

ANIMAL RESEARCH BILL 1985

NEW SOUTH WALES

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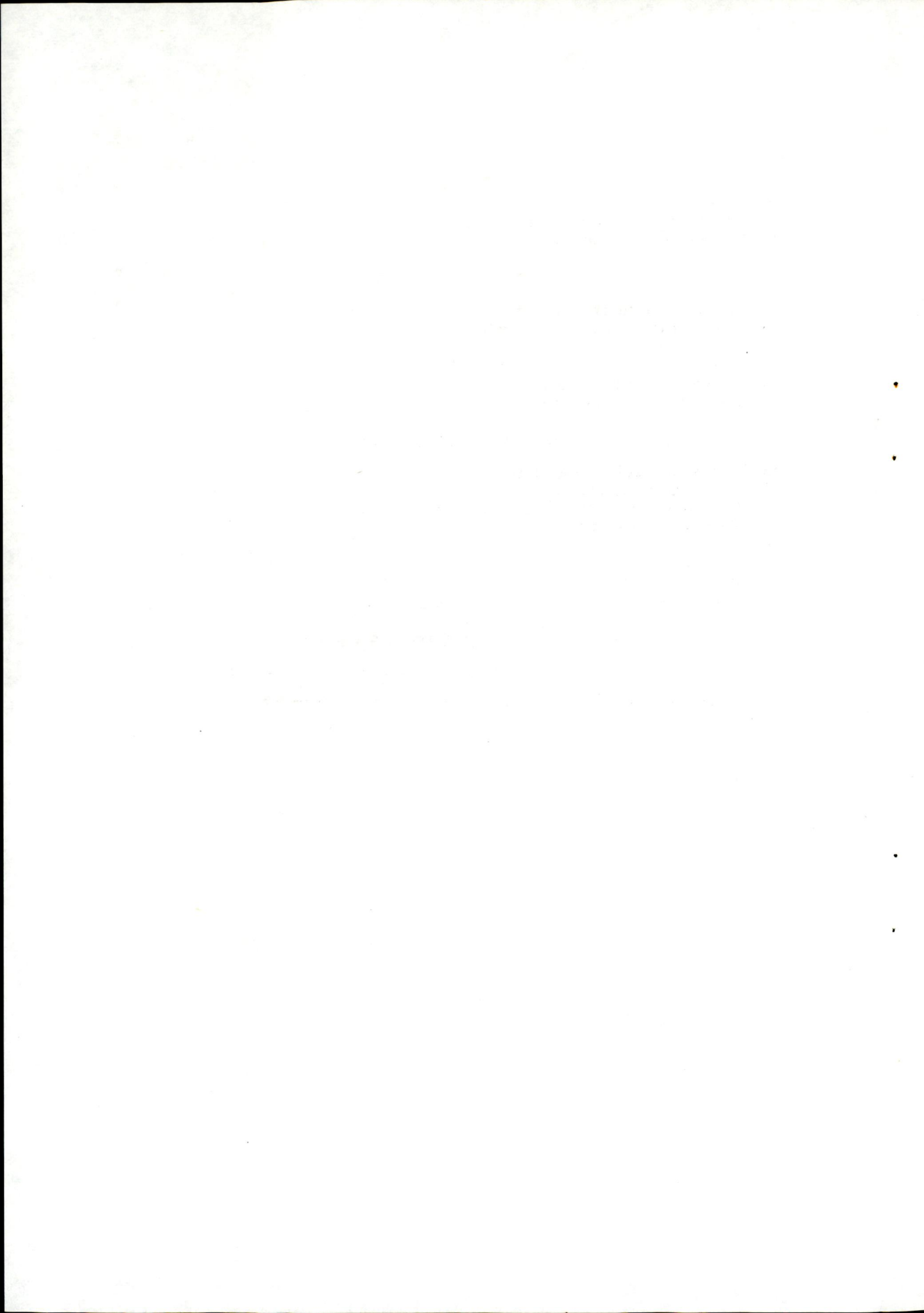
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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, , 1985.*

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. , 1985.

An Act to protect the welfare of animals used in connection with animal research.

See also Miscellaneous Acts (Animal Research) Amendment Bill 1985.

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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****Short title**

1. This Act may be cited as the "Animal Research Act 1985".

Commencement

- 10 2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Parts II–VI shall each commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

15 **Interpretation**

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

"accredited research establishment" means a corporation which is accredited as a research establishment under section 20;

- 20 "advisory committee" means a committee appointed under section 8;

"animal" means a vertebrate animal, and includes a mammal, bird, reptile, amphibian and fish, but does not include a human being;

"animal care and ethics committee" means a committee appointed under section 13;

- 25 "animal research" means any procedure, test, experiment, inquiry, investigation or study in connection with which an animal is used and, without limiting the generality of the foregoing, includes any procedure, test, experiment, inquiry, investigation or study in the course of which—

- 30 (a) an animal is subjected to—

- (i) surgical, medical, psychological, biological, chemical or physical treatment;

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-
- (ii) abnormal conditions of heat, cold, light, dark, confinement, noise, isolation or overcrowding;
 - (iii) abnormal dietary conditions; or
 - (iv) electric shock or radiation treatment; or
 - 5 (b) any material or substance is extracted or derived from the body of an animal,
but does not include any procedure, test, experiment, inquiry, investigation or study which is carried out in the course of—
 - 10 (c) the administration of veterinary treatment to an animal for the purpose of protecting the welfare of the animal; or
 - (d) the conduct of normal animal husbandry operations;
 - “animal research authority” means an authority issued under section 25;
 - “animal research licence” means a licence issued under section 31;
 - 15 “animal supplier’s licence” means a licence issued under section 39;
 - “authorised justice” means—
 - (a) a Magistrate; or
 - (b) a justice of the peace employed in the Local Courts Administration, Attorney General’s Department;
 - 20 “certificate of accreditation” means a certificate of accreditation issued under section 20;
 - “certificate of identification” means a certificate of identification issued under section 49;
 - “Chairperson” means the Chairperson of the Panel;
 - 25 “Code of Practice” means the Code of Practice referred to in section 4;
 - “corporation” includes—
 - (a) any government department or administrative office and any branch thereof; and
 - 30 (b) any prescribed body of persons or body of persons of a prescribed class;

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“designated land” means—

- 5 (a) in relation to an accredited research establishment—the land designated in the establishment’s certificate of accreditation as the land in or on which it is intended that the business of animal research will be carried on by the establishment;
- 10 (b) in relation to an animal research licence—the land designated in the licence as the land in or on which it is intended that the business of animal research will be carried on by the holder of the licence; or
- 15 (c) in relation to an animal supplier’s licence—the land designated in the licence as the land in or on which it is intended that the supply of animals for use in connection with animal research will be conducted by the holder of the licence;

“director”, in relation to a corporation, means—

- (a) any person who holds office or acts as a director of the corporation (by whatever name called); or
- 20 (b) any person who is concerned in the management of the corporation;

“exempt animal” means—

- 25 (a) any animal (including any animal that is in the wild) that belongs to the class of animals comprising cattle, horses, sheep, goats, swine and poultry or that belongs to any other class of animals prescribed for the purposes of this paragraph; or
- (b) any other animal (including any native animal and any exotic animal) that is in the wild;

“inspector” means an inspector appointed under section 49;

30 “land” includes premises;

“Panel” means the Animal Research Review Panel constituted by this Act;

“premises” includes any structure, building, aircraft, vehicle, vessel or place (whether built upon or not) and any part thereof;

“recognised research purpose” means—

- (a) the purpose of acquiring, demonstrating or developing knowledge in the field of medical, veterinary, agricultural, behavioural or biological science;
- 5 (b) the purpose of acquiring, demonstrating, exercising or developing techniques used in the practice of medical, veterinary, agricultural, behavioural or biological science;
- (c) the purpose of developing or testing substances intended for therapeutic use (within the meaning of the Therapeutic
10 Goods and Cosmetics Act 1972); or
- (d) any purpose prescribed for the purposes of this paragraph;

“regulation” means a regulation made under this Act;

“Secretary” means the person for the time being holding office or acting as the Secretary of the Department of Local Government.

15 (2) In this Act, a reference to the carrying on of the business of animal research is a reference to the carrying on of any business or activity (whether or not for gain) in the course of which animal research is carried out.

(3) In this Act, a reference to the supply of animals for use in connection with animal research includes a reference to the obtaining, breeding,
20 nurturing or keeping of animals for the purpose of their being supplied for use in connection with animal research.

(4) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
- 25 (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Code of Practice

4. The regulations may prescribe a Code of Practice with respect to the conduct of animal research and the supply of animals for use in connection
30 with animal research.

Act binds Crown

5. This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, in all its other capacities.

PART II**THE ANIMAL RESEARCH REVIEW PANEL****The Panel**

6. (1) There is by this Act constituted the Animal Research Review Panel.

10 (2) The Panel shall consist of 12 members appointed by the Minister, of whom—

(a) 3 shall be persons (each having such qualifications as may be prescribed) nominated by the New South Wales Vice Chancellors Conference;

15 (b) one shall be a person selected by the Minister from a panel of 3 persons (each having such qualifications as may be prescribed) nominated by the Australian Pharmaceutical Manufacturers' Association;

20 (c) 2 shall be persons selected by the Minister from a panel of 5 persons (each having such qualifications as may be prescribed) nominated by the Royal Society for the Prevention of Cruelty to Animals, New South Wales;

25 (d) 2 shall be persons selected by the Minister from a panel of 5 persons (each having such qualifications as may be prescribed) nominated by the Animal Societies' Federation (N.S.W.);

(e) one shall be a person nominated by the Minister for Health;

(f) one shall be a person nominated by the Minister for Education;

(g) one shall be a person nominated by the Minister for Agriculture and Fisheries; and

30 (h) one shall be an officer of the National Parks and Wildlife Service nominated by the Minister administering the National Parks and Wildlife Act 1974.

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(3) Where, but for this subsection, the Minister would be unable to appoint a member of the Panel because of the failure of the relevant nominating body to nominate a person or panel of persons in accordance with the relevant paragraph of subsection (2)—

- 5 (a) the Minister may appoint any duly qualified person to hold office as that member; and
- (b) the person so appointed shall be a member of the Panel and shall be deemed to have been appointed in accordance with that paragraph.

10 (4) Where—

- (a) a body referred to in subsection (2) changes its name; and
- (b) the Minister is satisfied that the change of name is not accompanied by any change in the nature of the body,

15 the Minister may, by order published in the Gazette, certify to that effect and, on and from the day on which the order is so published, a reference in subsection (2) to that body shall be read as a reference to that body under its changed name.

(5) The Panel shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

20 (6) Schedule 1 has effect with respect to the members of the Panel.

(7) Schedule 2 has effect with respect to the procedure of the Panel.

Staff of the Panel

7. (1) Such staff as may be necessary to enable the Panel to exercise its functions shall be employed under the Public Service Act 1979.

25 (2) The Panel may—

- (a) with the approval of the Minister; and
- (b) on such terms and conditions as may be approved by the Public Service Board,

30 arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

(3) The Panel may—

- (a) for any purpose approved by the Minister; and
- (b) on such terms and conditions as may be approved by the Public Service Board,

5 employ such casual staff as may be required by the Panel in exercising its functions.

(4) The Public Service Act 1979 does not apply to or in respect of the employment of casual staff under subsection (3) and a person is not, as a member of that casual staff, subject to that Act.

10 **Advisory committees**

8. (1) The Panel may, with the consent of the Minister, appoint such advisory committees as may be necessary to enable it to exercise its functions.

(2) Subject to subsection (3), the constitution and procedure of an
15 advisory committee shall be as prescribed.

(3) At least one of the members of an advisory committee shall be a member of the Panel.

Functions of the Panel

9. The Panel has the following functions:

- 20 (a) the investigation of matters relating to the conduct of animal research and the supply of animals for use in connection with animal research;
- (b) the investigation and evaluation of the efficacy of the Code of Practice in regulating the conduct of animal research and the
25 supply of animals for use in connection with animal research;
- (c) the investigation of applications and complaints referred to it under this Act; and
- (d) such other functions as the Minister may from time to time confer or impose on it.

Inspections

10 **10. (1)** The Panel may at any time request the Secretary to cause an inspection to be made of the designated land of an accredited research establishment or of the designated land in relation to an animal research
5 licence or animal supplier's licence.

(2) The Panel may, by instrument in writing, authorise a member of the Panel to accompany an inspector during the conduct of an inspection referred to in subsection (1).

Annual reports

10 **11. (1)** As soon as practicable after 30 June, but on or before 31 December, in each year, the Panel shall prepare and forward to the Minister a report of its work and activities for the 12 months ending on 30 June in that year.

(2) The Minister shall lay the report or cause it to be laid before both
15 Houses of Parliament as soon as practicable after receiving the report.

Delegation

12. (1) The Panel may delegate to a person the exercise of any of its functions, other than this power of delegation.

(2) A delegation under this section—

- 20 (a) shall be in writing;
 (b) may be general or limited; and
 (c) may be revoked, wholly or partly, by the Panel.

(3) A delegate is, in the exercise of a function delegated under this section, subject to such conditions as are specified in the instrument of
25 delegation.

(4) A function delegated under this section, when exercised by the delegate, shall be deemed to have been exercised by the Panel.

(5) A delegation under this section does not prevent the exercise of a function by the Panel.

30 **(6)** A function purporting to have been exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

PART III**ANIMAL CARE AND ETHICS COMMITTEES****Constitution of animal care and ethics committees**

13. (1) A corporation may appoint its own animal care and ethics
5 committee.

(2) Upon accreditation of a corporation as a research establishment, the animal care and ethics committee appointed by the corporation under subsection (1) becomes the animal care and ethics committee for the accredited research establishment.

10 (3) The Secretary may, on the recommendation of the Panel, appoint animal care and ethics committees for the purpose of supervising the animal research carried out by holders of animal research licences.

(4) Subject to subsection (5), the constitution and procedure of an animal care and ethics committee shall be as prescribed.

15 (5) At least one of the members of an animal care and ethics committee shall be a person who—

- (a) is not involved in the conduct of animal research or the supply of animals for use in connection with animal research; and
- (b) is not associated with any accredited research establishment
20 otherwise than in the person's capacity as a member of such a committee.

Functions of animal care and ethics committees

14. (1) The animal care and ethics committee for an accredited research establishment has the following functions:

- 25 (a) the making of recommendations concerning the granting of animal research authorities by the establishment;
- (b) the supervision of the carrying out of animal research by holders of animal research authorities granted by the establishment; and
- 30 (c) such other functions as may be conferred or imposed on it by the Code of Practice.

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(2) An animal care and ethics committee appointed by the Secretary has the following functions:

- (a) the supervision of the carrying out of animal research by holders of animal research licences granted by the Secretary; and
- 5 (b) such other functions as may be conferred or imposed on it by the Code of Practice.

Appointment of animal care and ethics subcommittees

- 15 15. (1) An accredited research establishment may, on the recommendation of its animal care and ethics committee, appoint animal care and ethics subcommittees to assist the animal care and ethics committee in the exercise of its functions.

(2) The constitution and procedure of an animal care and ethics subcommittee shall be as prescribed.

Functions of animal care and ethics subcommittees

- 15 16. (1) The Code of Practice may empower an animal care and ethics committee to delegate specified functions to its animal care and ethics subcommittees.

(2) An animal care and ethics subcommittee has such functions as may be delegated to it pursuant to subsection (1).

20

PART IV**ACCREDITATION AND LICENSING****DIVISION 1—*Interpretation*****Interpretation**

17. In this Part—
- 25 “appeal” means an appeal under section 45;
- “approved” means approved for the time being by the Secretary;

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“disqualified corporation” means a corporation that—

(a) has, within the previous 3 years, been convicted of an offence arising under Part V of this Act or Part II of the Prevention of Cruelty to Animals Act 1979; or

5 (b) has a disqualified individual as one of its directors;

“disqualified individual” means an individual who—

(a) has, within the previous 3 years, been convicted of an offence arising under Part V of this Act or Part II of the Prevention of Cruelty to Animals Act 1979; or

10 (b) is a director of a disqualified corporation.

DIVISION 2—*Accreditation of research establishments*

Applications for accreditation

18. (1) A corporation may apply to the Secretary for accreditation as a research establishment.

15 **(2)** An application shall—

(a) be in or to the effect of the approved form;

(b) include the prescribed particulars;

20 (c) identify the land (being land occupied or to be occupied by the applicant) in or on which the applicant intends to carry on the business of animal research;

(d) be accompanied by the prescribed fee; and

(e) be lodged at the office of the Secretary.

Investigation of applications

25 **19. (1)** The Secretary shall refer all applications to the Panel for investigation.

(2) The Panel shall investigate each application referred to it and shall furnish the Secretary with a report on each such application.

Determination of applications

30 **20. (1)** After considering the Panel’s report on an application, the Secretary shall determine the application—

(a) by accrediting the applicant as a research establishment, either unconditionally or subject to conditions; or

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(b) by refusing to accredit the applicant as a research establishment.

(2) Notwithstanding subsection (1), the Secretary shall not accredit an applicant as a research establishment—

- 5 (a) if the applicant does not have a duly constituted animal care and ethics committee; or
- (b) if the applicant is a disqualified corporation.

(3) Where the Secretary refuses to accredit an applicant as a research establishment, the Secretary shall, as soon as practicable after so refusing, cause notice of the refusal, and of the reasons for the refusal, to be served
10 on the applicant.

(4) Where, at the expiration of 90 days after an application has been made, the Secretary has failed to determine the application, the Secretary shall, for the purposes only of any appeal, be deemed to have refused to accredit the applicant as a research establishment.

15 (5) The Secretary shall issue a certificate of accreditation to each corporation that the Secretary accredits as a research establishment.

(6) A certificate of accreditation in respect of an accredited research establishment shall—

- (a) be in or to the effect of the approved form;
- 20 (b) designate the land in or on which it is intended that the business of animal research will be carried on by the establishment, as identified in the application pursuant to which the establishment has been accredited;
- (c) specify any condition to which the accreditation is subject; and
- 25 (d) specify the date on which the accreditation was granted.

Duration of accreditation

21. (1) Unless sooner cancelled, the accreditation of a research establishment remains in force for the period of 12 months from the date on which it was granted.

30 (2) Notwithstanding subsection (1), the accreditation of a research establishment has no force or effect during any period for which it is suspended.

Complaints

22. (1) A complaint in respect of an accredited research establishment may be made to the Secretary—

- 5 (a) that the establishment does not have a duly constituted animal care and ethics committee;
- (b) that animal research is being or has been carried out on behalf of the establishment—
 - (i) by an individual who is not the holder of an animal research authority issued by the establishment;
 - 10 (ii) otherwise than with the approval, or in contravention of the directions, of the animal care and ethics committee for the establishment;
 - (iii) in contravention of the Code of Practice;
 - (iv) otherwise than for a recognised research purpose; or
 - 15 (v) in connection with animals (other than exempt animals) that have not been obtained from the holder of an animal supplier's licence;
- (c) that the establishment is a disqualified corporation; or
- 20 (d) that the establishment has failed to comply with a condition to which its accreditation is subject.

(2) A complaint shall—

- (a) be in writing;
- (b) specify the grounds on which it is made;
- (c) be signed by the complainant; and
- 25 (d) be lodged at the office of the Secretary.

Investigation of complaints

23. (1) The Secretary shall refer all complaints to the Panel for investigation.

(2) The Panel shall investigate each complaint referred to it and shall
30 furnish the Secretary with a report on each such complaint.

Determination of complaints

24. (1) After considering the Panel's report on a complaint, the Secretary shall determine the complaint—

- 5 (a) by cancelling the accreditation of the research establishment the subject of the complaint;
- (b) by suspending the accreditation of the research establishment the subject of the complaint for such period as the Secretary thinks fit;
- 10 (c) by cautioning or reprimanding the research establishment the subject of the complaint; or
- (d) by dismissing the complaint.

(2) The Secretary shall not cancel or suspend the accreditation of a research establishment unless—

- 15 (a) notice has been served on the establishment—
 - (i) of the Secretary's intention to cancel or suspend the accreditation; and
 - (ii) of the reasons for which the Secretary intends to cancel or suspend the accreditation;
- 20 (b) the establishment has had a reasonable opportunity to make submissions to the Secretary in relation to the intended cancellation or suspension of the accreditation; and
- (c) the Secretary has considered any such submission.

(3) As soon as practicable after determining a complaint, the Secretary shall cause written notice of the determination to be served on—

- 25 (a) the research establishment the subject of the complaint; and
- (b) the complainant.

(4) The cancellation or suspension of accreditation of a research establishment takes effect—

- 30 (a) except as provided by paragraph (b)—at the expiration of 14 days after written notice of the cancellation or suspension is served on the establishment; or
- (b) where an appeal is made before the expiration of the period referred to in paragraph (a)—when the appeal is withdrawn or otherwise finally disposed of.

DIVISION 3—*Animal research authorities***Issue of authorities**

25. (1) An accredited research establishment may, on the recommendation of its animal care and ethics committee, issue an authority
5 to any individual to carry out animal research.

(2) Notwithstanding subsection (1), an accredited research establishment shall not issue an animal research authority to a disqualified individual.

Form of authorities

26. (1) An animal research authority shall—

- 10 (a) be in or to the effect of the approved form;
- (b) identify the research establishment by which the authority is issued;
- (c) identify the person to whom the authority is issued;
- (d) describe the kind of animal research which the authority
15 authorises that person to carry out; and
- (e) specify the date on which the authority is issued.

(2) An animal research authority shall not authorise, or purport to authorise, the carrying out of animal research otherwise than—

- 20 (a) with the approval, and in accordance with the directions, of the animal care and ethics committee for the research establishment by which the authority is issued;
- (b) in accordance with the Code of Practice;
- (c) for a recognised research purpose; and
- (d) in connection with animals (other than exempt animals) that have
25 been obtained from the holder of an animal supplier's licence.

Duration of authorities

27. Unless sooner cancelled, an animal research authority remains in force for the period of 12 months from the date on which it was issued or, where a shorter period is specified in the authority in that regard, for the
30 shorter period so specified.

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Cancellation of authorities

28. An animal research authority may be cancelled at any time by the research establishment by which the authority was issued.

DIVISION 4—*Animal research licences***5 Applications for licences**

29. (1) An individual may apply to the Secretary for an animal research licence.

(2) An application shall—

- (a) be in or to the effect of the approved form;
- 10 (b) include the prescribed particulars;
- (c) identify the land (being land occupied or to be occupied by the applicant) in or on which the applicant intends to carry on the business of animal research;
- (d) be accompanied by the prescribed fee; and
- 15 (e) be lodged at the office of the Secretary.

Investigation of applications

30. (1) The Secretary shall refer all applications to the Panel for investigation.

20 (2) The Panel shall investigate each application referred to it and shall furnish the Secretary with a report on each such application.

Determination of applications

31. (1) After considering the Panel's report on an application, the Secretary shall determine the application—

- 25 (a) by granting a licence to the applicant, either unconditionally or subject to conditions; or
- (b) by refusing to grant a licence to the applicant.

(2) Notwithstanding subsection (1), the Secretary shall not grant an animal research licence to a disqualified individual.

(3) Where the Secretary refuses to grant a licence, the Secretary shall, as soon as practicable after so refusing, cause notice of the refusal, and of the reasons for the refusal, to be served on the applicant for the licence.

5 (4) Where, at the expiration of 90 days after an application has been made, the Secretary has failed to determine the application, the Secretary shall, for the purposes only of any appeal, be deemed to have refused to grant a licence to the applicant.

Form of licences

32. (1) An animal research licence shall—

- 10 (a) be in or to the effect of the approved form;
- (b) identify the individual to whom the licence is granted;
- (c) designate the land in or on which it is intended that the business
15 of animal research will be carried on by the individual, as identified in the application pursuant to which the individual has been granted the licence;
- (d) describe the kind of animal research which the licence authorises the individual to carry out;
- (e) specify the animal care and ethics committee under whose
20 supervision the individual is authorised to carry out animal research;
- (f) specify any condition to which the licence is subject; and
- (g) specify the date on which the licence is granted.

(2) An animal research licence shall not authorise, or purport to authorise, the carrying out of animal research otherwise than—

- 25 (a) with the approval, and in accordance with the directions, of the animal care and ethics committee specified in the licence;
- (b) in accordance with the Code of Practice;
- (c) for a recognised research purpose; and
- 30 (d) in connection with animals (other than exempt animals) that have been obtained from the holder of an animal supplier's licence.

Duration of licences

33. (1) Unless sooner cancelled, an animal research licence remains in force for the period of 12 months from the date on which it was granted or, where a shorter period is specified in the licence in that regard, for the
5 shorter period so specified.

(2) Notwithstanding subsection (1), an animal research licence has no force or effect during any period for which it is suspended.

Complaints

34. (1) A complaint in respect of an animal research licence may be
10 made to the Secretary—

(a) that the holder of the licence is carrying out or has carried out animal research—

- (i) otherwise than as authorised by the licence;
- 15 (ii) otherwise than with the approval, or in contravention of the directions, of the animal care and ethics committee specified in the licence;
- (iii) in contravention of the Code of Practice;
- (iv) otherwise than for a recognised research purpose; or
- 20 (v) in connection with animals (other than exempt animals) that have not been obtained from the holder of an animal supplier's licence;

(b) that the holder of the licence is a disqualified individual; or

(c) that the holder of the licence has failed to comply with a condition to which the licence is subject.

25 (2) A complaint shall—

- (a) be in writing;
- (b) specify the grounds on which it is made;
- (c) be signed by the complainant; and
- (d) be lodged at the office of the Secretary.

30 Investigation of complaints

35. (1) The Secretary shall refer all complaints to the Panel for investigation.

(2) The Panel shall investigate each complaint referred to it and shall furnish a report to the Secretary on each such complaint.

Determination of complaints

36. (1) After considering a report furnished in respect of a complaint, the Secretary shall determine the complaint—

- (a) by cancelling the licence the subject of the complaint;
- (b) by suspending the licence the subject of the complaint for such period as the Secretary thinks fit;
- (c) by cautioning or reprimanding the holder of the licence the subject of the complaint; or
- (d) by dismissing the complaint.

(2) The Secretary shall not cancel or suspend a licence unless—

- (a) notice has been served on the holder of the licence—
 - (i) of the Secretary's intention to cancel or suspend the licence; and
 - (ii) of the reasons for which the Secretary intends to cancel or suspend the licence;
- (b) the holder of the licence has had a reasonable opportunity to make submissions to the Secretary in relation to the intended cancellation or suspension of the licence; and
- (c) the Secretary has considered any such submission.

(3) As soon as practicable after determining a complaint, the Secretary shall cause written notice of the determination to be served on—

- (a) the holder of the licence the subject of the complaint; and
- (b) the complainant.

(4) The cancellation or suspension of a licence takes effect—

- (a) except as provided by paragraph (b)—at the expiration of 14 days after written notice of the cancellation or suspension is served on the holder of the licence; or
- (b) where an appeal is made before the expiration of the period referred to in paragraph (a)—when the appeal is withdrawn or otherwise finally disposed of.

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DIVISION 5—*Animal suppliers' licences***Applications for licences**

37. (1) A person may apply to the Secretary for an animal supplier's licence.

5 (2) An application shall—

- (a) be in or to the effect of the approved form;
- (b) include the prescribed particulars;
- 10 (c) identify the land (being land occupied or to be occupied by the applicant) in or on which the applicant intends to conduct the supply of animals for use in connection with animal research;
- (d) be accompanied by the prescribed fee; and
- (e) be lodged at the office of the Secretary.

Investigation of applications

38. (1) The Secretary shall refer all applications to the Panel for
15 investigation.

(2) The Panel shall investigate each application referred to it and shall furnish the Secretary with a report on each such application.

Determination of applications

39. (1) After considering the Panel's report on an application, the
20 Secretary shall determine the application—

- (a) by granting a licence to the applicant, either unconditionally or subject to conditions; or
- (b) by refusing to grant a licence to the applicant.

25 (2) Notwithstanding subsection (1), the Secretary shall not grant an animal supplier's licence to an applicant if the applicant is a disqualified individual or a disqualified corporation.

(3) Where the Secretary refuses to grant a licence, the Secretary shall, as soon as practicable after so refusing, cause notice of the refusal, and of the reasons for the refusal, to be served on the applicant for the licence.

5 (4) Where, at the expiration of 90 days after an application has been made, the Secretary has failed to determine the application, the Secretary shall, for the purposes only of any appeal, be deemed to have refused to grant a licence to the applicant.

Form of licences

40. (1) An animal supplier's licence shall—

- 10 (a) be in or to the effect of the approved form;
- (b) identify the person to whom the licence is granted;
- (c) designate the land in or on which it is intended that the supply of animals for use in connection with animal research will be conducted by the person, as identified in the application pursuant to which the person has been granted the licence;
- 15 (d) describe the kind of animals which the licence authorises the person to supply;
- (e) specify any condition to which the licence is subject; and
- (f) specify the date on which the licence is granted.

20 (2) An animal supplier's licence shall not authorise, or purport to authorise, the supply of animals otherwise than in accordance with the Code of Practice.

Duration of licences

25 41. (1) Unless sooner cancelled, an animal supplier's licence remains in force for the period of 12 months from the date on which it was granted or, where a shorter period is specified in the licence in that regard, for the shorter period so specified.

(2) Notwithstanding subsection (1), an animal supplier's licence has no force or effect during any period for which it is suspended.

Complaints

42. (1) A complaint in respect of an animal supplier's licence may be made to the Secretary—

- 5 (a) that the holder of the licence is supplying or has supplied animals for use in connection with animal research—
 - (i) otherwise than as authorised by the licence; or
 - (ii) in contravention of the Code of Practice;
- (b) that the holder of the licence is a disqualified individual or a disqualified corporation; or
- 10 (c) that the holder of the licence has failed to comply with a condition to which the licence is subject.

(2) A complaint shall—

- (a) be in writing;
- (b) specify the grounds on which it is made;
- 15 (c) be signed by the complainant; and
- (d) be lodged at the office of the Secretary.

Investigation of complaints

43. (1) The Secretary shall refer all complaints to the Panel for investigation.

- 20 (2) The Panel shall investigate each complaint referred to it and shall furnish a report to the Secretary on each such complaint.

Determination of complaints

44. (1) After considering a report furnished in respect of a complaint, the Secretary shall determine the complaint—

- 25 (a) by cancelling the licence the subject of the complaint;
- (b) by suspending the licence the subject of the complaint for such period as the Secretary thinks fit;
- (c) by cautioning or reprimanding the holder of the licence the subject of the complaint; or
- 30 (d) by dismissing the complaint.

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(2) The Secretary shall not cancel or suspend a licence unless—

(a) notice has been served on the holder of the licence—

(i) of the Secretary's intention to cancel or suspend the licence; and

5 (ii) of the reasons for which the Secretary intends to cancel or suspend the licence;

(b) the holder of the licence has had a reasonable opportunity to make submissions to the Secretary in relation to the intended cancellation or suspension of the licence; and

10 (c) the Secretary has considered any such submission.

(3) As soon as practicable after determining a complaint, the Secretary shall cause written notice of the determination to be served on—

(a) the holder of the licence the subject of the complaint; and

(b) the complainant.

15 (4) The cancellation or suspension of a licence takes effect—

(a) except as provided by paragraph (b)—at the expiration of 14 days after written notice of the cancellation or suspension is served on the holder of the licence; or

20 (b) where an appeal is made before the expiration of the period referred to in paragraph (a)—when the appeal is withdrawn or otherwise finally disposed of.

DIVISION 6—*Appeals*

Appeals

25 **45. (1)** Any person who is dissatisfied with a determination of the Secretary under this Part may, in accordance with rules of court, appeal to the District Court against the determination.

(2) An appeal shall be by way of a new hearing and fresh evidence, or evidence in addition to or in substitution for the evidence on which the determination was made, may be given on the appeal.

30 (3) In addition to any other functions and discretions that the District Court has apart from this subsection, the District Court shall, for the purposes of hearing and disposing of an appeal, have all the functions and discretions that the Secretary had in respect of the matter the subject of the appeal.

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(4) The decision of the District Court in respect of an appeal shall be deemed to be the decision of the Secretary and shall be given effect to accordingly.

PART V
OFFENCES

5

Unlawfully carrying on the business of animal research

46. (1) A corporation shall not carry on the business of animal research unless the corporation is an accredited research establishment.

Penalty: \$10,000.

10 (2) An individual shall not carry on the business of animal research unless the individual is the holder of an animal research licence.

Penalty: \$2,000 or imprisonment for 12 months, or both.

(3) An individual does not contravene subsection (2) by reason only that the individual carries on the business of animal research as an employee of
15 an accredited research establishment.

Unlawfully carrying out animal research

47. (1) An individual shall not carry out animal research unless the individual is the holder of an animal research authority or an animal research licence.

20 Penalty: \$2,000 or imprisonment for 12 months, or both.

(2) The holder of an animal research authority shall not carry out animal research—

(a) otherwise than as authorised by the authority; or

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- (b) otherwise than with the approval, and in accordance with the directions, of the animal care and ethics committee for the research establishment by which the authority was issued.

Penalty: \$2,000 or imprisonment for 12 months, or both.

- 5 (3) The holder of an animal research licence shall not carry out animal research—

(a) otherwise than as authorised by the licence; or

- 10 (b) otherwise than with the approval, and in accordance with the directions, of the animal care and ethics committee specified in the licence.

Penalty: \$2,000 or imprisonment for 12 months, or both.

Unlawfully supplying animals for use in connection with animal research

- 15 48. (1) A person shall not supply animals (other than exempt animals) for use in connection with animal research unless the person is the holder of an animal supplier's licence.

Penalty: \$10,000 in the case of a corporation and \$2,000 or imprisonment for 12 months, or both, in the case of an individual.

- 20 (2) The holder of an animal supplier's licence shall not supply animals for use in connection with animal research otherwise than as authorised by the licence.

Penalty: \$10,000 in the case of a corporation and \$2,000 or imprisonment for 12 months, or both, in the case of an individual.

PART VI
INSPECTORS

25 Appointment, etc., of inspectors

49. (1) Inspectors may be appointed for the purposes of this Act under and in accordance with the Public Service Act 1979.

- 30 (2) An inspector shall be a person who is registered as a veterinary surgeon under the Veterinary Surgeons Act 1923 and who has such other qualifications as may be prescribed.

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(3) An inspector shall have and may exercise the functions conferred or imposed on inspectors by or under this Act.

(4) The Secretary shall cause each inspector to be issued with a certificate of identification.

5 (5) An inspector's certificate of identification shall be in or to the effect of the prescribed form.

Powers of inspectors, etc., in relation to certain land

50. (1) An inspector may exercise any one or more of the following powers:

- 10 (a) the inspector may enter the designated land of an accredited research establishment or the designated land in relation to an animal research licence or animal supplier's licence;
- (b) the inspector may search and inspect that land for the presence of—
- 15 (i) any animal;
- (ii) any equipment, material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research; or
- 20 (iii) any document relating to the conduct of animal research or the supply of animals for use in connection with animal research;
- (c) the inspector may examine—
- (i) any animal;
- 25 (ii) any equipment, material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research; or
- (iii) any document relating to the conduct of animal research or the supply of animals for use in connection with animal research,
- 30 found in or on that land;
- (d) the inspector may take (without payment) a quantity not exceeding—
- (i) one kilogram; or

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- (ii) such greater quantity as is reasonable in the circumstances (the onus of establishing which lies on the inspector),
 of any material or substance found in or on that land, being a material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research;
- 5
- (e) the inspector may take copies of, or extracts or notes from, any document found in or on that land, being a document relating to the conduct of animal research or the supply of animals for use in connection with animal research;
- 10
- (f) the inspector may require any person found in or on that land to produce—
- (i) any animal;
- (ii) any equipment, material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research; or
- 15
- (iii) any document relating to the conduct of animal research or the supply of animals for use in connection with animal research,
- 20
- which is in the possession or under the control of that person.

(2) A person shall not fail to comply with a requirement made by an inspector under subsection (1) (f).

Penalty: \$2,000.

- (3) An inspector may exercise any power conferred by subsection (1)—
- 25
- (a) at any time (whether by day or by night); and
- (b) whether or not accompanied by a member of the Panel who is authorised in that behalf under section 10 (2).

(4) Subsection (1) does not authorise the exercise of any power conferred by that subsection in or on any part of land used for residential purposes or in relation to any person found in or on any such part of land.

30

(5) In exercising in or on any land any power conferred by subsection (1), an inspector—

- (a) shall, if required to do so by a person apparently occupying the land, produce to that person the inspector's certificate of identification; and
- 35

- (b) shall, as far as practicable, avoid doing any act which is likely to impede the conduct of animal research or the supply of animals for use in connection with animal research being lawfully carried out in or on the land.

5 Search warrants

51. (1) An inspector may apply to an authorised justice for a search warrant if the inspector has reasonable grounds for believing that a provision of this Act or the regulations is being or has been contravened in or on any premises.

- 10 **(2)** An authorised justice to whom an application is made under subsection (1) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant—
 - (a) to enter the premises; and
 - (b) to search the premises for, and to seize, anything which may
- 15 constitute evidence of a contravention of this Act or the regulations.

(3) Schedule 3 has effect with respect to a search warrant issued under this section.

Inspectors may demand name and address

- 20 **52. (1)** An inspector who finds a person—
 - (a) who is committing an offence against this Act or the regulations; or
 - (b) whom the inspector suspects, on reasonable grounds, of having committed or attempted to commit such an offence,
- 25 may require that person to inform the inspector forthwith of that person's full name and residential address.

(2) A person shall not fail to comply with a requirement made by an inspector under subsection (1).

Penalty: \$1,000.

- 30 **(3)** A person is not guilty of an offence under this section unless it is established that the inspector—
 - (a) warned the person that failure to comply with the requirement is an offence; and
 - (b) identified himself or herself to the person as an inspector.

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Obstruction, etc., of inspectors

53. A person shall not assault, delay, obstruct, hinder or impede an inspector in the exercise of the inspector's functions under this Act.

Penalty: \$2,000.

5 Impersonation, etc., of inspectors

54. A person shall not—

- (a) forge or counterfeit any certificate of identification;
 - (b) make use of any forged or counterfeited certificate of identification; or
 - 10 (c) impersonate, or pretend to be, an inspector.
-

PART VII
SUPPLEMENTARY

False or misleading information

15 55. A person shall not, in or in relation to any application under this Act or in purported compliance with any requirement under this Act, make any statement or furnish any information that is false or misleading in a material particular.

Penalty: \$2,000.

Disclosure of information

20 56. A person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

- (a) with the consent of the person from whom the information was obtained;
- 25 (b) in connection with the administration or execution of this Act;
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings;

(d) in accordance with a requirement imposed under the Ombudsman Act 1974; or

(e) with other lawful excuse.

Penalty: \$2,000.

5 Proceedings for offences

57. (1) Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate.

(2) Proceedings of the kind referred to in subsection (1) shall not be
10 instituted except by the Secretary or a person duly authorised by the Secretary in that behalf, either generally or in a particular case.

Offences by corporations

58. (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or a regulation, each director of the corporation
15 shall be deemed to have contravened the same provision unless the director satisfies the court that—

(a) the corporation contravened the provision without the knowledge of the director;

(b) the director was not in a position to influence the conduct of the
20 corporation in relation to its contravention of the provision; or

(c) the director, being in such a position, used all due diligence to prevent the contravention by the corporation.

(2) A director of a corporation may be proceeded against and convicted
25 under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

Evidentiary certificates

30 59. A certificate that is signed by the Secretary and that certifies that on a specified date or during a specified period—

(a) a specified person was or was not an inspector;

(b) a specified corporation was or was not an accredited research establishment;

(c) a specified person was or was not the holder of a specified licence;
or

(d) the provisions of a specified licence were or were not in specified
terms,

5 is admissible in any proceedings under this Act and is evidence of the fact
or facts so certified.

Liability

60. A person is not personally liable for any act or omission done or
omitted to be done by the person in good faith in the exercise of the
10 functions conferred or imposed on the person by or under this Act.

Service of notices

61. A notice that the Secretary is required or permitted, by or under this
Act, to cause to be served on a person may be served personally or by means
of a letter addressed to the person at the person's address last known to the
15 Secretary.

Regulations

62. (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
20 prescribed for carrying out or giving effect to this Act and, in particular, for
or with respect to—

(a) the qualifications and functions of inspectors;

(b) the procedures to be followed by the Panel in relation to the
investigation of applications and complaints referred to it under
25 this Act;

(c) the records to be kept for the purposes of this Act;

(d) the forms to be used for the purposes of this Act; and

(e) the fees and charges which may be imposed for the purposes of
this Act.

(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;
- 5 (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 from the operation of any specified provision of this Act any specified person or body or specified class of persons or bodies, either unconditionally or subject to conditions,

10 or may do any combination of those things.

(3) A regulation may create an offence punishable by a penalty not exceeding \$500.

SCHEDULE 1

(Sec. 6 (6))

15 PROVISIONS RELATING TO THE MEMBERS OF THE PANEL

Age of members

1. A person of or above the age of 70 years is not eligible to be appointed as a member of the Panel or to act in the office of such a member.

20 Chairperson of the Panel

2. (1) Of the members of the Panel one shall, in and by the relevant instrument of appointment as such a member or by another instrument executed by the Minister, be appointed as Chairperson of the Panel.

25 (2) The Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.

(3) A person who is the Chairperson shall be deemed to have vacated office as Chairperson if the person—

- (a) resigns that office by instrument in writing addressed to the Minister;
- (b) ceases to be a member of the Panel; or
- 30 (c) is removed from that office by the Minister under subclause (4).

(4) The Minister may remove a member of the Panel from the office of Chairperson.

*Animal Research 1985*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS
OF THE PANEL—*continued***Acting members and acting Chairperson**

3. (1) The Minister may, from time to time, appoint a person to act in the office of a member of the Panel during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member and shall
5 be deemed to be a member of the Panel.

(2) The Minister may, from time to time, appoint a member of the Panel to act in the office of Chairperson during the illness or absence of the Chairperson, and the member, while so acting, shall have and may exercise all the functions of the Chairperson and shall be deemed to be the Chairperson.

- 10 (3) The Minister may remove any person from any office to which the person was appointed under this clause.

(4) A person while acting in the office of a member of the Panel is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

- 15 (5) For the purposes of this clause, a vacancy in the office of a member of the Panel or in the office of Chairperson shall be deemed to be an absence from office of the member or Chairperson, as the case may be.

Term of office

- 20 4. Subject to this Schedule, a member of the Panel shall hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

- 25 5. A member of the Panel is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Filling of vacancy in office of member

6. If the office of any member of the Panel becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies

- 30 7. (1) A member of the Panel shall be deemed to have vacated office if the member—
(a) dies;
(b) absents himself or herself from 4 consecutive meetings of the Panel of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the
35 expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
(c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

*Animal Research 1985*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS
OF THE PANEL—*continued*

- (d) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958 or a person under detention under Part VII of that Act or becomes a protected person within the meaning of the Protected Estates Act 1983;
- 5 (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) resigns the office by instrument in writing addressed to the Minister;
- 10 (g) attains the age of 70 years; or
- (h) is removed from office by the Minister under subclause (2) or (3).
- (2) The Minister may remove a member of the Panel from office.
- (3) Without limiting the generality of subclause (2), the Minister may remove a member of the Panel from office if the member contravenes the provisions of clause 8.
- 15 **Disclosure of pecuniary interests**
 - 8. (1) A member of the Panel who has a direct or indirect pecuniary interest—
 - (a) in a matter that is being considered, or is about to be considered, at a meeting of the Panel; or
 - (b) in a thing being done or about to be done by the Panel,
 - 20 shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Panel.
 - (2) A disclosure by a member of the Panel at a meeting of the Panel that the member—
 - (a) is a member, or is in the employment, of a specified company or other body;
 - 25 (b) is a partner, or is in the employment, of a specified person; or
 - (c) has some other specified interest relating to a specified company or other body or a specified person,
- shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after
- 30 the date of the disclosure.
- (3) The Panel shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person.

*Animal Research 1985*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS
OF THE PANEL—*continued*

(4) After a member of the Panel has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines—

- 5 (a) be present during any deliberation of the Panel, or take part in any decision of the Panel, with respect to that matter; or
- (b) exercise any functions under this Act with respect to that thing,
- as the case requires.

(5) Notwithstanding that a member of the Panel contravenes the provisions of this clause, that contravention does not invalidate any decision of the Panel or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member of the Panel in a matter or thing which arises by reason only that the member—

- (a) is associated with an accredited research establishment; or
- (b) is entitled to a share of any profits of an accredited research establishment,
- 15 other than a research establishment which is, or which belongs to a class of research establishments which are, the subject of that matter or thing.

(7) A reference in this clause to a meeting of the Panel includes a reference to a meeting of a committee of the Panel.

Effect of certain other Acts

20 9. (1) The Public Service Act 1979 does not apply to or in respect of the appointment of a member of the Panel and a member of the Panel is not, as such a member, subject to that Act.

25 (2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member of the Panel or from accepting and retaining any remuneration payable to the person under this Act as such a member.

30 (3) The office of a member of the Panel shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

SCHEDULE 2

(Sec. 6 (7))

PROVISIONS RELATING TO THE PROCEDURE OF THE PANEL

General procedure

35 1. The procedure for the calling of meetings of the Panel and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Panel.

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SCHEDULE 2—*continued*PROVISIONS RELATING TO THE PROCEDURE
OF THE PANEL—*continued***Quorum**

2. The quorum for a meeting of the Panel is 7 members of the Panel, of whom—
- (a) at least one shall be a member appointed in accordance with section 6 (2) (a) or (b);
 - 5 (b) at least one shall be a member appointed in accordance with section 6 (2) (c) or (d); and
 - (c) at least one shall be a member appointed in accordance with section 6 (2) (e), (f), (g) or (h).

Presiding member

- 10 3. (1) The Chairperson (or, in the absence of the Chairperson, another member of the Panel elected as chairperson for the meeting by the members of the Panel present) shall preside at a meeting of the Panel.
- (2) The person presiding at any meeting of the Panel shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

15 Voting

4. A decision supported by a majority of the votes at a meeting of the Panel at which a quorum is present shall be the decision of the Panel.

Minutes

- 20 5. The Panel shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Panel.

Authentication of documents

6. Any document requiring authentication by the Panel is sufficiently authenticated if it is signed by the Chairperson or by any member of the Panel who is authorised by the Chairperson in that behalf.

25 First meeting of the Panel

7. The Minister shall call the first meeting of the Panel in such manner as the Minister thinks fit.
-

SCHEDULE 3

(Sec. 51 (3))

PROVISIONS RELATING TO SEARCH WARRANTS

Interpretation

- 5 1. In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“occupier”, in relation to any premises, includes a person in charge of the premises;

“occupier’s notice” means an occupier’s notice referred to in clause 4;

“search warrant” means a search warrant issued under section 51.

10 Application for warrant

2. (1) An application for a search warrant shall be made in writing.

- (2) An authorised justice shall not issue a search warrant unless—

(a) the application for the warrant sets out the grounds on which the warrant is being sought;

- 15 (b) the applicant has given the authorised justice, either orally or in writing, such further information (if any) as the authorised justice requires concerning the grounds on which the warrant is being sought; and

(c) the information given by the applicant is verified before the authorised justice on oath or affirmation or by affidavit.

- 20 (3) An authorised justice may administer an oath or affirmation or take an affidavit for the purposes of an application for a search warrant.

Record of proceedings before authorised justice

3. (1) An authorised justice who issues a search warrant shall cause a record to be made of all relevant particulars of the grounds the authorised justice has relied on to
25 justify the issue of the warrant.

(2) Any matter that might disclose the identity of a person shall not be recorded pursuant to this clause if the authorised justice is satisfied that the safety of any person might thereby be jeopardised.

Notice to occupier of premises entered pursuant to warrant

- 30 4. (1) An authorised justice shall prepare and furnish an occupier’s notice to the inspector to whom the authorised justice issues a search warrant.

- (2) An occupier’s notice furnished in relation to a search warrant—

(a) shall specify—

(i) the name of the inspector who applied for the warrant;

- 35 (ii) the name of the authorised justice who issued the warrant;

*Animal Research 1985*SCHEDULE 3—*continued*PROVISIONS RELATING TO SEARCH WARRANTS—*continued*

- (iii) the date and the time when the warrant was issued; and
- (iv) the address or other description of the premises the subject of the warrant; and
- 5 (b) shall contain a summary of the nature of the warrant and the powers conferred by the warrant.
- (3) An inspector executing a search warrant shall—
 - (a) upon entering the premises or as soon as practicable thereafter, serve the occupier's notice on a person who appears to be an occupier of the premises and to be of or above the age of 18 years; or
 - 10 (b) if no such person is then present in or on the premises, serve the occupier's notice on the occupier of the premises, either personally or in such other manner as the authorised justice who issued the warrant may direct, as soon as practicable after executing the warrant.
- (4) Service of an occupier's notice pursuant to subclause (3) (b) may be postponed by
15 the authorised justice who issued the search warrant if that authorised justice is satisfied that there are reasonable grounds for the postponement.
- (5) Service of an occupier's notice pursuant to subclause (3) (b) may be postponed on more than one occasion, but shall not be postponed on any one occasion for a period exceeding 6 months.
- 20 **Duty to show warrant**
 - 5. An inspector executing a search warrant shall produce the warrant for inspection by an occupier of the premises if requested to do so by that occupier.
- Use of force to enter premises, etc.**
- 25 6. (1) An inspector authorised to enter premises pursuant to a search warrant may use such force as is reasonably necessary for the purpose of entering the premises.
 - (2) An inspector authorised to search premises pursuant to a search warrant may, if it is reasonably necessary to do so, break open any receptacle in or on the premises for the purposes of that search.
- Use of assistants to execute warrant**
- 30 7. (1) An inspector may execute a search warrant with the aid of such assistants as the inspector considers necessary.
 - (2) Without limiting the generality of subsection (1), a member of the police force may accompany an inspector executing a search warrant and take all reasonable steps to assist the inspector in the exercise of the inspector's functions under this Act.

*Animal Research 1985*SCHEDULE 3—*continued*PROVISIONS RELATING TO SEARCH WARRANTS—*continued***Execution of warrant by day or night**

8. (1) A search warrant may be executed by day, but shall not be executed by night unless the authorised justice, by the warrant, authorises its execution by night.

(2) In subclause (1)—

- 5 “by day” means during the period between 6 a.m. and 9 p.m. on any day;
 “by night” means during the period between 9 p.m. on any day and 6 a.m. on the following day.

Expiry of warrant

9. A search warrant ceases to have effect—

- 10 (a) on the expiration of the period of one month after its issue;
 (b) if it is withdrawn by the authorised justice who issued the warrant; or
 (c) when it is executed,

whichever first occurs.

Report to authorised justice on execution of warrant, etc.

- 15 10. (1) The inspector to whom a search warrant is issued shall furnish a report in writing to the authorised justice who issued the warrant—

- (a) stating whether or not the warrant was executed;
 (b) if the warrant was executed—setting out briefly the result of the execution of the warrant (including a brief description of anything seized);
 20 (c) if the warrant was not executed—setting out briefly the reasons why the warrant was not executed; and
 (d) stating whether or not an occupier's notice has been served in connection with the execution of the warrant.

- 25 (2) A report with respect to a search warrant shall be made within 10 days after the execution of the warrant or the expiry of the warrant, whichever first occurs.

Death, absence, etc., of authorised justice who issued warrant

11. Where the authorised justice who issued a search warrant has died, has ceased to be an authorised justice or is absent—

- 30 (a) a report required to be furnished to that authorised justice pursuant to clause 10; or
 (b) a power exercisable by that authorised justice under clause 4 (3) (b) or (4),
 shall be furnished to, or may be exercised by, as the case may be, any other authorised justice.

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SCHEDULE 3—*continued*

PROVISIONS RELATING TO SEARCH WARRANTS—*continued*

Defects in warrants

12. A search warrant is not invalidated by any defect, other than a defect which affects the substance of the warrant in a material particular.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985

ANIMAL RESEARCH ACT 1985 No. 123

NEW SOUTH WALES



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ANIMAL RESEARCH ACT 1985 No. 123

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 123, 1985

An Act to protect the welfare of animals used in connection with animal research. [Assented to, 25th November, 1985]

See also Miscellaneous Acts (Animal Research) Amendment Act 1985.

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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 "Animal Research Act 1985".

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Parts II–VI shall each commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

Interpretation

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

“accredited research establishment” means a corporation which is accredited as a research establishment under section 20;

“advisory committee” means a committee appointed under section 8;

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

“animal care and ethics committee” means a committee appointed under section 13;

“animal research” means any procedure, test, experiment, inquiry, investigation or study in connection with which an animal is used and, without limiting the generality of the foregoing, includes any procedure, test, experiment, inquiry, investigation or study in the course of which—

(a) an animal is subjected to—

- (i) surgical, medical, psychological, biological, chemical or physical treatment;

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(ii) abnormal conditions of heat, cold, light, dark, confinement, noise, isolation or overcrowding;

(iii) abnormal dietary conditions; or

(iv) electric shock or radiation treatment; or

(b) any material or substance is extracted or derived from the body of an animal,

but does not include any procedure, test, experiment, inquiry, investigation or study which is carried out in the course of—

(c) the administration of veterinary treatment to an animal for the purpose of protecting the welfare of the animal; or

(d) the conduct of normal animal husbandry operations;

“animal research authority” means an authority issued under section 25;

“animal research licence” means a licence issued under section 31;

“animal supplier’s licence” means a licence issued under section 39;

“authorised justice” means—

(a) a Magistrate; or

(b) a justice of the peace employed in the Local Courts Administration, Attorney General’s Department;

“certificate of accreditation” means a certificate of accreditation issued under section 20;

“certificate of identification” means a certificate of identification issued under section 49;

“Chairperson” means the Chairperson of the Panel;

“Code of Practice” means the Code of Practice referred to in section 4;

“corporation” includes—

(a) any government department or administrative office and any branch thereof; and

(b) any prescribed body of persons or body of persons of a prescribed class;

“designated land” means—

- (a) in relation to an accredited research establishment—the land designated in the establishment’s certificate of accreditation as the land in or on which it is intended that the business of animal research will be carried on by the establishment;
- (b) in relation to an animal research licence—the land designated in the licence as the land in or on which it is intended that the business of animal research will be carried on by the holder of the licence; or
- (c) in relation to an animal supplier’s licence—the land designated in the licence as the land in or on which it is intended that the supply of animals for use in connection with animal research will be conducted by the holder of the licence;

“director”, in relation to a corporation, means—

- (a) any person who holds office or acts as a director of the corporation (by whatever name called); or
- (b) any person who is concerned in the management of the corporation;

“exempt animal” means—

- (a) any animal (including any animal that is in the wild) that belongs to the class of animals comprising cattle, horses, sheep, goats, swine and poultry or that belongs to any other class of animals prescribed for the purposes of this paragraph; or
- (b) any other animal (including any native animal and any exotic animal) that is in the wild;

“inspector” means an inspector appointed under section 49;

“land” includes premises;

“Panel” means the Animal Research Review Panel constituted by this Act;

“premises” includes any structure, building, aircraft, vehicle, vessel or place (whether built upon or not) and any part thereof;

“recognised research purpose” means—

- (a) the purpose of acquiring, demonstrating or developing knowledge in the field of medical, veterinary, agricultural, behavioural or biological science;
- (b) the purpose of acquiring, demonstrating, exercising or developing techniques used in the practice of medical, veterinary, agricultural, behavioural or biological science;
- (c) the purpose of developing or testing substances intended for therapeutic use (within the meaning of the Therapeutic Goods and Cosmetics Act 1972); or
- (d) any purpose prescribed for the purposes of this paragraph;

“regulation” means a regulation made under this Act;

“Secretary” means the person for the time being holding office or acting as the Secretary of the Department of Local Government.

(2) In this Act, a reference to the carrying on of the business of animal research is a reference to the carrying on of any business or activity (whether or not for gain) in the course of which animal research is carried out.

(3) In this Act, a reference to the supply of animals for use in connection with animal research includes a reference to the obtaining, breeding, nurturing or keeping of animals for the purpose of their being supplied for use in connection with animal research.

(4) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Code of Practice

4. The regulations may prescribe a Code of Practice with respect to the conduct of animal research and the supply of animals for use in connection with animal research.

Act binds Crown

5. This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, in all its other capacities.

PART II**THE ANIMAL RESEARCH REVIEW PANEL****The Panel**

6. (1) There is by this Act constituted the Animal Research Review Panel.

(2) The Panel shall consist of 12 members appointed by the Minister, of whom—

- (a) 3 shall be persons (each having such qualifications as may be prescribed) nominated by the New South Wales Vice Chancellors Conference;
- (b) one shall be a person selected by the Minister from a panel of 3 persons (each having such qualifications as may be prescribed) nominated by the Australian Pharmaceutical Manufacturers' Association;
- (c) 2 shall be persons selected by the Minister from a panel of 5 persons (each having such qualifications as may be prescribed) nominated by the Royal Society for the Prevention of Cruelty to Animals, New South Wales;
- (d) 2 shall be persons selected by the Minister from a panel of 5 persons (each having such qualifications as may be prescribed) nominated by the Animal Societies' Federation (N.S.W.);
- (e) one shall be a person nominated by the Minister for Health;
- (f) one shall be a person nominated by the Minister for Education;
- (g) one shall be a person nominated by the Minister for Agriculture and Fisheries; and
- (h) one shall be an officer of the National Parks and Wildlife Service nominated by the Minister administering the National Parks and Wildlife Act 1974.

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(3) Where, but for this subsection, the Minister would be unable to appoint a member of the Panel because of the failure of the relevant nominating body to nominate a person or panel of persons in accordance with the relevant paragraph of subsection (2)—

- (a) the Minister may appoint any duly qualified person to hold office as that member; and
- (b) the person so appointed shall be a member of the Panel and shall be deemed to have been appointed in accordance with that paragraph.

(4) Where—

- (a) a body referred to in subsection (2) changes its name; and
- (b) the Minister is satisfied that the change of name is not accompanied by any change in the nature of the body,

the Minister may, by order published in the Gazette, certify to that effect and, on and from the day on which the order is so published, a reference in subsection (2) to that body shall be read as a reference to that body under its changed name.

(5) The Panel shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

(6) Schedule 1 has effect with respect to the members of the Panel.

(7) Schedule 2 has effect with respect to the procedure of the Panel.

Staff of the Panel

7. (1) Such staff as may be necessary to enable the Panel to exercise its functions shall be employed under the Public Service Act 1979.

(2) The Panel may—

- (a) with the approval of the Minister; and
- (b) on such terms and conditions as may be approved by the Public Service Board,

arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

(3) The Panel may—

- (a) for any purpose approved by the Minister; and
- (b) on such terms and conditions as may be approved by the Public Service Board,

employ such casual staff as may be required by the Panel in exercising its functions.

(4) The Public Service Act 1979 does not apply to or in respect of the employment of casual staff under subsection (3) and a person is not, as a member of that casual staff, subject to that Act.

Advisory committees

8. (1) The Panel may, with the consent of the Minister, appoint such advisory committees as may be necessary to enable it to exercise its functions.

(2) Subject to subsection (3), the constitution and procedure of an advisory committee shall be as prescribed.

(3) At least one of the members of an advisory committee shall be a member of the Panel.

Functions of the Panel

9. The Panel has the following functions:

- (a) the investigation of matters relating to the conduct of animal research and the supply of animals for use in connection with animal research;
- (b) the investigation and evaluation of the efficacy of the Code of Practice in regulating the conduct of animal research and the supply of animals for use in connection with animal research;
- (c) the investigation of applications and complaints referred to it under this Act; and
- (d) such other functions as the Minister may from time to time confer or impose on it.

Inspections

10. (1) The Panel may at any time request the Secretary to cause an inspection to be made of the designated land of an accredited research establishment or of the designated land in relation to an animal research licence or animal supplier's licence.

(2) The Panel may, by instrument in writing, authorise a member of the Panel to accompany an inspector during the conduct of an inspection referred to in subsection (1).

Annual reports

11. (1) As soon as practicable after 30 June, but on or before 31 December, in each year, the Panel shall prepare and forward to the Minister a report of its work and activities for the 12 months ending on 30 June in that year.

(2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

Delegation

12. (1) The Panel may delegate to a person the exercise of any of its functions, other than this power of delegation.

(2) A delegation under this section—

- (a) shall be in writing;
- (b) may be general or limited; and
- (c) may be revoked, wholly or partly, by the Panel.

(3) A delegate is, in the exercise of a function delegated under this section, subject to such conditions as are specified in the instrument of delegation.

(4) A function delegated under this section, when exercised by the delegate, shall be deemed to have been exercised by the Panel.

(5) A delegation under this section does not prevent the exercise of a function by the Panel.

(6) A function purporting to have been exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

PART III**ANIMAL CARE AND ETHICS COMMITTEES****Constitution of animal care and ethics committees**

13. (1) A corporation may appoint its own animal care and ethics committee.

(2) Upon accreditation of a corporation as a research establishment, the animal care and ethics committee appointed by the corporation under subsection (1) becomes the animal care and ethics committee for the accredited research establishment.

(3) The Secretary may, on the recommendation of the Panel, appoint animal care and ethics committees for the purpose of supervising the animal research carried out by holders of animal research licences.

(4) Subject to subsection (5), the constitution and procedure of an animal care and ethics committee shall be as prescribed.

(5) At least one of the members of an animal care and ethics committee shall be a person who—

- (a)** is not involved in the conduct of animal research or the supply of animals for use in connection with animal research; and
- (b)** is not associated with any accredited research establishment otherwise than in the person's capacity as a member of such a committee.

Functions of animal care and ethics committees

14. (1) The animal care and ethics committee for an accredited research establishment has the following functions:

- (a)** the making of recommendations concerning the granting of animal research authorities by the establishment;
- (b)** the supervision of the carrying out of animal research by holders of animal research authorities granted by the establishment; and
- (c)** such other functions as may be conferred or imposed on it by the Code of Practice.

(2) An animal care and ethics committee appointed by the Secretary has the following functions:

- (a) the supervision of the carrying out of animal research by holders of animal research licences granted by the Secretary; and
- (b) such other functions as may be conferred or imposed on it by the Code of Practice.

Appointment of animal care and ethics subcommittees

15. (1) An accredited research establishment may, on the recommendation of its animal care and ethics committee, appoint animal care and ethics subcommittees to assist the animal care and ethics committee in the exercise of its functions.

(2) The constitution and procedure of an animal care and ethics subcommittee shall be as prescribed.

Functions of animal care and ethics subcommittees

16. (1) The Code of Practice may empower an animal care and ethics committee to delegate specified functions to its animal care and ethics subcommittees.

(2) An animal care and ethics subcommittee has such functions as may be delegated to it pursuant to subsection (1).

PART IV

ACCREDITATION AND LICENSING

DIVISION 1—*Interpretation*

Interpretation

17. In this Part—

“appeal” means an appeal under section 45;

“approved” means approved for the time being by the Secretary;

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“disqualified corporation” means a corporation that—

- (a) has, within the previous 3 years, been convicted of an offence arising under Part V of this Act or Part II of the Prevention of Cruelty to Animals Act 1979; or
- (b) has a disqualified individual as one of its directors;

“disqualified individual” means an individual who—

- (a) has, within the previous 3 years, been convicted of an offence arising under Part V of this Act or Part II of the Prevention of Cruelty to Animals Act 1979; or
- (b) is a director of a disqualified corporation.

DIVISION 2—*Accreditation of research establishments*

Applications for accreditation

18. (1) A corporation may apply to the Secretary for accreditation as a research establishment.

(2) An application shall—

- (a) be in or to the effect of the approved form;
- (b) include the prescribed particulars;
- (c) identify the land (being land occupied or to be occupied by the applicant) in or on which the applicant intends to carry on the business of animal research;
- (d) be accompanied by the prescribed fee; and
- (e) be lodged at the office of the Secretary.

Investigation of applications

19. (1) The Secretary shall refer all applications to the Panel for investigation.

(2) The Panel shall investigate each application referred to it and shall furnish the Secretary with a report on each such application.

Determination of applications

20. (1) After considering the Panel’s report on an application, the Secretary shall determine the application—

- (a) by accrediting the applicant as a research establishment, either unconditionally or subject to conditions; or

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(b) by refusing to accredit the applicant as a research establishment.

(2) Notwithstanding subsection (1), the Secretary shall not accredit an applicant as a research establishment—

(a) if the applicant does not have a duly constituted animal care and ethics committee; or

(b) if the applicant is a disqualified corporation.

(3) Where the Secretary refuses to accredit an applicant as a research establishment, the Secretary shall, as soon as practicable after so refusing, cause notice of the refusal, and of the reasons for the refusal, to be served on the applicant.

(4) Where, at the expiration of 90 days after an application has been made, the Secretary has failed to determine the application, the Secretary shall, for the purposes only of any appeal, be deemed to have refused to accredit the applicant as a research establishment.

(5) The Secretary shall issue a certificate of accreditation to each corporation that the Secretary accredits as a research establishment.

(6) A certificate of accreditation in respect of an accredited research establishment shall—

(a) be in or to the effect of the approved form;

(b) designate the land in or on which it is intended that the business of animal research will be carried on by the establishment, as identified in the application pursuant to which the establishment has been accredited;

(c) specify any condition to which the accreditation is subject; and

(d) specify the date on which the accreditation was granted.

Duration of accreditation

21. (1) Unless sooner cancelled, the accreditation of a research establishment remains in force for the period of 12 months from the date on which it was granted.

(2) Notwithstanding subsection (1), the accreditation of a research establishment has no force or effect during any period for which it is suspended.

Complaints

22. (1) A complaint in respect of an accredited research establishment may be made to the Secretary—

- (a) that the establishment does not have a duly constituted animal care and ethics committee;
- (b) that animal research is being or has been carried out on behalf of the establishment—
 - (i) by an individual who is not the holder of an animal research authority issued by the establishment;
 - (ii) otherwise than with the approval, or in contravention of the directions, of the animal care and ethics committee for the establishment;
 - (iii) in contravention of the Code of Practice;
 - (iv) otherwise than for a recognised research purpose; or
 - (v) in connection with animals (other than exempt animals) that have not been obtained from the holder of an animal supplier's licence;
- (c) that the establishment is a disqualified corporation; or
- (d) that the establishment has failed to comply with a condition to which its accreditation is subject.

(2) A complaint shall—

- (a) be in writing;
- (b) specify the grounds on which it is made;
- (c) be signed by the complainant; and
- (d) be lodged at the office of the Secretary.

Investigation of complaints

23. (1) The Secretary shall refer all complaints to the Panel for investigation.

(2) The Panel shall investigate each complaint referred to it and shall furnish the Secretary with a report on each such complaint.

Determination of complaints

24. (1) After considering the Panel's report on a complaint, the Secretary shall determine the complaint—

- (a) by cancelling the accreditation of the research establishment the subject of the complaint;
- (b) by suspending the accreditation of the research establishment the subject of the complaint for such period as the Secretary thinks fit;
- (c) by cautioning or reprimanding the research establishment the subject of the complaint; or
- (d) by dismissing the complaint.

(2) The Secretary shall not cancel or suspend the accreditation of a research establishment unless—

- (a) notice has been served on the establishment—
 - (i) of the Secretary's intention to cancel or suspend the accreditation; and
 - (ii) of the reasons for which the Secretary intends to cancel or suspend the accreditation;
- (b) the establishment has had a reasonable opportunity to make submissions to the Secretary in relation to the intended cancellation or suspension of the accreditation; and
- (c) the Secretary has considered any such submission.

(3) As soon as practicable after determining a complaint, the Secretary shall cause written notice of the determination to be served on—

- (a) the research establishment the subject of the complaint; and
- (b) the complainant.

(4) The cancellation or suspension of accreditation of a research establishment takes effect—

- (a) except as provided by paragraph (b)—at the expiration of 14 days after written notice of the cancellation or suspension is served on the establishment; or
- (b) where an appeal is made before the expiration of the period referred to in paragraph (a)—when the appeal is withdrawn or otherwise finally disposed of.

DIVISION 3—*Animal research authorities***Issue of authorities**

25. (1) An accredited research establishment may, on the recommendation of its animal care and ethics committee, issue an authority to any individual to carry out animal research.

(2) Notwithstanding subsection (1), an accredited research establishment shall not issue an animal research authority to a disqualified individual.

Form of authorities

26. (1) An animal research authority shall—

- (a) be in or to the effect of the approved form;
- (b) identify the research establishment by which the authority is issued;
- (c) identify the person to whom the authority is issued;
- (d) describe the kind of animal research which the authority authorises that person to carry out; and
- (e) specify the date on which the authority is issued.

(2) An animal research authority shall not authorise, or purport to authorise, the carrying out of animal research otherwise than—

- (a) with the approval, and in accordance with the directions, of the animal care and ethics committee for the research establishment by which the authority is issued;
- (b) in accordance with the Code of Practice;
- (c) for a recognised research purpose; and
- (d) in connection with animals (other than exempt animals) that have been obtained from the holder of an animal supplier's licence.

Duration of authorities

27. Unless sooner cancelled, an animal research authority remains in force for the period of 12 months from the date on which it was issued or, where a shorter period is specified in the authority in that regard, for the shorter period so specified.

Cancellation of authorities

28. An animal research authority may be cancelled at any time by the research establishment by which the authority was issued.

DIVISION 4—*Animal research licences***Applications for licences**

29. (1) An individual may apply to the Secretary for an animal research licence.

(2) An application shall—

- (a) be in or to the effect of the approved form;
- (b) include the prescribed particulars;
- (c) identify the land (being land occupied or to be occupied by the applicant) in or on which the applicant intends to carry on the business of animal research;
- (d) be accompanied by the prescribed fee; and
- (e) be lodged at the office of the Secretary.

Investigation of applications

30. (1) The Secretary shall refer all applications to the Panel for investigation.

(2) The Panel shall investigate each application referred to it and shall furnish the Secretary with a report on each such application.

Determination of applications

31. (1) After considering the Panel's report on an application, the Secretary shall determine the application—

- (a) by granting a licence to the applicant, either unconditionally or subject to conditions; or
- (b) by refusing to grant a licence to the applicant.

(2) Notwithstanding subsection (1), the Secretary shall not grant an animal research licence to a disqualified individual.

(3) Where the Secretary refuses to grant a licence, the Secretary shall, as soon as practicable after so refusing, cause notice of the refusal, and of the reasons for the refusal, to be served on the applicant for the licence.

(4) Where, at the expiration of 90 days after an application has been made, the Secretary has failed to determine the application, the Secretary shall, for the purposes only of any appeal, be deemed to have refused to grant a licence to the applicant.

Form of licences

32. (1) An animal research licence shall—

- (a) be in or to the effect of the approved form;
- (b) identify the individual to whom the licence is granted;
- (c) designate the land in or on which it is intended that the business of animal research will be carried on by the individual, as identified in the application pursuant to which the individual has been granted the licence;
- (d) describe the kind of animal research which the licence authorises the individual to carry out;
- (e) specify the animal care and ethics committee under whose supervision the individual is authorised to carry out animal research;
- (f) specify any condition to which the licence is subject; and
- (g) specify the date on which the licence is granted.

(2) An animal research licence shall not authorise, or purport to authorise, the carrying out of animal research otherwise than—

- (a) with the approval, and in accordance with the directions, of the animal care and ethics committee specified in the licence;
- (b) in accordance with the Code of Practice;
- (c) for a recognised research purpose; and
- (d) in connection with animals (other than exempt animals) that have been obtained from the holder of an animal supplier's licence.

Duration of licences

33. (1) Unless sooner cancelled, an animal research licence remains in force for the period of 12 months from the date on which it was granted or, where a shorter period is specified in the licence in that regard, for the shorter period so specified.

(2) Notwithstanding subsection (1), an animal research licence has no force or effect during any period for which it is suspended.

Complaints

34. (1) A complaint in respect of an animal research licence may be made to the Secretary—

(a) that the holder of the licence is carrying out or has carried out animal research—

(i) otherwise than as authorised by the licence;

(ii) otherwise than with the approval, or in contravention of the directions, of the animal care and ethics committee specified in the licence;

(iii) in contravention of the Code of Practice;

(iv) otherwise than for a recognised research purpose; or

(v) in connection with animals (other than exempt animals) that have not been obtained from the holder of an animal supplier's licence;

(b) that the holder of the licence is a disqualified individual; or

(c) that the holder of the licence has failed to comply with a condition to which the licence is subject.

(2) A complaint shall—

(a) be in writing;

(b) specify the grounds on which it is made;

(c) be signed by the complainant; and

(d) be lodged at the office of the Secretary.

Investigation of complaints

35. (1) The Secretary shall refer all complaints to the Panel for investigation.

(2) The Panel shall investigate each complaint referred to it and shall furnish a report to the Secretary on each such complaint.

Determination of complaints

36. (1) After considering a report furnished in respect of a complaint, the Secretary shall determine the complaint—

- (a) by cancelling the licence the subject of the complaint;
- (b) by suspending the licence the subject of the complaint for such period as the Secretary thinks fit;
- (c) by cautioning or reprimanding the holder of the licence the subject of the complaint; or
- (d) by dismissing the complaint.

(2) The Secretary shall not cancel or suspend a licence unless—

- (a) notice has been served on the holder of the licence—
 - (i) of the Secretary's intention to cancel or suspend the licence; and
 - (ii) of the reasons for which the Secretary intends to cancel or suspend the licence;
- (b) the holder of the licence has had a reasonable opportunity to make submissions to the Secretary in relation to the intended cancellation or suspension of the licence; and
- (c) the Secretary has considered any such submission.

(3) As soon as practicable after determining a complaint, the Secretary shall cause written notice of the determination to be served on—

- (a) the holder of the licence the subject of the complaint; and
- (b) the complainant.

(4) The cancellation or suspension of a licence takes effect—

- (a) except as provided by paragraph (b)—at the expiration of 14 days after written notice of the cancellation or suspension is served on the holder of the licence; or
- (b) where an appeal is made before the expiration of the period referred to in paragraph (a)—when the appeal is withdrawn or otherwise finally disposed of.

DIVISION 5—*Animal suppliers' licences***Applications for licences**

37. (1) A person may apply to the Secretary for an animal supplier's licence.

(2) An application shall—

- (a) be in or to the effect of the approved form;
- (b) include the prescribed particulars;
- (c) identify the land (being land occupied or to be occupied by the applicant) in or on which the applicant intends to conduct the supply of animals for use in connection with animal research;
- (d) be accompanied by the prescribed fee; and
- (e) be lodged at the office of the Secretary.

Investigation of applications

38. (1) The Secretary shall refer all applications to the Panel for investigation.

(2) The Panel shall investigate each application referred to it and shall furnish the Secretary with a report on each such application.

Determination of applications

39. (1) After considering the Panel's report on an application, the Secretary shall determine the application—

- (a) by granting a licence to the applicant, either unconditionally or subject to conditions; or
- (b) by refusing to grant a licence to the applicant.

(2) Notwithstanding subsection (1), the Secretary shall not grant an animal supplier's licence to an applicant if the applicant is a disqualified individual or a disqualified corporation.

(3) Where the Secretary refuses to grant a licence, the Secretary shall, as soon as practicable after so refusing, cause notice of the refusal, and of the reasons for the refusal, to be served on the applicant for the licence.

(4) Where, at the expiration of 90 days after an application has been made, the Secretary has failed to determine the application, the Secretary shall, for the purposes only of any appeal, be deemed to have refused to grant a licence to the applicant.

Form of licences

40. (1) An animal supplier's licence shall—

- (a) be in or to the effect of the approved form;
- (b) identify the person to whom the licence is granted;
- (c) designate the land in or on which it is intended that the supply of animals for use in connection with animal research will be conducted by the person, as identified in the application pursuant to which the person has been granted the licence;
- (d) describe the kind of animals which the licence authorises the person to supply;
- (e) specify any condition to which the licence is subject; and
- (f) specify the date on which the licence is granted.

(2) An animal supplier's licence shall not authorise, or purport to authorise, the supply of animals otherwise than in accordance with the Code of Practice.

Duration of licences

41. (1) Unless sooner cancelled, an animal supplier's licence remains in force for the period of 12 months from the date on which it was granted or, where a shorter period is specified in the licence in that regard, for the shorter period so specified.

(2) Notwithstanding subsection (1), an animal supplier's licence has no force or effect during any period for which it is suspended.

Complaints

42. (1) A complaint in respect of an animal supplier's licence may be made to the Secretary—

- (a) that the holder of the licence is supplying or has supplied animals for use in connection with animal research—
 - (i) otherwise than as authorised by the licence; or
 - (ii) in contravention of the Code of Practice;
- (b) that the holder of the licence is a disqualified individual or a disqualified corporation; or
- (c) that the holder of the licence has failed to comply with a condition to which the licence is subject.

(2) A complaint shall—

- (a) be in writing;
- (b) specify the grounds on which it is made;
- (c) be signed by the complainant; and
- (d) be lodged at the office of the Secretary.

Investigation of complaints

43. (1) The Secretary shall refer all complaints to the Panel for investigation.

(2) The Panel shall investigate each complaint referred to it and shall furnish a report to the Secretary on each such complaint.

Determination of complaints

44. (1) After considering a report furnished in respect of a complaint, the Secretary shall determine the complaint—

- (a) by cancelling the licence the subject of the complaint;
- (b) by suspending the licence the subject of the complaint for such period as the Secretary thinks fit;
- (c) by cautioning or reprimanding the holder of the licence the subject of the complaint; or
- (d) by dismissing the complaint.

- (2) The Secretary shall not cancel or suspend a licence unless—
 - (a) notice has been served on the holder of the licence—
 - (i) of the Secretary's intention to cancel or suspend the licence; and
 - (ii) of the reasons for which the Secretary intends to cancel or suspend the licence;
 - (b) the holder of the licence has had a reasonable opportunity to make submissions to the Secretary in relation to the intended cancellation or suspension of the licence; and
 - (c) the Secretary has considered any such submission.
- (3) As soon as practicable after determining a complaint, the Secretary shall cause written notice of the determination to be served on—
 - (a) the holder of the licence the subject of the complaint; and
 - (b) the complainant.
- (4) The cancellation or suspension of a licence takes effect—
 - (a) except as provided by paragraph (b)—at the expiration of 14 days after written notice of the cancellation or suspension is served on the holder of the licence; or
 - (b) where an appeal is made before the expiration of the period referred to in paragraph (a)—when the appeal is withdrawn or otherwise finally disposed of.

DIVISION 6—*Appeals*

Appeals

45. (1) Any person who is dissatisfied with a determination of the Secretary under this Part may, in accordance with rules of court, appeal to the District Court against the determination.

(2) An appeal shall be by way of a new hearing and fresh evidence, or evidence in addition to or in substitution for the evidence on which the determination was made, may be given on the appeal.

(3) In addition to any other functions and discretions that the District Court has apart from this subsection, the District Court shall, for the purposes of hearing and disposing of an appeal, have all the functions and discretions that the Secretary had in respect of the matter the subject of the appeal.

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(4) The decision of the District Court in respect of an appeal shall be deemed to be the decision of the Secretary and shall be given effect to accordingly.

PART V
OFFENCES

Unlawfully carrying on the business of animal research

46. (1) A corporation shall not carry on the business of animal research unless the corporation is an accredited research establishment.

Penalty: \$10,000.

(2) An individual shall not carry on the business of animal research unless the individual is the holder of an animal research licence.

Penalty: \$2,000 or imprisonment for 12 months, or both.

(3) An individual does not contravene subsection (2) by reason only that the individual carries on the business of animal research as an employee of an accredited research establishment.

Unlawfully carrying out animal research

47. (1) An individual shall not carry out animal research unless the individual is the holder of an animal research authority or an animal research licence.

Penalty: \$2,000 or imprisonment for 12 months, or both.

(2) The holder of an animal research authority shall not carry out animal research—

(a) otherwise than as authorised by the authority; or

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- (b) otherwise than with the approval, and in accordance with the directions, of the animal care and ethics committee for the research establishment by which the authority was issued.

Penalty: \$2,000 or imprisonment for 12 months, or both.

(3) The holder of an animal research licence shall not carry out animal research—

- (a) otherwise than as authorised by the licence; or
(b) otherwise than with the approval, and in accordance with the directions, of the animal care and ethics committee specified in the licence.

Penalty: \$2,000 or imprisonment for 12 months, or both.

Unlawfully supplying animals for use in connection with animal research

48. (1) A person shall not supply animals (other than exempt animals) for use in connection with animal research unless the person is the holder of an animal supplier's licence.

Penalty: \$10,000 in the case of a corporation and \$2,000 or imprisonment for 12 months, or both, in the case of an individual.

(2) The holder of an animal supplier's licence shall not supply animals for use in connection with animal research otherwise than as authorised by the licence.

Penalty: \$10,000 in the case of a corporation and \$2,000 or imprisonment for 12 months, or both, in the case of an individual.

PART VI
INSPECTORS

Appointment, etc., of inspectors

49. (1) Inspectors may be appointed for the purposes of this Act under and in accordance with the Public Service Act 1979.

(2) An inspector shall be a person who is registered as a veterinary surgeon under the Veterinary Surgeons Act 1923 and who has such other qualifications as may be prescribed.

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(3) An inspector shall have and may exercise the functions conferred or imposed on inspectors by or under this Act.

(4) The Secretary shall cause each inspector to be issued with a certificate of identification.

(5) An inspector's certificate of identification shall be in or to the effect of the prescribed form.

Powers of inspectors, etc., in relation to certain land

50. (1) An inspector may exercise any one or more of the following powers:

- (a) the inspector may enter the designated land of an accredited research establishment or the designated land in relation to an animal research licence or animal supplier's licence;
- (b) the inspector may search and inspect that land for the presence of—
 - (i) any animal;
 - (ii) any equipment, material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research; or
 - (iii) any document relating to the conduct of animal research or the supply of animals for use in connection with animal research;
- (c) the inspector may examine—
 - (i) any animal;
 - (ii) any equipment, material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research; or
 - (iii) any document relating to the conduct of animal research or the supply of animals for use in connection with animal research,found in or on that land;
- (d) the inspector may take (without payment) a quantity not exceeding—
 - (i) one kilogram; or

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- (ii) such greater quantity as is reasonable in the circumstances (the onus of establishing which lies on the inspector),
of any material or substance found in or on that land, being a material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research;
- (e) the inspector may take copies of, or extracts or notes from, any document found in or on that land, being a document relating to the conduct of animal research or the supply of animals for use in connection with animal research;
- (f) the inspector may require any person found in or on that land to produce—
 - (i) any animal;
 - (ii) any equipment, material or substance used in relation to the conduct of animal research or the supply of animals for use in connection with animal research; or
 - (iii) any document relating to the conduct of animal research or the supply of animals for use in connection with animal research,

which is in the possession or under the control of that person.

(2) A person shall not fail to comply with a requirement made by an inspector under subsection (1) (f).

Penalty: \$2,000.

(3) An inspector may exercise any power conferred by subsection (1)—

- (a) at any time (whether by day or by night); and
- (b) whether or not accompanied by a member of the Panel who is authorised in that behalf under section 10 (2).

(4) Subsection (1) does not authorise the exercise of any power conferred by that subsection in or on any part of land used for residential purposes or in relation to any person found in or on any such part of land.

(5) In exercising in or on any land any power conferred by subsection (1), an inspector—

- (a) shall, if required to do so by a person apparently occupying the land, produce to that person the inspector's certificate of identification; and

- (b) shall, as far as practicable, avoid doing any act which is likely to impede the conduct of animal research or the supply of animals for use in connection with animal research being lawfully carried out in or on the land.

Search warrants

51. (1) An inspector may apply to an authorised justice for a search warrant if the inspector has reasonable grounds for believing that a provision of this Act or the regulations is being or has been contravened in or on any premises.

(2) An authorised justice to whom an application is made under subsection (1) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant—

- (a) to enter the premises; and
- (b) to search the premises for, and to seize, anything which may constitute evidence of a contravention of this Act or the regulations.

(3) Schedule 3 has effect with respect to a search warrant issued under this section.

Inspectors may demand name and address

52. (1) An inspector who finds a person—

- (a) who is committing an offence against this Act or the regulations; or
- (b) whom the inspector suspects, on reasonable grounds, of having committed or attempted to commit such an offence,

may require that person to inform the inspector forthwith of that person's full name and residential address.

(2) A person shall not fail to comply with a requirement made by an inspector under subsection (1).

Penalty: \$1,000.

(3) A person is not guilty of an offence under this section unless it is established that the inspector—

- (a) warned the person that failure to comply with the requirement is an offence; and
- (b) identified himself or herself to the person as an inspector.

Obstruction, etc., of inspectors

53. A person shall not assault, delay, obstruct, hinder or impede an inspector in the exercise of the inspector's functions under this Act.

Penalty: \$2,000.

Impersonation, etc., of inspectors

54. A person shall not—

- (a) forge or counterfeit any certificate of identification;
 - (b) make use of any forged or counterfeited certificate of identification; or
 - (c) impersonate, or pretend to be, an inspector.
-

PART VII
SUPPLEMENTARY

False or misleading information

55. A person shall not, in or in relation to any application under this Act or in purported compliance with any requirement under this Act, make any statement or furnish any information that is false or misleading in a material particular.

Penalty: \$2,000.

Disclosure of information

56. A person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings;

(d) in accordance with a requirement imposed under the Ombudsman Act 1974; or

(e) with other lawful excuse.

Penalty: \$2,000.

Proceedings for offences

57. (1) Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate.

(2) Proceedings of the kind referred to in subsection (1) shall not be instituted except by the Secretary or a person duly authorised by the Secretary in that behalf, either generally or in a particular case.

Offences by corporations

58. (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or a regulation, each director of the corporation shall be deemed to have contravened the same provision unless the director satisfies the court that—

- (a) the corporation contravened the provision without the knowledge of the director;
- (b) the director was not in a position to influence the conduct of the corporation in relation to its contravention of the provision; or
- (c) the director, being in such a position, used all due diligence to prevent the contravention by the corporation.

(2) A director of a corporation may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

Evidentiary certificates

59. A certificate that is signed by the Secretary and that certifies that on a specified date or during a specified period—

- (a) a specified person was or was not an inspector;
- (b) a specified corporation was or was not an accredited research establishment;

(c) a specified person was or was not the holder of a specified licence;
or

(d) the provisions of a specified licence were or were not in specified
terms,

is admissible in any proceedings under this Act and is evidence of the fact
or facts so certified.

Liability

60. A person is not personally liable for any act or omission done or
omitted to be done by the person in good faith in the exercise of the
functions conferred or imposed on the person by or under this Act.

Service of notices

61. A notice that the Secretary is required or permitted, by or under this
Act, to cause to be served on a person may be served personally or by means
of a letter addressed to the person at the person's address last known to the
Secretary.

Regulations

62. (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 qualifications and functions of inspectors;
- (b) the procedures to be followed by the Panel in relation to the
investigation of applications and complaints referred to it under
this Act;
- (c) the records to be kept for the purposes of this Act;
- (d) the forms to be used for the purposes of this Act; and
- (e) the fees and charges which may be imposed for the purposes of
this Act.

(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 from the operation of any specified provision of this Act any specified person or body or specified class of persons or bodies, either unconditionally or subject to conditions,

or may do any combination of those things.

(3) A regulation may create an offence punishable by a penalty not exceeding \$500.

SCHEDULE 1

(Sec. 6 (6))

PROVISIONS RELATING TO THE MEMBERS OF THE PANEL

Age of members

1. A person of or above the age of 70 years is not eligible to be appointed as a member of the Panel or to act in the office of such a member.

Chairperson of the Panel

2. (1) Of the members of the Panel one shall, in and by the relevant instrument of appointment as such a member or by another instrument executed by the Minister, be appointed as Chairperson of the Panel.

(2) The Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.

(3) A person who is the Chairperson shall be deemed to have vacated office as Chairperson if the person—

- (a) resigns that office by instrument in writing addressed to the Minister;
- (b) ceases to be a member of the Panel; or
- (c) is removed from that office by the Minister under subclause (4).

(4) The Minister may remove a member of the Panel from the office of Chairperson.

*Animal Research 1985*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS
OF THE PANEL—*continued***Acting members and acting Chairperson**

3. (1) The Minister may, from time to time, appoint a person to act in the office of a member of the Panel during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member and shall be deemed to be a member of the Panel.

(2) The Minister may, from time to time, appoint a member of the Panel to act in the office of Chairperson during the illness or absence of the Chairperson, and the member, while so acting, shall have and may exercise all the functions of the Chairperson and shall be deemed to be the Chairperson.

(3) The Minister may remove any person from any office to which the person was appointed under this clause.

(4) A person while acting in the office of a member of the Panel is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(5) For the purposes of this clause, a vacancy in the office of a member of the Panel or in the office of Chairperson shall be deemed to be an absence from office of the member or Chairperson, as the case may be.

Term of office

4. Subject to this Schedule, a member of the Panel shall hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

5. A member of the Panel is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Filling of vacancy in office of member

6. If the office of any member of the Panel becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies

7. (1) A member of the Panel shall be deemed to have vacated office if the member—

- (a) dies;
- (b) absents himself or herself from 4 consecutive meetings of the Panel of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

*Animal Research 1985*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS
OF THE PANEL—*continued*

- (d) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958 or a person under detention under Part VII of that Act or becomes a protected person within the meaning of the Protected Estates Act 1983;
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) resigns the office by instrument in writing addressed to the Minister;
- (g) attains the age of 70 years; or
- (h) is removed from office by the Minister under subclause (2) or (3).

(2) The Minister may remove a member of the Panel from office.

(3) Without limiting the generality of subclause (2), the Minister may remove a member of the Panel from office if the member contravenes the provisions of clause 8.

Disclosure of pecuniary interests

8. (1) A member of the Panel who has a direct or indirect pecuniary interest—

- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Panel; or
- (b) in a thing being done or about to be done by the Panel,

shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Panel.

(2) A disclosure by a member of the Panel at a meeting of the Panel that the member—

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Panel shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person.

*Animal Research 1985***SCHEDULE 1—continued****PROVISIONS RELATING TO THE MEMBERS
OF THE PANEL—continued**

(4) After a member of the Panel has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines—

(a) be present during any deliberation of the Panel, or take part in any decision of the Panel, with respect to that matter; or

(b) exercise any functions under this Act with respect to that thing,
as the case requires.

(5) Notwithstanding that a member of the Panel contravenes the provisions of this clause, that contravention does not invalidate any decision of the Panel or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member of the Panel in a matter or thing which arises by reason only that the member—

(a) is associated with an accredited research establishment; or

(b) is entitled to a share of any profits of an accredited research establishment,
other than a research establishment which is, or which belongs to a class of research establishments which are, the subject of that matter or thing.

(7) A reference in this clause to a meeting of the Panel includes a reference to a meeting of a committee of the Panel.

Effect of certain other Acts

9. (1) The Public Service Act 1979 does not apply to or in respect of the appointment of a member of the Panel and a member of the Panel is not, as such a member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member of the Panel or from accepting and retaining any remuneration payable to the person under this Act as such a member.

(3) The office of a member of the Panel shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

SCHEDULE 2

(Sec. 6 (7))

PROVISIONS RELATING TO THE PROCEDURE OF THE PANEL**General procedure**

1. The procedure for the calling of meetings of the Panel and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Panel.

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SCHEDULE 2—*continued*PROVISIONS RELATING TO THE PROCEDURE
OF THE PANEL—*continued***Quorum**

2. The quorum for a meeting of the Panel is 7 members of the Panel, of whom—
 - (a) at least one shall be a member appointed in accordance with section 6 (2) (a) or (b);
 - (b) at least one shall be a member appointed in accordance with section 6 (2) (c) or (d); and
 - (c) at least one shall be a member appointed in accordance with section 6 (2) (e), (f), (g) or (h).

Presiding member

3. (1) The Chairperson (or, in the absence of the Chairperson, another member of the Panel elected as chairperson for the meeting by the members of the Panel present) shall preside at a meeting of the Panel.

(2) The person presiding at any meeting of the Panel shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

Voting

4. A decision supported by a majority of the votes at a meeting of the Panel at which a quorum is present shall be the decision of the Panel.

Minutes

5. The Panel shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Panel.

Authentication of documents

6. Any document requiring authentication by the Panel is sufficiently authenticated if it is signed by the Chairperson or by any member of the Panel who is authorised by the Chairperson in that behalf.

First meeting of the Panel

7. The Minister shall call the first meeting of the Panel in such manner as the Minister thinks fit.

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SCHEDULE 3

(Sec. 51 (3))

PROVISIONS RELATING TO SEARCH WARRANTS

Interpretation

1. In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“occupier”, in relation to any premises, includes a person in charge of the premises;

“occupier’s notice” means an occupier’s notice referred to in clause 4;

“search warrant” means a search warrant issued under section 51.

Application for warrant

2. (1) An application for a search warrant shall be made in writing.

(2) An authorised justice shall not issue a search warrant unless—

(a) the application for the warrant sets out the grounds on which the warrant is being sought;

(b) the applicant has given the authorised justice, either orally or in writing, such further information (if any) as the authorised justice requires concerning the grounds on which the warrant is being sought; and

(c) the information given by the applicant is verified before the authorised justice on oath or affirmation or by affidavit.

(3) An authorised justice may administer an oath or affirmation or take an affidavit for the purposes of an application for a search warrant.

Record of proceedings before authorised justice

3. (1) An authorised justice who issues a search warrant shall cause a record to be made of all relevant particulars of the grounds the authorised justice has relied on to justify the issue of the warrant.

(2) Any matter that might disclose the identity of a person shall not be recorded pursuant to this clause if the authorised justice is satisfied that the safety of any person might thereby be jeopardised.

Notice to occupier of premises entered pursuant to warrant

4. (1) An authorised justice shall prepare and furnish an occupier’s notice to the inspector to whom the authorised justice issues a search warrant.

(2) An occupier’s notice furnished in relation to a search warrant—

(a) shall specify—

(i) the name of the inspector who applied for the warrant;

(ii) the name of the authorised justice who issued the warrant;

*Animal Research 1985*SCHEDULE 3—*continued*PROVISIONS RELATING TO SEARCH WARRANTS—*continued*

- (iii) the date and the time when the warrant was issued; and
 - (iv) the address or other description of the premises the subject of the warrant; and
 - (b) shall contain a summary of the nature of the warrant and the powers conferred by the warrant.
- (3) An inspector executing a search warrant shall—
- (a) upon entering the premises or as soon as practicable thereafter, serve the occupier's notice on a person who appears to be an occupier of the premises and to be of or above the age of 18 years; or
 - (b) if no such person is then present in or on the premises, serve the occupier's notice on the occupier of the premises, either personally or in such other manner as the authorised justice who issued the warrant may direct, as soon as practicable after executing the warrant.
- (4) Service of an occupier's notice pursuant to subclause (3) (b) may be postponed by the authorised justice who issued the search warrant if that authorised justice is satisfied that there are reasonable grounds for the postponement.
- (5) Service of an occupier's notice pursuant to subclause (3) (b) may be postponed on more than one occasion, but shall not be postponed on any one occasion for a period exceeding 6 months.

Duty to show warrant

5. An inspector executing a search warrant shall produce the warrant for inspection by an occupier of the premises if requested to do so by that occupier.

Use of force to enter premises, etc.

6. (1) An inspector authorised to enter premises pursuant to a search warrant may use such force as is reasonably necessary for the purpose of entering the premises.

(2) An inspector authorised to search premises pursuant to a search warrant may, if it is reasonably necessary to do so, break open any receptacle in or on the premises for the purposes of that search.

Use of assistants to execute warrant

7. (1) An inspector may execute a search warrant with the aid of such assistants as the inspector considers necessary.

(2) Without limiting the generality of subsection (1), a member of the police force may accompany an inspector executing a search warrant and take all reasonable steps to assist the inspector in the exercise of the inspector's functions under this Act.

*Animal Research 1985*SCHEDULE 3—*continued*PROVISIONS RELATING TO SEARCH WARRANTS—*continued***Execution of warrant by day or night**

8. (1) A search warrant may be executed by day, but shall not be executed by night unless the authorised justice, by the warrant, authorises its execution by night.

(2) In subclause (1)—

“by day” means during the period between 6 a.m. and 9 p.m. on any day;

“by night” means during the period between 9 p.m. on any day and 6 a.m. on the following day.

Expiry of warrant

9. A search warrant ceases to have effect—

- (a) on the expiration of the period of one month after its issue;
- (b) if it is withdrawn by the authorised justice who issued the warrant; or
- (c) when it is executed,

whichever first occurs.

Report to authorised justice on execution of warrant, etc.

10. (1) The inspector to whom a search warrant is issued shall furnish a report in writing to the authorised justice who issued the warrant—

- (a) stating whether or not the warrant was executed;
- (b) if the warrant was executed—setting out briefly the result of the execution of the warrant (including a brief description of anything seized);
- (c) if the warrant was not executed—setting out briefly the reasons why the warrant was not executed; and
- (d) stating whether or not an occupier's notice has been served in connection with the execution of the warrant.

(2) A report with respect to a search warrant shall be made within 10 days after the execution of the warrant or the expiry of the warrant, whichever first occurs.

Death, absence, etc., of authorised justice who issued warrant

11. Where the authorised justice who issued a search warrant has died, has ceased to be an authorised justice or is absent—

- (a) a report required to be furnished to that authorised justice pursuant to clause 10; or
- (b) a power exercisable by that authorised justice under clause 4 (3) (b) or (4),

shall be furnished to, or may be exercised by, as the case may be, any other authorised justice.

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SCHEDULE 3—*continued*

PROVISIONS RELATING TO SEARCH WARRANTS—*continued*

Defects in warrants

12. A search warrant is not invalidated by any defect, other than a defect which affects the substance of the warrant in a material particular.

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