the date of issue of the warrant—
- (d) to enter, if need be by the use of reasonable force;
- (e) to search; and

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(f) to inspect and examine any animal which is in,
the premises described in the warrant.

28. A person shall not obstruct, hinder or interfere with any other person while that other person is exercising or performing any power, authority, duty or function conferred upon that other person by or under this Act. **Obstruction of persons exercising powers, etc.**

Penalty : \$500.

29. (1) Upon complaint made on oath by an officer that the officer suspects, on reasonable grounds, that an offence against this Act or the regulations is being, or has been, committed in respect of an animal, a stipendiary magistrate may issue a summons against a person in charge of the animal requiring the person to produce the animal, or cause the animal to be produced, before a court specified in the summons, and at a time and date so specified, for the inspection of the court. **Court may order production of animal.**

(2) A person upon whom a summons issued under subsection (1) is served shall not, without reasonable cause, fail to comply with the summons.

Penalty: \$100.

30. (1) Where—

(a) a court has convicted a person of an offence against this Act or the regulations in respect of an animal; and **Court may order destruction of animal.**

(b) the court is satisfied that the animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive,

the court may—

(c) make an order that the animal be destroyed by such person as is specified in the order; and

Prevention of Cruelty to Animals.

(d) where it has made an order under paragraph (c)—make a further order that the person referred to in paragraph (a) pay to the person specified in the order made under paragraph (c) such costs in respect of the destruction of the animal as are specified in that further order.

(2) A person specified in an order made under subsection (1) (c) shall, as soon after that person has been served with the order as is practicable, destroy the animal to which the order relates, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.

(3) Where a court has made an order under subsection (1) (d), the person to whom the costs specified in the order are required by the order to be paid may recover those costs from the person who is required by the order to pay those costs as a debt in a court of competent jurisdiction.

31. (1) Subject to subsection (2), where—

- (a) a court has convicted a person in charge of an animal of an offence against this Act or the regulations in respect of the animal; and
- (b) the court is satisfied that, if that person continues to be a person in charge of the animal, that person is likely to commit a further offence against this Act or the regulations in respect of the animal,

Court may make order regarding disposal of animal.

the court may, in addition to any penalty which it may otherwise impose, make such order in respect of the disposal of the animal as it thinks fit.

(2) Where a court has convicted a person in charge of an animal of an offence against section 6 (1), the court may, in addition to any penalty which it may otherwise impose—

- (a) make such order in respect of the disposal of—
- (i) the animal in respect of which the offence was committed; and

Prevention of Cruelty to Animals.

(ii) any other animal of which the person is a person in charge,
as it thinks fit; and

5 (b) where it has made an order under paragraph (a), make a further order that the person shall not—

(i) purchase or acquire; or

(ii) take possession or custody of,
any animal within such period as is specified in the order.

10 (3) A person upon whom an order made under subsection (1) or (2) is served shall not fail to comply with the order.

Penalty : \$1,000.

15 **32.** The reasonable costs incurred by the owner or lessee of a sale-yard in complying with the duties imposed upon that owner or lessee by this Act or the regulations in respect of a stock animal which is confined in the sale-yard may be recovered by that owner or lessee from the owner of the animal as a debt in a court of competent jurisdiction. Sale-yard owner may recoup expenses.

20 **33.** (1) Where, at any time during proceedings for an offence against this Act or the regulations in respect of an animal, the person accused of the offence satisfies the court before which those proceedings are being taken that the act or omission in respect of which those proceedings are being taken was done, authorised to be done or omitted to be done by that person in compliance with an express direction given by— Alternative summons.

25 (a) the owner of the animal; or

Prevention of Cruelty to Animals.

- (b) where that person was bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal—the servant or agent,

that court—

- 5 (c) may—

(i) make an order that that person be discharged;
or

- 10 (ii) adjourn those proceedings until the proceedings referred to in subsection (2) have been determined; and

- (d) may issue a summons against that owner, servant or agent, as the case may be, in respect of the offence—

(i) within a period of 6 months after that time;
or

- 15 (ii) within a period of 2 years after the date on which it is alleged that the offence occurred,

whichever period expires earlier.

- (2) In any proceedings against a person for an offence in respect of which a summons has been issued against that person
20 under subsection (1), the court before which the proceedings are being taken may, where it convicts that person of the offence, make an order that that person pay such costs in respect of the proceedings firstmentioned in that subsection as it thinks fit.

34. (1) Except as provided in subsection (2), proceedings
25 for an offence against this Act or the regulations may be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone. Proceedings for offences.

Prevention of Cruelty to Animals.

(2) An offence against section 6 (1) may—

(a) if the informant so elects, be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone; or

5 (b) be taken on indictment.

(3) A court shall not convict a person of an offence against this Act or the regulations in respect of an act or omission where that, or any other, court has convicted the person of that, or any other, offence against this Act or the regulations in respect
10 of that act or omission.

35. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this
15 Act and, in particular, for or with respect to—

(a) the conditions under which any animal or species of animal may be—

(i) confined;

(ii) carried or conveyed;

20 (iii) kept or used in connection with a circus; or

(iv) kept or used in connection with the production of films, television programmes or film, television or photographic advertisements;

25 (b) the accommodation or shelter to be provided for any animal or species of animal;

(c) the manner in which, and the conditions under which, any animal or species of animal may be destroyed;

(d) the licensing, prohibition, regulation and control of animal trades; and

30 (e) the fees to be paid in connection with the issue of a licence under this Act.

Prevention of Cruelty to Animals.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- 5 (b) apply differently according to different factors of a specified kind;
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body; or
- 10 (d) exempt any person, or any specified class of persons, either absolutely or subject to conditions, from the operation of any specified provision of this Act,

or may do any combination of those things.

(3) A regulation may impose a penalty not exceeding \$200 for an offence against the regulation.

15 (4) A regulation made under subsection (1) (d) may—

- (a) with respect to the licensing of an animal trade, provide for the issue of a licence subject to such conditions as the regulation may impose; or
- 20 (b) with respect to the regulation or control of an animal trade, provide that a person shall not conduct an animal trade unless he is the holder of a licence issued in respect of the animal trade.

(5) Without limiting the generality of subsection (1), a regulation made for the purposes of section 23 may—

- 25 (a) prescribe, as a part of New South Wales, the whole of New South Wales except such part thereof as may be specified in the regulation; and
- (b) prescribe a type of trap—
 - (i) by words;
 - 30 (ii) by reference to a photographic representation which is depicted in, and forms part of, the regulation; or

Prevention of Cruelty to Animals.

(iii) by reference to a diagram which is depicted in, and forms part of, the regulation,
or by any combination of those methods.

36. (1) Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed. Repeals and savings and transitional provisions.

(2) Schedule 2 has effect.

SCHEDULE 1.

Sec. 36
(1).

REPEALS.

10	Column 1.	Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
15	1901, No. 64 .. Prevention of Cruelty to Animals Act, 1901.	The whole Act.
	1928, No. 54 .. Prevention of Cruelty to Animals (Amendment) Act, 1928.	The whole Act.
	1937, No. 35 .. Statute Law Revision Act, 1937 ..	So much of the Second Schedule as amended Act No. 64, 1901.
20	1943, No. 44 .. Prevention of Cruelty to Animals (Amendment) Act, 1943.	Sections 1 (2) and (3) and 2 (1) and (3).
	1951, No. 17 .. Prevention of Cruelty to Animals (Amendment) Act, 1951.	The whole Act.
25	1952, No. 1 .. Prevention of Cruelty to Animals (Amendment) Act, 1952.	The whole Act.
	1953, No. 35 .. Prevention of Cruelty to Animals (Amendment) Act, 1955.	Sections 1 (2) and (3) and 2.
30	1967, No. 91 .. Prevention of Cruelty to Animals (Amendment) Act, 1967.	Sections 1 (2), 2, 3, 4 and 5 (2).
	1973, No. 45 .. Prevention of Cruelty to Animals (Amendment) Act, 1973.	The whole Act.
35	1977, No. 19 .. Notice of Action and Other Privileges Abolition Act, 1977.	So much of Schedule 1 as amended Act No. 64, 1901.

Prevention of Cruelty to Animals.

SCHEDULE 2.

Sec. 36
(2).

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule, "commencement day" means the day appointed and notified under section 2 (2). Interpretation.
- 5 2. A regulation which was made under the Prevention of Cruelty to Animals Act, 1901, and which was in force immediately before the commencement day, shall be deemed to be a regulation made under this Act. Regulations.
- 10 3. On and from the commencement day, a reference in any other Act to the "Prevention of Cruelty to Animals Act, 1901" shall be read and construed as a reference to the "Prevention of Cruelty to Animals Act, 1979". References in other Acts.
- 15 4. An authority in writing issued by the Minister for the purposes of section 12A (2) of the Prevention of Cruelty to Animals Act, 1901, before the commencement day, and in force immediately before that day, shall be deemed to be a prescribed authority for the purposes of section 25 (2). Authorities.
- 20 5. The provisions of sections 4A (4), 12D, 12E and 12G of the Prevention of Cruelty to Animals Act, 1901, continue to apply to and in respect of any proceeding for an offence against that Act commenced before the commencement day in the manner those provisions would have applied had not this Act been enacted. Transitional.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979

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PREVENTION OF CRUELTY TO ANIMALS BILL, 1979

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are to provide for the prevention of cruelty to animals and to repeal the Prevention of Cruelty to Animals Act, 1901. Many provisions of the repealed Act are re-enacted, with or without substantial modification.

The Bill contains the following provisions:—

PART I.—PRELIMINARY.

- Clause 1. Short title.
- Clause 2. Commencement.
- Clause 3. Arrangement of the proposed Act.
- Clause 4. Interpretation.

PART II.—OFFENCES.

- Clause 5 prohibits a person from committing an act of cruelty upon an animal.
- Clause 6 prohibits a person from committing an act of aggravated cruelty upon an animal.
- Clause 7 prohibits a person from conveying an animal in a manner which inflicts pain upon the animal.
- Clause 8 requires the owner of an animal to provide the animal with food, drink and shelter.
- Clause 9 requires the owner of an animal to provide the animal with adequate exercise.
- Clause 10 prohibits a person from tethering an animal in an unreasonable manner.
- Clause 11 prohibits a person from abandoning an animal.
- Clause 12 prohibits a person from performing certain operations upon an animal.
- Clause 13 prohibits a person from using an animal for a purpose for which the animal is unfit.
- Clause 14 requires the driver of a motor vehicle which injures an animal to attend to the animal and to notify its owner or certain other persons that it has been injured.

Clause 15 prohibits a person from poisoning an animal.

Clause 16 prohibits a person from using an electrical device upon an animal.

Clause 17 prohibits a person from keeping certain types of spur in his possession.

Clause 18 prohibits a person from using premises for animal baiting.

Clause 19 prohibits a person from taking part in the trap-shooting of an animal.

Clause 20 prohibits a person from taking part in certain animal-catching activities.

Clause 21 prohibits a person from using an animal for the purpose of its being chased by dogs.

Clause 22 prohibits a person from selling severely injured animals.

Clause 23 prohibits a person from setting certain types of traps in certain parts of New South Wales.

Clause 24 provides certain defences to the offences created by Part II.

PART III.—MISCELLANEOUS.

Clause 25 enables an officer (defined in clause 4 (1)) to enter certain premises for the purpose of inspecting those premises and any animals therein.

Clause 26 confers certain powers upon an officer in relation to an animal, including the power to recover from the owner of the animal certain costs in respect of his exercise of those powers.

Clause 27 enables a stipendiary magistrate to issue search warrants.

Clause 28 makes it an offence to obstruct any person in the exercise of his powers under the proposed Act.

Clause 29 enables a stipendiary magistrate to require the owner of an animal to produce the animal for the inspection of the court.

Clause 30 enables a court, where it has convicted a person of an offence in relation to an animal and where the animal is severely injured, to order the destruction of the animal and to order the person to pay the costs of destroying the animal.

Clause 31 enables a court, where it has convicted a person of an offence in relation to an animal, to dispose of the animal and, in certain circumstances, to order that the person shall not acquire any other animal within a specified period.

Clause 32 enables the owner or lessee of a sale-yard to recover from the owner of an animal the reasonable costs incurred by him in complying with the provisions of the proposed Act in respect of the animal.

Clause 33 enables a court to issue a summons against a person where it appears that the person may be guilty of an offence in respect of which proceedings against some other person are being heard.

Clause 34 enables proceedings for an offence against the proposed Act to be taken in a court of petty sessions, and, in the case of proceedings for the offence of aggravated cruelty and where the informant so elects, to be taken by way of indictment.

Clause 35 enables the Governor to make regulations under the proposed Act.

Clause 36 brings into effect Schedules 1 and 2.

Schedule 1 repeals the Prevention of Cruelty to Animals Act, 1901, and the Acts, or parts thereof, by which that Act has been amended.

Schedule 2 contains certain savings and transitional provisions.

**PREVENTION OF CRUELTY TO ANIMALS
BILL, 1979**

No. , 1979.

A BILL FOR

An Act for the prevention of cruelty to animals.

[MR CRABTREE—7 November, 1979.]

Prevention of Cruelty to Animals.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Prevention of Cruelty to Animals Act, 1979". Short title.

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commencement.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 3. This Act is divided as follows :—

Arrange-
ment.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—OFFENCES—ss. 5–24.

PART III.—MISCELLANEOUS—ss. 25–36.

SCHEDULE 1.—REPEALS.

20 SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-
tation.

25 "animal" means a vertebrate animal, including a mammal, bird, reptile, amphibian or fish, but does not include a human being;

Prevention of Cruelty to Animals.

“animal trade” means a trade, business or profession in the course of which any animal is kept or used for a purpose prescribed for the purposes of this definition;

“authorise” includes permit;

5 “cage” includes a pit, pen, kennel, hutch and any other similar receptacle;

“confine”, in relation to an animal, includes—

(a) keep the animal in captivity by means of a cage or by any other means;

10 (b) pinion, mutilate or maim the animal for the purpose of hindering, impeding or preventing the freedom of movement of the animal;

(c) subject the animal to a device or contrivance for the purpose of hindering, impeding or preventing the freedom of movement of the animal; and

15 (d) tether the animal by means of a rope, chain or cord or by any other means;

“court” means a court of petty sessions;

“dog” includes a bitch and a puppy;

20 “domestic animal” means an animal which is tame or which has been, or is being, sufficiently tamed to serve some purpose for the use of man, or which, although it neither has been nor is being nor is intended to be so tamed, is or has become in fact wholly or partly tame;

25 “horse” includes a stallion, gelding, mare, colt, filly, foal, pony, mule, donkey, ass and jenny;

“officer” means—

(a) a member of the police force; or

(b) an officer of—

30 (i) the Royal Society for the Prevention of Cruelty to Animals, New South Wales; or

Prevention of Cruelty to Animals.

(ii) an organisation or association which has as one of its objects the promotion of the welfare of, or the prevention of cruelty to, animals, or any class of animals, and which is registered as a charity under the Charitable Collections Act, 1934,

who is a special constable within the meaning of the Police Offences Act, 1901;

“owner” includes a joint owner;

“pain” includes suffering and distress;

“person in charge”, in relation to an animal, includes—

(a) the owner of the animal;

(b) a person who has the animal in his possession or custody, or under his care, control or supervision;

(c) where a person referred to in paragraph (b) is bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal, that servant or agent, as the case may be; and

(d) where the animal, being a stock animal, is confined in a sale-yard—

(i) the owner of the sale-yard; or

(ii) where the sale-yard is the subject of a lease, the lessee of the sale-yard;

“premises” means any place which is not a public place;

“public place” means any place, including any road, to which the public has its own right to resort;

“regulation” means a regulation made under this Act;

“sale-yard” means any premises or public place used or established for use wholly or partly for the sale of stock animals;

Prevention of Cruelty to Animals.

“stock animal” means an animal which belongs to the class of animals comprising cattle, horses, sheep, goats, swine, poultry and any other species of animal prescribed for the purposes of this definition;

5 “veterinary surgeon” has the meaning ascribed to that expression in section 3 of the Veterinary Surgeons Act, 1923;

“veterinary treatment”, in relation to an animal, means—

10 (a) medical treatment of a prophylactic or therapeutic nature carried out upon the animal by, or in accordance with directions given in respect of the animal by, a veterinary surgeon; or

15 (b) surgical treatment of a prophylactic or therapeutic nature, or sterilisation, carried out upon the animal by a veterinary surgeon.

(2) For the purposes of this Act, a person commits an act of cruelty upon an animal if he unreasonably, unnecessarily or unjustifiably—

20 (a) beats, kills, wounds, pinions, mutilates, maims, abuses, torments, tortures, terrifies or infuriates the animal;

(b) over-loads, over-works, over-drives, over-rides or over-uses the animal;

(c) exposes the animal to excessive heat or excessive cold; or

(d) inflicts pain upon the animal.

25 (3) For the purposes of this Act, a person commits an act of aggravated cruelty upon an animal if he commits an act of cruelty upon the animal which results in—

(a) the death, deformity or serious disablement of the animal; or

30 (b) the animal being so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive.

Prevention of Cruelty to Animals.

PART II.

OFFENCES.

5. (1) A person shall not—

Cruelty to animals.

(a) commit an act of cruelty upon an animal; or

5 (b) where the person is a person in charge of an animal—
authorise the commission of an act of cruelty upon the
animal.

Penalty : \$1,000 or imprisonment for 6 months, or both.

10 (2) For the purposes of subsection (1) (b), if a person
in charge of an animal has failed at any time—

(a) to exercise such reasonable care, control or supervision
of the animal as would have prevented the commission
of an act of cruelty upon the animal;

15 (b) where pain has been inflicted upon the animal—to take
such reasonable steps as would have alleviated the pain;
or

(c) where it has been necessary that the animal be provided
with veterinary treatment for a period of time—to
provide it with that treatment for that period,

20 that person shall be deemed to have authorised the commission,
at that time, of an act of cruelty upon the animal.

6. (1) A person shall not commit an act of aggravated
cruelty upon an animal.

Aggravated
cruelty to
animals.

25 Penalty : Upon summary conviction, \$2,000 or imprisonment
for 1 year, or both; upon conviction on indictment, imprisonment
for 2 years.

(2) In any proceedings for an offence against subsection
(1), the court before which the proceedings are being taken may—

30 (a) where it is not satisfied that the person accused of the
offence is guilty of the offence; and

Prevention of Cruelty to Animals.

(b) where it is satisfied that that person is guilty of an offence against section 5 (1),

convict that person of an offence against section 5 (1).

7. A person shall not—

5 (a) carry or convey an animal; or

(b) where the person is a person in charge of an animal—
authorise the carriage or conveyance of the animal,

in a manner which unreasonably, unnecessarily or unjustifiably inflicts pain upon the animal.

10 Penalty : \$1,000 or imprisonment for 6 months, or both.

8. (1) A person in charge of an animal shall not fail to provide the animal with proper and sufficient food, drink and shelter.

Penalty : \$1,000 or imprisonment for 6 months, or both.

15 (2) In any proceedings for an offence against subsection (1), evidence that an animal was not provided with food, drink or shelter during a period of 24 hours is evidence that the person accused of the offence has failed to provide the animal with proper and sufficient food, drink and shelter during that period.

20 9. (1) A person in charge of an animal which is confined (other than a stock animal or an animal of a species which is usually kept in captivity by means of a cage) shall not fail to provide the animal with adequate exercise.

Penalty : \$1,000 or imprisonment for 6 months, or both.

25 (2) In any proceedings for an offence against subsection (1), evidence that an animal referred to in that subsection was not released from confinement during a period of 24 hours is evidence that the person accused of the offence has failed to provide the animal with adequate exercise during that period.

Carriage and conveyance of animals.

Animals to be provided with food, drink and shelter.

Confined animals to be exercised.

Prevention of Cruelty to Animals.

(3) A person in charge of an animal (other than a stock animal) shall not confine the animal in a cage of which the height, length or breadth is insufficient to allow the animal a reasonable opportunity for adequate exercise.

5 Penalty : \$1,000 or imprisonment for 6 months, or both.

(4) In any proceedings for an offence against subsection (3) in respect of an animal, the person accused of the offence is not guilty of the offence if he satisfies the court before which the proceedings are being taken that he confined the animal—

10 (a) for the purpose of—

(i) carrying or conveying the animal; or

(ii) displaying the animal in a public exhibition or public competition,

15 in a manner that inflicted no unnecessary pain upon the animal; and

(b) for a period not exceeding 48 hours.

10. A person shall not—

Tethering
of animals.

(a) tether an animal; or

20 (b) where the person is a person in charge of an animal—
authorise the tethering of the animal,

for an unreasonable length of time or by means of an unreasonably heavy, or unreasonably short, rope, chain or cord.

Penalty : \$1,000 or imprisonment for 6 months, or both.

11. A person shall not abandon an animal.

Animals not
to be
abandoned.

25 Penalty : \$1,000 or imprisonment for 6 months, or both.

Prevention of Cruelty to Animals.

5 **12.** A person shall not—

- (a) dock the tail of a horse;
- (b) crop the ears of a dog; or
- (c) operate upon a dog for the purpose of preventing the dog from being able to bark.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Certain operations not to be performed on animals.

10 **13.** A person shall not—

- (a) ride, drive, use, carry or convey an animal; or
- (b) where the person is a person in charge of an animal—authorise the riding, driving, using, carrying or conveying of the animal,

if the animal is unfit for the purpose of its being so ridden, driven, used, carried or conveyed.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Certain animals not to be ridden, etc.

15 **14.** The driver of a vehicle which strikes and injures an animal (other than a bird) shall not fail—

- (a) where, in consequence of the injury, pain has been inflicted upon the animal—to take reasonable steps to alleviate the pain; and
- 20 (b) where that driver believes, or ought reasonably to believe, that the animal is a domestic animal—to inform, as soon as practicable, an officer or a person in charge of the animal that the animal has been injured.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Injuries to animals to be reported.

25 **15.** (1) In this section, “poison” includes any substance included in the list, as in force for the time being, proclaimed under section 8 of the Poisons Act, 1966.

Poisons, etc., not to be administered to animals.

Prevention of Cruelty to Animals.

(2) A person shall not—

- (a) administer a poison, or a substance containing a poison, to a domestic animal; or
- (b) with the intention of destroying or injuring a domestic animal, throw, cast, drop, leave or lay a poison, or a substance containing a poison, in any place.

Penalty : \$1,000 or imprisonment for 6 months, or both.

16. (1) In this section, "electrical device" means a device, article or appliance which is manufactured, adapted or used for the purpose of administering an electric shock upon an animal.

Electrical devices not to be used upon animals.

(2) A person shall not use an electrical device upon an animal.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(3) Nothing in subsection (2) prevents a person from using an electrical device of a prescribed type upon an animal belonging to a prescribed species.

17. A person shall not keep in his possession or custody any spur, or any other similar appliance, which has sharpened rowels.

Certain spurs, etc., not to be kept.

Penalty : \$1,000 or imprisonment for 6 months, or both.

18. A person shall not—

- (a) use any premises, or manage or control any premises which are used;
- (b) where the person is an owner of premises—authorise the premises to be used; or
- (c) receive money for the admission of another person to premises which are used,

Animal baiting prohibited.

for the purpose of baiting an animal or causing an animal to fight.

Prevention of Cruelty to Animals.

Penalty : \$1,000 or imprisonment for 6 months, or both, and, in the case of a continuing offence, a further penalty not exceeding \$500 for each day the offence continues.

19. A person shall not promote or take part in a match, 5 competition or other activity in which an animal is released from confinement for the purpose of that person, or any other person, shooting at it. Trap-shooting prohibited.

Penalty : \$1,000 or imprisonment for 6 months, or both.

20. A person shall not promote or take part in a match, 10 competition or other activity in which an animal belonging to a prescribed species is released from confinement for the purpose of that person, or any other person, chasing, catching or confining it. Certain animal-catching activities prohibited.

Penalty : \$1,000 or imprisonment for 6 months, or both.

21. (1) A person shall not—
- 15 (a) promote or take part in an activity in which an animal is used for the purpose of its being chased, caught or confined by a dog; or
- (b) at a place used for the purpose of the activity referred to in paragraph (a)—keep an animal for the purpose
- 20 of using it in connection with that activity. Coursing, etc., prohibited.

Penalty : \$1,000 or imprisonment for 6 months, or both.

- (2) In any proceedings for an offence against subsection (1) (b), evidence that the person accused of the offence, while at a place used for the purpose of an activity referred to in subsection (1) (a), had an animal belonging to a prescribed species in his possession or custody, or under his care, control or supervision, is evidence that that person kept the animal at that place and at that time for the purpose of his using it in connection with that activity.

Prevention of Cruelty to Animals.

(3) In any proceedings for an offence against subsection (1), the person accused of the offence is not guilty of the offence if he satisfies the court before which the proceedings are being taken that the act in respect of which the proceedings are being taken was done by that person in the course of, and for the purpose of, mustering stock animals.

22. (1) Subject to subsection (2), a person shall not purchase, acquire, keep or sell, or offer or expose for sale, an animal which is so severely injured, so diseased or in such a condition that it is cruel to keep it alive. Severely injured animals not to be sold.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(2) In any proceedings for an offence against subsection (1), the person accused of the offence is not guilty of the offence if he satisfies the court before which the proceedings are being taken that he purchased, acquired, kept or sold, or offered or exposed for sale, the animal referred to in that subsection for the purpose of causing it to be promptly destroyed.

(3) Where a person purchases or acquires an animal for the purpose of causing the animal to be promptly destroyed, the person shall cause it to be promptly destroyed in a manner that causes it to die quickly and without unnecessary pain.

Penalty for an offence against this subsection : \$1,000 or imprisonment for 6 months, or both.

23. A person shall not, in a prescribed part of New South Wales, set a trap of a prescribed type. Certain traps not to be set.

Penalty : \$1,000 or imprisonment for 6 months, or both.

24. In any proceedings for an offence against this Part or the regulations in respect of an animal, the person accused of the offence is not guilty of the offence if he satisfies the court before Certain defences.

Prevention of Cruelty to Animals.

which the proceedings are being taken that the act or omission in respect of which the proceedings are being taken was done, authorised to be done or omitted to be done by that person—

- 5 (a) where, at the time when the offence is alleged to have been committed, the animal was—
- (i) a stock animal—in the course of, and for the purpose of, ear-marking, ear-tagging or branding the animal;
 - 10 (ii) a stock animal of less than 6 months of age—in the course of, and for the purpose of, castrating the animal;
 - (iii) a stock animal of less than 12 months of age—in the course of, and for the purpose of, dehorning the animal; or
 - 15 (iv) a lamb—in the course of, and for the purpose of, tailing the animal or performing the Mules operation upon the animal,
- in a manner that inflicted no unnecessary pain upon the animal;
- 20 (b) in the course of, and for the purpose of—
- (i) hunting, shooting, snaring, trapping, catching or capturing the animal; or
 - (ii) destroying the animal, or preparing the animal for destruction, for the purpose of producing
- 25 food for human consumption,
- in a manner that inflicted no unnecessary pain upon the animal;
- (c) in the course of, and for the purpose of, destroying the animal, or preparing the animal for destruction—
- 30 (i) in accordance with the precepts of the Jewish religion or of any other religion prescribed for the purposes of this section; or
 - (ii) in compliance with any duty imposed upon that person by or under this or any other Act;

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- (d) in the course of, and for the purpose of, providing the animal with veterinary treatment; or
 - (e) in the course of, and for the purpose of, carrying out upon the animal—
 - 5 (i) a surgical operation;
 - (ii) an operation for the purpose of physiological or pathological investigation of the animal;
 - (iii) an operation for the purpose of inoculating the animal; or
 - 10 (iv) an operation for the purpose of conducting a feeding experiment upon the animal,
- in accordance with the regulations.

PART III.

MISCELLANEOUS.

- 15 **25.** (1) An officer who is the holder of a prescribed authority, together with any veterinary surgeon accompanying him, may—
- Powers of officers in respect of certain premises.
- (a) enter premises—
 - (i) which are used for the purpose of a sale-yard or an animal trade; or
 - 20 (ii) in which an animal is being used, or kept for use, in connection with a trade, business or profession; and
 - (b) inspect and examine—
 - (i) the premises;
 - 25 (ii) any animal which is in the premises; and
 - (iii) any accommodation or shelter which is provided in the premises for any animal.

Prevention of Cruelty to Animals.

(2) A prescribed person who is the holder of a prescribed authority may—

- 5 (a) enter premises in which he suspects, on reasonable grounds, that an animal is being kept for the purpose of the carrying out upon the animal of an operation referred to in section 24 (e); and
- (b) inspect and examine—
- 10 (i) the premises;
- (ii) any animal which is in the premises; and
- (iii) any accommodation or shelter which is provided in the premises for any animal.

(3) Where an officer, or a prescribed person, who is the holder of a prescribed authority exercises a power conferred upon him by this section, he shall produce the authority, if requested to do so by an occupier of the premises, for inspection by that occupier.

(4) For the purposes of this section, "prescribed person" means—

- 20 (a) a medical officer of health or an assistant medical officer of health within the meaning of the Public Health Act, 1902;
- (b) a veterinary inspector within the meaning of the Pastures Protection Act, 1934; or
- 25 (c) a veterinary officer employed in the Department of Agriculture.

26. (1) Where an officer who is the holder of a prescribed authority suspects, on reasonable grounds, that an offence against Part II is being, has been or is about to be committed in respect of an animal, the officer may—

- 30 (a) take possession of the animal;
- (b) remove the animal to such place as he thinks fit; and

Powers of officers, generally.

Prevention of Cruelty to Animals.

(c) retain possession of the animal—

(i) except as provided in subparagraph (ii)—for a period not exceeding 7 days from the date upon which the officer takes possession of the animal under paragraph (a); or

(ii) where, within the period referred to in subparagraph (i), proceedings are commenced in respect of the offence, and unless the court before which the proceedings are being taken otherwise directs—until the proceedings are finally determined,

but nothing in this subsection limits the operation of subsections (2)–(5).

(2) Where, in the opinion of an officer who is the holder of a prescribed authority—

(a) an animal has not been provided with proper and sufficient food or drink during the previous 24 hours; and

(b) the animal is not being provided with that food or drink, the officer may—

(c) take possession of the animal;

(d) remove the animal to such place as he thinks fit; and

(e) retain possession of the animal for such period of time as may be necessary for it to be provided with that food or drink.

(3) Where, in the opinion of an officer who is the holder of a prescribed authority—

(a) an animal is so severely injured, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment; and

(b) the animal is not being provided with that treatment, the officer may—

(c) take possession of the animal;

Prevention of Cruelty to Animals.

- (d) remove the animal to such place as he thinks fit; and
- (e) retain possession of the animal for such period of time as may be necessary for it to be provided with that treatment.

5 (4) Where, in the opinion of an officer who is the holder of a prescribed authority—

- (a) an animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive; and
- 10 (b) the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain upon the animal,

the officer may—

- (c) take possession of the animal;
- (d) remove the animal to such place as he thinks fit; and
- 15 (e) destroy the animal, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.

(5) Where an officer who is the holder of a prescribed authority suspects, on reasonable grounds, that—

- 20 (a) an offence against Part II is being, has been or is about to be committed in respect of an animal;
- (b) an animal—
 - (i) has not been provided with proper and sufficient food or drink during the previous 24 hours; and
 - 25 (ii) is not being provided with that food or drink;

Prevention of Cruelty to Animals.

(c) an animal—

(i) is so severely injured, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment; and

(ii) is not being provided with that treatment; or

(d) an animal—

(i) is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive; and

(ii) the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain upon the animal,

the officer may inspect and examine the animal.

15 (6) Where an officer who is the holder of a prescribed authority exercises a power conferred upon him by subsection (1)–(5) in respect of an animal, the officer shall produce the authority, if requested to do so by a person in charge of the animal, for inspection by that person.

20 (7) An officer who is the holder of a prescribed authority may, for the purpose of exercising a power conferred upon him by subsection (1)–(5), enter or remain in premises and, where he does so enter or remain, shall produce the authority, if requested to do so by an occupier of the premises, for inspection by that
25 occupier.

(8) The reasonable costs incurred by an officer—

(a) in the exercise of the powers conferred upon the officer by this section in respect of an animal; and

Prevention of Cruelty to Animals.

(b) in complying with the duties imposed upon the officer by this Act or the regulations, in consequence of the exercise by the officer of those powers,

5 may be recovered from the owner of the animal as a debt in a court of competent jurisdiction by—

(c) where the officer is a member of the police force—the officer or the Crown;

10 (d) where the officer is an officer of the Royal Society for the Prevention of Cruelty to Animals, New South Wales—the officer or any other officer of that society; or

(e) where the officer is an officer of an organisation or association referred to in paragraph (b) (ii) of the definition of “officer” in section 4 (1)—the officer or any other officer of that organisation or association.

15 **27.** Upon complaint made on oath by a person that the person suspects, on reasonable grounds, that there is, in any premises, an animal in respect of which an offence against this Act or the regulations—^{Search warrants.}

(a) is, or is suspected of, being committed;

20 (b) has, or is suspected of having, been committed; or

(c) is, or is suspected of being, about to be committed,

a stipendiary magistrate may issue a warrant authorising an officer or officers named in the warrant, together with any person or persons so named (each of whom may, if the warrant so provides, 25 be accompanied by one or more members of the police force), at any time or times within 14 days after the date of issue of the warrant—

(d) to enter, if need be by the use of reasonable force;

(e) to search; and

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(f) to inspect and examine any animal which is in, the premises described in the warrant.

28. A person shall not obstruct, hinder or interfere with any other person while that other person is exercising or performing any power, authority, duty or function conferred upon that other person by or under this Act. **Obstruction of persons exercising powers, etc.**

Penalty : \$500.

29. (1) Upon complaint made on oath by an officer that the officer suspects, on reasonable grounds, that an offence against this Act or the regulations is being, or has been, committed in respect of an animal, a stipendiary magistrate may issue a summons against a person in charge of the animal requiring the person to produce the animal, or cause the animal to be produced, before a court specified in the summons, and at a time and date so specified, for the inspection of the court. **Court may order production of animal.**

(2) A person upon whom a summons issued under subsection (1) is served shall not, without reasonable cause, fail to comply with the summons.

Penalty: \$100.

30. (1) Where— **Court may order destruction of animal.**
(a) a court has convicted a person of an offence against this Act or the regulations in respect of an animal; and
(b) the court is satisfied that the animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive,

the court may—

(c) make an order that the animal be destroyed by such person as is specified in the order; and

Prevention of Cruelty to Animals.

(d) where it has made an order under paragraph (c)—make a further order that the person referred to in paragraph (a) pay to the person specified in the order made under paragraph (c) such costs in respect of the destruction of the animal as are specified in that further order.

(2) A person specified in an order made under subsection (1) (c) shall, as soon after that person has been served with the order as is practicable, destroy the animal to which the order relates, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.

(3) Where a court has made an order under subsection (1) (d), the person to whom the costs specified in the order are required by the order to be paid may recover those costs from the person who is required by the order to pay those costs as a debt in a court of competent jurisdiction.

31. (1) Subject to subsection (2), where—

- (a) a court has convicted a person in charge of an animal of an offence against this Act or the regulations in respect of the animal; and
- (b) the court is satisfied that, if that person continues to be a person in charge of the animal, that person is likely to commit a further offence against this Act or the regulations in respect of the animal,

Court may
make
order
regarding
disposal of
animal.

the court may, in addition to any penalty which it may otherwise impose, make such order in respect of the disposal of the animal as it thinks fit.

(2) Where a court has convicted a person in charge of an animal of an offence against section 6 (1), the court may, in addition to any penalty which it may otherwise impose—

- (a) make such order in respect of the disposal of—
- (i) the animal in respect of which the offence was committed; and

Prevention of Cruelty to Animals.

(ii) any other animal of which the person is a person in charge,
as it thinks fit; and

5 (b) where it has made an order under paragraph (a), make a further order that the person shall not—

(i) purchase or acquire; or

(ii) take possession or custody of,

any animal within such period as is specified in the order.

10 (3) A person upon whom an order made under subsection (1) or (2) is served shall not fail to comply with the order.

Penalty : \$1,000.

32. The reasonable costs incurred by the owner or lessee of a sale-yard in complying with the duties imposed upon that owner or lessee by this Act or the regulations in respect of a stock animal which is confined in the sale-yard may be recovered by that owner or lessee from the owner of the animal as a debt in a court of competent jurisdiction. Sale-yard owner may recoup expenses.

33. (1) Where, at any time during proceedings for an offence against this Act or the regulations in respect of an animal, the person accused of the offence satisfies the court before which those proceedings are being taken that the act or omission in respect of which those proceedings are being taken was done, authorised to be done or omitted to be done by that person in compliance with an express direction given by— Alternative summons.

25 (a) the owner of the animal; or

Prevention of Cruelty to Animals.

(b) where that person was bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal—the servant or agent,

that court—

5 (c) may—

(i) make an order that that person be discharged;
or

(ii) adjourn those proceedings until the proceedings referred to in subsection (2) have been
10 determined; and

(d) may issue a summons against that owner, servant or agent, as the case may be, in respect of the offence—

(i) within a period of 6 months after that time;
or

(ii) within a period of 2 years after the date on which
15 it is alleged that the offence occurred,

whichever period expires earlier.

(2) In any proceedings against a person for an offence in respect of which a summons has been issued against that person
20 under subsection (1), the court before which the proceedings are being taken may, where it convicts that person of the offence, make an order that that person pay such costs in respect of the proceedings firstmentioned in that subsection as it thinks fit.

34. (1) Except as provided in subsection (2), proceedings
25 for an offence against this Act or the regulations may be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone. Proceedings for offences.

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(2) An offence against section 6 (1) may—

(a) if the informant so elects, be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone; or

5 (b) be taken on indictment.

(3) A court shall not convict a person of an offence against this Act or the regulations in respect of an act or omission where that, or any other, court has convicted the person of that, or any other, offence against this Act or the regulations in respect
10 of that act or omission.

35. (1) The Governor may make regulations, not inconsistent Regulations.
with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this
15 Act and, in particular, for or with respect to—

(a) the conditions under which any animal or species of animal may be—

(i) confined;

(ii) carried or conveyed;

20 (iii) kept or used in connection with a circus; or

(iv) kept or used in connection with the production of films, television programmes or film, television or photographic advertisements;

(b) the accommodation or shelter to be provided for any
25 animal or species of animal;

(c) the manner in which, and the conditions under which, any animal or species of animal may be destroyed;

(d) the licensing, prohibition, regulation and control of animal trades; and

30 (e) the fees to be paid in connection with the issue of a licence under this Act.

Prevention of Cruelty to Animals.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- 5 (b) apply differently according to different factors of a specified kind;
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body; or
- 10 (d) exempt any person, or any specified class of persons, either absolutely or subject to conditions, from the operation of any specified provision of this Act,

or may do any combination of those things.

(3) A regulation may impose a penalty not exceeding \$200 for an offence against the regulation.

15 (4) A regulation made under subsection (1) (d) may—

- (a) with respect to the licensing of an animal trade, provide for the issue of a licence subject to such conditions as the regulation may impose; or
- 20 (b) with respect to the regulation or control of an animal trade, provide that a person shall not conduct an animal trade unless he is the holder of a licence issued in respect of the animal trade.

(5) Without limiting the generality of subsection (1), a regulation made for the purposes of section 23 may—

- 25 (a) prescribe, as a part of New South Wales, the whole of New South Wales except such part thereof as may be specified in the regulation; and
- (b) prescribe a type of trap—
 - (i) by words;
 - 30 (ii) by reference to a photographic representation which is depicted in, and forms part of, the regulation; or

Prevention of Cruelty to Animals.

(iii) by reference to a diagram which is depicted in, and forms part of, the regulation, or by any combination of those methods.

36. (1) Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed. Repeals and savings and transitional provisions.

(2) Schedule 2 has effect.

SCHEDULE 1.

Sec. 36
(1).

REPEALS.

10	Column 1.	Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
15	1901, No. 64 .. Prevention of Cruelty to Animals Act, 1901.	The whole Act.
	1928, No. 54 .. Prevention of Cruelty to Animals (Amendment) Act, 1928.	The whole Act.
	1937, No. 35 .. Statute Law Revision Act, 1937 ..	So much of the Second Schedule as amended
20	1943, No. 44 .. Prevention of Cruelty to Animals (Amendment) Act, 1943.	Act No. 64, 1901.
	1951, No. 17 .. Prevention of Cruelty to Animals (Amendment) Act, 1951.	Sections 1 (2) and (3) and 2 (1) and (3).
25	1952, No. 1 .. Prevention of Cruelty to Animals (Amendment) Act, 1952.	The whole Act.
	1953, No. 35 .. Prevention of Cruelty to Animals (Amendment) Act, 1955.	Sections 1 (2) and (3) and 2.
30	1967, No. 91 .. Prevention of Cruelty to Animals (Amendment) Act, 1967.	Sections 1 (2), 2, 3, 4 and 5 (2).
	1973, No. 45 .. Prevention of Cruelty to Animals (Amendment) Act, 1973.	The whole Act.
35	1977, No. 19 .. Notice of Action and Other Privileges Abolition Act, 1977.	So much of Schedule 1 as amended Act No. 64, 1901.

Prevention of Cruelty to Animals.

SCHEDULE 2.

Sec. 36
(2).

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule, "commencement day" means the day appointed and notified under section 2 (2). Interpretation.
- 5 2. A regulation which was made under the Prevention of Cruelty to Animals Act, 1901, and which was in force immediately before the commencement day, shall be deemed to be a regulation made under this Act. Regulations.
- 10 3. On and from the commencement day, a reference in any other Act to the "Prevention of Cruelty to Animals Act, 1901" shall be read and construed as a reference to the "Prevention of Cruelty to Animals Act, 1979". References in other Acts.
- 15 4. An authority in writing issued by the Minister for the purposes of section 12A (2) of the Prevention of Cruelty to Animals Act, 1901, before the commencement day, and in force immediately before that day, shall be deemed to be a prescribed authority for the purposes of section 25 (2). Authorities.
- 20 5. The provisions of sections 4A (4), 12D, 12E and 12G of the Prevention of Cruelty to Animals Act, 1901, continue to apply to and in respect of any proceeding for an offence against that Act commenced before the commencement day in the manner those provisions would have applied had not this Act been enacted. Transitional.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979

[56c]

Prevention of Cruelty to Animals

SCHEDULE 2

SAVING AND TRANSITIONAL PROVISIONS

Sec. 26
(2)

- 1. In this Schedule "commencement" means the commencement of the Act as amended by section 2 (2).
- 2. A regulation which was made under the Prevention of Cruelty to Animals Act 1901, and which was in force immediately before the commencement of this Act shall be deemed to be a regulation made under this Act.
- 3. On and from the commencement of this Act a reference in any other Act to the Prevention of Cruelty to Animals Act 1901 shall be read as if it were a reference to the Prevention of Cruelty to Animals Act 1979.
- 4. An authority in writing issued by the Minister for the purposes of section 12 (2) of the Prevention of Cruelty to Animals Act 1901, and in force immediately before the commencement of this Act shall be deemed to be a prescribed authority for the purposes of section 12 (2).
- 5. The provisions of sections 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the Prevention of Cruelty to Animals Act 1901 shall be deemed to have been repealed as if they had not been so repealed, and in the event of any offence being committed before the commencement of this Act in the manner those provisions would have applied had not this Act been enacted.

**PREVENTION OF CRUELTY TO ANIMALS ACT,
1979, No. 200**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 200, 1979.

An Act for the prevention of cruelty to animals. [Assented to,
21st December, 1979.]

Prevention of Cruelty to Animals.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be cited as the "Prevention of Cruelty to Animals Act, 1979".

Commence-
ment. **2.** (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Arrange-
ment. **3.** This Act is divided as follows :—

PART I.—PRELIMINARY—*ss.* 1–4.

PART II.—OFFENCES—*ss.* 5–24.

PART III.—MISCELLANEOUS—*ss.* 25–36.

SCHEDULE 1.—REPEALS.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

Interpre-
tation. **4.** (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“animal” means a vertebrate animal, including a mammal, bird, reptile, amphibian or fish, but does not include a human being;

Prevention of Cruelty to Animals.

“animal trade” means a trade, business or profession in the course of which any animal is kept or used for a purpose prescribed for the purposes of this definition;

“authorise” includes permit;

“cage” includes a pit, pen, kennel, hutch and any other similar receptacle;

“confine”, in relation to an animal, includes—

- (a) keep the animal in captivity by means of a cage or by any other means;
- (b) pinion, mutilate or maim the animal for the purpose of hindering, impeding or preventing the freedom of movement of the animal;
- (c) subject the animal to a device or contrivance for the purpose of hindering, impeding or preventing the freedom of movement of the animal; and
- (d) tether the animal by means of a rope, chain or cord or by any other means;

“court” means a court of petty sessions;

“dog” includes a bitch and a puppy;

“domestic animal” means an animal which is tame or which has been, or is being, sufficiently tamed to serve some purpose for the use of man, or which, although it neither has been nor is being nor is intended to be so tamed, is or has become in fact wholly or partly tame;

“horse” includes a stallion, gelding, mare, colt, filly, foal, pony, mule, donkey, ass and jenny;

“officer” means—

- (a) a member of the police force; or
 - (b) an officer of—
 - (i) the Royal Society for the Prevention of Cruelty to Animals, New South Wales;
- or

Prevention of Cruelty to Animals.

- (ii) an organisation or association which has as one of its objects the promotion of the welfare of, or the prevention of cruelty to, animals, or any class of animals, and which is registered as a charity under the Charitable Collections Act, 1934,

who is a special constable within the meaning of the Police Offences Act, 1901;

“owner” includes a joint owner;

“pain” includes suffering and distress;

“person in charge”, in relation to an animal, includes—

- (a) the owner of the animal;
- (b) a person who has the animal in his possession or custody, or under his care, control or supervision;
- (c) where a person referred to in paragraph (b) is bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal, that servant or agent, as the case may be; and
- (d) where the animal, being a stock animal, is confined in a sale-yard—
 - (i) the owner of the sale-yard; or
 - (ii) where the sale-yard is the subject of a lease, the lessee of the sale-yard;

“premises” means any place which is not a public place;

“public place” means any place, including any road, to which the public has its own right to resort;

“regulation” means a regulation made under this Act;

“sale-yard” means any premises or public place used or established for use wholly or partly for the sale of stock animals;

Prevention of Cruelty to Animals.

“stock animal” means an animal which belongs to the class of animals comprising cattle, horses, sheep, goats, swine, poultry and any other species of animal prescribed for the purposes of this definition;

“veterinary surgeon” has the meaning ascribed to that expression in section 3 of the Veterinary Surgeons Act, 1923;

“veterinary treatment”, in relation to an animal, means—

- (a) medical treatment of a prophylactic or therapeutic nature carried out upon the animal by, or in accordance with directions given in respect of the animal by, a veterinary surgeon; or
- (b) surgical treatment of a prophylactic or therapeutic nature, or sterilisation, carried out upon the animal by a veterinary surgeon.

(2) For the purposes of this Act, a person commits an act of cruelty upon an animal if he unreasonably, unnecessarily or unjustifiably—

- (a) beats, kills, wounds, pinions, mutilates, maims, abuses, torments, tortures, terrifies or infuriates the animal;
- (b) over-loads, over-works, over-drives, over-rides or over-uses the animal;
- (c) exposes the animal to excessive heat or excessive cold; or
- (d) inflicts pain upon the animal.

(3) For the purposes of this Act, a person commits an act of aggravated cruelty upon an animal if he commits an act of cruelty upon the animal which results in—

- (a) the death, deformity or serious disablement of the animal; or
 - (b) the animal being so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive.
-

Prevention of Cruelty to Animals.

PART II.

OFFENCES.

Cruelty to animals.

- 5.** (1) A person shall not—
- (a) commit an act of cruelty upon an animal; or
 - (b) where the person is a person in charge of an animal—authorise the commission of an act of cruelty upon the animal.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(2) For the purposes of subsection (1) (b), if a person in charge of an animal has failed at any time—

- (a) to exercise such reasonable care, control or supervision of the animal as would have prevented the commission of an act of cruelty upon the animal;
- (b) where pain has been inflicted upon the animal—to take such reasonable steps as would have alleviated the pain; or
- (c) where it has been necessary that the animal be provided with veterinary treatment for a period of time—to provide it with that treatment for that period,

that person shall be deemed to have authorised the commission, at that time, of an act of cruelty upon the animal.

Aggravated cruelty to animals.

- 6.** (1) A person shall not commit an act of aggravated cruelty upon an animal.

Penalty : Upon summary conviction, \$2,000 or imprisonment for 1 year, or both; upon conviction on indictment, imprisonment for 2 years.

(2) In any proceedings for an offence against subsection (1), the court before which the proceedings are being taken may—

- (a) where it is not satisfied that the person accused of the offence is guilty of the offence; and

Prevention of Cruelty to Animals.

(b) where it is satisfied that that person is guilty of an offence against section 5 (1),
convict that person of an offence against section 5 (1).

7. A person shall not—

(a) carry or convey an animal; or

(b) where the person is a person in charge of an animal—
authorise the carriage or conveyance of the animal,

Carriage
and conveyance of
animals.

in a manner which unreasonably, unnecessarily or unjustifiably inflicts pain upon the animal.

Penalty : \$1,000 or imprisonment for 6 months, or both.

8. (1) A person in charge of an animal shall not fail to provide the animal with proper and sufficient food, drink and shelter.

Animals to
be provided
with food,
drink
and
shelter.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(2) In any proceedings for an offence against subsection (1), evidence that an animal was not provided with food, drink or shelter during a period of 24 hours is evidence that the person accused of the offence has failed to provide the animal with proper and sufficient food, drink and shelter during that period.

9. (1) A person in charge of an animal which is confined (other than a stock animal or an animal of a species which is usually kept in captivity by means of a cage) shall not fail to provide the animal with adequate exercise.

Confined
animals
to be
exercised.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(2) In any proceedings for an offence against subsection (1), evidence that an animal referred to in that subsection was not released from confinement during a period of 24 hours is evidence that the person accused of the offence has failed to provide the animal with adequate exercise during that period.

Prevention of Cruelty to Animals.

(3) A person in charge of an animal (other than a stock animal) shall not confine the animal in a cage of which the height, length or breadth is insufficient to allow the animal a reasonable opportunity for adequate exercise.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(4) In any proceedings for an offence against subsection (3) in respect of an animal, the person accused of the offence is not guilty of the offence if he satisfies the court before which the proceedings are being taken that he confined the animal—

(a) for the purpose of—

(i) carrying or conveying the animal; or

(ii) displaying the animal in a public exhibition or public competition,

in a manner that inflicted no unnecessary pain upon the animal; and

(b) for a period not exceeding 48 hours.

Tethering
of animals.

10. A person shall not—

(a) tether an animal; or

(b) where the person is a person in charge of an animal—
authorise the tethering of the animal,

for an unreasonable length of time or by means of an unreasonably heavy, or unreasonably short, rope, chain or cord.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Animals not
to be
abandoned.

11. A person shall not abandon an animal.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Prevention of Cruelty to Animals.

12. A person shall not—

- (a) dock the tail of a horse;
- (b) crop the ears of a dog; or
- (c) operate upon a dog for the purpose of preventing the dog from being able to bark.

Certain operations not to be performed on animals.

Penalty : \$1,000 or imprisonment for 6 months, or both.

13. A person shall not—

- (a) ride, drive, use, carry or convey an animal; or
- (b) where the person is a person in charge of an animal—authorise the riding, driving, using, carrying or conveying of the animal,

Certain animals not to be ridden, etc.

if the animal is unfit for the purpose of its being so ridden, driven, used, carried or conveyed.

Penalty : \$1,000 or imprisonment for 6 months, or both.

14. The driver of a vehicle which strikes and injures an animal (other than a bird) shall not fail—

Injuries to animals to be reported.

- (a) where, in consequence of the injury, pain has been inflicted upon the animal—to take reasonable steps to alleviate the pain; and
- (b) where that driver believes, or ought reasonably to believe, that the animal is a domestic animal—to inform, as soon as practicable, an officer or a person in charge of the animal that the animal has been injured.

Penalty : \$1,000 or imprisonment for 6 months, or both.

15. (1) In this section, “poison” includes any substance included in the list, as in force for the time being, proclaimed under section 8 of the Poisons Act, 1966.

Poisons, etc., not to be administered to animals.

Prevention of Cruelty to Animals.

(2) A person shall not—

- (a) administer a poison, or a substance containing a poison, to a domestic animal; or
- (b) with the intention of destroying or injuring a domestic animal, throw, cast, drop, leave or lay a poison, or a substance containing a poison, in any place.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Electrical devices not to be used upon animals.

16. (1) In this section, "electrical device" means a device, article or appliance which is manufactured, adapted or used for the purpose of administering an electric shock upon an animal.

(2) A person shall not use an electrical device upon an animal.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(3) Nothing in subsection (2) prevents a person from using an electrical device of a prescribed type upon an animal belonging to a prescribed species.

Certain spurs, etc., not to be kept.

17. A person shall not keep in his possession or custody any spur, or any other similar appliance, which has sharpened rowels.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Animal baiting prohibited.

18. A person shall not—

- (a) use any premises, or manage or control any premises which are used;
- (b) where the person is an owner of premises—authorise the premises to be used; or
- (c) receive money for the admission of another person to premises which are used,

for the purpose of baiting an animal or causing an animal to fight.

Prevention of Cruelty to Animals.

Penalty : \$1,000 or imprisonment for 6 months, or both, and, in the case of a continuing offence, a further penalty not exceeding \$500 for each day the offence continues.

19. A person shall not promote or take part in a match, competition or other activity in which an animal is released from confinement for the purpose of that person, or any other person, shooting at it. Trap-shooting prohibited.

Penalty : \$1,000 or imprisonment for 6 months, or both.

20. A person shall not promote or take part in a match, competition or other activity in which an animal belonging to a prescribed species is released from confinement for the purpose of that person, or any other person, chasing, catching or confining it. Certain animal-catching activities prohibited.

Penalty : \$1,000 or imprisonment for 6 months, or both.

21. (1) A person shall not—

(a) promote or take part in an activity in which an animal is used for the purpose of its being chased, caught or confined by a dog; or Coursing, etc., prohibited.

(b) at a place used for the purpose of the activity referred to in paragraph (a)—keep an animal for the purpose of using it in connection with that activity.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(2) In any proceedings for an offence against subsection (1) (b), evidence that the person accused of the offence, while at a place used for the purpose of an activity referred to in subsection (1) (a), had an animal belonging to a prescribed species in his possession or custody, or under his care, control or supervision, is evidence that that person kept the animal at that place and at that time for the purpose of his using it in connection with that activity.

Prevention of Cruelty to Animals.

(3) In any proceedings for an offence against subsection (1), the person accused of the offence is not guilty of the offence if he satisfies the court before which the proceedings are being taken that the act in respect of which the proceedings are being taken was done by that person in the course of, and for the purpose of, mustering stock animals.

Severely
injured
animals
not to be
sold.

22. (1) Subject to subsection (2), a person shall not purchase, acquire, keep or sell, or offer or expose for sale, an animal which is so severely injured, so diseased or in such a condition that it is cruel to keep it alive.

Penalty : \$1,000 or imprisonment for 6 months, or both.

(2) In any proceedings for an offence against subsection (1), the person accused of the offence is not guilty of the offence if he satisfies the court before which the proceedings are being taken that he purchased, acquired, kept or sold, or offered or exposed for sale, the animal referred to in that subsection for the purpose of causing it to be promptly destroyed.

(3) Where a person purchases or acquires an animal for the purpose of causing the animal to be promptly destroyed, the person shall cause it to be promptly destroyed in a manner that causes it to die quickly and without unnecessary pain.

Penalty for an offence against this subsection : \$1,000 or imprisonment for 6 months, or both.

Certain
traps
not to be
set.

23. A person shall not, in a prescribed part of New South Wales, set a trap of a prescribed type.

Penalty : \$1,000 or imprisonment for 6 months, or both.

Certain
defences.

24. In any proceedings for an offence against this Part or the regulations in respect of an animal, the person accused of the offence is not guilty of the offence if he satisfies the court before

Prevention of Cruelty to Animals.

which the proceedings are being taken that the act or omission in respect of which the proceedings are being taken was done, authorised to be done or omitted to be done by that person—

- (a) where, at the time when the offence is alleged to have been committed, the animal was—
 - (i) a stock animal—in the course of, and for the purpose of, ear-marking, ear-tagging or branding the animal;
 - (ii) a stock animal of less than 6 months of age—in the course of, and for the purpose of, castrating the animal;
 - (iii) a stock animal of less than 12 months of age—in the course of, and for the purpose of, dehorning the animal; or
 - (iv) a lamb—in the course of, and for the purpose of, tailing the animal or performing the Mules operation upon the animal,

in a manner that inflicted no unnecessary pain upon the animal;

- (b) in the course of, and for the purpose of—
 - (i) hunting, shooting, snaring, trapping, catching or capturing the animal; or
 - (ii) destroying the animal, or preparing the animal for destruction, for the purpose of producing food for human consumption,

in a manner that inflicted no unnecessary pain upon the animal;

- (c) in the course of, and for the purpose of, destroying the animal, or preparing the animal for destruction—
 - (i) in accordance with the precepts of the Jewish religion or of any other religion prescribed for the purposes of this section; or
 - (ii) in compliance with any duty imposed upon that person by or under this or any other Act;

Prevention of Cruelty to Animals.

- (d) in the course of, and for the purpose of, providing the animal with veterinary treatment; or
- (e) in the course of, and for the purpose of, carrying out upon the animal—
 - (i) a surgical operation;
 - (ii) an operation for the purpose of physiological or pathological investigation of the animal;
 - (iii) an operation for the purpose of inoculating the animal; or
 - (iv) an operation for the purpose of conducting a feeding experiment upon the animal,

in accordance with the regulations.

PART III.

MISCELLANEOUS.

Powers of officers in respect of certain premises.

25. (1) An officer who is the holder of a prescribed authority, together with any veterinary surgeon accompanying him, may—

- (a) enter premises—
 - (i) which are used for the purpose of a sale-yard or an animal trade; or
 - (ii) in which an animal is being used, or kept for use, in connection with a trade, business or profession; and
- (b) inspect and examine—
 - (i) the premises;
 - (ii) any animal which is in the premises; and
 - (iii) any accommodation or shelter which is provided in the premises for any animal.

Prevention of Cruelty to Animals.

(2) A prescribed person who is the holder of a prescribed authority may—

- (a) enter premises in which he suspects, on reasonable grounds, that an animal is being kept for the purpose of the carrying out upon the animal of an operation referred to in section 24 (e); and
- (b) inspect and examine—
 - (i) the premises;
 - (ii) any animal which is in the premises; and
 - (iii) any accommodation or shelter which is provided in the premises for any animal.

(3) Where an officer, or a prescribed person, who is the holder of a prescribed authority exercises a power conferred upon him by this section, he shall produce the authority, if requested to do so by an occupier of the premises, for inspection by that occupier.

(4) For the purposes of this section, “prescribed person” means—

- (a) a medical officer of health or an assistant medical officer of health within the meaning of the Public Health Act, 1902;
- (b) a veterinary inspector within the meaning of the Pastures Protection Act, 1934; or
- (c) a veterinary officer employed in the Department of Agriculture.

26. (1) Where an officer who is the holder of a prescribed authority suspects, on reasonable grounds, that an offence against Part II is being, has been or is about to be committed in respect of an animal, the officer may—

Powers of officers, generally.

- (a) take possession of the animal;
- (b) remove the animal to such place as he thinks fit; and

Prevention of Cruelty to Animals.

- (c) retain possession of the animal—
 - (i) except as provided in subparagraph (ii)—for a period not exceeding 7 days from the date upon which the officer takes possession of the animal under paragraph (a); or
 - (ii) where, within the period referred to in subparagraph (i), proceedings are commenced in respect of the offence, and unless the court before which the proceedings are being taken otherwise directs—until the proceedings are finally determined,

but nothing in this subsection limits the operation of subsections (2)–(5).

(2) Where, in the opinion of an officer who is the holder of a prescribed authority—

- (a) an animal has not been provided with proper and sufficient food or drink during the previous 24 hours; and
- (b) the animal is not being provided with that food or drink, the officer may—
 - (c) take possession of the animal;
 - (d) remove the animal to such place as he thinks fit; and
 - (e) retain possession of the animal for such period of time as may be necessary for it to be provided with that food or drink.

(3) Where, in the opinion of an officer who is the holder of a prescribed authority—

- (a) an animal is so severely injured, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment; and
- (b) the animal is not being provided with that treatment, the officer may—
 - (c) take possession of the animal;

Prevention of Cruelty to Animals.

- (d) remove the animal to such place as he thinks fit; and
- (e) retain possession of the animal for such period of time as may be necessary for it to be provided with that treatment.

(4) Where, in the opinion of an officer who is the holder of a prescribed authority—

- (a) an animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive; and
- (b) the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain upon the animal,

the officer may—

- (c) take possession of the animal;
- (d) remove the animal to such place as he thinks fit; and
- (e) destroy the animal, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.

(5) Where an officer who is the holder of a prescribed authority suspects, on reasonable grounds, that—

- (a) an offence against Part II is being, has been or is about to be committed in respect of an animal;
- (b) an animal—
 - (i) has not been provided with proper and sufficient food or drink during the previous 24 hours; and
 - (ii) is not being provided with that food or drink;

Prevention of Cruelty to Animals.

(c) an animal—

- (i) is so severely injured, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment; and
- (ii) is not being provided with that treatment; or

(d) an animal—

- (i) is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive; and
- (ii) the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain upon the animal,

the officer may inspect and examine the animal.

(6) Where an officer who is the holder of a prescribed authority exercises a power conferred upon him by subsection (1)–(5) in respect of an animal, the officer shall produce the authority, if requested to do so by a person in charge of the animal, for inspection by that person.

(7) An officer who is the holder of a prescribed authority may, for the purpose of exercising a power conferred upon him by subsection (1)–(5), enter or remain in premises and, where he does so enter or remain, shall produce the authority, if requested to do so by an occupier of the premises, for inspection by that occupier.

(8) The reasonable costs incurred by an officer—

- (a) in the exercise of the powers conferred upon the officer by this section in respect of an animal; and

Prevention of Cruelty to Animals.

- (b) in complying with the duties imposed upon the officer by this Act or the regulations, in consequence of the exercise by the officer of those powers,

may be recovered from the owner of the animal as a debt in a court of competent jurisdiction by—

- (c) where the officer is a member of the police force—the officer or the Crown;
- (d) where the officer is an officer of the Royal Society for the Prevention of Cruelty to Animals, New South Wales—the officer or any other officer of that society; or
- (e) where the officer is an officer of an organisation or association referred to in paragraph (b) (ii) of the definition of “officer” in section 4 (1)—the officer or any other officer of that organisation or association.

27. Upon complaint made on oath by a person that the person suspects, on reasonable grounds, that there is, in any premises, an animal in respect of which an offence against this Act or the regulations— ^{Search warrants.}

- (a) is, or is suspected of, being committed;
- (b) has, or is suspected of having, been committed; or
- (c) is, or is suspected of being, about to be committed,

a stipendiary magistrate may issue a warrant authorising an officer or officers named in the warrant, together with any person or persons so named (each of whom may, if the warrant so provides, be accompanied by one or more members of the police force), at any time or times within 14 days after the date of issue of the warrant—

- (d) to enter, if need be by the use of reasonable force;
- (e) to search; and

Prevention of Cruelty to Animals.

(f) to inspect and examine any animal which is in,
the premises described in the warrant.

Obstruction
of persons
exercising
powers, etc.

28. A person shall not obstruct, hinder or interfere with any other person while that other person is exercising or performing any power, authority, duty or function conferred upon that other person by or under this Act.

Penalty : \$500.

Court
may order
production
of animal.

29. (1) Upon complaint made on oath by an officer that the officer suspects, on reasonable grounds, that an offence against this Act or the regulations is being, or has been, committed in respect of an animal, a stipendiary magistrate may issue a summons against a person in charge of the animal requiring the person to produce the animal, or cause the animal to be produced, before a court specified in the summons, and at a time and date so specified, for the inspection of the court.

(2) A person upon whom a summons issued under subsection (1) is served shall not, without reasonable cause, fail to comply with the summons.

Penalty: \$100.

Court may
order
destruction
of animal.

30. (1) Where—

- (a) a court has convicted a person of an offence against this Act or the regulations in respect of an animal; and
- (b) the court is satisfied that the animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive,

the court may—

- (c) make an order that the animal be destroyed by such person as is specified in the order; and

Prevention of Cruelty to Animals.

- (d) where it has made an order under paragraph (c)—make a further order that the person referred to in paragraph (a) pay to the person specified in the order made under paragraph (c) such costs in respect of the destruction of the animal as are specified in that further order.

(2) A person specified in an order made under subsection (1) (c) shall, as soon after that person has been served with the order as is practicable, destroy the animal to which the order relates, or cause it to be destroyed, in a manner that causes it to die quickly and without unnecessary pain.

(3) Where a court has made an order under subsection (1) (d), the person to whom the costs specified in the order are required by the order to be paid may recover those costs from the person who is required by the order to pay those costs as a debt in a court of competent jurisdiction.

31. (1) Subject to subsection (2), where—

- (a) a court has convicted a person in charge of an animal of an offence against this Act or the regulations in respect of the animal; and
- (b) the court is satisfied that, if that person continues to be a person in charge of the animal, that person is likely to commit a further offence against this Act or the regulations in respect of the animal,

Court may
make
order
regarding
disposal of
animal.

the court may, in addition to any penalty which it may otherwise impose, make such order in respect of the disposal of the animal as it thinks fit.

(2) Where a court has convicted a person in charge of an animal of an offence against section 6 (1), the court may, in addition to any penalty which it may otherwise impose—

- (a) make such order in respect of the disposal of—
- (i) the animal in respect of which the offence was committed; and

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- (ii) any other animal of which the person is a person in charge,
as it thinks fit; and
- (b) where it has made an order under paragraph (a), make a further order that the person shall not—
- (i) purchase or acquire; or
- (ii) take possession or custody of,
any animal within such period as is specified in the order.
- (3) A person upon whom an order made under subsection (1) or (2) is served shall not fail to comply with the order.

Penalty : \$1,000.

Sale-yard
owner
may
recoup
expenses.

32. The reasonable costs incurred by the owner or lessee of a sale-yard in complying with the duties imposed upon that owner or lessee by this Act or the regulations in respect of a stock animal which is confined in the sale-yard may be recovered by that owner or lessee from the owner of the animal as a debt in a court of competent jurisdiction.

Alterna-
tive
summons.

33. (1) Where, at any time during proceedings for an offence against this Act or the regulations in respect of an animal, the person accused of the offence satisfies the court before which those proceedings are being taken that the act or omission in respect of which those proceedings are being taken was done, authorised to be done or omitted to be done by that person in compliance with an express direction given by—

- (a) the owner of the animal; or

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- (b) where that person was bound to comply with the directions, in respect of the animal, of any servant or agent of the owner of the animal—the servant or agent,

that court—

(c) may—

(i) make an order that that person be discharged;
or

(ii) adjourn those proceedings until the proceedings referred to in subsection (2) have been determined; and

(d) may issue a summons against that owner, servant or agent, as the case may be, in respect of the offence—

(i) within a period of 6 months after that time;
or

(ii) within a period of 2 years after the date on which it is alleged that the offence occurred,

whichever period expires earlier.

(2) In any proceedings against a person for an offence in respect of which a summons has been issued against that person under subsection (1), the court before which the proceedings are being taken may, where it convicts that person of the offence, make an order that that person pay such costs in respect of the proceedings firstmentioned in that subsection as it thinks fit.

34. (1) Except as provided in subsection (2), proceedings for an offence against this Act or the regulations may be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone. ^{Proceedings for offences.}

Prevention of Cruelty to Animals.

(2) An offence against section 6 (1) may—

- (a) if the informant so elects, be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone; or
- (b) be taken on indictment.

(3) A court shall not convict a person of an offence against this Act or the regulations in respect of an act or omission where that, or any other, court has convicted the person of that, or any other, offence against this Act or the regulations in respect of that act or omission.

Regulations. 35. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the conditions under which any animal or species of animal may be—
 - (i) confined;
 - (ii) carried or conveyed;
 - (iii) kept or used in connection with a circus; or
 - (iv) kept or used in connection with the production of films, television programmes or film, television or photographic advertisements;
- (b) the accommodation or shelter to be provided for any animal or species of animal;
- (c) the manner in which, and the conditions under which, any animal or species of animal may be destroyed;
- (d) the licensing, prohibition, regulation and control of animal trades; and
- (e) the fees to be paid in connection with the issue of a licence under this Act.

Prevention of Cruelty to Animals.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body; or
- (d) exempt any person, or any specified class of persons, either absolutely or subject to conditions, from the operation of any specified provision of this Act,

or may do any combination of those things.

(3) A regulation may impose a penalty not exceeding \$200 for an offence against the regulation.

(4) A regulation made under subsection (1) (d) may—

- (a) with respect to the licensing of an animal trade, provide for the issue of a licence subject to such conditions as the regulation may impose; or
- (b) with respect to the regulation or control of an animal trade, provide that a person shall not conduct an animal trade unless he is the holder of a licence issued in respect of the animal trade.

(5) Without limiting the generality of subsection (1), a regulation made for the purposes of section 23 may—

- (a) prescribe, as a part of New South Wales, the whole of New South Wales except such part thereof as may be specified in the regulation; and
- (b) prescribe a type of trap—
 - (i) by words;
 - (ii) by reference to a photographic representation which is depicted in, and forms part of, the regulation; or

Prevention of Cruelty to Animals.

(iii) by reference to a diagram which is depicted in,
and forms part of, the regulation,
or by any combination of those methods.

Repeals and
savings and
transitional
provisions.

36. (1) Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

(2) Schedule 2 has effect.

Sec. 36
(1).

SCHEDULE 1.

REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1901, No. 64 ..	Prevention of Cruelty to Animals Act, 1901.	The whole Act.
1928, No. 54 ..	Prevention of Cruelty to Animals (Amendment) Act, 1928.	The whole Act.
1937, No. 35 ..	Statute Law Revision Act, 1937 ..	So much of the Second Schedule as amended Act No. 64, 1901.
1943, No. 44 ..	Prevention of Cruelty to Animals (Amendment) Act, 1943.	Sections 1 (2) and (3) and 2 (1) and (3).
1951, No. 17 ..	Prevention of Cruelty to Animals (Amendment) Act, 1951.	The whole Act.
1952, No. 1 ..	Prevention of Cruelty to Animals (Amendment) Act, 1952.	The whole Act.
1953, No. 35 ..	Prevention of Cruelty to Animals (Amendment) Act, 1955.	Sections 1 (2) and (3) and 2.
1967, No. 91 ..	Prevention of Cruelty to Animals (Amendment) Act, 1967.	Sections 1 (2), 2, 3, 4 and 5 (2).
1973, No. 45 ..	Prevention of Cruelty to Animals (Amendment) Act, 1973.	The whole Act.
1977, No. 19 ..	Notice of Action and Other Privileges Abolition Act, 1977.	So much of Schedule 1 as amended Act No. 64, 1901.

Prevention of Cruelty to Animals.

SCHEDULE 2.

Sec. 36
(2).

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule, "commencement day" means the day appointed and notified under section 2 (2). Interpretation.
2. A regulation which was made under the Prevention of Cruelty to Animals Act, 1901, and which was in force immediately before the commencement day, shall be deemed to be a regulation made under this Act. Regulations.
3. On and from the commencement day, a reference in any other Act to the "Prevention of Cruelty to Animals Act, 1901" shall be read and construed as a reference to the "Prevention of Cruelty to Animals Act, 1979". in other Acts. References
4. An authority in writing issued by the Minister for the purposes of section 12A (2) of the Prevention of Cruelty to Animals Act, 1901, before the commencement day, and in force immediately before that day, shall be deemed to be a prescribed authority for the purposes of section 25 (2). Authorities.
5. The provisions of sections 4A (4), 12D, 12E and 12G of the Prevention of Cruelty to Animals Act, 1901, continue to apply to and in respect of any proceeding for an offence against that Act commenced before the commencement day in the manner those provisions would have applied had not this Act been enacted. Transitional.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 21st December, 1979.*

 BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

Provisional Code

Doc. 10
100

1. The purpose of this act is to provide for the...
2. The provisions of this act shall apply to...
3. The provisions of this act shall apply to...

4. The provisions of this act shall apply to...
5. The provisions of this act shall apply to...
6. The provisions of this act shall apply to...

7. The provisions of this act shall apply to...
8. The provisions of this act shall apply to...
9. The provisions of this act shall apply to...