

Animal Welfare Amendment Bill

Government Bill

As reported from the committee of the whole
House

Animal Welfare Amendment Bill

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

text deleted

Hon Nathan Guy

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Contents

		Page
1	Title	5
2	Commencement	5
3	Principal Act	5

Part 1

Amendments to principal Act

3A	Long Title amended	6
4	Section 2 amended (Interpretation)	6
5	Section 3 amended (Definition of manipulation)	7
6	Section 4 amended (Definition of physical, health, and behavioural needs)	9
7	Section 5 amended (Definition of research, testing, and teaching)	9
8	Sections 6 and 7 repealed	9
9	New section 8A inserted (Transitional and savings provisions relating to amendments to Act)	10
	8A Transitional and savings provisions relating to amendments to Act	10
10	Section 9 amended (Purpose)	10
11	Section 11 amended (Obligation to alleviate pain or distress of ill or injured animals)	10
12	Section 15 amended (Restriction on performance of surgical procedures)	10
13	Section 16 replaced (Criteria to determine whether procedure is significant surgical procedure)	10

Animal Welfare Amendment Bill

	16	Criteria to determine whether procedure is significant surgical procedure	11
13A		Sections 17 to 20 repealed	11
14		Section 21 replaced (Surgical procedure offences)	11
	21	Surgical procedure offences	11
14A		Section 24 amended (Defence and rebuttable evidence)	11
15		Section 25 amended (Penalties)	12
16		Section 29 amended (Further offences)	12
17		New sections 30A to 30E inserted	12
		<i>Ill-treating, hunting, or killing wild animals or animals in wild state</i>	
	30A	Wilful or reckless ill-treatment of wild animals or animals in wild state	12
	30B	Hunting or killing	13
	30C	Hunting in safari parks	13
	30D	Captured animals	14
	30E	Certain provisions relating to traps and devices not excluded	14
18		Section 36 replaced (Obligations relating to traps)	14
	36	Obligations relating to traps	14
19		Section 38 replaced (Purpose)	15
	38	Purpose	15
20		Section 41 repealed (Guidelines for issue of animal welfare export certificates)	15
21		Section 43 amended (Consideration of application)	15
22		Section 45 amended (Conditions)	16
22A		Section 46 amended (Issue of animal welfare export certificate)	16
23		Section 54 amended (Offence)	16
24		Section 55 amended (Purpose)	17
25		Section 57 amended (Functions)	17
26		Section 71 amended (Public notification)	17
27		Section 73 amended (Matters to be considered)	18
28		Section 74 amended (Recommendation to Minister)	18
29		Section 76 amended (Amendment or revocation of code of welfare)	18
30		Section 78 amended (Review of code of welfare)	18
31		Section 78A repealed (Review date may be extended)	19
31A		Section 81 amended (Effect of this Part)	19
31B		New section 84A inserted (Prohibition on use of animals in research, testing, and teaching for making cosmetic)	19

Animal Welfare Amendment Bill

	84A Prohibition on use of animals in research, testing, and teaching for making cosmetic	19
32	Section 87 replaced (Codes of ethical conduct)	19
	87 Codes of ethical conduct	19
33	Section 89 amended (Application for approval)	20
34	Section 96 (Amendment, suspension, or revocation)	20
35	Section 100 amended (Criteria)	20
35A	Section 119 amended (Penalties)	21
36	Section 122 amended (Criteria)	21
36A	Section 123 amended (Amendment or revocation of declaration)	21
37	New sections 123A to 123D inserted	22
	123A Appointment of auditors	22
	123B Audits	22
	123C Auditors' general duties	23
	123D Auditors' powers	23
38	Section 124 amended (Appointment of inspectors)	24
39	Section 125 amended (Appointment of auxiliary officers)	25
40	Section 127 amended (Power to inspect land, premises, and places and stationary vehicles, aircraft, and ships)	25
41	Section 130 amended (Power to prevent or mitigate suffering)	25
42	Section 133 amended (Powers conferred by search warrant)	26
42A	Section 136 amended (Disposal of things seized)	26
42B	Section 136A amended (Disposal of animals seized or taken into custody prior to commencement or determination of proceedings)	27
43	Section 138 amended (Destruction of injured or sick animals (other than marine mammals))	27
43A	Section 141 amended (Duties of approved organisation)	27
44	New sections 156A to 156I and cross-heading inserted	28
	<i>Compliance notices</i>	
	156A Scope	28
	156B Content	29
	156C Service	29
	156D Compliance	30
	156E Change or cancellation	30
	156F Appeal to District Court	31
	156G Appeal to High Court, Court of Appeal, or Supreme Court	32
	156H Effect of appeal	32

Animal Welfare Amendment Bill

	156I Penalties for non-compliance with compliance notice	33
45	Section 156I amended (Penalties for non-compliance with compliance notice)	33
46	Section 157 amended (Offenders to give name and address)	33
47	Section 161 amended (Infringement offences)	33
48	Section 162 amended (Infringement notices)	34
49	Section 169 replaced (Court may disqualify person from owning or exercising authority in respect of animals)	34
	169 Court may disqualify person from owning or exercising authority in respect of animals	34
50	Section 169A amended (Disqualified person may apply to court for removal or variation of disqualification)	35
51	Section 169B amended (Offence of contravening disqualification order)	35
52	Section 172 amended (Power of court to order that certain animals be forfeited to the Crown or approved organisation)	35
53	Sections 175 to 178 and cross-heading above section 175 repealed	36
54	Section 182 amended (Criteria in relation to recovery of costs)	36
55	Section 183 amended (Regulations)	36
56	New sections 183A to 183C inserted	37
	183A Regulations relating to standards of care	37
	183B Regulations relating to surgical and painful procedures	39
	183C Regulations relating to exporting animals	41
57	Section 184 amended (Consultation)	41
58	Section 191 repealed (Deemed codes of welfare)	42
59	Schedule 1 amended	42
60	Schedule 4 replaced	42
Part 2		
Amendment to related Customs enactment		
61	Amendment to Customs Export Prohibition (Livestock for Slaughter) Order 2010	43
	2A Revocation	43

Schedule
Schedule 4 replaced

44

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), (4), and (5), 8, 10(2), 12(1), 13 to 16, 20 to 22, 22A, 25(1), 45, 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
- (3) **Sections 5, 7, and 35(1), (2), and (3)** come into force on 1 January following the second anniversary of the date on which this Act receives the Royal assent.
- (3A) **Section 35(2A)** comes into force on the day that is 6 months after the date on which this Act receives the Royal assent. 15
- (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) The rest of this Act comes into force on the day after the date on which it receives the Royal assent. 20
- (6) One or more Orders in Council may be made under **subsection (1) or (2)** appointing different dates for different provisions.

3 Principal Act

This Act amends the Animal Welfare Act 1999 (the **principal Act**). 25

Part 1

Amendments to principal Act

3A Long Title amended

Replace paragraph (a)(i) of the Long Title with:

“(i) to recognise that animals are sentient: 5

“(ia) to require owners of animals, and persons in charge of animals, to attend properly to the welfare of those animals:”.

4 Section 2 amended (Interpretation)

(1) In section 2(1), repeal the definition of **controlled surgical procedure**. 10

(1A) In section 2(1), insert in its appropriate alphabetical order:

“cosmetic—

“(a) means any finished product that is used or represented for use for the primary purpose of cleansing, improving the attractiveness of, changing the appearance of, perfuming, moisturising, or deodorising the skin, hair, nails, or other external parts of the human body, human teeth, or the mucous membranes of the human mouth, whether or not the product is or contains any substance, mixture of substances, or thing; and 15 20

“(b) includes any substance, mixture of substances, or thing declared to be a cosmetic by regulations made for that purpose under section 183; but

“(c) does not include— 25

“(i) a medicine, as defined in section 3 of the Medicines Act 1981; or

“(ii) a medical device, as defined in section 3A of that Act; or

“(iii) a related product, as defined in section 94 of that Act; or 30

“(iv) an agricultural compound or a veterinary medicine, as those terms are defined in section 2(1) of the Agricultural Compounds and Veterinary Medicines Act 1997; or 35

- “(v) a food, as defined in section 9 of the Food Act 2014 or a drink within the meaning of that section; or
- “(vi) toothpaste; or
- “(vii) any substance, mixture of substances, or thing declared not to be a cosmetic by regulations made for that purpose under section 183”. 5
- (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”. 10
- (3) In section 2(1), replace the definition of **infringement offence** with:
- “**infringement offence** means—
- “(a) an offence against **section 36(3)**:
- “(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”. 15
- (4) In section 2(1), replace the definition of **infringement offence** with:
- “**infringement offence** means— 20
- “(a) an offence against **section 36(3)**:
- “(c) an offence against **section 156I(1)**:
- “(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”. 25
- (5) In section 2(1), repeal the definitions of **restricted surgical procedure** and **significant surgical procedure**.
- (6) In section 2(1), insert in its appropriate alphabetical order:
- “**substance**, in relation to any cosmetic, has the same meaning as in section 2(1) of the Medicines Act 1981”. 30
- 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:
- “(1A) The term defined by subsection (1) includes the killing of an animal (other than an animal in a wild state) for the purpose 35

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 more susceptible to, or at greater risk of, pain or distress during its life as a result of the breeding or production.” 5
- (2A) After section 3(2), insert:
- “(2A) **Subsection (1A)** does not apply to any killing of an animal that is carried out by any person— 10
- “(a) while exercising powers under the Biosecurity Act 1993 for the purposes specified in section 121(1A) of that Act; or
- “(b) while exercising powers or performing functions for the purposes of a response activity carried out under the Biosecurity Act 1993, being an activity undertaken after any event described in **subsection (2B)** and for any purpose described in **subsection (2C)**. 15
- “(2B) The events concerned are— 20
- “(a) the detection of an unwanted organism not previously known to be present in New Zealand:
- “(b) the appearance of different effects of an unwanted organism known to be present in New Zealand and capable of being eradicated. 25
- “(2C) The purposes concerned are—
- “(a) to investigate the unwanted organism:
- “(b) to minimise the impact of the unwanted organism on natural and physical resources, human health, and overseas market access for New Zealand products: 30
- “(c) to control the spread of the unwanted organism:
- “(d) to reduce the geographical distribution of the unwanted organism:
- “(e) to eradicate the unwanted organism.”
- (3) Repeal section 3(2)(c). 35

- 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:”.
- 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”.
- (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 more susceptible to, or at greater risk of, 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.”
- (5) After section 5(2), insert:
“(2A) Subsection (2)(a) does not apply in relation to a manipulation described in **section 3(1A)**.”
- 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** 5
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)** 10
(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 15
“(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)** 20
In section 11(1), delete “, where practicable,”.
- 12 Section 15 amended (Restriction on performance of surgical procedures)**
(1) In section 15(1), replace “section 18(1)” with “regulations made under **section 183B**”. 25
(2) Replace section 15(1)(b) with:
“(b) a person who is acting under the direct supervision of a veterinarian and who is a student undergoing his or her training to become a veterinarian.”
(3) In section 15(3), after “Parts 2 and 6”, insert “and to any regulations made under **section 183B**”. 30
- 13 Section 16 replaced (Criteria to determine whether procedure is significant surgical procedure)**
Replace section 16 with:

“16 Criteria to determine whether procedure is significant surgical procedure

If any person has to determine whether a procedure carried out on an animal is a significant surgical procedure under this Act, the person must determine the question by considering the following criteria: 5

- “(a) whether the procedure has the potential to—
 - “(i) cause significant pain or distress; or
 - “(ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards; and 10
- “(b) the nature of the procedure, including whether this involves—
 - “(i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or 15
 - “(ii) physical interference with sensitive soft tissue or bone structure; or
 - “(iii) significant loss of tissue or loss of significant tissue.” 20

13A Sections 17 to 20 repealed

Repeal sections 17 to 20.

14 Section 21 replaced (Surgical procedure offences)

Replace section 21 with:

“21 Surgical procedure offences 25

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)”. 30

14A Section 24 amended (Defence and rebuttable evidence)

In section 24, replace “section 21(1)(b)” with “section 21(b)” in each case.

- 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)**
Repeal section 29(b) and (f). 5
- 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** 10
- “(1) A person commits an offence if the person wilfully ill-treats a wild animal or an animal in a wild state.
- “(2) A person commits an offence if the person recklessly ill-treats a wild animal or an animal in a wild state. 15
- “(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. 20
- “(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— 25
- “(a) the act or omission was done in the course of performing functions for the purposes of another Act; and
- “(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— 30
- “(a) a wild animal in captivity (other than in captivity in a safari park); or
- “(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. 35

- “(6) Nothing in **subsection (1) or (2)** affects section 179 or 181.
- “(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: 5
- “(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,— 10
- “(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:
- “(b) in the case of a body corporate, to a fine not exceeding \$350,000. 15
- “30B Hunting or killing**
- “(1) Nothing in this Act makes it unlawful to hunt or kill—
- “(a) any animal in a wild state; or
- “(b) any wild animal or pest in accordance with the provisions of— 20
- “(i) the Wildlife Act 1953; or
- “(ii) the Wild Animal Control Act 1977; or
- “(iii) the Conservation Act 1987; or
- “(iv) the Biosecurity Act 1993; or
- “(v) any other Act; or 25
- “(c) any other wild animal or pest; or
- “(ca) any game animal in accordance with the provisions of the Game Animal Council Act 2013; or
- “(d) any fish caught from a constructed pond.
- “(2) **Subsection (1)** is subject to **sections 30A and 30C to 30E** and Part 6. 30
- “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. 35

“(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 its imminent destruction), this Act applies in relation to that person as the person in charge of that animal. 5

“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 of facilitating its imminent destruction), this Act applies in relation to that person as the person in charge of that animal. 10

“(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. 15

“(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). 20

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

Sections 30B and 30C do not restrict the application of sections 34 and 36.” 25

18 Section 36 replaced (Obligations relating to traps)

Replace section 36 with:

“36 Obligations relating to traps

“(1) A person who, for the purpose of capturing alive a mammal, bird, reptile, or amphibian, sets a trap or causes a trap to be set must inspect that trap, or cause a competent person to inspect that trap, within 12 hours after sunrise on each day the trap remains set, beginning on the day immediately after the day on which the trap is set. 30

- “(2) A person who, for the purpose of capturing alive a mammal, bird, reptile, or amphibian, sets a trap or causes a trap to be set must—
- “(a) remove, or cause to be removed, any live animal found in that trap; or 5
- “(b) attend properly to the care of the animal or, without delay, kill the animal.
- “(3) A person who, without reasonable excuse, fails to comply with **subsection (1)** commits an infringement offence.
- “(4) A person who, without reasonable excuse, fails to comply with **subsection (2)** commits an offence and is liable on conviction,— 10
- “(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.” 15
- 19 Section 38 replaced (Purpose)**
Replace section 38 with:
- “**38 Purpose**
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 animals and products made from animals.” 20
- 20 Section 41 repealed (Guidelines for issue of animal welfare export certificates)** 25
Repeal section 41.
- 21 Section 43 amended (Consideration of application)**
- (1) After section 43(k), insert:
- “(ka) any regulations made under **section 183C** relating to the export of animals: 30
- “(kb) New Zealand’s reputation as a responsible exporter of animals and products made from animals:”.
- (2) In section 43, insert as subsection (2):
- “(2) The Director-General may, in considering any application under section 42, have regard to the following matters: 35

- “(a) the post-arrival conditions for the management of the animals in the importing country:
- “(b) the manner in which the welfare of any animals previously exported by the applicant was attended to during— 5
- “(i) the 30-day period commencing on the date of their arrival in the importing country; or
- “(ii) any lesser period after their arrival that the Director-General thinks fit.”
- 22 Section 45 amended (Conditions) 10**
- After section 45(1)(l), insert:
- “(la) a condition requiring an exporter to provide a report on the way in which the animals were managed during their journey and to provide any specified information that the Director-General considers relevant: 15
- “(lb) a condition requiring an exporter to provide a report on the welfare of the animals and to provide any specified information that the Director-General considers relevant, for—
- “(i) the 30-day period commencing on the date of their arrival in the importing country; or 20
- “(ii) any lesser period after their arrival that the Director-General thinks fit.”
- 22A Section 46 amended (Issue of animal welfare export certificate) 25**
- In section 46, insert as subsection (2):
- “(2) The failure to comply with any relevant regulations made under this Act is a sufficient ground on which the Director-General may—
- “(a) refuse to issue a certificate; or 30
- “(b) revoke or amend any certificate that has already been issued.”
- 23 Section 54 amended (Offence)**
- 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** prescribing animal welfare standards or requirements.” 5

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 10
- “(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” 15

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— 20
- “(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 25
- “(d) the draft indicates any matters that the Committee considers should be dealt with by regulations under this Act; and
- “(e) representatives of the persons likely to be affected by the draft have been consulted about it; and 30
- “(f) the Minister has approved the notification of the draft.
- “(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 35
- “(b) notify the Minister of its decision.”

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. 5
- “(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). 10
- “(6) Before making a recommendation under **subsection (5)**, the National Animal Welfare Advisory Committee must consider the relevant provisions of **section 183A**.” 15

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.” 20

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”. 25

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.” 30
- (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)**
- (1) Repeal section 78A.
- (2) The Animal Welfare (Codes of Welfare—Review Date Extension) Order 2014 (LI 2014/260) is revoked.
- 31A Section 81 amended (Effect of this Part)** 5
- After section 81(2), insert:
- “(3) To avoid doubt, nothing in this Part applies in relation to the use of animals for any purpose that does not involve research, testing, or teaching.”
- 31B New section 84A inserted (Prohibition on use of animals in research, testing, and teaching for making cosmetic)** 10
- After section 84, insert:
- “84A Prohibition on use of animals in research, testing, and teaching for making cosmetic**
- “(1) A person must not use an animal in any research, testing, or teaching that is for the purpose of— 15
- “(a) developing, making, or testing a cosmetic; or
- “(b) developing, making, or testing an ingredient that is intended exclusively for use in a cosmetic.
- “(2) **Subsection (1)(b)** does not apply to research, testing, or teaching in relation to an ingredient that is carried out for a purpose unrelated to the intended use of the ingredient in a cosmetic. 20
- “(3) A person commits an offence who contravenes **subsection (1).** 25
- “(4) In a prosecution for an offence against this section, it is not necessary for the prosecution to prove that the defendant intended to commit the offence.”
- 32 Section 87 replaced (Codes of ethical conduct)**
- Replace section 87 with: 30
- “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.
- “(2) The persons are— 35

- “(a) any person who—
- “(i) is engaged in, or wishes to be engaged in, research, testing, or teaching; and
- “(ii) wishes to use animals in that research, testing, or teaching: 5
- “(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.” 10
- 33 Section 89 amended (Application for approval)**
- 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) 15**
- (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”.
- (2) In section 96(2)(c), after “teaching”, insert “or to enable research, testing, or teaching to be carried out by another person”. 20
- 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”. 25
- (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”. 30
- (2A) After section 100(f), insert:
- “(fa) the extent to which there has been—
- “(i) assessment of the suitability of using non-sentient or non-living alternatives in the project; and

- “(ii) replacement of animals as subjects with suitable non-sentient or non-living alternatives; and”.
- (3) In section 100, insert as subsection (2):
- “(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.”
- 35A Section 119 amended (Penalties)** 10
- In section 119, after “section 83(2) or”, insert “**section 84A(3)** or”.
- 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, specify that the approval is given in respect of— 20
- “(a) only the species specified in the declaration; or
- “(b) all animals.
- “(4) Nothing in this section obliges the Minister to make a declaration under section 121.
- “(5) The Minister may, in making a declaration under section 121, impose, as conditions of the Minister’s approval, any other conditions or requirements that relate to the organisation’s performance of its functions and powers that he or she considers necessary or desirable.” 25
- 36A Section 123 amended (Amendment or revocation of declaration)** 30
- (1) Replace section 123(1) with:
- “(1) The Minister may from time to time, by notice in the *Gazette*, revoke any declaration made under section 121 if the Minister is satisfied that— 35

- “(a) the organisation no longer meets any 1 or more of the criteria set out in section 122; or
- “(b) the organisation has failed to comply with any condition imposed under section 122(2); or
- “(c) the organisation has failed to comply with any condition imposed under **section 122(5)**.” 5
- (2) In section 123(2)(a), (b), and (c), after “section 122(2)”, insert “or **(5)**”.
- 37 New sections 123A to 123D inserted** 10
- 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. 15
- “(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. 20
- “(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): 25
- “(b) compliance by an organisation and its inspectors and auxiliary officers with any relevant 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: 30
- “(d) the exercise of any power, and the carrying out of any functions or duties, by any inspector or auxiliary officer of an organisation: 35
- “(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:
- “(g) any other class or description of audit necessary to audit an organisation’s work or status as an approved organisation under this Act. 5
- “(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** 10
- “(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. 15
- “(3) The auditor must conduct the audit within the terms of reference. 20
- “**123D Auditors’ powers**
- “(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. 25
- “(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. 30
- “(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 35

- “(b) is able to examine or audit any books or records, and take copies or extracts from them; and
- “(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 5
- “(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).” 10

38 Section 124 amended (Appointment of inspectors)

- (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.” 15
- (2) Replace section 124(3)(a) with:
- “(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
- “(ii) for the general purposes of this Act; and”.
- (3) After section 124(6)(a), insert: 25
- “(aa) may at any time be suspended from office by the Minister if he or she considers it desirable to do so pending the investigation of a complaint relating to—
- “(i) the inspector’s performance of his or her functions or duties; or 30
- “(ii) any suspected neglect of duty or misconduct of the inspector.”.
- (4) After section 124(6), insert:
- “(6A) If the Minister suspends an inspector under **subsection (6)(aa)**, the Minister must give the inspector a written notice stating— 35
- “(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) 5

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) 10

(1) 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. 15

“(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: 20
- “(b) tissue or other bodily samples (for example, blood samples) from any live animal found during the inspection.”

(2) After section 127(5)(a), insert:

- “(aa) the owner of the animal is already disqualified from owning an animal under this Act; or” 25

(3) In section 127(5)(b), replace “ship,—” with “ship; or”.

(4) After section 127(5)(b), insert:

- “(c) the animal is at clear risk of imminent harm,—”.

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: 5

“(b) delivering it to the person at the person’s usual or last-known place of residence or business:

“(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. 10

“(1C) The following provisions apply to service as described in **subsection (1B)**:

“(a) service on an officer of a body, or on the body’s registered office, is deemed to be service on the body: 15

“(b) service on any of the partners in a partnership is deemed to be service on the partnership:

“(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.” 20

(2) In section 130(2), delete “refuses or”.

42 Section 133 amended (Powers conferred by search warrant)

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).” 25

42A Section 136 amended (Disposal of things seized)

In section 136(1)(b), replace “section 127(5)” with “section 127”. 30

- 42B Section 136A amended (Disposal of animals seized or taken into custody prior to commencement or determination of proceedings)**
 In section 136A(1)(a), replace “section 127(5)” with “section 127”. 5
- 43 Section 138 amended (Destruction of injured or sick animals (other than marine mammals))**
 In section 138(4), replace “other veterinarian” with “veterinarian giving that opinion”.
- 43A Section 141 amended (Duties of approved organisation)** 10
 (1) After section 141(1), insert:
 “(1A) **Subsection (1B)** applies if—
 “(a) an owner of an animal, or a person acting as the agent of an owner of an animal, gives the animal into the temporary custody of an approved organisation; and 15
 “(b) an arrangement exists for the return of the animal to the owner or the owner’s agent; and
 “(c) the owner or the owner’s agent does not return to reclaim custody of that animal as agreed.
 “(1B) If this subsection applies, the approved organisation may sell, re-home, or dispose of (including destroy) the animal in any manner that an inspector or auxiliary officer acting for the organisation thinks fit if— 20
 “(a) the approved organisation has taken reasonable steps to locate and contact the owner; and 25
 “(b) either—
 “(i) the approved organisation has been unable to locate or contact the owner; or
 “(ii) the approved organisation has located and attempted to contact the owner, but the owner will not respond; and 30
 “(c) the approved organisation has given the owner written notice of its intention to sell, re-home, or otherwise dispose of (including destroy) the animal in accordance with the provisions of **subsection (3)**; and 35

- “(d) the owner has not, within the period specified in the notice, reclaimed the animal and paid any costs incurred by the organisation and specified in the notice.”
- (2) After section 141(2)(a), insert:
- “(aa) at any time, sell, re-home, or otherwise dispose of (including destroy) the animal in any manner that the inspector or auxiliary officer thinks fit if—
- “(i) the animal is wild or unsocialised; and
- “(ii) the animal is severely distressed; and
- “(iii) in the opinion of a veterinarian, the animal’s distress is a direct result of being contained to the extent that it would be unreasonable and unnecessary to continue to contain the animal.”
- (3) In section 141(5), replace “subsection (2) or subsection (4)” with “subsection **(1B)**, (2), or (4)”.

44 New sections 156A to 156I and cross-heading inserted

After section 156, insert:

“Compliance notices

“156A Scope

- “(1) An inspector may issue a compliance notice to a person. 20
- “(2) A compliance notice may—
- “(a) require the person to cease doing something that the inspector has good cause to suspect contravenes or is likely to contravene this Act or any regulations made under it; or 25
- “(b) prohibit the person from starting something that the inspector has good cause to suspect contravenes or is likely to contravene this Act or any regulations made under it; or
- “(c) prohibit the person from doing something again that the inspector has good cause to suspect contravenes or is likely to contravene this Act or any regulations made under it; or 30
- “(d) prohibit the person from having something done on the person’s behalf that the inspector has good cause to suspect contravenes or is likely to contravene this Act or any regulations made under it; or 35

“(e) prohibit the person from having something done on the person’s behalf again that the inspector has good cause to suspect contravenes or is likely to contravene this Act or any regulations made under it; or

“(f) require the person to do something that the inspector reasonably believes is necessary to ensure that the person complies with this Act or any regulations made under it. 5

“Compare: 1993 No 95 s 154

“**156B Content** 10

A compliance notice must state—

“(a) the name of the person to whom it is issued; and

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

“(c) the requirement or prohibition in **section 156A(2)** imposed by the inspector; and 15

“(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 notice is served and end after a time that is reasonable for the achievement of the requirement; or 20

“(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 notice; and 25

“(g) the rights of appeal in **section 156F**; and

“(h) the name and address of the agency whose inspector issued the notice.

“Compare: 1993 No 95 s 154A

“**156C Service** 30

“(1) An inspector who issues a compliance notice must ensure that it is served on the person to whom it is issued.

“(2) Without limiting section 185, a compliance notice may be served by—

“(a) delivering it personally to the person: 35

“(b) delivering it to the person at the person’s usual or last-known place of residence or business:

- “(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.
- “(3) The following provisions apply to service as described in **subsection (2)**: 5
- “(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: 10
- “(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.
- “Compare: 1993 No 95 s 154B
- “**156D Compliance** 15
- The person to whom a compliance notice is issued must—
- “(a) comply with the notice; and
- “(b) do so within the period stated in the notice, if a period is stated; and
- “(c) pay all the costs and expenses of complying with the notice, unless the order states otherwise. 20
- “Compare: 1993 No 95 s 154C
- “**156E Change or cancellation**
- “(1) A compliance notice may be changed or cancelled under **subsection (2)** or cancelled under **subsection (3)** by the Director-General. 25
- “(2) If the Director-General receives a written application from the person to whom the notice was issued to change or cancel the notice, the Director-General—
- “(a) must consider the application as soon as practicable and in any event within 10 working days after the date on which the application is received, having regard to— 30
- “(i) the purpose for which the notice was issued; and
- “(ii) the effect of a change or cancellation on the purpose; and 35
- “(iii) any other matter he or she thinks fit:
- “(b) may confirm, change, or cancel the notice:

- “(c) must give the person to whom the notice was issued written notice of the confirmation, change, or cancellation.
- “(3) The Director-General—
- “(a) may cancel the notice if he or she considers that the notice is no longer required; and
- “(b) must give the person to whom the notice was issued written notice of the cancellation.
- “(4) An application to change or cancel a compliance notice does not operate as a stay of the notice. 10
 “Compare: 1993 No 95 s 154D
- “156F Appeal to District Court**
- “(1) The following persons may appeal to a District Court:
- “(a) the person to whom a compliance notice was issued under **section 156A**: 15
- “(b) a person whose application under **section 156E(2)** did not succeed.
- “(2) The appeal does not operate as a stay of the compliance notice.
- “(3) The person may apply to the court for a stay of the compliance notice pending the court’s decision on the appeal. 20
- “(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: 25
- “(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 notice pending the decision on the appeal; and 30
- “(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. 35

- “(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.
- “(10) The District Court may confirm, change, or cancel the compliance notice appealed against. 5
 “Compare: 1993 No 95 s 154E

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

- “(1) A party to an appeal under **section 156F** may appeal to the High Court on a question of law. 10
- “(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 15
 “(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. 20
- “(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. 25
 “Compare: 1993 No 95 s 154F

“**156H Effect of appeal**

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

- “(a) the Director-General whose compliance notice is appealed against must not cancel the notice while the notice is the subject of an appeal or while the time for the person’s appeal rights is running; and 30
- “(b) the person who appeals must comply with the notice if compliance is required as the result of the person exercising the person’s appeal rights. 35

“Compare: 1993 No 95 s 154G

“156I Penalties for non-compliance with compliance notice

“(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,— 5

“(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.” 10

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

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

“(3) An offence against this section is also an infringement offence.” 15

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,— 20

“(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. 25

“(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

“(b) in the case of a body corporate, to a fine not exceeding \$25,000.” 30

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 35

charging document in respect of an infringement offence under this Act.”

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”.

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

“(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

“(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).

“(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,—

“(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—

“(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
- “(d) the character of the person; and
- “(e) the previous offending history (if any) of the person; and 5
- “(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) 10**
- 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.” 15
- 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).” 20
- 52 Section 172 amended (Power of court to order that certain animals be forfeited to the Crown or approved organisation) 25**
- 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. 30
- “(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: 5
- “(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.” 10
- 53 Sections 175 to 178 and cross-heading above section 175 repealed** 15
 Repeal sections 175 to 178 and the cross-heading above section 175.
- 54 Section 182 amended (Criteria in relation to recovery of costs)** 20
 In section 182, replace “section 183(e)” with “section 183(1)(e)” in each place.
- 55 Section 183 amended (Regulations)**
- (1) After section 183(1)(c)(iii), insert: 25
 “(iiia) the killing of animals that were bred, but not used, for the purposes of research, testing, and teaching.”
- (1A) After section 183(1)(d), insert:
 “(da) declaring any substance, mixture of substances, or thing to be, or not to be, a cosmetic for the purpose of the definition of cosmetic in section 2(1):” 30
- (2) Replace section 183(1)(h) with:
 “(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 35

\$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):”.

56 New sections 183A to 183C inserted

After section 183, insert:

5

“183A Regulations relating to standards of care

“(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) prescribing standards or requirements for the purposes of giving effect to Parts 1 and 2 (other than **sections 30A to 30E**), including—

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“(i) animal welfare standards or requirements relating to the care of animals by owners or persons in charge of animals:

15

“(ii) animal welfare standards or requirements relating to the conduct of those persons towards animals owned by them or in their charge:

“(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.

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“(2) Without limiting the generality of **subsection (1)**, regulations made under this section may prescribe standards or requirements that do not fully meet—

25

“(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).

30

“(4) The Minister must not recommend the making of regulations in reliance on **subsection (2)** unless he or she is satisfied that either or both 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:

35

- “(c) not to do so would result in an unreasonable impact on a particular industry sector within New Zealand, a sector of the public, or New Zealand’s wider economy.
- “(4A) In deciding whether any impact on a particular sector is unreasonable under **subsection (4)(c)**, the Minister must have regard to the welfare of any affected animals. 5
- “(4B) Any regulations made in reliance on **subsection (2)** in accordance with the considerations in **subsection (4)** must provide for the regulations to be in force for a period of time specified in the regulations (the **specified period**) that— 10
- “(a) is reasonably necessary to enable a transition from current practice to a practice that fully meets the obligations specified in **subsection (2)(a) and (b)**; and
- “(b) does not exceed 10 years (which period may, however, be extended once under **subsection (4C)**). 15
- “(4C) The specified period may be extended once only by up to 5 years by regulations made under this subsection on the recommendation of the Minister if he or she is satisfied that the majority of participants in the sector concerned—
- “(a) have made significant progress towards implementing compliant practice; and 20
- “(b) cannot reasonably be expected to become compliant before the close of the specified period, taking into account the steps that still need to be completed for implementation of compliant practice; and 25
- “(c) will become compliant within the extended period.
- “(5) Despite **subsections (4) to (4C)**, if the Minister considers that requiring a practice to fully meet the obligations specified in **subsection (2)(a) and (b)** would impose an unjustifiable limitation on the requirements of a religious or cultural practice, the Minister may 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. 30
- “(6) In reaching a decision not to recommend the making of regulations in reliance on **subsection (2)**, the Minister may consider any factors that the Minister thinks would make such regulations contrary to New Zealand’s overall interests (including, 35

without limitation, health, social, economic, international, or environmental interests).

“(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 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.

“183B Regulations relating to surgical and painful procedures

“(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:

“(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:

“(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:

“(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:

- “(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. 5
- “(2) Before recommending the making of regulations under this section, the Minister must have regard to—
- “(a) whether the procedure has the potential to—
- “(i) cause significant pain or distress; or 10
- “(ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards; and
- “(b) the nature of the procedure, including whether this involves— 15
- “(i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or
- “(ii) physical interference with sensitive soft tissue or bone structure; or 20
- “(iii) significant loss of tissue or loss of significant tissue; and
- “(c) the purpose of the procedure; and
- “(d) the extent (if any) to which the procedure is established in New Zealand; and 25
- “(e) good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products; and
- “(f) the likelihood of the procedure being managed adequately by codes of welfare or other instruments under this Act; and 30
- “(g) any other matter the Minister considers relevant.
- “(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). 35
- “(4) In the absence of evidence to the contrary, a particular procedure is presumed to be a surgical procedure or a painful proced-

ure if regulations are made in respect of the procedure under this section.

“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— 5
- “(a) the species, age, number, and fitness of animals:
 - “(b) the duration and date of journeys: 10
 - “(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: 15
 - “(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. 20
- “(3) Any regulations imposing any conditional prohibition on a specified type of exportation of animals may—
- “(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: 25
 - “(c) set out criteria applying to the granting of approval and describe the types of conditions that may be imposed.”

57 Section 184 amended (Consultation)

- (1) Replace section 184(1) and (2) with: 30
- “(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— 35
- “(a) the making of an Order in Council under—

- “(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 5
- “(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 10
- “(iii) **section 183B**; or
- “(iv) **section 183C**.
- “(2) **Subsection (1)** does not apply in respect of an Order in Council or regulations if—
- “(a) the Minister considers it desirable in the public interest that the Order in Council or regulations be made urgently; or 15
- “(b) in the case of regulations recommended by the National Animal Welfare Advisory Committee under **section 74(2)(d)**,— 20
- “(i) the Committee has consulted on the subject matter of the proposed regulations under section 71(1); and
- “(ii) the Minister has not yet issued the relevant draft code of welfare.” 25
- (2) Repeal **section 184(1)(a)(ii) and (iii)**.
- 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”.
- 60 Schedule 4 replaced**
Replace Schedule 4 with the **Schedule 4** set out in the **Schedule** of this Act. 35

Part 2
Amendment to related Customs
enactment

- 61 Amendment to Customs Export Prohibition (Livestock for Slaughter) Order 2010** 5
- (1) This section amends the Customs Export Prohibition (Livestock for Slaughter) Order 2010.
- (2) After clause 2, insert:
- “2A Revocation** 10
Despite section 56(5)(b) of the Customs and Excise Act 1996, this order is revoked on the commencement of the first regulations that relate to the export of live animals for slaughter and are made under **section 183C** of the Animal Welfare Act 1999.”
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	Schedule	s 60
	Schedule 4 replaced	
	Schedule 4	s 8A
	Transitional and savings provisions relating to amendments to Act	
1	Interpretation	5
	In this schedule , amendment Act means the Animal Welfare Amendment Act 2013 .	
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
(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.	15
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—	20
	(a) the killing of animals for the purpose of carrying out research, testing, and teaching on their bodies or tissues; or	25
	(b) the breeding of animals with characteristics making them susceptible to increased pain and suffering during their life.	
(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).	30

Animal Welfare Amendment Bill

- (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.

4 Power of inspector to issue infringement notice for breach of compliance notice 5

- (1) This clause applies to persons who, immediately before the commencement of **section 45 of the Animal Welfare Amendment Act 2014**, hold an appointment under this Act as an inspector. 10
- (2) The terms of appointment of inspectors to whom this clause applies may be amended to specifically authorise them to issue any person with an infringement notice under this Act for breach of a compliance notice.
- (3) An inspector to whom this clause applies may not issue an infringement notice for breach of a compliance notice unless the terms of his or her appointment have been amended to authorise him or her to issue such infringement notices. 15

Legislative history

8 May 2013	Introduction (Bill 107–1)
27 August 2013	First reading and referral to Primary Production Committee
26 June 2014	Reported from Primary Production Committee (Bill 107–2)
26 November 2014	Second reading
31 March 2015	Committee of the whole House (Bill 107–3)
