

ANIMALS PROTECTION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Animals Protection Act 1960.

Clause 1 relates to the Short Title.

Clause 2 inserts a new definition, that of "manipulation", into the principal Act.

Clause 3 makes minor amendments to the powers of Inspectors to accord with the changes recommended by the Public and Administrative Law Reform Committee in its report on Statutory Powers of Entry.

Clause 4 makes a drafting amendment consequential on the provisions relating to codes of ethical conduct in *clause 6*.

Clause 5: The proposed *section 19A* is a new provision, and authorises regulations to be made requiring persons carrying out any research, experimental, diagnostic, or toxicity or potency testing work on any live animal, or any teaching involving the use of a live animal, to do those things in accordance with a code of ethical conduct.

No such code shall have any force until approved by the Minister of Agriculture, who is required to establish an advisory and technical committee under the Ministry of Agriculture and Fisheries Act 1953 to advise him on the content of such codes.

The proposed *section 19B* provides that the penalties for offences against regulations made under the Act are to be a fine of up to \$1,000 or up to 3 months imprisonment, or both. These equate with the majority of provisions in the principal Act which prescribe penalties.

Clause 6 makes amendments consequential on the proposed new *section 19B*.

Right. Hon. Mr MacIntyre

ANIMALS PROTECTION AMENDMENT

ANALYSIS

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A BILL INTITLED

An Act to amend the Animals Protection Act 1960

BE IT ENACTED by the General Assembly of New Zealand
in Parliament assembled, and by the authority of the same, as
5 follows:

1. Short Title—This Act may be cited as the Animals Protection Amendment Act 1983, and shall be read together with and deemed part of the Animals Protection Act 1960* (hereinafter referred to as the principal Act).

10 **2. Interpretation**—Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “Inspector”, the following definition:

15 “‘Manipulation’, in relation to any live animal, means interfering with the normal physiological, behavioural, or anatomical integrity of the animal by deliberately—

“(a) Exposing it to any parasite, micro-organism, drug, chemical, biological product, radiation, electrical stimulation, or environmental condition:

*R.S. Vol. 6, p. 1

“(b) Subjecting it to enforced activity, unusual restraint, abnormal nutrition, or surgical intervention:

“(c) Depriving it of usual care;—
but does not include any therapy or prophylaxis necessary or desirable for the welfare of the animal.”.

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3. Powers of Inspectors—(1) Section 10 (2) of the principal Act is hereby repealed.

(2) Section 10 (3) of the principal Act is hereby amended by inserting, after the word “satisfied”, the words “upon application made in writing”.

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(3) Section 10 of the principal Act is hereby amended by inserting, after subsection (3), the following subsections:

“(3A) Every Inspector exercising a power of entry under subsection (1) of this section shall have with him due evidence of his appointment and, if the case may require, any warrant, and shall produce that evidence and, if the case may require, warrant to the occupier or, as the case may be, person in charge of the vehicle, land, premises, vessel, or aircraft—

“(a) If practicable, on first entering into the vehicle or on the land or premises or on board the vessel or aircraft; and

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“(b) Whenever subsequently reasonably required to do so by that occupier or person in charge.

“(3B) If an Inspector exercises a power under subsection (1) of this section, written advice of the entry and the purpose of the entry shall be given to the occupier or, as the case may be, person in charge of the vehicle, land, premises, vessel, or aircraft as soon as practicable after that entry where—

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“(a) No prior notice or agreement of the entry was given or made; and

“(b) That occupier or person in charge was not present at the time of the entry.”

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4. Exemptions—Section 19 (1) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

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“(d) Subject to regulations made pursuant to **section 19A** of this Act, any research, experimental, diagnostic, toxicity or potency testing work involving the manipulation of any live animal, or any teaching involving the manipulation of any live animal.”

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5. New sections inserted—The principal Act is hereby amended by inserting, after section 19, the following sections:

“19A. **Codes of ethical conduct**—(1) Regulations may be made under section 20 of this Act prohibiting, as from a 5 prescribed date (being a date not earlier than 6 months after the coming into force of the regulations), any research, experimental, diagnostic, toxicity or potency testing work involving the manipulation of any live animal, or any teaching involving the manipulation of any live animal, unless that work 10 or teaching is carried out in accordance with a code of ethical conduct relating to the welfare and humane treatment of the live animal involved.

“(2) Any regulations made for the purpose specified in subsection (1) of this section shall prescribe the matters to be 15 incorporated in any code of ethical conduct, being matters which relate to the welfare and humane treatment of any live animal upon which is carried out any research, experimental, diagnostic, toxicity or potency testing work, or is used in teaching, or are matters incidental thereto.

20 “(3) Codes of ethical conduct may be made by or on behalf of any person, laboratory, commercial enterprise, or teaching or research institution, or any kind or kinds of them together.

“(4) No code of ethical conduct shall have any force or effect until it has been approved by the Minister.

25 “(5) For the purposes of subsection (4) of this section, the Minister shall, pursuant to section 13 of the Ministry of Agriculture and Fisheries Act 1953, appoint a committee to advise him on matters relating to the content of any code of ethical conduct and to recommend to him that he approve 30 that code:

“Provided that, where the committee has changed the content of a code of ethical conduct from that originally proposed, the Minister shall not approve the code unless—

35 “(a) He is satisfied that those persons affected by the changes, or the representatives of those persons, have been consulted and have had the opportunity to consider the possible effects of the changes and to comment on those effects to the committee; and

40 “(b) The committee has considered any such comments made to it.

“(6) When the Minister approves a code of ethical conduct, he shall publish a notice of his approval in the *Gazette*, which notice shall be conclusive proof that the requirements of this section have been complied with in respect of the approval 45 specified in the notice.

“(7) Where any person is charged with an offence in respect of a failure to comply with, or an act in contravention of, any provision of this Act or regulation made under it, and it is proved that there was in existence at the time of the alleged failure or act in contravention a code of ethical conduct relating to matters of the kind to which that provision relates,—

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“(a) Evidence that that code of ethical conduct was in all relevant respects complied with shall be rebuttable evidence that that person complied with that provision; and

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“(b) Evidence that that code of ethical conduct was in one or more relevant respects not complied with shall be rebuttable evidence that that person failed to comply with that provision.

“(8) This section shall bind the Crown.

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“19B. Offences against regulations—Every person commits an offence against this Act who acts in contravention of or fails to comply with the provisions of any regulations for the time being in force under this Act and shall, on summary conviction, be liable to a fine not exceeding \$1,000 or to 20 imprisonment for a term not exceeding 3 months, or to both.”

6. Regulations—(1) Section 20 (2) (f) of the principal Act (as amended by section 3 (i) of the Animals Protection Amendment Act 1978) is hereby repealed.

(2) Section 3 (i) of the Animals Protection Amendment Act 25 1978 is hereby consequentially repealed.