

Western Australia

Animal Welfare Act 2002

Animal Welfare (General) Regulations 2003

As at 17 Feb 2010

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Animal Welfare (General) Regulations 2003

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Defined Terms

Western Australia

Animal Welfare Act 2002

Animal Welfare (General) Regulations 2003

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Animal Welfare (General) Regulations 2003*¹.

2. Commencement

These regulations come into operation on the day of their publication in the *Gazette* or the day on which the *Animal Welfare Act 2002* comes into operation, whichever is the later¹.

Part 2 — Offences against animals

3. Inhumane devices (s. 19(2)(b))

For the purposes of section 19(2)(b) of the Act, the following devices are prescribed as inhumane —

- (a) a device, other than an electric fence, that is designed or modified to deliver an electric shock to an animal;
- (b) jawed traps;
- (c) spurs that have sharpened or fully-fixed rowels;
- (d) spurs that are reasonably capable of penetrating the skin of the animal on which they are intended to be used.

4. Prescribed acts (s. 19(2)(d) and (3)(b)(i))

The administration of an electric shock to an animal in a manner that is not set out in regulation 7 is a prescribed act for the purposes of section 19(2)(d) and (3)(b)(i) of the Act.

5. Pests (s. 24(2))

An animal set out in the list of declared animals published under section 35 of the *Agriculture and Related Resources Protection Act 1976* is prescribed as a pest under section 24(2) of the Act, if —

- (a) the animal is not being kept as a domestic pet;
- (b) the animal is not being kept for the purposes of racing, riding or harnessing;
- (c) the animal is not being kept for the purpose of confined display or entertainment;
- (d) the animal is not being kept as a form of livestock; and
- (e) at the time a person attempts to kill the animal, it is not under effective control of an owner.

6. Codes of practice adopted as defences (s. 25 and 94(2)(d))

The codes of practice relating to the use, care, welfare, safety or health of animals set out in Schedule 1 are adopted, as they are amended from time to time, under section 94(2)(d) of the Act, and each is a “relevant code of practice” that can be used as a defence under section 25 of the Act.

7. Use of devices — electric shock (s. 29)

For the purposes of section 29 of the Act, it is a defence to a charge under section 19(1) of the Act, committed in circumstances described in section 19(2)(b) of the Act, if the device used is one set out in the Table to this regulation, and the device is used on an animal for the purpose, and in accordance with the conditions, set out next to that device in that Table.

Table

Device	Purpose	Type of animal	Manner of use
Electric stock prod	Driving, herding, mustering or controlling animals	Cattle, sheep, pigs, goats, buffalo or camels	Must not be applied to the face, udder or genital organs of an animal.
Electric stock prod	Controlling animals at a rodeo	Horses or cattle	Must not be applied to the face, udder or genital organs of an animal.
Electric stunning device	Electrical stunning of animals in an abattoir	Cattle, sheep, goats or pigs	Must be used in accordance with the relevant code of practice for the particular animal (set out under regulation 6).

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Device	Purpose	Type of animal	Manner of use
Electro-ejaculator	Collecting semen from conscious animals	Cattle or sheep	Must be used in accordance with any relevant code of practice for the particular animal (set out under regulation 6).
Electro-ejaculator	Collecting semen from tranquillised or anaesthetised animals	All species of animal, including cattle and sheep	Must be used in accordance with any relevant code of practice for the particular animal (set out under regulation 6).
Electric training collar activated by the animal or a person in the course of training an animal	Training of animals	Dogs	Must be used in accordance with the generally accepted method of usage for the type of collar.
Electrical device known as the "invisible fence"	Containment and training of animals	Dogs	Must be used in accordance with the generally accepted method of usage for the type of "invisible fence".
Electro-immobiliser	Restraining animals	Cattle	Must be used in accordance with the generally accepted method of usage for the type of device.

8. Use of devices — metal-jawed traps (s. 29)

- (1) For the purposes of section 29 of the Act, it is a defence to a charge under section 19(1) of the Act, committed in

circumstances described in section 19(2)(b) of the Act, if a metal-jawed leghold trap is used by —

- (a) the owner or leasee of an agricultural or pastoral property, or their authorised agent; or
- (b) an officer of a Commonwealth, State or local government agency, who is responsible for wild dog control,

for the purpose of wild dog control.

- (2) The person using a metal-jawed leghold trap in circumstances described in subregulation (1) must ensure that the jaws of the trap are bound with cloth containing sufficient strychnine to ensure a rapid death for any animal likely to be caught in the trap.
- (3) For the purposes of section 29 of the Act, it is a defence to a charge under section 19(1) of the Act, committed in circumstances described in section 19(2)(b) of the Act, if a metal-jawed leghold trap is used by a person participating in a research program, approved by an animal ethics committee, for the purpose of carrying out research under that program.
- (4) The person using a metal-jawed leghold trap in circumstances described in subregulation (3) must ensure that the jaws of the trap are sufficiently padded, or the trap has otherwise been modified, so that any animal caught in the trap is unlikely to suffer significant injury.
- (5) For the purposes of section 29 of the Act, it is a defence to a charge under section 19(1) of the Act, committed in circumstances described in section 19(2)(b) of the Act, if a metal-jawed leghold trap is used by —
 - (a) the owner of land or the owner's agent on the relevant land; or
 - (b) a licensed pest control operator,for the purpose of fox control.

r. 8

- (6) The person using a metal-jawed leghold trap in circumstances described in subregulation (5) must ensure that —
- (a) the jaws of the trap are sufficiently padded, or the trap has otherwise been modified, so that any animal caught in the trap is unlikely to suffer significant injury; and
 - (b) if the trap is to be used in the metropolitan area, any permit required under the *Agriculture and Related Resources Protection (Traps) Regulations 1982* has first been obtained.

Part 3 — Enforcement

9. Warrant (s. 61)

The form of a warrant is Form 1 in Schedule 2.

10. Objections (s. 72)

An objection under section 72 of the Act is to be made by completing Form 2 in Schedule 2 and lodging that completed form with the Minister within the time period set out in the Act.

[11. Deleted in Gazette 30 Dec 2004 p. 7010.]

Part 4 — Miscellaneous

12. Disposal of forfeited property (s. 87)

- (1) If property forfeited to the Crown under the Act is fauna, that fauna is to be sold, destroyed or otherwise disposed of in accordance with the instructions of the Executive Director of CALM.
- (2) If property forfeited to the Crown under the Act is an animal that is not within the definition of “fauna”, that animal is to be sold, destroyed or otherwise disposed of in accordance with the instructions of the prosecuting authority.
- (3) If property forfeited to the Crown under the Act is not an animal, that property is to be sold by auction or private treaty by the prosecuting authority.

13. Claim for compensation (s. 93)

A claim for compensation under section 93 of the Act is to be made by completing Form 4 in Schedule 2 and lodging that completed form with the Minister within the time period set out in the Act.

14. Further offences (s. 94) — tail docking

- (1) In this regulation, a reference to *tail docking* means the amputation of one or more coccygeal vertebrae, leaving at least the first coccygeal vertebrae intact (unless the health of the animal will be adversely affected by the retention of that first vertebrae, in which case it includes the removal of that vertebrae).
- (2) A person who is not a registered veterinary surgeon shall not carry out tail docking of a dog.

Penalty: \$2 000.

- (3) A registered veterinary surgeon shall not carry out tail docking of a dog unless he or she believes that there are sufficient reasons for the tail docking to proceed for therapeutic or prophylactic purposes.

Penalty: \$2 000.

Schedule 1 — Codes of practice

[r. 6]

Codes of practice

1. Australian Rules of Racing
Last consolidated and published 3 February 2003 by the Australian Racing Board
2. Buffalo — Code of practice for farmed buffalo in Western Australia
First published by the Department in March 2003
- [3, 4. *deleted*]
5. Cattle Transportation — Code of practice for the transportation of cattle in Western Australia
First published by the Department in March 2003
6. Circuses — Code of practice for the conduct of circuses in Western Australia
First published by the Department in March 2003
7. Deer — Code of practice for farming deer in Western Australia
First published by the Department in March 2003
- [8. *deleted*]
9. Exhibited Animals — Code of practice for exhibited animals in Western Australia
First published by the Department in March 2003
10. Feral Animals — Code of practice for the capture and marketing of feral animals in Western Australia
First published by the Department in March 2003
11. Goats — Code of practice for goats in Western Australia
First published by the Department in March 2003
12. Horse Transportation — Code of practice for the transportation of horses in Western Australia

Codes of practice

First published by the Department in March 2003

- 12A. Model Code of Practice for the Welfare of Animals: Cattle (2nd Edition)

First published by the Primary Industries Ministerial Council in 2004

- 12B. Model Code of Practice for the Welfare of Animals: Husbandry of Captive-Bred Emus (2nd Edition)

First published by the Primary Industries Ministerial Council in 2006

- 12C. Model Code of Practice for the Welfare of Animals: Land Transport of Poultry (2nd Edition)

First published by the Primary Industries Ministerial Council in 2006

- 12DA. Model Code of Practice for the Welfare of Animals: Livestock at Slaughtering Establishments

First published in 2001 (paperback) and 2002 (on-line) by CSIRO publishing, acting on behalf of the Agriculture and Resource Management Council of Australia and New Zealand.

- 12D. Model Code of Practice for the Welfare of Animals: The Camel (2nd Edition)

First published by the Primary Industries Ministerial Council in 2006

13. Model Code of Practice for the Welfare of Animals: Pigs (3rd Edition)

First published by the Primary Industries Ministerial Council in 2008

14. Pig Transportation — Code of practice for the transportation of pigs in Western Australia

First published by the Department in March 2003

15. Pigeons — Code of practice for pigeon keeping and racing in

Codes of practice

Western Australia

First published by the Department in March 2003

16. Poultry — Code of practice for poultry in Western Australia

First published by the Department in March 2003

[17. *deleted*]

18. Rabbits — Code of practice for keeping rabbits in Western Australia

First published by the Department in March 2003

19. Rodeos — Code of practice for the conduct of rodeos in Western Australia

First published by the Department in March 2003

20. *Rules of Harness Racing 1999*

Made under the Western Australian Trotting Association Act 1946 and published in the Gazette

21. Saleyards — Code of practice for animals at saleyards in Western Australia

First published by the Department in March 2003

22. Sheep — Code of practice for sheep in Western Australia

First published by the Department in March 2003

23. Sheep Transportation — Code of practice for the transportation of sheep in Western Australia

First published by the Department in March 2003

[Schedule 1 amended in Gazette 23 Jun 2006 p. 2193; 12 Jun 2007 p. 2720-1; 20 Jun 2008 p. 2719; 16 Feb 2010 p. 645.]

Schedule 2 — Forms

Form 1

[r. 9]

Animal Welfare Act 2002

Part 5 Division 2

Warrant to Enter, Search and Seize

THIS IS A WARRANT authorising an inspector under the *Animal Welfare Act 2002* to enter and search:

Place
(*may be, or include, a vehicle*)

Date
(*this can include a period of time*)

Time
(*specific hours or at any time*)

and to seize —

- any animals;
- any of the following types of animals —
.....
.....
- any animals in the following circumstances —
.....
.....

THIS WARRANT CEASES to have effect:

Date

Time

I, Justice of the Peace of

..... am satisfied,

by an application supported by evidence on oath, that —

- there are reasonable grounds for suspecting that there is, at the place, or in the vehicle —

- (a) an animal, the safety or welfare of which is under threat; or
- (b) something that may afford evidence of the commission of an offence under the Act;

entry onto the place or into the vehicle is reasonably required to investigate a suspected offence against the Act;

OR

there are reasonable grounds for suspecting that an offence under Part 3 of the Act is likely be committed in respect of the animal if it is not seized.

I authorise, an inspector, to exercise the entry, search, and seizure powers set out in the *Animal Welfare Act 2002* in relation to the premises set out in this warrant, with such assistance, and using such force, as is reasonably necessary during the time referred to in this warrant.

Signed
(Justice of the Peace)

Dated

[Form 1 amended in Gazette 20 Jun 2008 p. 2719; 18 Jul 2008 p. 3330.]

Form 2

[r. 10]

Animal Welfare Act 2002

Section 72

Objection

To the Minister:

I,

of

.....

object to the decision of

(*date*)

The details of that decision are

.....

.....

The grounds of my objection are (*details of grounds*)

.....

.....

In support of my objection I attach the following information (*list attachments*):

.....

.....

Dated the day of 20.....

.....
(*signature of person objecting*)

Contact Phone No.

Note: Section 72(2) of the Act requires an objection to be made within 28 days after the right to object arose, or such further time as the Minister may allow.

[*Form 3 deleted in Gazette 30 Dec 2004 p. 7010.*]

Form 4

[r. 13]

Animal Welfare Act 2002

Section 93

Claim for Compensation

To the Minister:

I,

of

.....

apply for payment of compensation for the injury to*/death of* my animal(s),
caused by the negligent or malicious performance of a function, by a scientific
officer, under the *Animal Welfare Act 2002*.

(* Delete as appropriate)

Particulars of the animal(s) subject to the claim are
(to be completed for each animal - attach additional sheets if required)

Breed:

Age (years):

Sex:

Valuation:

I, the claimant, declare that I am the owner of the animal(s) described in this
claim and that the information provided is, to the best of my knowledge, correct.

Signature of owner:

Date:

I certify that the statements made in this claim are, to the best of my knowledge, correct.

Signature of inspector or
other authorised person:

Date:

Note: Section 93(2) of the Act requires claims to be made within one year of the injury or death.

[Schedule 3 deleted in Gazette 30 Dec 2004 p. 7010.]

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Notes

- ¹ This is a compilation of the *Animal Welfare (General) Regulations 2003* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Animal Welfare (General) Regulations 2003</i>	4 Apr 2003 p. 1077-96	4 Apr 2003 (see r. 2 and <i>Gazette</i> 4 Apr 2003 p. 1023)
<i>Animal Welfare (General) Amendment Regulations 2004</i>	30 Dec 2004 p. 7010	1 Jan 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Animal Welfare (General) Amendment Regulations 2006</i>	23 Jun 2006 p. 2192-3	23 Jun 2006
<i>Animal Welfare (General) Amendment Regulations 2007</i>	12 Jun 2007 p. 2720-1	r. 1 and 2: 12 Jun 2007 (see r. 2(a)); Regulations other than 1 and 2: 13 Jun 2007 (see r. 2(b))
<i>Animal Welfare (General) Amendment Regulations (No. 2) 2008</i>	20 Jun 2008 p. 2719	r. 1 and 2: 20 Jun 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Jun 2008 (see r. 2(b))
<i>Animal Welfare (General) Amendment Regulations (No. 3) 2008</i>	18 Jul 2008 p. 3330	r. 1 and 2: 18 Jul 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Jul 2008 (see r. 2(b))
Reprint 1: The <i>Animal Welfare (General) Regulations 2003</i> as at 21 Jul 2008 (includes amendments listed above)		
<i>Animal Welfare (General) Amendment Regulations (No. 2) 2010</i>	16 Feb 2010 p. 644-5	r. 1 and 2: 16 Feb 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 17 Feb 2010 (see r. 2(b))

Defined Terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined Term	Provision(s)
tail docking	14(1)