

## Guide to the Animal Welfare Act.



*This resource is designed to briefly outline the legal responsibilities of anyone that uses animals in research, teaching or testing. It was drafted by ANZCCART NZ and is not intended as a legal document but as a basic introduction to the Animal Welfare Act.*

### **Definition of research, testing, and teaching**

What is actually classified as research, testing or teaching? The Animal Welfare Act includes the following definition:

1. In this Act, unless the context otherwise requires, the term research, testing, and teaching means, subject to subsections (2) to (4),—
  - a. any work (being investigative work or experimental work or diagnostic work or toxicity testing work or potency testing work) that involves the manipulation of any animal; or
  - b. any work that—
    - i. is carried out for the purpose of producing antisera or other biological products; and
    - ii. involves the manipulation of any animal; or
  - c. any teaching that involves the manipulation of any animal.

This means that any “manipulation” of an “animal” is covered by this legislation with the exception of work conducted by a veterinarian (which is what “subject to subsections 2 and 4” refers to). But what is classed as an “animal” and what does it mean by a “manipulation”?

### **What animal species are covered by the Act?**

According to the Animal Welfare Act, an animal—

- a) means any live member of the animal kingdom that is—
  - i) a mammal; or
  - ii) a bird; or
  - iii) a reptile; or
  - iv) an amphibian; or
  - v) a fish (bony or cartilaginous); or
  - vi) any octopus, squid, crab, lobster, or crayfish (including freshwater crayfish); or
  - vii) any other member of the animal kingdom which is declared from time to time by the Governor-General, by Order in Council, to be an animal for the purposes of this Act; and
- b) includes any mammalian foetus, or any avian or reptilian pre-hatched young, that is in the last half of its period of gestation or development; and
- c) includes any marsupial pouch young; but
- d) does not include—
  - i) a human being; or
  - ii) except as provided in paragraph (b) or paragraph (c), any animal in the pre-natal, pre-hatched, larval, or other such developmental stage

This means that a wide range of species are covered by the Act, including rats, mice, birds, fish, lizards and their offspring. Insects are not defined as animals under this Act and so keeping insects in the classroom does not require ethical approval. However,

keeping some species in captivity is prohibited under the Biosecurity Act 2012 or the Wildlife Act 1953.

### **What is a “manipulation”?**

In this Act, unless the context otherwise requires, the term manipulation, in relation to an animal, means, subject to subsections (2) and (3), interfering with the normal physiological, behavioural, or anatomical integrity of the animal by deliberately—

- a. subjecting it to a procedure which is unusual or abnormal when compared with that to which animals of that type would be subjected under normal management or practice and which involves—
  - a. exposing the animal to any parasite, micro-organism, drug, chemical, biological product, radiation, electrical stimulation, or environmental condition; or
  - b. enforced activity, restraint, nutrition, or surgical intervention; or
  - c. depriving the animal of usual care;—

A manipulation is anything that changes the normal patterns of behaviour or care of a particular animal. We tend to think of research as being invasive surgery or giving a drug treatment but sometimes just holding an animal captive can be regarded as a manipulation that will require animal ethics approval. To help you decide whether your teaching activity or science project needs animal ethics approval a flowchart has been developed by NZASE (<http://nzase.org.nz/ethics/pdf/nzase-animal-approval.pdf>).

### **Restrictions on research, testing, and teaching involving use of animals**

Now that we understand what an animal is and what a manipulation is, can anyone conduct an experiment? The Act stipulates the following:

- (1) No person may carry out research, testing, or teaching involving the use of animals unless—
  - (a) that person holds a code of ethical conduct approved under this Part; or
  - (b) that person is authorised or required by a contract of employment, or any other type of contract, entered into with a person of the kind described in paragraph (a) to carry out the research, testing, or teaching.
- (2) A person commits an offence who contravenes subsection (1).

This means that you must apply for approval from an Animal Ethics Committee if you wish to carry out any form of research, testing or teaching on an animal. The approval that is given will then extend to people who are employed to carry out the animal work. The first point means that a school can be granted ethics approval for specified animals to be used in teaching and that the teacher is allowed to actually do the teaching using the specified animal species. The second point says that anyone who has previously undertaken research, testing or teaching on an animal without the proper approval is prohibited from carrying out any type of animal work.

### **The purpose of an Animal Ethics Committee**

So you now know what species are covered by the Act, what you can and can't do under the definition of a “manipulation”, and when you need animal ethics approval for your work. What does this mean and what is the role of the Animal Ethics Committee? The following information is taken from the guide to the Animal Welfare Act:

Section 72 contains criteria for guiding Animal Ethics Committee consideration of project applications; it is an important provision. There are three main components.

This section:

- requires decision-makers to explicitly consider whether the anticipated benefits of the research, testing or teaching outweigh the likely harm to the animals;
- imposes the general 'duty of care' obligations found in Part 1 of the Act (to meet the physical, health and behavioural needs of animals and alleviate pain).  
However, it also provides that where this is not possible because of the nature of the work, any pain or distress is to be minimised; and
- requires the promotion of the Three Rs (Reduction, Refinement and Replacement).