



Northern
Territory
Government

Updated June 2009

Guidelines for Animal Welfare Inspectors/Officers

Animal Welfare Act 2004

Contacts and Further Information

Animal Welfare Branch
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Introduction

The *Animal Welfare Act* came into operation on 27 March 2000. It was then reviewed and updated on 8 March 2007.

The Department of Local Government and Housing, Animal Welfare Branch, is currently responsible for the administration and implementation of this legislation.

The Animal Welfare Branch is located at:
Ground Floor, RCG House, 83 – 85 Smith Street, Darwin.

As per section 57 and 59 of the Act, the Animal Welfare Authority may appoint, in writing, persons to be animal welfare inspectors and issue them with identity cards.

Expectations of Appointed Inspectors/Officers

The Animal Welfare Authority has, and will continue to make appointments of animal welfare inspectors, and on occasion animal welfare officers, from a variety of organisations throughout the Territory.

At present, appointments have been made within the RSPCA, Parks and Wildlife, Department of Primary Industries, Alice Springs Town Council, Tennant Creek Town Council, Barley Shire Council, Katherine Town Council, NT Cattleman's Association and the Department of Local Government.

In addition, all NT Police Officers have the same powers and functions as those given to animal welfare inspectors.

Inspectors v Officers

The difference between inspectors and officers is that officers must be veterinarians and that their powers of entry are slightly different. Officers can not enter an unlicensed premise without an inspector. Inspector can not enter a licensed premise without an officer.

Powers of Inspectors

Inspectors have significant powers and should familiarise themselves with Part 6, 'Enforcement' of the *Animal Welfare Act*.

Some of the areas covered by this Part 6 include:

- powers to alleviate suffering
- powers of inspection
- the power to require name and address, and
- reporting requirements for inspectors

Powers of Entry

Inspectors are also granted significant powers of entry including the following:

- issuing the occupier with seven days written notice of their intent to enter
- obtaining the written consent of the occupier to enter
- immediate entry through obtaining a search warrant
- forcible entry – only to be used if it is believed that the circumstances are so urgent as to require immediate entry without the occupier’s consent and
- immediate entry whilst accompanied by a Police Officer; Police do not require an occupier’s consent to enter private premises

Sections 62–66 also outline powers of entry in relation to premises licensed for teaching or research involving animals and Aboriginal land.

Licensed Premises

A licensed premise is one that holds a licensed to conduct research and teaching issued by the Animal Welfare Authority. Current licence holders include:

1. Department of Regional Development, Primary Industry, Fisheries and Resources, Northern Territory
2. Charles Darwin University
3. Australian Government Department of the Environment, Water, Heritage and the Arts
4. CSIRO
5. Department of Primary Industries and Fisheries, Queensland
6. The University Of Queensland
7. Jurox Pty Ltd

If required to enter a licensed premise an inspector must be accompanied by an officer.

Identity Cards

It is a requirement of the *Animal Welfare Act* that all appointed inspectors and officers (with the exception of the Police) are issued with photo ID cards.

The cards must be carried at all times when inspectors are exercising powers conferred or performing functions imposed by or under the *Animal Welfare Act*.

Failure to produce this ID card upon request will result in the inspector having to leave the premises.

Notices

An authorised person can issue a written notice to a person in charge of animal, pursuant to section 67 2 (c). The notice can require the person to (i) provide the animal with the specified rest, food, drink, shelter or treatment that is necessary in the interests of the animal’s welfare; and (ii) if necessary to obtain a veterinarian treatment for the animal with the specified period that is reasonable in the circumstances.

The notice must contain the name of the person in charge of the animal, address, date, time and offence committed including the action required. The notice must be served by the following means:

- Given to the alleged offender;
- Given to someone 16 years or older who resides at the residence;
- Sent via post; or
- Sent via fax.

The notice can not be left in the letter box, door or fence.

To obtain a notice book contact the Animal Welfare Branch.

Veterinarians Act

Section 53 (3) Regulation 9 (3) of the *Veterinarians Act* states:

1. WELFARE OF ANIMALS

(3) A registered veterinarian who provides veterinary services direct to the public shall not (unless he or she refers the case immediately to another registered veterinarian) refuse without good reason to provide relief for an animal in pain or suffering; but a registered veterinarian may discharge his or her duty under this subclause by giving emergency treatment only, or by inducing euthanasia.

This regulation may assist inspectors and officers in circumstances where vet treatment is imperative.

What is an 'Animal'?

Under the *Animal Welfare Act* an animal is defined as a live member of a vertebrate species (i.e. having a spinal column) including amphibians, birds, mammals (other than humans), and reptiles. Fish and crustaceans that are in captivity or dependent upon persons for food are also included and are covered by the *Animal Welfare Act*

Offences under the Act

Part 2 of the *Animal Welfare Act* provides the framework of offences, including a list of specific offences against animals.

These offences include the following:

- neglecting an animal (6)
- committing an act of cruelty on an animal (6)
- failing to obtain veterinary treatment for an animal (6)
- abandoning an animal (7)
- failure to provide adequate food, drink and shelter for an animal in your care (8)
- Prohibited Procedures (9) - Prohibited procedures may be performed by a veterinarian if he or she is of the opinion that it is reasonable or necessary.
- riding, driving, using or transporting an unfit animal (10)

- confining an animal without reasonable opportunity for exercise (11)
- confining a bird by means of a ring, chain, string, cord or wire around its neck or body (11)
- unreasonable tethering of an animal (12)
- failing to restrain a dog in or on a moving vehicle so as to prevent it falling from the vehicle (dogs being used to work livestock are exempt) (14)
- selling, possessing or using an electrical device on an animal unless it is in accordance with Regulations (19 Reg 4)
- advertising, promoting, participating in or attending dog or cock fighting (21)

This list is not exhaustive.

What is 'Cruelty'?

A definition of cruelty is also included in this part of the *Animal Welfare Act*. This definition is intentionally general, as an act of cruelty is defined not only through a person's physical actions but also through the circumstances under which it occurs. This highlights the need to carefully assess the individual situation and the particular circumstances under which an offence is alleged to have taken place. All inspectors are encouraged to familiarise themselves with Part 2 of the *Animal Welfare Act*.

The Caution

The caution should be administered before an authorised person questions a person suspected of committing an offence, or a person who may have aided or abetted the commission of an offence (see s 74 of the *Animal Welfare Act*).

I am going to ask you certain questions about (state briefly the nature of the inquiry) you are not obliged to say anything or answer any questions unless you wish to do so, but anything you do say will be recorded and may be given in evidence. Do you understand?"

Before the caution is administered, the authorised person should introduce themselves, provide a general outline for the need for the questioning, introduce the method of recording the interview (ie. tape recording or handwritten notes) and then ask the following preliminary questions:

- a. Sobriety – have you had any alcohol today?
- b. Health – Is there any health reason why this interview should not occur today?
- c. Tired – how do you feel?
- d. Drugs – are you on any medications?
- e. Friend present – do you want to have a friend or family member present?
- f. Language – do you have any problems understanding English?

If the alleged offender answers any of these questions in the positive (ie. "yes, I have trouble understanding English" or "yes, I've been drinking today") then the interview should not proceed in most cases.

It is not absolutely necessary that the caution be given verbatim; however, what is important is that the essence of the caution is conveyed, that is:

- the person suspected of committing the offence knows the nature of the allegations;

- the person suspected of committing the offence knows that they don't have to say anything (ie. they have the right to remain silent)
- the person suspected of committing the offence understands that what they say will be recorded and
- the suspect understands that the recording may be used in court.

Penalties

Sections 75–80 of the *Animal Welfare Act* are also important as they outline the penalties structure for offences.

Under the *Penalties Act*, monetary penalties are now prescribed in terms of penalty units as opposed to dollar amounts. At present one penalty unit equals \$110. The maximum penalty for an offence under the *Animal Welfare Act* is 100 penalty units (\$11,000) or 12 months imprisonment.

Inspectors have two primary powers in relation to imposing penalties for offences under the *Animal Welfare Act*.

1. Inspectors are empowered to issue written orders to offenders that must be complied with within a specified period. These orders can be issued in relation to providing an animal with food, drink shelter, rest, treatment or veterinary treatment. Offenders who fail to comply with a written order will be liable for a fine of up to 50 penalty units or 6 months imprisonment.
2. Inspectors also have the power to issue infringement notices (\$110 “on-the-spot” fine) in respect of section 14, the offence of carrying an unrestrained dog in or on a moving vehicle on a public street.

Inspectors should familiarise themselves with the details of this provision.

Further Assistance

A number of organisations that deal with different aspects of animal care, welfare and management now have appointed inspectors. It is recommended that assistance be sought from the Animal Welfare Branch in the first instance; however these organisations may be contacted if considered appropriate.

Below is a guide to some of the key organisations and their area of expertise.

Department of Local Government and Housing's Animal Welfare Branch (Domestic Animals)

The Animal Welfare Branch, as detailed above, is responsible for the administration and interpretation of the *Animal Welfare Act*. Inspectors from the Department have full inspectorate powers; however generally only undertake functions within the area of expertise – domestic animals.

Inspectors from the Department of Local Government and Housing will only investigate complaints of animal cruelty against domestic animals within the larger urban area of

Darwin and Palmerston and will seek assistance from other inspectors should the complaint relate to commercial animals, rural and remote issues, wildlife etc.

Parks & Wildlife (Native Wildlife)

Parks and Wildlife has many of their Conservation Officers and Rangers appointed as animal welfare inspectors and animal welfare officers. Animal welfare inspectors and officers from Parks and Wildlife have full powers under the *Animal Welfare Act*, however focus on their area of expertise being 'wildlife' as defined under section 9 of the *Territory Parks and Wildlife Conservation Act*.

Department of Regional Development, Primary Industry, Fisheries and Resources (Commercial Production - Livestock)

Stock Inspectors and Veterinary Officers employed by the Primary Industries can be appointed as animal welfare inspectors and officers.

These inspectors and officers will focus on their area of expertise being animals in commercial production enterprises and operations, in particular, cattle, buffalo, poultry, crocodile and other intensive animal industries.

NT Police (Full Powers)

All NT Police Officers automatically have the powers and functions of an animal welfare inspector. It is most likely that Police will only exercise their powers when called upon to assist with investigations. Police have many priorities and animal welfare may not always be at the top of their list.

RSPCA (Domestic Animals)

The core business of the RSPCA, Darwin shelter, is as a re-homing facility. Animals that have been abandoned can be relocated to the RSPCA, and the RSPCA, where possible, will assist with most of the animal welfare matters.

PAWS (Domestic Animals)

PAWS Darwin is an animal welfare organisation offering re-homing facilities for abandoned and unwanted animals. PAWS also operate pound facilities for Darwin and Palmerston municipalities.

Wildlife Rescue Darwin (Wildlife)

Wildlife Rescue Darwin is an organisation that provides emergency treatment and care for sick or injured wildlife.

Urban Animal Management (Dogs and Cats)

For issues that deal primarily with aspects of urban animal management, the municipal council should be contacted. Most Council's have established sound animal management plans and should be in a position to assist with issues of urban animal management. Tennant Creek, Alice Springs and Katherine Town Councils also have inspectors appointed under the *Animal Welfare Act*.