

Animal Welfare Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill makes changes to the Animal Welfare Act 1999 (the **Act**) to improve the enforceability, clarity, and transparency of New Zealand's animal welfare system. The Bill implements the Government's decisions resulting from the 2011–12 review of the Act. The changes will enhance the operation of the Act, rather than alter the fundamental principles and policy settings, which remain appropriate.

The policy objectives of the Bill are to—

- provide for clear and enforceable standards of animal welfare:
- increase the range of enforcement tools so that low-to-medium-level offending can be addressed more efficiently and appropriately:
- clarify the obligations of animal owners and people in charge of animals:
- improve the transparency of decision making under the Act, and of research, testing, and teaching:
- enable welfare standards to evolve with societal expectations, scientific knowledge, good practice, and available technology.

Substantial parts of this policy will not be implemented by the Bill itself, but rather through regulations to be developed following the

passing of the Bill. The regulations will be subject to further public consultation once they are drafted.

Enforceability

The Bill provides for regulations to set mandatory animal welfare standards relating to the care of and conduct towards animals. Currently, detailed minimum standards for care of and conduct toward animals owned or in the charge of any person are in codes of welfare, which are not directly enforceable under the Act. Codes of welfare will be retained, but regulations will support codes by setting specific and enforceable mandatory standards, for example, prohibitions on the use of sow stalls or requirements for layer hen housing. Offences will be created in the regulations, either as stand-alone offences against regulations or infringement offences that refer to offences in regulations or refer back to an offence provision in the Act. The content of regulations would be developed and publicly consulted following the enactment of the Bill.

The Bill also provides for a tiered penalty scheme to enable low-to-medium-level offending to be dealt with more effectively. In addition to the existing offences in the Act, infringement notices and lower-level offences with smaller penalties will be enabled in regulation.

The Bill provides for compliance orders that will allow an animal welfare inspector to require a person to—

- stop doing something that would contravene an animal welfare law; or
- do something to bring the person into compliance with an animal welfare law.

Failure to follow a compliance order would be an offence liable for either an infringement fee or a prosecution. The new infringement regime will be developed and publicly consulted on following the passing of the Bill, and infringement notices will be a compliance option for breaches of certain offences. In future, these additional enforcement tools will give animal welfare inspectors increased ability to deal with offending at the middle to lower end of the scale.

Clarity

The Bill enables mandatory standards for live animal exports to be set in regulations. The regulations will replace non-enforceable ex-

port guidelines, and provide more certainty for exporters and overseas markets about the animal welfare requirements that exporters must meet. The regulations will also enable the Government to enforce standards for live animal exports more easily, with penalties available against those who breach the standards. Regulations will be developed following the enactment for the Bill, and will cover issues similar to those currently covered by guidelines, such as—

- species, age, and fitness of animals for travel:
- the transport vehicles and associated facilities, such as the equipment for loading and unloading:
- the skills, qualifications, or experience of people accompanying the animals:
- reporting and independent monitoring.

New Zealand's policy on exports for slaughter is currently contained within an order under the Customs and Excise Act 1996. Under the order, the export of livestock for slaughter is prohibited, except with the consent of the Director-General of the Ministry for Primary Industries. An export can only be approved if the risks to both animal welfare and to New Zealand's reputation as a responsible exporter can be managed. The Bill will not change this policy, but instead will enable it to be implemented in regulations under the Animal Welfare Act 1999. To facilitate this, the purpose of the exports part of the Act will be broadened so that post-arrival conditions and New Zealand's reputation can be considered when making regulations or deciding on applications.

The Bill also improves the clarity and flexibility of the framework governing surgical or painful procedures. The Bill will retain the current policy under the Act that significant surgical procedures may only be performed by a veterinarian or veterinary student (under supervision), but will allow for this to be varied by regulation. The Bill will enable regulations to be made to—

- prohibit any surgical or painful procedure:
- provide mandatory standards for any surgical or painful procedure (eg, who may perform the procedure, whether pain relief is to be used, or whether the procedure can only be undertaken if it is in the animal's best interests):
- declare a surgical procedure to not be a significant surgical procedure.

During the review of the Act, the Ministry for Primary Industries sought feedback on whether 14 specific procedures should be restricted, classified as veterinarian-only, or prohibited. These procedures will be considered for inclusion in surgical or painful procedure regulations to be developed following the enactment of the Bill. A separate consultation on the regulations will take place at that time.

The Bill also clarifies that it is an offence to wilfully or recklessly ill-treat an animal in the wild. The amendment will enable deliberate or reckless acts of cruelty that are outside of generally accepted hunting or killing practices in New Zealand to be prosecuted more efficiently. It will not affect usual and accepted hunting, fishing, or pest management and native species management practices, or limit the development of improved practices.

Transparency

The Bill makes the criteria that the National Animal Welfare Advisory Committee (NAWAC) consider when developing codes of welfare more transparent by explicitly including “practicality” and “economic impact” as second-tier considerations. This will allow economic and practical factors to be considered alongside, but not to outweigh, animal welfare issues.

The Bill also replaces the exceptional circumstances provisions with transitions and exemptions. The exceptional circumstances provisions currently enable NAWAC to recommend minimum standards in codes of welfare that do not fully meet the obligations in the Act. These provisions have been used, for example, to permit the use of battery cages until a certain date is reached and to permit the ongoing use of farrowing crates for pigs with no final date. The new provisions will enable NAWAC to recommend regulations permitting practices that do not fully meet the obligations in the Act—

- during a transition to a new practice where there is a defined expiry date:
- for an indefinite period where there is a need for an exemption.

The Bill establishes criteria that would need to be satisfied before a transition or an exemption is recommended, and an exemption would only be available if a transition were not feasible. Exemptions would need to be reviewed within 10 years, or earlier if the regulations so specify.

The Bill increases the transparency of animal use statistics by requiring animal ethics committee approval for the humane killing of animals for the purpose of performing research, testing, and teaching on their body or tissue. Currently, this type of research does not require ethics approval and is not required to be reported in official statistics. In considering requests for approval, the animal ethics committee would consider whether the proposed research, testing or teaching would result in some benefit to society. Similarly, the Bill will also improve transparency in research, testing, and teaching by requiring animal ethics committee approval for the production and breeding of animals with known or potentially compromised welfare for the purposes of research, testing, and teaching.

In addition, the Bill enables regulations to be made that require the reporting of surplus animals produced for the purposes of research, testing, and teaching that are ultimately not needed, and so are humanely killed.

Other amendments

The Bill provides guidance for the court when considering whether to impose an order disqualifying a convicted offender from owning or being in charge of animals. Currently, the Act provides limited guidance for the court when considering an application for the removal or variation of an order, but no criteria for making a new order.

The Bill also enables the court to order forfeiture of animals and disqualification from owning or being in charge of animals for people who have been found unfit to stand trial on animal welfare charges. Such defendants can pose an ongoing risk to the welfare of their animals, but the court currently cannot use the forfeiture or disqualification provisions because they are not convicted.

In addition, the Bill will—

- clarify the definition of device to include explosives and incendiary devices:
- create an obligation that the killing of any wild animal or pest that is farmed or kept as a pet be humane, in line with the requirements for other animals that are in someone's care:
- clarify the process to be followed before an animal is destroyed to prevent unreasonable or unnecessary pain or distress:

- enable a wider range of organisations to become approved organisations under the Act:
- create an express ability for the Ministry for Primary Industries to audit approved organisations:
- remove the State Sector Act 1988 from the process for appointing Ministry for Primary Industries animal welfare inspectors:
- enable the Ministry for Primary Industries to suspend animal welfare inspectors who work for approved organisations, pending the outcome of an investigation into their conduct:
- clarify the search powers of animal welfare inspectors:
- allow groups not directly involved in research, testing, and teaching using animals to become code of ethical conduct holders on behalf of teaching organisations.

Regulatory impact statement

The Ministry for Primary Industries produced a regulatory impact statement in September 2012 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://www.biosecurity.govt.nz/biosec/consult/proposals-for-aw-strategy-and-aw-act>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 relates to commencement. *Clauses 4(1) and (5), 8, 10(2), 12(1), 13 to 16, 20 to 22, 25(1), and 57(2)* come into force on the earlier of a date appointed by Order in Council or 5 years after the date on which the Act receives the Royal assent. These clauses relate to surgical and painful procedures. The delay is needed because regulations will have to be developed and made to enable the amendments to operate effectively.

Changes to the definition of infringement offence in *clause 4(4)*, together with related amendments in *clauses 41(3) and 45*, also have a delayed commencement. This second tranche of changes concerning the definition of infringement offence (the definition is initially

amended by *clause 4(3)* on the day after the date on which the Act receives the Royal assent) come into force on the earlier of a date appointed by Order in Council or 5 years after the date on which the Act receives the Royal assent. The delay for these amendments is needed because regulations will have to be developed and made to enable the amendments to operate effectively.

The rest of the Bill comes into force on different fixed dates specified in this clause.

Clause 3 provides that the Bill amends the Animal Welfare Act 1999 (the Act).

Part 1

Amendments to principal Act

Clause 4 amends section 2 of the Act, which defines certain terms used in the Act.

The definitions of the terms controlled surgical procedure, restricted surgical procedure, and significant surgical procedure are repealed. The classifications of controlled and restricted will become obsolete under the new regulatory regime for surgical and painful procedures, and the classification significant will have its ordinary meaning. Regulations will be able to declare that specific surgical procedures are not significant surgical procedures for the purposes of the Act. See *clause 56* for *new section 183B*, which will empower the making of regulations prescribing matters about specified surgical or painful procedures performed on animals.

The definition of the term device is amended to include explosives (but not including firearms) and incendiary devices.

The definition of the term infringement offence is amended to cover offences against section 130, *new section 156I* in *clause 44*, and offences created under the Act that are declared by regulations to be infringement offences. As noted in relation to *clause 2*, this second amendment to the definition of infringement offence has a delayed commencement.

Clause 5 amends the definition of the term manipulation in section 3 of the Act to cover the following activities:

- the killing of an animal for the purpose of interfering with the animal's body or its tissues in a specified manner:

- the breeding or production of an animal using any breeding technique (including genetic modification) that may result in the birth or production of an animal that is susceptible to pain or distress during its life.

As the Act stands, animals may be killed humanely for the purpose of carrying out research, testing, and teaching on their body or tissues (section 3(2)(b)). Researchers and others do not need to seek ethics committee approval to kill an animal for this purpose. One of the effects of this is that the Government cannot collect and release data on numbers of animals killed for the purpose of carrying out research, testing, or teaching on their body or tissues.

This clause will require the approval of an animal ethics committee for killing an animal for the purpose of carrying out research, testing, or teaching on its body or tissues and will facilitate the reporting and recording of such numbers in annual animal use statistics. The amendment will not apply if the animals procured are already dead (for example, where dead animals are procured from a different research project, a slaughterhouse, or a butchery, or where the animals have been killed in a wild state).

Research institutions sometimes breed animals with known or potentially compromised welfare, either through selective breeding or by genetic modification. Currently, this type of research does not require animal ethics committee approval because the procedures involved are undertaken before the second half of gestation (before it is an animal as defined in the Act). The lack of ethics committee oversight creates a risk that animals could be bred to experience compromised welfare where this cannot be justified by the benefits of the research. This clause will require animal ethics committee approval and oversight of the production and breeding of animals with known or potentially compromised welfare for the purposes of research, testing, and teaching.

Clause 6 amends section 4 of the Act, which relates to the meaning of physical, health, and behavioural needs. Section 4(a) currently provides that proper and sufficient food and water is included within the meaning of that term. This clause separates the 2 items so that proper and sufficient food is a distinct item and proper and sufficient water is another.

Clause 7 amends section 5 of the Act, which relates to the meaning of the term research, testing, and teaching, to include the new matters in

clause 5 (the amendment of the term manipulation in section 3 of the Act). The amendment is not intended to capture breeding that occurs outside of research, testing, and teaching, such as dog breeding or livestock improvement breeding.

Clause 8 repeals sections 6 and 7 of the Act, which relate to the meaning of the term significant surgical procedure. It is intended that the term will bear its ordinary meaning, although regulations will be able to be made to declare specified procedures not to be significant surgical procedures (see *clause 56, new section 183B(1)(c)*).

Clause 9 inserts *new section 8A* into the Act. *New section 8A* provides that the savings and transitional provisions set out in *new Schedule 4* have effect for the purposes of this Bill.

Clause 10 consequentially amends section 9 of the Act, which relates to the purpose of Part 1 of the Act (care of animals), to align the statement of purpose with changes to Part 1 that are included in this Bill.

Clause 11 amends section 11 of the Act, which relates to the obligation to alleviate pain or distress of ill or injured animals. The obligation is currently expressed as applying “where practicable”. This clause removes those qualifying words and aligns section 11 with section 10 (obligation to ensure that the physical, health, and behavioural needs of animals are met). The effect of the amendment is that, in a prosecution for non-compliance with section 11, the prosecutor no longer needs to prove that it was practicable for the owner or person in charge of the animal to seek treatment. The defendant still has a defence under section 13 if he or she can prove that he or she took all reasonable steps to comply with section 11.

Clause 12 amends section 15 of the Act, which relates to restrictions on the performance of surgical procedures. The amendments—

- replace a reference to section 18 because it is being repealed by *clause 13*;
- allow a significant surgical procedure on an animal to be performed by any person being taught veterinary science acting under the direct supervision of a veterinarian, removing the current limitation that the person being supervised must be being taught veterinary science at undergraduate level.

Clause 13 repeals sections 16 to 20 of the Act. The effect of these repeals is to remove the classification system in the Act for controlled

and restricted procedures and replace it with a power to make regulations that set conditions on surgical or painful husbandry procedures. These regulations would require consideration of criteria similar to those in section 6(4) before being made. *See clause 56* for the new regulation-making powers.

The provisions of the Act relating to surgical procedures that are being repealed, are to remain in force for up to 5 years.

Clause 14 replaces section 21 of the Act, which relates to surgical procedure offences. The section is recast to remove reference to offences committed by contravening sections being repealed by *clauses 13 and 14*.

Clause 15 consequentially amends section 25 of the Act, which relates to penalties for offences against specified sections of the Act. The amendment alters a cross-reference in section 25 to align it with the *new section 21* in *clause 14*.

Clause 16 repeals 2 offences in section 29 of the Act. The offences concerned are—

- piercing the tongue or tongue phrenum of an animal with a pig ring or similar thing or with any wire;
- branding any animal in such a manner that the animal suffers unreasonable or unnecessary pain or distress.

The intention is that these practices will be prohibited by regulations.

Clause 17 inserts *new sections 30A to 30E* into the Act. These provisions relate to ill-treating, hunting, or killing wild animals or animals in a wild state, and replace, in this new location, current sections 175 to 178 of the Act.

New section 30A creates an offence of wilful ill-treatment of wild animals or animals in a wild state and an offence of reckless ill-treatment of wild animals or animals in a wild state. Currently, section 175 of the Act provides (among other things) that the Act does not make it unlawful to hunt or kill animals in a wild state or wild animals. There is some uncertainty as to whether acts of cruelty committed in the course of hunting or killing constitute wilful or reckless ill-treatment under the Act (*see* sections 28 and 28A). It is intended that generally accepted hunting, fishing, and pest management practices will not be affected by the new section, which is directed at acts of wilful or reckless cruelty.

The penalties for the wilful ill-treatment offence are the same as for wilful ill-treatment offences under section 29, namely,—

- for an individual, up to 5 years' imprisonment or a fine up to \$100,000 (or both):
- for a body corporate, a fine up to \$500,000.

The penalties for the reckless ill-treatment offence are the same as for reckless ill-treatment offences under section 28A, namely,—

- for an individual, up to 3 years' imprisonment or a fine up to \$75,000 (or both):
- for a body corporate, a fine up to \$350,000.

New section 30B restates in a modified form current section 175 of the Act. This new section is subject to *new section 30A*.

New section 30C restates in a modified form current section 176, which relates to hunting in safari parks.

New section 30D restates in a modified form current section 177, which relates to captured animals.

New section 30E restates current section 178, which relates to the use of traps and other devices.

Clause 18 amends section 36 of the Act, which relates to the obligation to inspect traps. The amendment increases from \$1,200 to \$5,000 (for an individual) and \$25,000 (for a body corporate) the maximum fine that can be imposed on conviction of an offence against section 36. This brings the penalties into line with the maximum penalties for regulatory offences under section 183 of the Act.

Clause 19 replaces section 38 of the Act, which states the purpose of Part 3 of the Act (animal exports). The *new section 38* broadens the purpose of the Part 3 so that, as amended, the Part will protect the welfare of animals being exported and New Zealand's reputation as a responsible exporter of agricultural products.

Currently, the policy relating to exports for slaughter has been implemented using Customs legislation. The Customs Export Prohibition (Livestock for Slaughter) Order 2010 is due to expire on 20 December 2013. The use of a Customs order was intended as a temporary measure until animal welfare legislation could be amended. It is not efficient or transparent for rules relating to live animal exports to be spread across regulatory regimes. The Act is being amended to enable the making of regulations for live animal exports. The regula-

tions will replace export guidelines and provide more certainty for exporters and overseas markets about animal welfare requirements. The regulations will also enable the Government to enforce standards for live animal exports more easily. It is envisaged that regulations will cover issues similar to those currently covered by guidelines.

Clause 20 repeals section 41 of the Act, which relates to guidelines for the issue of animal welfare export certificates. As mentioned in the preceding note, regulations will replace the guidelines.

Clause 21 amends section 43 of the Act, which relates to the consideration of applications for an animal welfare export certificate. The amendment requires the Director-General to consider—

- regulations under *new section 183C* (see *clause 56*);
- New Zealand's reputation as a responsible exporter of agricultural products.

Clause 22 amends section 45 of the Act, which relates to conditions on animal welfare export certificates. The amendment enables the Director-General to require the exporter to manage certain post-arrival conditions in the importing country.

Clause 23 amends section 54 of the Act, which relates to the offence of refusing or failing to comply with any requirement of an inspector or authorised person. The amendment removes the offence of refusing to comply, which is considered unnecessary.

Clause 24 amends section 55 of the Act, which relates to the purpose of Part 4 of the Act (advisory committees). The amendment inserts a reference to the National Animal Welfare Advisory Committee's new function to recommend to the Minister that regulations be made under *new section 183A(1)(a)* (see *clause 56*) prescribing animal welfare standards or requirements.

Clause 25 consequentially amends section 57 of the Act, which relates to the National Animal Welfare Advisory Committee's functions. The amendment removes a reference to sections 6 and 16 of the Act because they are being repealed by this Bill.

Clause 26 amends section 71 of the Act, which relates to the public notification of draft codes of welfare. The amendment—

- enables the National Animal Welfare Advisory Committee to choose whether to proceed with a draft code of welfare;
- prevents the Committee from publicly notifying a draft code of welfare without the Minister's approval.

Clause 27 amends section 73 of the Act, which relates to the matters to which the National Animal Welfare Advisory Committee must have regard when considering a draft code of welfare.

New subsection (3) enables the Committee to choose to take into account practicality and economic impact when considering a draft code of welfare if it considers these to be relevant.

New subsections (4) to (6) apply to recommendations to make regulations under *new section 183A* (which relates to prescribing standards or requirements). These new provisions require the Committee to be satisfied about or consider (as the case requires) the matters in *new section 183A(4) and (5)*.

These amendments replace the current ability of the Committee, in exceptional circumstances, to recommend minimum standards or best practice that do not fully meet relevant obligations under the Act.

Clause 28 amends section 74 of the Act, which relates to recommendations made to the Minister by the National Animal Welfare Advisory Committee. The Committee's report under that section must include a statement of any matters contained in, or related to, the code that the Committee considers should be dealt with by regulations under this Act.

Clause 29 amends section 76 of the Act, which relates to the amendment or revocation of codes of welfare, to enable the Minister to revoke part of a code of welfare.

Clause 30 amends section 78 of the Act, which relates to the review of codes of welfare. The amendments—

- remove the requirement that the National Animal Welfare Advisory Committee review every code at least once every 10 years:
- adjust the procedural requirements that apply to reviews to reflect the removal of the 10-year requirement.

Clause 31 repeals section 78A of the Act, which relates to the extension of review dates in section 78 of the Act, because of the removal of the 10-year review requirement.

Clause 32 replaces section 87 of the Act, which relates to codes of ethical conduct. Currently, a code holder must be directly involved in research, testing, or teaching using animals. The new section allows organisations that are not actually engaged in research, testing, and

teaching to become code holders for the purposes of enabling teaching organisations to use animals. An organisation will still need to meet the requirements currently set for code holders.

Clauses 33 and 34 make consequential amendments to the Act to reflect *new section 87* in *clause 32*.

Clause 35 amends section 100 of the Act, which relates to the criteria to which an animal ethics committee must have regard when considering an application for the approval of a project and the conditions to be applied to it. The amendments ensure that section 100(a) and (d) do not conflict with the changes to section 3 (the meaning of manipulation) in *clause 5*. Currently, section 100(a) requires a committee to have regard to the purposes of Part 6 of the Act and section 100(d) requires a committee to have regard to the harm to, or the distress felt by, the animals as a result of the manipulation involved in the project, and the extent to which that harm or distress can be alleviated.

Clause 36 replaces section 122(1)(a) of the Act, which relates to the matters the Minister must be satisfied about before declaring an organisation to be an approved organisation for the purposes of the Act. The new provision requires that one of the purposes or roles of the organisation must concern the welfare of animals or a particular species of animals. Currently, the principal purpose of the organisation must be to promote the welfare of animals.

Clause 37 inserts *new sections 123A to 123D* into the Act, which will enable the Ministry to audit approved organisations. Currently under section 122, the Minister must, before declaring an organisation to be an approved organisation, be satisfied about a range of matters. However, the Ministry lacks the legal ability to require an approved organisation to undergo an audit to confirm that its approved organisation status is still appropriate. These amendments will enable an audit to be carried out by internal Ministry for Primary Industries staff or by external auditors who work to the Director-General. A similar regime may be found in sections 105B to 105F of the Biosecurity Act 1993.

New section 123A provides for the appointment of auditors.

New section 123B provides for the carrying out of audits and the matters that can be audited.

New section 123C sets out the general duties of auditors.

New section 123D sets out the powers of auditors.

Clause 38 amends section 124 of the Act, which relates to the appointment of inspectors. Currently, suitable persons can be appointed as inspectors under the State Sector Act 1988. The amendment enables the Director-General to appoint state sector employees directly under the Act (rather than the State Sector Act 1988).

This clause also gives the Minister the power to suspend an inspector, after following specified requirements.

Clause 39 amends section 125 of the Act, which relates to the appointment of auxiliary officers. This clause gives the Director-General the power to suspend a person's appointment under section 125.

Clause 40 amends section 127 of the Act, which relates to the power to inspect land, premises, and places and stationary vehicles, aircraft, and ships. Section 127 does not set out expressly the scope of an inspector's power when he or she is exercising an inspection power under the section. Inspectors who carry out an inspection under section 127 need to be able to record what was observed during the inspection and take evidence (including samples) to make a diagnosis or support any decision to seize or destroy an animal. This clause inserts *new subsections (4A) and (4B)* to enable those things to be done.

Clause 41 amends section 130 of the Act, which relates to the power to prevent or mitigate suffering. Section 130 enables inspectors to destroy an animal if they believe it is the only way to prevent the animal suffering unreasonable or unnecessary pain or distress. Section 138 sets out the process that must be followed before an animal can be destroyed, which involves giving the owner of the animal the opportunity to seek a second opinion from a veterinarian if necessary. However, it is not clear whether an inspector acting under section 130 needs to follow the process in section 138. This clause inserts a *new subsection (1A)* to ensure that the process in section 138 applies. This clause also inserts *new subsections (1B) and (1C)*, which provide for service of compliance notices.

The clause also deletes words in section 130(2) that are considered unnecessary.

Clause 42 amends section 133 of the Act, which relates powers conferred by search warrants. This clause inserts a *new subsection (4A)* to ensure that the section 138 process applies if an inspector proposes to destroy an animal under section 133.

Clause 43 amends section 138 of the Act, which relates to the destruction of injured or sick animals (other than marine mammals), to clarify a reference to a veterinarian giving a second opinion.

Clause 44 inserts into the Act *new sections 156A to 156I*, which relate to compliance orders. These new sections are based on sections 154 to 154G of the Biosecurity Act 1993.

New section 156A sets out the scope of compliance orders that may be issued by an inspector.

New section 156B sets out the matters that must be included in compliance orders.

New section 156C provides for service of compliance orders.

New section 156D requires compliance with a compliance order.

New section 156E provides for the changing of or cancellation of a compliance order.

New section 156F provides a right of appeal against a compliance order to a District Court.

New section 156G provides further rights of appeal to the High Court, Court of Appeal, or Supreme Court.

New section 156H relates to the effect an appeal has on a compliance order.

New section 156I creates an offence of non-compliance with a compliance order. The maximum penalty for an offence is a fine not exceeding \$5,000 (for an individual) or \$25,000 (for a body corporate).

Clause 45 amends *new section 156I*, which is inserted into the Act by *clause 44*. The amendment makes the offence created by *new section 156I* an infringement offence. This clause comes into force on a date appointed by the Governor-General by Order in Council (*see clauses 2(2) and 4(4)*).

Clause 46 amends section 157 of the Act, which relates to the requirement for offenders to give their name and address on request by an inspector. The amendment increases from \$900 to \$5,000 (for an individual) and \$25,000 (for a body corporate) the maximum fine that can be imposed on conviction for an offence against section 157. This brings the penalties into line with the maximum penalties for regulatory offences under section 183 of the Act.

Clause 47 amends section 161 of the Act, which relates to infringement offences. The amendment provides that leave of a District

Court is not needed under section 21(1) of the Summary Proceedings Act 1957 in order to file a charging document in respect of an infringement offence under the Act.

Clause 48 amends section 162 of the Act, which relates to infringement notices. The amendment updates the reference to the maximum infringement fee that may be prescribed for infringement offences against regulations made under the Act. The new amount is \$1,000.

Clause 49 replaces section 169 of the Act, which relates to the power of a court to make an order disqualifying a person from owning or exercising authority in respect of animals when the court convicts a person of certain offences. Current issues with section 169 include—

- lack of consistency in the application of section 169;
- the anomalous situation where a court has factors it may consider when persons make an application for removal or variation of an order, but not when the imposition of the order is considered in the first instance;
- an order is directed at a fairly narrow group, namely, owners and those exercising authority, rather than persons in charge;
- uncertainty about the application of the offence of contravention of a disqualification order to a person who, despite the existence of the order, has continued to be the owner of or exercise authority in respect of animals.

New section 169(1) sets out the offences that can attract a disqualification order and substantially re-enacts the current section 169(1).

New section 169(2) enables a court to make a disqualification order if a person is found unfit to stand trial (under the Criminal Procedure (Mentally Impaired Persons) Act 2003).

New section 169(3) enables a court to make an order disqualifying a person for any period that it thinks fit from—

- being the owner of an animal; or
- exercising authority over an animal; or
- being the person in charge of an animal.

An order may relate to an animal or animals of a particular kind or description specified in the order or to animals generally.

New section 169(4) sets out the matters to which the court must have regard in considering whether to make an order. Some of these mat-

ters are currently set out in section 169A (application for removal or variation of disqualification order).

New section 169(5) carries over the current section 169(2), which enables a court to specify a minimum disqualification period.

Clause 50 amends section 169A of the Act, which relates to applications to remove or vary a disqualification order. The amendment aligns the section with *new section 169*.

Clause 51 amends section 169B of the Act, which relates to the offence of contravening a disqualification order. The amendment aligns with *new section 169* the matters to which a court must have regard in considering an application.

Clause 52 amends section 172 of the Act, which relates to the power of courts to order that certain animals be forfeited to the Crown or an approved organisation. The amendment—

- extends the section to enable a court to make a forfeiture order where the offender is found unfit to stand trial; and
- provides for distribution of the proceeds of sale.

Clause 53 repeals sections 175 to 178 of the Act. These sections are replaced in *clause 17*.

Clause 54 corrects cross-referential errors in section 182 of the Act, which relates to cost recovery.

Clause 55 amends section 183 of the Act, which enables regulations to be made under the Act. The amendments enable regulations to be made to—

- require the reporting of the killing of animals that were bred, but not used, for the purposes of research, testing, and teaching;
- prescribe offences created by the Act or under it as infringement offences;
- prescribe the infringement fees, which may not exceed \$1,000 but which may vary depending on whether the offence is a first or subsequent offence.

Clause 56 inserts into the Act *new sections 183A to 183C*, which provide new regulation-making powers.

New section 183A enables the making of regulations that prescribe standards and requirements relating to animal care. The intention is that the new section include the power to—

- impose prohibitions, for example, on the use of sow stalls or equipment such as prong dog collars:
- establish or amend minimum standards in codes of welfare:
- prescribe standards or requirements that are lower than those required to meet the obligations in Parts 1 and 2 of the Act.

The power to recommend the making of regulations that prescribe such temporary standards or requirements requires consideration of matters specified in *subsection (4)* of the new section.

New section 183B enables the making of regulations that prescribe matters relating to surgical or painful procedures. The Minister must have regard to most of the matters currently specified in section 3(4) before recommending the making of such regulations.

New section 183C enables the making of regulations that prescribe matters relating to the export of live animals.

Clause 57 replaces section 184(1) and (2) to correct cross-referential errors in section 184 of the Act, which relates to consultation requirements applying to the making of certain Orders in Council. It also creates an exception from the requirement to consult before an Order in Council or regulations are made if the National Animal Welfare Advisory Committee has already consulted on the subject matter of the Order in Council or regulations as part of its consultation on a draft code of welfare under sections 71 or 72.

Clause 58 repeals section 191 of the Act, which relates to deemed codes of welfare.

Clause 59 amends Schedule 1 of the Act, which contains provisions applying to the National Animal Welfare Advisory Committee and National Animal Ethics Advisory Committee. This clause amends clause 6 of Schedule 1 to remove the requirement that members voting on a matter must be present in New Zealand.

Clause 60 repeals Schedule 4 of the Act, which relates to deemed codes of welfare, and replaces it with a *new Schedule 4*. *New Schedule 4* contains savings and transitional provisions relating to this Bill. In particular, *new Schedule 4* preserves existing codes of welfare and the Customs Export Prohibition (Livestock for Slaughter) Order 2010.

Part 2
Amendment to related Customs
enactment

Clause 61 amends the Customs Export Prohibition (Livestock for Slaughter) Order 2010 and provides that the order is revoked on the commencement of the first regulations made under *new section 183C* of the Act.

Hon Nathan Guy

Animal Welfare Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Animal Welfare Amendment Act **2013**.

2 Commencement

(1) **Sections 4(1) and (5), 8, 10(2), 12(1), 13 to 16, 20 to 22, 25(1), and 57(2)** come into force on the earlier of the following: 5

(a) a date appointed by the Governor-General by Order in Council:

(b) 5 years after the date on which this Act receives the Royal assent. 10

(2) **Sections 4(4), 41(3), and 45** come into force on the earlier of the following:

(a) a date appointed by the Governor-General by Order in Council: 15

(b) 5 years after the date on which this Act receives the Royal assent.

- (3) **Sections 5, 7, and 35** come into force on 1 January following the second anniversary of the date on which this Act receives the Royal assent.
- (4) **Section 38(1)** comes into force on the day that is 3 months after the date on which this Act receives the Royal assent. 5
- (5) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.
- (6) One or more Orders in Council may be made under **subsection (1) or (2)** appointing different dates for different provisions. 10

3 Principal Act

This Act amends the Animal Welfare Act 1999 (the **principal Act**).

Part 1

Amendments to principal Act

15

4 Section 2 amended (Interpretation)

- (1) In section 2(1), repeal the definition of **controlled surgical procedure**.
- (2) In section 2(1), definition of **device**, after “means any”, insert “explosive (not being a firearm as defined in section 2 of the Arms Act 1983), incendiary device, or”. 20
- (3) In section 2(1), replace the definition of **infringement offence** with:
“**infringement offence** means—
“(a) an offence against **section 36(2)**: 25
“(b) an offence against **section 157(4)**:
“(c) any other offence created by or under this Act that is declared by regulations made under this Act to be an infringement offence for the purposes of this Act”.
- (4) In section 2(1), replace the definition of **infringement offence** with: 30
“**infringement offence** means—
“(a) an offence against **section 36(2)**:
“(b) an offence against section 130(2):
“(c) an offence against **section 156I(1)**: 35

- “(d) an offence against **section 157(4)**:
“(e) any other offence created by or under this Act that is declared by regulations made under this Act to be an infringement offence for the purposes of this Act”.
- (5) In section 2(1), repeal the definitions of **restricted surgical procedure** and **significant surgical procedure**. 5
- 5 Section 3 amended (Definition of manipulation)**
- (1) In section 3(1), replace “subsections (2) and (3)” with “subsections **(1A)** to (3)”.
(2) After section 3(1), insert: 10
“(1A) The term defined by subsection (1) includes the killing of an animal (other than an animal in a wild state) by or on behalf of a code holder for the purpose of interfering with the animal’s body or its tissues in a manner specified in that subsection.
“(1B) The term defined by subsection (1) also includes the breeding or production of an animal using any breeding technique (including genetic modification) that may result in the birth or production of an animal that is susceptible to pain or distress during its life.” 15
- (3) Repeal section 3(2)(c). 20
- 6 Section 4 amended (Definition of physical, health, and behavioural needs)**
Replace section 4(a) with:
“(a) proper and sufficient food:
“(ab) proper and sufficient water:” 25
- 7 Section 5 amended (Definition of research, testing, and teaching)**
- (1) In section 5(1), replace “subsections (2) to (4)” with “subsections **(1A)** to (4)”.
(2) In section 5(1)(c), after “animal”, insert “; or”. 30
(3) After section 5(1)(c), insert:
“(d) any routine breeding of animals that may result in the birth or production of an animal that is susceptible to pain or distress during its life, being breeding for the

purpose of carrying out any work or teaching of a type specified in paragraphs (a) to (c) on any offspring.”

(4) After section 5(1), insert:

“(1A) The term defined by subsection (1) includes any work of a kind described in subsection (1)(a) or (b) carried out on the body or tissues of an animal after the animal was killed for the purpose, if the killing of the animal was a manipulation under **section 3(1A)**.

“(1B) A reference in subsection (1) to a manipulation of an animal includes a reference to the act of breeding or producing the animal in a way described in **section 3(1B)**.

“(1C) In applying subsection (1) in relation to a manipulation described in **section 3(1B)**, the reference in subsection (1) to work must be read as a reference to scientific work but does not include normal animal management or practice.”

8 Sections 6 and 7 repealed

Repeal sections 6 and 7.

9 New section 8A inserted (Transitional and savings provisions relating to amendments to Act)

After section 8, insert:

“8A Transitional and savings provisions relating to amendments to Act

The transitional and savings provisions set out in **Schedule 4**, which relate to amendments made to this Act by the **Animal Welfare Amendment Act 2013**, have effect for the purposes of this Act.”

10 Section 9 amended (Purpose)

(1) In section 9(2)(b), delete “, where practicable,”.

(2) Replace section 9(2)(d) and (e) with:

“(d) contemplates that regulations will prohibit or impose requirements on the surgical or painful procedures that may be performed on animals; and

“(e) contemplates that regulations will prescribe the persons or classes of persons who may perform surgical or painful procedures on animals; and”.

-
- 11 Section 11 amended (Obligation to alleviate pain or distress of ill or injured animals)**
In section 11(1), delete “, where practicable,”.
- 12 Section 15 amended (Restriction on performance of surgical procedures)** 5
(1) In section 15(1), replace “section 18(1)” with “regulations made under **section 183B**”.
(2) In section 15(1)(b), delete “at undergraduate level”.
(3) In section 15(3), after “Parts 2 and 6”, insert “and to any regulations made under **section 183B**”. 10
- 13 Sections 16 to 20 repealed**
Repeal sections 16 to 20.
- 14 Section 21 replaced (Surgical procedure offences)**
Replace section 21 with:
“**21 Surgical procedure offences** 15
A person commits an offence who, without reasonable excuse, acts in contravention of or fails to comply with—
“(a) section 15(1) or (2); or
“(b) section 15(4).
“Compare: 1960 No 30 s 3(ma); 1971 No 48 s 3(3)(s)”. 20
- 15 Section 25 amended (Penalties)**
In section 25, replace “section 21(1) or section 21(2)” with “**section 21**”.
- 16 Section 29 amended (Further offences)** 25
Repeal section 29(b) and (f).
- 17 New sections 30A to 30E inserted**
After section 30, insert:

*“Ill-treating, hunting, or killing wild animals
or animals in wild state*

“30A Wilful or reckless ill-treatment of wild animals or animals in wild state

- “(1) A person commits an offence if the person wilfully ill-treats a wild animal or an animal in a wild state. 5
- “(2) A person commits an offence if the person recklessly ill-treats a wild animal or an animal in a wild state.
- “(3) A defendant has a defence to a prosecution for an offence against **subsection (1) or (2)** if the defendant satisfies the court that the conduct alleged to constitute an offence is or is part of a generally accepted practice in New Zealand for the hunting or killing of wild animals of that type or animals in a wild state of that type. 10
- “(4) In determining whether wilful or reckless ill-treatment of an animal has occurred, a court may treat an act or omission as lawful (and not subject to **subsection (1) or (2)**) if satisfied that— 15
- “(a) the act or omission was done in the course of performing functions for the purposes of another Act; and 20
- “(b) not to treat the act or omission as lawful would be contrary to the purpose and principles of that Act.
- “(5) Nothing in **subsection (1) or (2)** applies to—
- “(a) a wild animal in captivity (other than in captivity in a safari park); or 25
- “(b) the accidental or inadvertent killing or harming of an animal; or
- “(c) any act or omission necessary to protect a person’s life or safety.
- “(6) Nothing in **subsection (1) or (2)** affects section 179 or 181. 30
- “(7) A person who commits an offence against **subsection (1)** is liable on conviction,—
- “(a) in the case of an individual, to imprisonment for a term not exceeding 5 years or to a fine not exceeding \$100,000, or to both: 35
- “(b) in the case of a body corporate, to a fine not exceeding \$500,000.

- “(8) A person who commits an offence against **subsection (2)** is liable on conviction,—
- “(a) in the case of an individual, to imprisonment for a term not exceeding 3 years or to a fine not exceeding \$75,000, or to both: 5
- “(b) in the case of a body corporate, to a fine not exceeding \$350,000.
- “**30B Hunting or killing**
- “(1) Nothing in this Act makes it unlawful to hunt or kill— 10
- “(a) any animal in a wild state; or
- “(b) any wild animal or pest in accordance with the provisions of—
- “(i) the Wildlife Act 1953; or
- “(ii) the Wild Animal Control Act 1977; or 15
- “(iii) the Conservation Act 1987; or
- “(iv) the Biosecurity Act 1993; or
- “(v) any other Act; or
- “(c) any other wild animal or pest; or
- “(d) any fish caught from a constructed pond.
- “(2) **Subsection (1)** is subject to **sections 30A and 30C to 30E** 20 and Part 6.
- “Compare: 1960 No 30 s 19(1)(c), (2)
- “**30C Hunting in safari parks**
- “(1) Nothing in this Act makes it unlawful to hunt a wild animal that is available for hunting in a safari park. 25
- “(2) **Subsection (1)** is subject to **subsection (3) and to sections 30A and 30E** and Part 6.
- “(3) Despite **subsection (1) and section 30B**, if a person has hunted and captured a wild animal in a safari park (not being an animal that has been captured for the purpose of facilitating 30 its imminent destruction), this Act applies in relation to that person as the person in charge of that animal.
- “**30D Captured animals**
- “(1) If a person has in captivity an animal captured in a wild state (not being an animal that has been captured for the purpose 35

of facilitating its imminent destruction), this Act applies in relation to that person as the person in charge of that animal.

- “(2) If a person has in captivity an animal captured in a wild state (not being an animal caught by fishing) for the purpose of facilitating its imminent destruction, section 12(c) applies in relation to the killing of that animal. 5
- “(3) Nothing in **subsection (1) or (2)** applies in relation to a wild animal that is hunted and captured in a safari park.
- “(4) Nothing in **section 30B** applies to any wild animal or pest that is farmed or kept as a pet (other than a pest fish that is caught from a freshwater fish farm by a recreational fisher). 10

“**30E Certain provisions relating to traps and devices not excluded**

Sections 30B and 30C do not restrict the application of sections 34 and 36.” 15

18 Section 36 amended (Obligation to inspect traps)

Replace section 36(2) with:

- “(2) A person commits an offence who fails, without reasonable excuse, to comply with any provision of subsection (1).
- “(3) A person who commits an offence against **subsection (2)** is liable on conviction,— 20
- “(a) in the case of an individual, to a fine not exceeding \$5,000; or
- “(b) in the case of a body corporate, to a fine not exceeding \$25,000. 25
- “(4) An offence against **subsection (2)** is also an infringement offence.”

19 Section 38 replaced (Purpose)

Replace section 38 with:

- “**38 Purpose** 30
- The purpose of this Part is to protect the welfare of animals being exported from New Zealand and to protect New Zealand’s reputation as a responsible exporter of agricultural products.”

- 20 Section 41 repealed (Guidelines for issue of animal welfare export certificates)**
Repeal section 41.
- 21 Section 43 amended (Consideration of application)** 5
After section 43(k), insert:
“(ka) any regulations made under **section 183C** relating to the export of animals:
“(kb) New Zealand’s reputation as a responsible exporter of agricultural products:”.
- 22 Section 45 amended (Conditions)** 10
After section 45(1)(l), insert:
“(la) a condition that requires the exporter to manage specified post-arrival conditions in the importing country:”.
- 23 Section 54 amended (Offence)** 15
In section 54(1), delete “refuses or”.
- 24 Section 55 amended (Purpose)**
(1) In section 55(2)(b), after “welfare” insert “; and”.
(2) After section 55(2)(b), insert:
“(c) recommend to the Minister that regulations be made under **section 183A(1)(a)** prescribing animal welfare standards or requirements.” 20
- 25 Section 57 amended (Functions)**
(1) Replace section 57(b) with:
“(b) to make recommendations to the Minister—
“(i) under section 3(3) (which relates to manipulation); and 25
“(ii) relating to the making of regulations under **section 183B** (which relates to surgical and painful procedures):”.
- (2) In section 57(f), replace “to promote, and” with “to develop and promote, and” 30

26 Section 71 amended (Public notification)

Replace section 71(1) and (2) with:

- “(1) The National Animal Welfare Advisory Committee must publicly notify a draft code of welfare if the Committee is satisfied that— 5
- “(a) the draft should proceed; and
 - “(b) the draft complies with the purposes of this Act; and
 - “(c) the draft is so clearly written as to be readily understood; and
 - “(d) the draft indicates any matters that the Committee considers should be dealt with by regulations under this Act; and 10
 - “(e) representatives of the persons likely to be affected by the draft have been consulted about it; and
 - “(f) the Minister has approved the notification of the draft. 15
- “(2) If the Committee decides not to proceed with a draft code prepared by any person other than the Committee, it must—
- “(a) give the person its reasons in writing for not proceeding; and
 - “(b) notify the Minister of its decision.” 20

27 Section 73 amended (Matters to be considered)

Replace section 73(3) and (4) with:

- “(3) In carrying out its functions under subsection (1), the National Animal Welfare Advisory Committee may take into account practicality and economic impact, if relevant. 25
- “(4) The National Animal Welfare Advisory Committee may recommend to the Minister that regulations be made under **section 183A(1)(a)** (which relates to standards or requirements for the purposes of giving effect to Parts 1 and 2).
- “(5) The National Animal Welfare Advisory Committee may recommend to the Minister the making of regulations under **section 183A(2)** (which relates to prescribing standards or requirements that do not fully meet specified obligations). 30
- “(6) Before making a recommendation under **subsection (4) or (5)**, the National Animal Welfare Advisory Committee must be satisfied about or consider (as the case requires) the matters in **section 183A(4) and (5)**.” 35

28 Section 74 amended (Recommendation to Minister)

- (1) In section 74(2)(c), after “Committee”, insert “; and”.
- (2) After section 74(2)(c), insert:
- “(d) if applicable, those matters contained in, or related to, the code that the Committee considers should be dealt with by regulations under this Act.” 5

29 Section 76 amended (Amendment or revocation of code of welfare)

In section 76(1)(a), after “welfare”, insert “or any part of a code of welfare”. 10

30 Section 78 amended (Review of code of welfare)

- (1) Replace section 78(1) with:
- “(1) The National Animal Welfare Advisory Committee may at any time review the whole or any part of any code of welfare for the time being in force.” 15
- (2) In section 78(3), after “code of welfare”, insert “or part of the code”.
- (3) Repeal section 78(4) and (5).

31 Section 78A repealed (Review date may be extended)

Repeal section 78A. 20

32 Section 87 replaced (Codes of ethical conduct)

Replace section 87 with:

“87 Codes of ethical conduct

- “(1) Any person referred to in **subsection (2)** may apply to the Director-General for approval of a code of ethical conduct in relation to the use of animals. 25
- “(2) The persons are—
- “(a) any person who—
- “(i) is engaged in, or wishes to be engaged in, research, testing, or teaching; and 30
- “(ii) wishes to use animals in that research, testing, or teaching;
- “(b) any person who—

- “(i) is not directly engaged in research, testing, or teaching; but
 “(ii) wishes to enable a teaching organisation to use animals in research, testing, or teaching.”

- 33 Section 89 amended (Application for approval)** 5
 In section 89(1)(a), replace “in which the applicant is engaged or proposes to be engaged” with “to which the application relates”.
- 34 Section 96 (Amendment, suspension, or revocation)**
 (1) In section 96(2)(a), after “teaching”, insert “or no longer wishes to enable research, testing, or teaching to be carried out by another person” 10
 (2) In section 96(2)(c), after “teaching”, insert “or to enable research, testing, or teaching to be carried out by another person” 15
- 35 Section 100 amended (Criteria)**
 (1) In section 100(a), after “this Part”, insert “, but the committee need not have regard to the purpose stated in section 80(1)(b) for any part of the project that involves manipulation to which **section 3(1A)** applies” 20
 (2) In section 100(d), after “of animals”, insert “, but this paragraph does not apply to the killing of animals for the purpose of any project where research, testing, and teaching are to be performed on their bodies or tissues”.
 (3) In section 100, insert as subsection (2): 25
 “(2) When an animal ethics committee considers approving a research, testing, and teaching project that involves manipulation to which **section 3(1A)** applies, the committee must be satisfied that every animal that will be subject to that manipulation will be killed in such a manner that the animal does not suffer unreasonable or unnecessary pain or distress.” 30
- 36 Section 122 amended (Criteria)**
 (1) Replace section 122(1)(a) with:

- “(a) one of the purposes or roles of the organisation concerns the welfare of animals or a particular species of animal; and”.
- (2) After section 122(2), insert:
- “(3) The Minister may, in making a declaration under section 121 relating to an organisation that has an animal welfare role only in respect of 1 or more species (but not animals generally), specify that the approval is given in respect of—
- “(a) only the species specified in the declaration; or
- “(b) all animals.”
- 37 New sections 123A to 123D inserted**
After section 123, insert:
- “123A Appointment of auditors**
- “(1) The Director-General may appoint auditors to carry out audits of approved organisations for the purposes of this Act.
- “(2) The Director-General may appoint as auditors only those persons who have appropriate experience, technical competence, and qualifications relevant to the audits.
- “(3) Auditors may, but need not, be persons who are employed under the State Sector Act 1988.
- “123B Audits**
- “(1) The Director-General must set terms of reference for audits of approved organisations.
- “(2) Audits include examinations, investigations, and reviews.
- “(3) Auditors conduct audits as to the previous and current positions, and as to the likely future position, of—
- “(a) an organisation’s ability to meet the criteria set out in section 122(1):
- “(b) compliance by an organisation and its inspectors and auxiliary officers with any performance and technical standards for inspectors and auxiliary officers:
- “(c) an organisation’s compliance with any memorandum of understanding established between the organisation and the Ministry:

- “(d) the exercise of any power, and the carrying out of any functions or duties, by any inspector or auxiliary officer of an organisation:
- “(e) an organisation’s compliance with animal welfare law:
- “(f) compliance by an organisation and its inspectors and auxiliary officers with any direction issued by the Director-General under section 126: 5
- “(g) any other class or description of audit necessary to audit an organisation’s work or status as an approved organisation under this Act. 10
- “(4) Any inspector, auxiliary officer, or employee of an organisation, and any other inspector or auxiliary officer, may be the subject of an audit.
- “**123C Auditors’ general duties** 15
- “(1) An auditor must use his or her best endeavours to comply with and give effect to relevant performance or technical standards when exercising powers or carrying out functions or duties for the purposes of this Act.
- “(2) An auditor must give the approved organisation that is to be audited a written notice of the audit and the terms of reference a reasonable time before the audit starts, unless giving notice would defeat the purpose of the audit. 20
- “(3) The auditor must conduct the audit within the terms of reference.
- “**123D Auditors’ powers** 25
- “(1) An auditor may exercise the powers in this section for the purposes of an audit.
- “(2) The Director-General may give the approved organisation that is to be audited a written notice to appear before an auditor at a time and place specified in the notice. 30
- “(3) If the Director-General acts under **subsection (2)**, the auditor may require the approved organisation to answer all questions relating to the audit put to the organisation.
- “(4) An auditor may examine the systems, processes, and records of the approved organisation. 35
- “(5) The approved organisation must ensure that the auditor—

- “(a) has full access to all books and records in the possession or under the control of the organisation and to any place where any such books or records are kept; and
- “(b) is able to examine or audit any books or records, and take copies or extracts from them; and 5
- “(c) has full access to facilities (for example, animal shelters) that are maintained so that the organisation can fulfil its duties under this Act, and is able to take samples and records from facilities and animals kept there as provided in section 127; and 10
- “(d) has full access to any other thing that relates to the organisation’s performance of duties under this Act and the organisation’s ability to meet the criteria set out in section 122(1).”
- 38 Section 124 amended (Appointment of inspectors) 15**
- (1) Replace section 124(1) with:
- “(1) The Director-General may from time to time appoint persons employed in the State sector to be inspectors for the purposes of this Act.”
- (2) Replace section 124(3)(a) with: 20
- “(a) must be appointed either—
- “(i) for particular purposes of this Act specified in the inspector’s instrument of appointment, which may include the exercise of particular powers of inspectors under this Act or relate to a particular species; or 25
- “(ii) for the general purposes of this Act; and”.
- (3) After section 124(6)(a), insert:
- “(aa) may at any time be suspended from office by the Minister if he or she considers it desirable to do so pending 30 the investigation of a complaint relating to—
- “(i) the inspector’s performance of his or her functions or duties; or
- “(ii) any suspected neglect of duty or misconduct of the inspector:”.
- (4) After section 124(6), insert: 35

- “(6A) If the Minister suspends an inspector under **subsection (6)(aa)**, the Minister must give the inspector a written notice stating—
- “(a) that the inspector’s appointment is suspended; and
 - “(b) either—
 - “(i) the period of the suspension; or
 - “(ii) that suspension is for an indefinite period; and
 - “(c) the reasons for the suspension.”
- 39 Section 125 amended (Appointment of auxiliary officers)** 10
 After section 125(2), insert:
- “(2A) The Director-General may at any time suspend a person’s appointment as an auxiliary officer.”
- 40 Section 127 amended (Power to inspect land, premises, and places and stationary vehicles, aircraft, and ships)** 15
 After section 127(4), insert:
- “(4A) If an inspector exercises a power of entry under subsection (1), the inspector may take any photographs, sound or video recordings, drawings, or other records (whether paper-based or electronic) of anything relevant to, and observed during, an inspection. 20
- “(4B) If an inspector exercises a power of entry under subsection (1), the inspector may take—
- “(a) the carcass of or tissue or other bodily samples (for example, blood samples) from any dead animal found during an inspection: 25
 - “(b) tissue or other bodily samples (for example, blood samples) from any live animal found during the inspection.”
- 41 Section 130 amended (Power to prevent or mitigate suffering)** 30
 (1) After section 130(1), insert:
- “(1A) If an inspector proposes to destroy, or require the destruction of, an animal under subsection (1), the inspector must ensure that the process in section 138 is followed before the animal is destroyed (as if that section applied).

- “(1B) Without limiting section 185, a notice under subsection (1)(b) may be served on a person by—
- “(a) delivering it personally to the person:
 - “(b) delivering it to the person at the person’s usual or last-known place of residence or business: 5
 - “(c) sending it by fax or email to the person’s fax number or email address:
 - “(d) posting it in a letter addressed to the person at the person’s usual or last-known place of residence or business.
- “(1C) The following provisions apply to service as described in **subsection (1B)**: 10
- “(a) service on an officer of a body, or on the body’s registered office, is deemed to be service on the body:
 - “(b) service on any of the partners in a partnership is deemed to be service on the partnership: 15
 - “(c) service by post is deemed to occur at the time at which the notice would have been delivered in the ordinary course of the post.”
- (2) In section 130(2), delete “refuses or”.
- (3) After section 130(3), insert: 20
- “(4) An offence against **subsection (2)** is also an infringement offence.”
- 42 Section 133 amended (Powers conferred by search warrant)** 25
- After section 133(4), insert:
- “(4A) If an inspector proposes to destroy, or require the destruction of, an animal under subsection (4), the inspector must ensure that the process in section 138 is followed before the animal is destroyed (as if that section applied).”
- 43 Section 138 amended (Destruction of injured or sick animals (other than marine mammals))** 30
- In section 138(4), replace “other veterinarian” with “veterinarian giving that opinion”.
- 44 New sections 156A to 156I and cross-heading inserted** 35
- After section 156, insert:

*“Compliance orders***“156A Scope**

“(1) An inspector may make a compliance order against a person.

“(2) A compliance order may—

“(a) require the person to cease doing something that, in the opinion of the inspector, contravenes or is likely to contravene animal welfare law; or 5

“(b) prohibit the person from starting something that, in the opinion of the inspector, contravenes or is likely to contravene animal welfare law; or 10

“(c) prohibit the person from doing something again that, in the opinion of the inspector, contravenes or is likely to contravene animal welfare law; or

“(d) prohibit the person from having something done on the person’s behalf that, in the opinion of the inspector, contravenes or is likely to contravene animal welfare law; or 15

“(e) prohibit the person from having something done on the person’s behalf again that, in the opinion of the inspector, contravenes or is likely to contravene animal welfare law; or 20

“(f) require the person to do something that, in the opinion of the inspector, is necessary to ensure that the person complies with animal welfare law.

“Compare: 1993 No 95 s 154 25

“156B Content

A compliance order must state—

“(a) the name of the person against whom it is made; and

“(b) the reasons why the inspector made it; and

“(c) the requirement or prohibition in **section 156A(2)** ordered by the inspector; and 30

“(d) one of the following:

“(i) for a requirement, the period, if any, within which the requirement must be achieved, which must start on the day on which the order is served and end after a time that is reasonable for the achievement of the requirement; or 35

- “(ii) for a prohibition, the time and date, if any, from which the prohibition is to take effect; and
- “(e) the conditions, if any, imposed by the inspector; and
- “(f) the consequences of not complying with the order; and
- “(g) the rights of appeal in **section 156F**; and 5
- “(h) the name and address of the agency whose inspector made the order.

“Compare: 1993 No 95 s 154A

“156C Service

- “(1) An inspector who makes a compliance order must ensure that it is served on the person against whom it is made. 10
- “(2) Without limiting section 185, a compliance order may be served by—
 - “(a) delivering it personally to the person:
 - “(b) delivering it to the person at the person’s usual or last-known place of residence or business: 15
 - “(c) sending it by fax or email to the person’s fax number or email address:
 - “(d) posting it in a letter addressed to the person at the person’s usual or last-known place of residence or business. 20
- “(3) The following provisions apply to service as described in **subsection (2)**:
 - “(a) service on an officer of a body, or on the body’s registered office, is deemed to be service on the body:
 - “(b) service on any of the partners in a partnership is deemed to be service on the partnership: 25
 - “(c) service by post is deemed to occur at the time at which the order would have been delivered in the ordinary course of the post.

“Compare: 1993 No 95 s 154B 30

“156D Compliance

The person against whom a compliance order is made must—

- “(a) comply with the order; and
- “(b) do so within the period stated in the order, if a period is stated; and 35

“(c) pay all the costs and expenses of complying with the order, unless the order states otherwise.

“Compare: 1993 No 95 s 154C

“**156E Change or cancellation**

“(1) A compliance order may be changed or cancelled under **subsection (2)** or cancelled under **subsection (3)** by the Director-General. 5

“(2) If the Director-General receives a written application from the person against whom the order was made to change or cancel the order, the Director-General— 10

“(a) must consider the application as soon as practicable, having regard to—

“(i) the purpose for which the order was made; and

“(ii) the effect of a change or cancellation on the purpose; and 15

“(iii) any other matter he or she thinks fit:

“(b) may confirm, change, or cancel the order:

“(c) must give the person against whom the order was made written notice of the confirmation, change, or cancellation. 20

“(3) The Director-General—

“(a) may cancel the order if he or she considers that the order is no longer required; and

“(b) must give the person against whom the order was made written notice of the cancellation. 25

“Compare: 1993 No 95 s 154D

“**156F Appeal to District Court**

“(1) The following persons may appeal to a District Court:

“(a) the person against whom a compliance order is made under **section 156A**: 30

“(b) a person whose application under **section 156E(2)** did not succeed.

“(2) The appeal does not operate as a stay of the compliance order.

“(3) The person may apply to the court for a stay of the compliance order pending the court’s decision on the appeal. 35

- “(4) The court must consider the application for a stay as soon as practicable after the application for it is lodged.
- “(5) The court must consider—
- “(a) whether to hear—
 - “(i) the person: 5
 - “(ii) the Director-General; and
 - “(b) the likely effect on animal welfare of granting a stay; and
 - “(c) whether it is unreasonable for the person to comply with the compliance order pending the decision on the appeal; and 10
 - “(d) any other matters that the court thinks fit.
- “(6) The court may grant or refuse a stay and may impose any terms or conditions that the court thinks fit.
- “(7) The stay has legal effect once a copy of it is served on the Director-General. 15
- “(8) The stay remains in force until the District Court orders it lifted.
- “(9) The rules of procedure under the District Courts Act 1947 apply to the making of an appeal and an application for a stay. 20
- “(10) The District Court may confirm, change, or cancel the compliance order appealed against.
- “Compare: 1993 No 95 s 154E

“**156G Appeal to High Court, Court of Appeal, or Supreme Court** 25

- “(1) A party to an appeal under **section 156F** may appeal to the High Court on a question of law.
- “(2) The High Court Rules and sections 74 to 78 of the District Courts Act 1947 apply to an appeal under **subsection (1)**—
- “(a) as if it were an appeal under section 72 of the District Courts Act 1947; and 30
 - “(b) with all necessary modifications.
- “(3) A party to an appeal under **subsection (1)** may appeal to the Court of Appeal or the Supreme Court against a determination of the High Court on a question of law, with the leave of the court appealed to, and subject to section 14 of the Supreme Court Act 2003. 35

“(4) The Court of Appeal or the Supreme Court hearing an appeal under this section has the same power to adjudicate on the appeal as the High Court had.

“Compare: 1993 No 95 s 154F

“156H Effect of appeal 5

An appeal under **section 156F or 156G** has the following effects:

“(a) the Director-General whose compliance order is appealed against must not cancel the order while the order is the subject of an appeal or while the time for the person’s appeal rights is running; and 10

“(b) the person who appeals must comply with the order if compliance is required as the result of the person exercising the person’s appeal rights.

“Compare: 1993 No 95 s 154G 15

“156I Penalties for non-compliance with compliance order

“(1) A person commits an offence who, without reasonable excuse, fails to comply with any requirement made or prohibition imposed under **section 156A**.

“(2) A person who commits an offence against this section is liable on conviction,— 20

“(a) in the case of an individual, to a fine not exceeding \$5,000; or

“(b) in the case of a body corporate, to a fine not exceeding \$25,000.” 25

45 Section 156I amended (Penalties for non-compliance with compliance order)

After **section 156I(2)**, insert:

“(3) An offence against this section is also an infringement of-fence.” 30

46 Section 157 amended (Offenders to give name and address)

Replace section 157(4) with:

- “(4) A person commits an offence who, without reasonable excuse,—
- “(a) fails to comply with a request made under subsection (1) or (2); or
- “(b) gives to an inspector, in response to a request made under subsection (1) or (2), particulars that are false in a material respect. 5
- “(5) A person who commits an offence against **subsection (4)** is liable on conviction,—
- “(a) in the case of an individual, to a fine not exceeding \$5,000; or 10
- “(b) in the case of a body corporate, to a fine not exceeding \$25,000.
- “(6) An offence against **subsection (4)** is also an infringement offence.” 15

47 Section 161 amended (Infringement offences)

In section 161, insert as subsection (2):

- “(2) Despite section 21(1) of the Summary Proceedings Act 1957, leave under that provision is not required in order to file a charging document in respect of an infringement offence under this Act.” 20

48 Section 162 amended (Infringement notices)

Replace section 162(4)(b) with:

- “(b) the amount of the infringement fee (being an amount not exceeding \$1,000 prescribed by regulations made under this Act); and”. 25

49 Section 169 replaced (Court may disqualify person from owning or exercising authority in respect of animals)

Replace section 169 with:

- “**169 Court may disqualify person from owning or exercising authority in respect of animals** 30
- “(1) This section applies if a person is convicted of an offence against—
- “(a) any section in Part 1 or 2; or
- “(b) section 152(1); or 35

- “(c) section 169B(1).
- “(2) This section also applies if a person is charged with an offence against any enactment specified in **subsection (1)** and is found unfit to stand trial (under the Criminal Procedure (Mentally Impaired Persons) Act 2003). 5
- “(3) If this section applies in relation to a person, the court may (in addition to or in substitution for any other penalty or order) make an order disqualifying that person for any period that it thinks fit from being the owner of, or exercising authority over, or being the person in charge of,— 10
- “(a) an animal or animals of a particular kind or description; or
- “(b) animals generally.
- “(4) In considering whether to make an order under **subsection (3)**, the court must have regard to— 15
- “(a) the purposes of Parts 1 and 2; and
- “(b) the maximum penalty specified for the charge from which the conviction arose; and
- “(c) the seriousness of the offending, including (without limitation) the nature and gravity of the harm, the number of animals involved, and the frequency of the offending; and 20
- “(d) the character of the person; and
- “(e) the previous offending history (if any) of the person; and 25
- “(f) any other circumstances of the case.
- “(5) In making an order under **subsection (3)**, the court may also specify a minimum disqualification period.”
- 50 Section 169A amended (Disqualified person may apply to court for removal or variation of disqualification) 30**
Replace section 169A(4) with:
- “(4) In deciding an application under this section, the court may have regard to—
- “(a) the matters specified in **section 169(4)**; and
- “(b) the applicant’s conduct since the disqualification order was made.” 35

- 51 Section 169B amended (Offence of contravening disqualification order)**
 Replace section 169B(1) with:
- “(1) A person commits an offence if the person contravenes a disqualification order made under **section 169(3)** (under which provision a court can make an order relating to an animal or animals of a particular kind or description or to animals generally).” 5
- 52 Section 172 amended (Power of court to order that certain animals be forfeited to the Crown or approved organisation)** 10
 Replace section 172(2) with:
- “(2) If a court finds that a person is unfit to stand trial for an offence against this Act in respect of an animal or animals, the court may make any order provided for in subsection (1) as if it had convicted the person of the offence. 15
- “(3) If an animal is forfeited to the Crown or an approved organisation under this section,—
- “(a) in the case of a person found unfit to stand trial, the proceeds of sale (if any) must be held by the Ministry or an approved organisation (after deducting (in order) the costs of sale, any sums required to be paid to a security holder or any other person under a condition of the order for sale, and any costs incurred by the Crown or approved organisation in caring for the animal or animals or providing veterinary treatment to that animal or those animals), and the Ministry or approved organisation, as the case may be, must pay the proceeds of sale to the owner as soon as practicable: 20 25
- “(b) in any other case, the animal may be sold or otherwise disposed of as the Minister or the approved organisation, as the case may be, thinks fit.” 30
- 53 Sections 175 to 178 and cross-heading above section 175 repealed**
 Repeal sections 175 to 178 and the cross-heading above section 175. 35

- 54 Section 182 amended (Criteria in relation to recovery of costs)**
 In section 182, replace “section 183(e)” with “section 183(1)(e)” in each place.
- 55 Section 183 amended (Regulations)** 5
 (1) After section 183(1)(c)(iii), insert:
 “(iiia) the killing of animals that were bred, but not used, for the purposes of research, testing, and teaching.”
- (2) Replace section 183(1)(h) with: 10
 “(h) prescribing the offences created by or under this Act that constitute infringement offences for the purposes of this Act, and prescribing infringement fees not exceeding \$1,000 for each infringement offence, which may be different fees for different offences (including different fees for a first or second or third offence).” 15
- 56 New sections 183A to 183C inserted**
 After section 183, insert:
“183A Regulations relating to standards of care
 “(1) The Governor-General may, on the recommendation of the 20
 Minister, by Order in Council, make regulations for all or any of the following purposes:
 “(a) prescribing standards or requirements for the purposes of giving effect to Parts 1 and 2 (other than **sections 30A to 30E**), including— 25
 “(i) animal welfare standards or requirements relating to the care of animals by owners or persons in charge of animals:
 “(ii) animal welfare standards or requirements relating to the conduct of those persons towards animals owned by them or in their charge: 30
 “(iii) the prohibition of specified things or activities:
 “(b) establishing any minimum standard that could be established under Part 5, or amending, revoking, or replacing any minimum standard or any part of a minimum standard established under Part 5. 35

- “(2) Regulations made under this section may (without limitation) prescribe standards or requirements that do not fully meet—
- “(a) the obligations of section 10 or 11; or
 - “(b) the obligations that a person would need to observe in the treatment, transport, or killing of animals if that person were to avoid committing an offence against section 12(c), **21(b)**, 22(2), 23(1), 23(2), or 29(a). 5
- “(3) Regulations made in reliance on **subsection (2)** may only be made for any specified period, or series of specified periods, that is necessary to enable a transition from current practice to new practice. 10
- “(4) The Minister must not recommend the making of regulations in reliance on **subsection (2)** unless he or she is satisfied that all or any of the following apply:
- “(a) any adverse effects of a change from current practices to new practices have been considered and there are no feasible or practical alternatives currently available: 15
 - “(b) not to do so would result in an unreasonable impact on religious or cultural practices:
 - “(c) not to do so would result in an unreasonable impact on a particular sector or New Zealand’s wider economy. 20
- “(5) If, after considering **subsections (3) and (4)**, the Minister considers that a transition to a new practice is not feasible, the Minister may (despite **subsection (3)**) recommend the making of regulations in reliance on **subsection (2)** for an indefinite period subject to review at 10-yearly intervals or shorter intervals specified in the regulations. 25
- “(6) In considering whether to recommend the making of regulations in reliance on **subsection (2)**, the Minister may have regard to whether the regulations would be in New Zealand’s overall interests (including, without limitation, health, social, economic, international, or environmental interests). 30
- “(7) Nothing in this section obliges the Minister to recommend the making of regulations in reliance on **subsection (2)**.
- “(8) The Minister must consult the National Animal Welfare Advisory Committee before recommending the making of any regulations under this section (other than regulations already proposed by the Committee), but nothing in sections 71 to 75 35

applies in relation to the making of regulations under **subsection (1)(b)**.

- “(9) If a person does or omits to do anything in reliance on regulations made under **subsection (2)** that would otherwise be a contravention of, or failure to comply with, any provision of Part 1 or 2, the person has a defence to a prosecution for an offence under this Act in respect of the act or omission if the court is satisfied that the act or omission was authorised by the regulations. 5
- “**183B Regulations relating to surgical and painful procedures** 10
- “(1) The Governor-General may, on the recommendation of the Minister, by Order in Council, make regulations for all or any of the following purposes:
- “(a) prohibiting specified surgical procedures or painful procedures from being performed on animals: 15
- “(b) prescribing requirements in relation to the performance of specified surgical or painful procedures on animals, including (without limitation) regulations that prescribe—
- “(i) the classes of persons who may carry out a specified procedure: 20
- “(ii) any skills, qualifications, approval, or experience that must be held by a person before he or she is authorised to carry out specified procedures:
- “(iii) the types of pain relief or medication to be used for specified procedures: 25
- “(iv) the forms of restraint and equipment to be used for specified procedures:
- “(v) the procedures that may be performed only if in the best interests of the animal: 30
- “(vi) any other standards or restrictions necessary to ensure the welfare of animals during the procedures:
- “(c) declaring that any specified surgical procedure is not a significant surgical procedure for the purposes of this Act. 35

- “(2) Before recommending the making of regulations under this section, the Minister must have regard to the following matters:
- “(a) the nature of the procedure; and
 - “(b) the effect that the performance of the procedure will or may have on an animal’s welfare; and 5
 - “(c) the purpose of the procedure; and
 - “(d) the extent (if any) to which the procedure is established in New Zealand in relation to the production of animals or commercial products; and 10
 - “(e) the likelihood of the procedure being managed adequately by the use of codes of welfare or other instruments under this Act; and
 - “(f) any other matter considered relevant by the Minister.
- “(3) The Minister must consult the National Animal Welfare Advisory Committee before recommending the making of regulations under this section (other than regulations proposed by the Committee). 15
- “(4) In the absence of evidence to the contrary, a particular procedure is presumed to be a surgical procedure or a painful procedure if regulations are made in respect of the procedure under this section. 20

“183C Regulations relating to exporting animals

- “(1) The Governor-General may, on the recommendation of the Minister, by Order in Council, make regulations prescribing requirements and other matters relating to the exportation of animals, including (without limitation) requirements or matters relating to— 25
- “(a) the species, age, number, and fitness of animals:
 - “(b) the duration and date of journeys: 30
 - “(c) the transport vehicles and associated facilities (such as loading and unloading equipment):
 - “(d) the purpose of the exportation:
 - “(e) pre-conditions required to be satisfied before travel:
 - “(f) the people accompanying the animals: 35
 - “(g) pre-loading facilities:
 - “(h) reporting and independent monitoring.

- “(2) Any regulations made under **subsection (1)** may prohibit, either absolutely or conditionally, any specified type of exportation of animals.
- “(3) Any regulations imposing any conditional prohibition on a specified type of exportation of animals may— 5
- “(a) require that the prior approval of the Director-General be obtained before exportation:
- “(b) authorise him or her to impose conditions on any exportation:
- “(c) set out criteria applying to the granting of approval and describe the types of conditions that may be imposed.” 10

57 Section 184 amended (Consultation)

- (1) Replace section 184(1) and (2) with:
- “(1) The Minister must consult, to the extent that is reasonably practicable, having regard to the circumstances of the particular case, the persons the Minister has reason to believe are representative of interests likely to be substantially affected by a proposed Order in Council or proposed regulations before deciding whether to recommend— 15
- “(a) the making of an Order in Council under— 20
- “(i) section 2(1) (in relation to the definitions of **animal, device, or trap**); or
- “(ii) section 6; or
- “(iii) section 16(1) or (2); or
- “(iv) section 32(1) or (6); or 25
- “(v) section 200(4); or
- “(vi) section 202(5); or
- “(b) the making of regulations under—
- “(i) section 183(1)(b), (d), or (e); or
- “(ii) **section 183A**; or 30
- “(iii) **section 183B**; or
- “(iv) **section 183C**.
- “(2) **Subsection (1)** does not apply in respect of an Order in Council or regulations if— 35
- “(a) the Minister considers it desirable in the public interest that the Order in Council or regulations be made urgently; or

- “(b) the National Animal Welfare Advisory Committee has consulted on the subject matter of the Order in Council or regulations as part of its consultation on a draft code of welfare under sections 71 or 72.”
- (2) Repeal **section 184(1)(a)(ii) and (iii)**. 5
- 58 Section 191 repealed (Deemed codes of welfare)**
Repeal section 191.
- 59 Schedule 1 amended**
In Schedule 1, clause 6, replace “all the members of an advisory committee who are for the time being in New Zealand” with “at least 6 members”. 10
- 60 Schedule 4 replaced**
Replace Schedule 4 with the **Schedule 4** set out in the **Schedule** of this Act.

Part 2

15

Amendment to related Customs enactment

- 61 Amendment to Customs Export Prohibition (Livestock for Slaughter) Order 2010**
- (1) This clause amends the Customs Export Prohibition (Livestock for Slaughter) Order 2010. 20
- (2) After clause 2, insert:
- “2A Revocation**
Despite section 56(5)(b) of the Customs and Excise Act 1996, this order is revoked on the commencement of the first regulations made under **section 183C** of the Animal Welfare Act 1999.” 25
-

	Schedule	s 60
	Schedule 4 replaced	
	Schedule 4	s 8A
	Transitional and savings provisions relating to amendments to Act	
1	Interpretation In this schedule , amendment Act means the Animal Welfare Amendment Act 2013 .	5
2	Codes of welfare	
(1)	Every code of welfare in force at the commencement of this schedule continues in force and, after that commencement, may be amended, reviewed, revoked, or replaced under this Act.	10
(2)	The defences available under sections 13(2), 24(2), and 30(2) in relation to a code continued by subclause (1) that (in reliance on section 73(3)) does not fully meet any obligations described in subclause (3) continue to apply to the acts and omissions of any person charged with committing a relevant offence at any time while the code remains in force.	15
(3)	The obligations concerned are—	
	(a) the obligations of section 10 or 11; or	20
	(b) the obligations that a person would need to observe in the treatment, transport, or killing of animals if that person were to avoid committing an offence against section 12(c), 21(1)(b) , 22(2), 23(1), 23(2), or 29(a).	
(4)	The references in subclauses (2) and (3) to sections of this Act must be read as references to those sections as they read when the code concerned was issued.	25
(5)	If the National Animal Welfare Advisory Committee has publicly notified a draft code of welfare under section 71 before the commencement of this schedule and the code has not been issued before that commencement, the Committee need not include in the draft any recommendation for the making of regulations under this Act.	30

3 Certain research, testing, and teaching projects

- (1) **Subclause (2)** applies to research, testing, and teaching projects approved by an animal ethics committee before the commencement of this schedule that relate to—
- (a) the killing of animals for the purpose of carrying out research, testing, and teaching on their bodies or tissues; or 5
 - (b) the breeding of animals with characteristics making them susceptible to increased pain and suffering during their life. 10
- (2) Approvals of projects to which this subclause applies that are in force on the commencement of this schedule continue in force according to their terms and do not require re-approval because of the operation of any provisions of the amendment Act (such as **section 5** of that Act). 15
- (3) Any projects being carried out lawfully without the approval of an animal ethics committee before the commencement of this schedule do not require approval because of the operation of any provisions of the amendment Act.