

Australian Capital Territory

Animal Welfare (Mandatory Code of Practice) Approval 2013 (No 1)

Disallowable Instrument DI2013—223

made under the

Animal Welfare Act 1992, section 23 (Mandatory code of practice)

1 Name of instrument

This instrument is the *Animal Welfare (Mandatory Code of Practice) Approval 2013 (No 1)*.

2 Commencement

This instrument commences on 21 October 2013.

3 Approval of mandatory code of practice

- (1) I approve the *Code of Practice for the Sale of Animals in the ACT (Other than Stock and Commercial Scale Poultry)* (the code of practice) at Schedule A.
- (2) The code of practice applies to all people involved with the purchase or sale of animals within the ACT, other than stock animals and commercial scale poultry.

Shane Rattenbury MLA
Minister for Territory and Municipal Services

17 August 2013

**CODE OF PRACTICE FOR THE SALE OF ANIMALS IN THE ACT
(other than stock and commercial scale poultry)**

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Compendium of mandatory provisions under section 23 of the *Animal Welfare Act 1992*

Provisions are numbered according to the section of the code in which they occur.

S1. Sale processes

S1.1 In any sale for financial gain, the seller must provide to the buyer at no charge:

- (a) basic information in writing on the care of the animal or an Internet URL where authoritative information may be found;**
- (b) any available health records relating to the animal;**
- (c) written advice on the legislative provisions relating to the animal or where such information can be found; and**
- (d) the Internet URL of any ACT code of practice relating to the species or type of animal, if one has been made, or hard copy of that code.**

S1.2 No animal may be sold to a person under 16.

S1.3 Sales of animals by persons under 16 must be done under adult supervision. The supervising adult is the seller for the purposes of this Code

S1.4 Anyone selling an animal for financial gain must keep a record of the acquisition, veterinary history and sale of the animal. Records must be held for one year after sale.

S2. Animals as prizes, promotional products or gifts

S2.1 Anyone giving away an animal as a prize, promotional product or unsolicited gift must ensure that the person receiving the animal is aware of the costs in time and money of keeping the animal, and is willing and able to keep the animal.

S3. Care of animals offered for sale

S3.1 Temporary accommodation in which an animal is held while offered for sale must:

- (a) Meet the physical, behavioural and emotional needs of the animal;**
- (b) Be of sufficient size for the animal to move around freely, exercise and rest;**

- (c) Provide adequate protection from adverse natural or artificial environmental conditions and interference from humans and other animals; and
- (d) Be kept in a hygienic state.

S3.2 Animals must not be restrained by the leg for the purpose of hindering or restricting movement, or any other purpose.

S3.3 No animal may be offered for sale until old enough to feed independently, with the exception of birds sold as eggs for hand-rearing to expert purchasers (where that is permitted by legislation).

S3.4 No animal known to be or suspected of being injured or diseased may be offered for sale unless the seller informs the buyer of the condition of the animal.

S3.5 The comfort and health of animals held for sale must be monitored daily. Where there are any signs that an animal is unwell, veterinary or other expert advice must be sought and treatment implemented as advised.

S3.6 All animals offered for sale must be provided by the seller with food and water of adequate quality and quantity.

S3.7 Where euthanasia is required, animals must be euthanased by a competent person and in the most appropriate and humane manner.

S4. Killing of food animals

S4.1 Where an animal is killed prior to sale for consumption, the animal must be killed by the least inhumane techniques currently known and by a person skilled in these techniques.

S4.2 Where an animal is sold alive for consumption as food, the seller must provide advice to the buyer on the least inhumane means of killing the animal.

S5. Transport of animals for sale purposes

S5.1 If an animal is to be transported the conditions under which it is transported must be such as would be reasonably expected to maintain the animal's welfare during the journey.

S5.2 When being transported all animals should be confined in a container suitable for the requirements of the species or otherwise suitably restrained to reduce the risk of self-induced trauma.

S5.3 Transport containers should be strong enough to withstand general handling, and stacking where that is likely to occur, and be constructed to provide reasonable ventilation, light and temperature regulation. Transport containers that are to be handled by a third party should indicate which way up the animal should be transported, and which parts of the container must not be blocked when containers are stacked because they provide light and ventilation.

S5.4 Transport containers that are to be handled by a third party should be clearly labelled with the time and date of departure. The container should have a label both on the top and at least one of the four sides with the name, address, and phone contact number of both the consignor and consignee as well as a label reading LIVE ANIMALS.

S6. Commercial establishments offering animals for sale

S6.1 Where an animal (other than an aquatic animal) is returned to a commercial seller within three days of purchase, for any reason except as a result of injury to the animal while under the care of the buyer, the seller must take back the animal. For dogs, cats and larger animals, a written guarantee to that effect must be provided to the buyer at the time of sale.

S6.2 At any time when open for business, at least one staff member on duty must be experienced and knowledgeable in the care of the species of animals kept. In this provision, 'staff member' includes the proprietor.

S6.3 Commercial sellers must have a nominated veterinarian who can be called upon in an emergency or for advice. Veterinary care must be sought promptly as and when required.

S6.4 Managers of markets at which live animals are sold must ensure that each seller of live animals is provided with a copy of the Code.

S6.5 Managers of markets must keep a record of all sellers of live animals at their markets, including the names and contact details of the principals and an ABN if one is held.

S7. Fish offered for sale

S7.1 Twenty-five per cent of the water in the aquaria must be replaced at least fortnightly or water maintained to a high quality through filtration or other technologies. Water chemistry must be checked at least weekly and appropriate measures taken to correct any imbalance.

S7.2 Tanks must be sheltered from excessive amounts of direct sunlight. Lids should be fitted or appropriate measures taken to prevent fish from jumping out of tanks

S7.3 Lights must be dimmed for at least eight hours a day. Filtration equipment should be working at all times

S7.4 All nets must be disinfected after use. Treatment of sick or injured animals must be by medications and other preparations appropriate for aquarium use. Antibiotics must only be used on veterinary advice and according to directions.

S7.5 When fish are to be captured, soft wet nets must be used. Live fish must not be touched with dry hands or a dry cloth.

S7.6 Containers or bags for transportation of fish must be watertight and used in such a way as to ensure maximum contact between air and the water surface. If fish are to be in plastic bags for more than two hours the bag must contain a high proportion of air (greater than 50%). Bags or containers must be transported in insulated containers if significant chilling or warming is possible.

Introduction

This Code of Practice for the Sale of Animals in the Australian Capital Territory (ACT) (henceforth referred to as the Code) has been prepared by the ACT Animal Welfare Advisory Committee (AWAC). It applies to the care and management of all animals for sale - companion animals, produce animals or food animals for sale through all avenues of exchange, including restaurants - with the exception of livestock such as sheep, cattle and pigs and poultry in commercial-scale operations. Sale of such animals from saleyards is covered by the *Code of Practice for the Welfare of Animals at Saleyards*¹.

Under the terms of the Code, sale means the sale or supply of animals for reward or otherwise. The Code covers sales occurring in or through, but is not limited to, private backyards, fetes, markets, schools, newspapers, internet sales and car-boot sales, as well as commercial sellers such as pet shops, commercial breeders and rehoming organisations such as the ACT's Domestic Animal Shelter and the RSPCA. The Code's requirements, however, are more demanding for those who sell animals for financial gain.

The Code sets out requirements governing sale processes, such as the information that must be supplied by the seller to the buyer, the records that must be kept, and some limitations on whom an animal may be sold to.

When offered for sale, animals are often held for limited periods under conditions that would not be adequate from an animal welfare perspective if they were to apply for a longer period. The Code specifies in general terms the minimum conditions under which animals may be held for sale. If animals are held or offered for sale over longer periods, the conditions for housing and care set out in the relevant Code for that species or type of animal must be met. Where a code does not exist, expert opinion should be sought on the appropriate conditions for the species.

In a number of cases the Code makes specific provision for particular kinds of animals or particular circumstances; examples are section 6 on commercial sellers and section 7 on fish. It is important to note that these provisions apply in addition to, and not in place of, the general provisions of the Code. Thus the special provisions about how fish are to be held while offered for sale, for example, are to be read in addition to the general requirements relating to how animals are housed and taken care of in section 3.

General considerations

A basic concept of animal welfare is that people have duties and responsibilities towards animals. The greater the level of interference with, or control of an animal's environment, the greater the responsibility on the part of the responsible person.

¹ The *Code of Practice for the Welfare of Animals at Saleyards* will be revised in the future to capture other sales of stock animals and commercial scale poultry.

Animal welfare considerations are recognised as of primary importance in the keeping of animals. This Code is based on established experience and current scientific knowledge. Practices once considered acceptable are now being reassessed and modified according to new knowledge and changing attitudes.

Relation to other Codes

A number of Codes of Practice for animal welfare have been made from time to time by the ACT Government. Some of these relate to the welfare issues associated with particular species or kinds of animals (such as the Code of Practice on Poultry (Non-commercial) and the Code of Practice on Cats in the ACT). Others relate to issues that cut across many different kinds of animals, such as those on Animals Used on Film Sets and on Animal Boarding Establishments. The current Sale Code is of the latter kind. Taken together, the codes create a matrix of animal welfare provisions that provide guidance on most of the acute animal welfare issues in the ACT, although there will always be gaps and a need for revision and updating of codes.

These codes are developed sequentially, and inevitably there are differences in the levels of detail and the kinds of requirements set in different codes. The species specific codes, for example, can provide much clearer guidance on matters relating to the animals they cover; codes such as the present, which deal with a wide range of different animals, provide specific guidance on particular issues such as the sale process, but do not attempt to provide specificity in relation to dogs, cats, rabbits, or any other species. Codes developed for particular species may provide more detailed guidance on sale matters where that is necessary or appropriate.

Legislative and related requirements

The sale of all animals must comply with the *Animal Welfare Act 1992* and, where applicable, the *Domestic Animals Act 2000*, the *Nature Conservation Act 1980* and the *Animal Diseases Act 2005*. In the following, reference is made to particular provisions in these Acts relevant to the buying and selling of animals.

A person selling an animal is responsible for monitoring animals offered for sale and otherwise ensuring welfare is maintained to the standards required by the *Animal Welfare Act 1992* and the appropriate code of practice, where one has been made.

Under the *Nature Conservation Act 1980*, suppliers and receivers of certain native and introduced species of animals must ensure that appropriate permits are obtained for keeping, selling or receiving such animals or for import or export from the ACT.

In addition to any mandatory requirements specified under this Code, the seller of an animal should ensure that, where required under the *Domestic Animals Act 2000*, the animal is appropriately registered, identified, desexed and/or vaccinated prior to sale.

Additionally, under the *Domestic Animals Act 2000*, it is required that a person who sells or gives a dog to another person informs the Registrar of Domestic Animal Services of the name and address of the new keeper. It is also required that a person notify the Registrar if they sell a cat if the cat is not desexed and is over three months of age.

The provisions of this code are in addition to, and do not take the place of, the above legislative obligations.

Codes of Practice under the *Animal Welfare Act 1992* ('the Act') set out, in general, what is considered current best practice for the aspects of animal welfare covered by each Code. Animal welfare offences in Part 2 of the Act (with a small number of exceptions not relevant to this Code) do not apply if the conduct is in accordance with an approved Code of Practice.

Section 23 of the Act allows the Minister to approve a Code of Practice part or all of which has mandatory force. Failure to comply with a mandatory Code of Practice (or mandatory element in a Code), or to follow a direction to comply with such a Code or element, is made an offence by sections 24A, 24B and 24C of the Act.

Mandatory elements of this Code are identified by their inclusion as bolded numbered provisions, each of which is preceded by the heading 'Mandatory provision under section 23 of the *Animal Welfare Act 1992*'.

Because of the diversity of animal species and circumstances covered by this Code, some of these mandatory elements are phrased in quite general terms. Where a term (eg "adequate", "appropriate") is not specifically defined for the purpose of a mandatory clause, the subsequent text relating to the issue should be taken as providing relevant detail that illustrates the meaning of the terms.

Definitions

Within this code of practice:

Animal: has the same meaning as in the *Animal Welfare Act 1992*.

Buyer: includes a person who accepts an animal with or without the payment of any money or the exchange of any service.

Companion Animal: means any animal not being offered for sale as a produce animal or a food animal.

Commercial-scale poultry: means any poultry sold or offered for sale as part of an operation involving more than 1,000 poultry in total.

Commercial seller: means any person who sells animals as, or as part of, an ongoing business, where ‘business’ has the same meaning as in the *Income Tax Assessment Act 1997* (Cth).²

Financial gain: means any monetary or material gain that significantly exceeds the recovery of costs reasonably incurred in caring for an animal up to the time of sale.

Food Animal: means any animal, other than a stock animal or commercial-scale poultry, that is being offered for sale for the purpose of slaughter for human or animal consumption.

Produce Animal: means any animal that is being offered for sale for the purpose of supplying a product, other than a stock animal or commercial-scale poultry.

Rehoming: means any process of finding a new permanent home for an animal other than for financial gain.

Sale: includes the giving away of an animal for no financial gain, but does not include the return of an animal to its owner after it has been lost or impounded.

Seller: includes a person who offers an animal for sale for no financial gain, or free, as a gift or as a prize.

Stock Animal: means cattle, sheep, goats or pigs.

1. Sale processes

Basic approach: When placing an animal on the market the seller should take all reasonable steps to protect the welfare of the animal (including physical, social and emotional needs) both for the duration of the sale and into the future.

S1. Sale processes - mandatory provision under section 23 of the *Animal Welfare Act 1992*³

S1.1 In any sale for financial gain, the seller must provide to the buyer at no charge:

(a) basic information in writing on the care of the animal or an Internet URL where authoritative information may be found;

² The *Income Tax Assessment Act 1997* (Cth) defines ‘business’ as including any profession, trade, employment, vocation or calling, but excludes occupation as an employee. Case law has established a number of indicators of what constitutes a business, none of which is determinative by itself, including a profit-making intent, the scale of activities, adoption of a commercial approach, having an organised and systematic approach, and maintaining sustained and frequent activity.

³ Under s 6 of the *Domestic Animals Act 2000*, a person under 16 needs written permission from a parent or guardian (if they are living with one) before being registered as owner of a dog (it must accompany the application for registration). Under s 136, the parent or guardian is taken to be the dog’s owner, provided the person under 16 is living with them.

- (b); any available health records relating to the animal;
- (c) written advice on the legislative provisions relating to the animal or where such information can be found; and
- (d) the Internet URL of any ACT code of practice relating to the species or type of animal, if one has been made, or hard copy of that code.

S1.2 No animal may be sold to a person under 16.

S1.3 Sales of animals by persons under 16 must be done under adult supervision. The supervising adult is the seller for the purposes of this Code

S1.4 Anyone selling an animal for financial gain must keep a record of the acquisition, veterinary history and sale of the animal. Records must be held for one year after sale.

Additional information

The buyer of an animal should be given accurate information about:

- identification methods and requirements;
- registration requirements;
- management of reproduction including requirements for desexing;
- diet (including water requirements);
- housing;
- general health care;
- vaccination (where appropriate, including veterinarian certification);
- parasite control; and
- grooming (where appropriate).

In addition, the buyer should be made aware of the requirements for care and welfare of animals under any relevant approved code or codes of practice. Current codes of practice are available at the ACT Government website.

The seller of an animal should advise the buyer of any legislative requirements relevant to the keeping of the animal. If the seller is aware that the buyer is taking the animal out of the ACT, the seller should advise the buyer that other jurisdictions may have legislative requirements different from those in the ACT. All health records should be provided by the seller to a person purchasing an animal, at the time of purchase.

Sellers of animals should do their best to ensure that the person to whom the sale is made will take responsibility for the animal. For that reason, sale should only take place

to an adult (16 years or older); where a child accompanied by an adult responsible for that child makes the purchase, it is the adult that this Code deems to be the buyer.

Where a seller knows or suspects that a buyer is buying an animal for a cruel or unlawful purpose, the seller should not proceed with the sale.

Appropriate records should be kept by sellers of relevant matters including;

- acquisition and disposal of animals, including contact details of suppliers, breeders and buyers, and those taking custody of an animal as part of a sale transaction;
- illness and mortality;
- veterinary history (including whether the animal is desexed); and
- trading of any native or introduced species of animal that requires a permit under the *Nature Conservation Act 1980*.

Where organisations or particular sellers are party to requirements for keeping records for longer periods (eg through a breeders' organisation) the records should be maintained for that longer period.

If a seller is left with an animal that they are having difficulty in selling, the following steps should be taken, preferably in the order presented:

- sell the animal at a discount (in the case of someone whose intention had been to sell for financial gain);
- give away an animal that they had intended to sell for financial gain;
- ask other organisations such as the RSPCA, animal rehoming groups, foster organisations and groups of enthusiasts to find a home for the animal.

Killing the animal is obviously not in its best interests and should always be a last resort.⁴

Rehoming animals

This Code is intended to cover all the circumstances under which transfers of ownership take place, regardless of whether there is financial gain to either party. However, in the interests of animal welfare, nothing in this Code should serve to prevent or discourage people from finding suitable homes for animals, whether these animals are:

- their own animals that they no longer want or cannot keep, or
- the result of an animal breeding with or without the owner's intention; or

⁴ Even if it seems in the animal's welfare, an animal must not be released into the wild. In particular, the release of exotic fish and other potentially invasive animals into the wild is prohibited under ACT law. There are populations of imported exotic fish in some Australian streams that are competing with native fish and are believed to have become established because of such releases.

- animals that have been abandoned or are no longer wanted by some other party, for which a person is helping to find a home (for example someone who seeks owners for a litter of kittens found on the doorstep).

While people in this situation must meet the same minimum standards of housing and care as any other seller of animals, the requirements for providing information and record keeping under S1.1 and S1.4 may be unduly onerous or even impossible. These provisions therefore apply only to persons who are selling animals for financial gain.

People who are rehoming animals on a not for profit basis are nevertheless encouraged to ensure the person who is receiving the animal is aware of and willing to take on the care of the animal and the costs, in terms of both time and money, to retain the contact details of the person with whom they leave the animal, and to pass to the new owners any relevant information they may hold about the animal, such as where and when they found the animal; or any information provided by a veterinarian if a veterinary consultation has taken place.

2. Animals as prizes, promotional products or gifts

Basic Approach: because of the risk of unwanted animals being abandoned, neglected or otherwise harmed, the giving away of animals as prizes, promotional products, or unsolicited gifts of any kind is strongly discouraged. If, despite the above, an animal is to be given as a prize, promotional product or other unsolicited gift, the giver is responsible for meeting the standard set below. The transaction falls within the definition of 'sell' and the other provisions of this Code continue to apply (eg the prohibition on selling to children).

S2 Animals as prizes, promotional products or gifts - mandatory provision under section 23 of the *Animal Welfare Act 1992*

S2.1 Anyone giving away an animal as a prize, promotional product or unsolicited gift must ensure that the person receiving the animal is aware of the costs in time and money of keeping the animal, and is willing and able to keep the animal.

3. Care of animals in temporary housing when offered for sale

Basic approach: Animals offered for sale have the same requirements for nutrition, hygiene and veterinary care as in any other circumstances. Where an animal for sale is held in temporary accommodation for a short period, the temporary accommodation may be smaller and less well equipped than permanent accommodation provided the minimum standards below are met and the period in question is strictly limited.

S3. Care of animals offered for sale - mandatory provisions under section 23 of the *Animal Welfare Act 1992*

S3.1 Temporary accommodation in which an animal is held while offered for sale must:

- (e) Meet the physical, behavioural and emotional needs of the animal;**
- (f) Be of sufficient size for the animal to move around freely, exercise and rest;**
- (g) Provide adequate protection from adverse natural or artificial environmental conditions and interference from humans and other animals; and**
- (h) Be kept in a hygienic state.**

S3.2 Animals must not be restrained by the leg for the purpose of hindering or restricting movement, or any other purpose.

S3.3 No animal may be offered for sale until old enough to feed independently, with the exception of birds sold as eggs for hand-rearing to expert purchasers (where that is permitted by legislation).

S3.4 No animal known to be or suspected of being injured or diseased may be offered for sale unless the seller informs the buyer of the condition of the animal.

S3.5 The comfort and health of animals held for sale must be monitored daily. Where there are any signs that an animal is unwell, veterinary or other expert advice must be sought and treatment implemented as advised.

S3.6 All animals offered for sale must be provided by the seller with food and water of adequate quality and quantity.

S3.7 Where euthanasia is required, animals must be euthanased by a competent person and in the most appropriate and humane manner.

Additional information

3.1 Accommodation and environment

As this code covers a wide range of species and types of animal it is not possible to specify the type, size and other requirements for temporary accommodation of animals offered for sale. However the accommodation should be suited to the type of animal being sold and should meet the requirements of the *Animal Welfare Act 1992*. The duration of the period in which the animal is housed in temporary accommodation should be minimised. If the period of accommodation is prolonged the standard of

accommodation provided should be that appropriate to permanent housing for the animal, as provided in the relevant code of practice. Codes of practice are available from the ACT Government website.

In general, accommodation, environment and equipment should:

- meet the physical and behavioural needs of the animals held;
- ensure the animals are secure and not subject to stress;
- be kept in a clean, hygienic state sufficient to maintain the animal's good health;
- protect animals, as necessary, from adverse natural or artificial environmental conditions;
- protect animals from interference from humans and other animals, including ensuring that incompatible species are housed separately; and
- provide sufficient space for animals to move around freely, exercise and rest, as appropriate for the species, age and duration of the selling period.

Animals should not be restrained by the leg for the purpose of hindering or restricting movement.

The following sections provide further detail on how to meet these general requirements.

3.1.1 Enclosure Construction

Animal enclosures should be designed and maintained to ensure that animals avoid injury, disease, theft, escape or interference by unauthorised persons or other animals.

The enclosures should be designed to allow for regular and thorough cleaning, and the maintenance and monitoring of animals, food and water within. Indoor enclosures and fully enclosed containers such as cages, crates, boxes and display cages, require particular attention. Except where the enclosure is being used for animals on a one-off basis and for no more than a few hours, wall and floor junctions should be sealed to prevent build-up of debris as well as to facilitate cleaning and disinfection, while all surfaces of the enclosures should be impervious, or painted with non-toxic paint. The enclosure should be supplied with appropriate flooring and bedding and faecal matter should be removed regularly.

3.1.2 Temperature

Temperature should be maintained to minimise stress to animals, with heating provided for animals, especially very young animals, as necessary. The optimum temperature for

most mammals is between 16 ° C and 24 ° C, but for other or unusual species expert advice should be sought.

Certain species of animals will die if exposed, even for a short period of time, to extremes of temperature. Some animals can die from heat stress even when temperatures are not extreme. Appropriate caution is necessary, according to the species.

Extremes of temperature can occur in many situations but particular care is needed with regard to vehicles. Leaving an animal unattended for any length of time in an enclosed vehicle, for example, exposes it to significant risk. While the risks are obviously higher in hot or sunny weather, temperatures inside a vehicle can rise quickly even in cool or cloudy weather, and some animals (eg dogs) have limited physiological capacity to cope once the temperature rises. Where animals are proffered for sale from open vehicles with arrangements made to protect the animals from extremes of hot (and cold), the risks are significantly mitigated. Sellers should apply common sense and careful attention to the condition of the animals at all times.

Indoor animal enclosures should be placed out of draughts and should not be exposed to excessive amounts of direct sunlight.

Where animals are kept outside for sale there should be adequate protection from rain, wind, direct sunlight and extremes of temperature.

3.1.3 Safety

At any premises where animals are held for sale, the person in charge of the animal is responsible for ensuring he or she is aware of how to safely evacuate the animals in the event of an emergency.

3.1.4 Lighting

The light provided should be as close as possible, in duration and intensity, to natural conditions. Lighting must be sufficient to enable thorough inspection of animals when required. Care must be taken to ensure that lights do not generate excessive heat. Faulty or flickering lights should be promptly replaced.

At night, lights should be subdued or turned off, or animal enclosures protected by other means from exposure to excessive light.

3.1.5 Noise

Loud or sudden noise, which may stress animals, should be kept to a minimum. If an animal becomes distressed by loud noises the seller should take all precautions to eliminate or reduce the source of the noise. If the source of the noise cannot be reduced then the animal will need to be moved.

3.1.6 Ventilation

Animal enclosures should provide ample ventilation and be protected from fumes and vapours (eg, car exhausts, chemicals, ammonia build-up from urine).

3.1.7 Security

All animal enclosures except aquaria should be able to be securely fastened.

Measures should be taken to prevent escape of animals and entry of pests, other animals and unauthorised persons. Premises where animals are held unsupervised (for example overnight) must be secure.

3.1.8 Hygiene

Animal enclosures, their surrounds and any enclosed equipment including bedding should be kept clean so that the comfort of animals can be maintained and disease prevented. Enclosures other than aquaria should be disinfected thoroughly before introduction of replacement animals.

All animal enclosures other than aquaria should be cleaned at appropriate intervals, depending on the type and number of animals, so as to maintain the animals in a clean and healthy condition. Enclosures other than aquaria should be dry prior to reintroducing animals.

Cleaning and disinfecting agents should be chosen on the basis of their suitability, safety and effectiveness. They should be used strictly in accordance with the manufacturer's instructions, since too dilute a solution may be ineffective and too concentrated a solution may be toxic to animals.

Efforts should be made to effectively control pests including fleas, flies, lice, mosquitoes and wild rodents. Chemicals used for pest control should be registered under the *Agricultural and Veterinary Chemicals Code Act 1994* (Cth) and used only in accordance with the label.

Since pest control agents may adversely affect some animals, advice should be sought before pest control activities are carried out.

Faeces, soiled bedding, food wastes and animal bodies should be disposed of promptly and hygienically, and in accordance with the requirements of the *Environment*

Protection Act 1997. Waste products may be sealed in containers or plastic bags and deposited within a rubbish bin.⁵

3.2 Care

3.2.1 Nutrition

All animals should be provided with appropriate food and water sufficient to maintain them in good health. Sellers should ensure that the food is fresh, free from contamination, mould, insecticides or other potentially toxic substances. Food should be stored in a manner which best prevents its deterioration.

Animals should be fed appropriately for their species and age requirements. Most young animals require feeding at least three times daily. Reptiles, amphibians and fish should be fed regularly as appropriate to their needs. Sick animals should be fed in accordance with veterinary advice.

Feed and water containers must be:

- accessible to animals;
- stable;
- non-toxic; and
- easily cleaned.

Containers should be constructed and positioned to minimise the risk that they will be spilt, become contaminated with waste products or cause an animal to drown.

Food containers should be checked frequently to ensure that food of suitable quality and quantity is available. Spoiled food should be removed immediately.

3.2.2 Health

Animals should be protected from disease, distress, pain and injury. All owners and persons responsible for selling animals should be familiar with the signs of diseases that are common in the species of animals held.

Each animal's health and comfort should be monitored on a daily basis. During the inspection it should be noted whether the animal is:

- eating normally;
- drinking normally;
- defecating and urinating normally;
- behaving normally;

⁵ Animal carcasses must be disposed of in accordance with ACT legislation. Animal carcasses may be disposed of in a pit of appropriate depth on private property with the property owner's permission or at an ACT Government waste site on a fee-per-carcass basis.

- of normal appearance; and
- able to move about freely.

Animals should be given exercise, where relevant and appropriate. A dog, for example, should be exercised for 30 minutes a day at a minimum.

Animals should be vaccinated as appropriate for the species and the animal's age. Where vaccinations are required, the animal should be sold with proof of vaccination. External and internal parasites should be controlled by appropriate measures. Animals should be groomed in a manner and at intervals appropriate for the species.

Animals showing signs of disease, injury or distress must be isolated immediately and veterinary advice should be promptly sought, or other appropriate treatment undertaken in order to protect the welfare of the individual animal and prevent the spread of disease.

No animal known to be or suspected of being injured or diseased is to be offered for sale unless the seller informs the buyer of the condition of the animal. In circumstances where the animal dies and the cause of death is not obvious, it is advisable to seek veterinary advice.

Where recovery of a diseased or injured animal is unlikely, or treatment to restore health is not possible, practical or successful, the animals should be euthanased by a competent person and in the most appropriate and humane manner. Veterinary advice should be sought. Larger animals, including dogs and cats, should be euthanased by a veterinarian.⁶

3.2.3 Young animals

Puppies and kittens should not be removed from their mother earlier than eight weeks of age. For both species supplementary feed should be provided for the young from the age of three to four weeks. For all other species refer to the appropriate code of practice. Where no code of practice exists, it may be necessary to seek expert advice. The mother should have access to additional feed and water to ensure the nutritional requirements of the mother and young are met. Young animals, including birds, should not be received by a buyer until they are able to feed themselves unaided. An exception may be made where birds are specifically sold to people with relevant

⁶ It is an offence under the *Animal Welfare Act 1992*, with a maximum penalty of \$10,000 or imprisonment for one year, or both:

- to kill an animal in a manner that causes unnecessary pain; or
- to injure an animal and to fail to take reasonable steps (including, where appropriate, seeking veterinary treatment) to alleviate any pain suffered by the animal.

experience as eggs or hatchlings for hand-rearing, where permitted by legislation. In all other cases, sales should be limited to fully-feathered birds (including the downy chicks of domestic poultry).

4. Special requirements for animals sold for consumption

Basic approach: Animals such as crustaceans, fish and chickens sold for consumption as food must be killed by the least inhumane techniques currently known and by a person skilled in these techniques.⁷ This section deals only with how the animals are killed; the keeping of the animals up to the point where they are killed must be humane and in accordance with the other provisions of this Code. Some additional guidance is provided on keeping crustaceans, as there is currently no ACT code of practice relating to the care of crustaceans.⁸

S4. Killing of food animals - mandatory provision under section 23 of the *Animal Welfare Act 1992*

S4.1 Where an animal is killed prior to sale for consumption, the animal must be killed by the least inhumane techniques currently known and by a person skilled in these techniques.

S4.2 Where an animal is sold alive for consumption as food, the seller must provide advice to the buyer on the least inhumane means of killing the animal.

Additional information

The sellers of an animal intended for consumption should either kill the animal using these techniques before passing the carcass to the buyer, or advise the buyer of these techniques and of the requirement to use them in order to avoid breaching the *Animal Welfare Act*.

Crustaceans and fish offered for sale as food must be given proper care:

- Crustaceans for sale should not be bound to restrict the use of their legs. Claws on crustaceans may be restricted to prevent injuries to others;

⁷ The techniques that are currently considered the least inhumane for killing poultry can be found in the *Animal Welfare (Welfare of Poultry: Non-Commercial) Code of Practice 2010*.

⁸ The *Animal Welfare Act 1992* defines 'animal' to include a crustacean sold for human consumption. The welfare of crustaceans kept for other purposes, therefore, lies outside the scope of the Act.

- Crustaceans on sale for consumption, unless free moving within a tank, should be placed in a slurry of ice and water (or equivalent refrigeration achieved by other means) to ensure that the animal remains in torpor; the ice/water slurry should be constantly monitored and topped up; and
- Holding facilities should be appropriate for the species and the size of animal(s); stocking densities should be appropriate to the species, size and holding facility (including tanks for fish and crustaceans).

5. Transport

Basic approach: this section relates to the welfare of animals during transport from seller to buyer as well as the transport of animals solely by the seller. Further regulations apply to the importation of animals from interstate. Information can be accessed on the ACT Government website. Responsibility rests with the seller until the buyer receives the animal, unless a third party carrier is involved, in which case the carrier takes responsibility after receiving the animal from the seller up to passing the animal to the buyer.

S5. Transport of animals for sale purposes - mandatory provision under section 23 of the *Animal Welfare Act 1992*

S5.1 If an animal is to be transported the conditions under which it is transported must be such as would be reasonably expected to maintain the animal's welfare during the journey.

S5.2 When being transported all animals should be confined in a container suitable for the requirements of the species or otherwise suitably restrained to reduce the risk of self-induced trauma.

S5.3 Transport containers should be strong enough to withstand general handling, and stacking where that is likely to occur, and be constructed to provide reasonable ventilation, light and temperature regulation. Transport containers that are to be handled by a third party should indicate which way up the animal should be transported, and which parts of the container must not be blocked when containers are stacked because they provide light and ventilation.

S5.4 Transport containers that are to be handled by a third party should be clearly labelled with the time and date of departure. The container should have a label both on the top and at least one of the four sides with the name, address, and phone contact number of both the consignor and consignee as well as a label reading LIVE ANIMALS.

Additional information

As transporting animals causes stress, it should be kept to a minimum.

Food and water should be provided according to the appropriate code of practice for the species. Where no code of practice exists, it may be necessary to seek expert advice.

The seller, buyer, and if relevant the carrier share responsibility for ensuring that a delivery of an animal is completed safely and in a timely fashion.

In cases of third party handling, the consignor and consignee should confirm departure and arrival times of the animals with the carrier. In the event of delays or cancellations, it is the responsibility of the carrier to ensure the welfare of animals in transit in accordance with this Code.

5.1 Air

Transport by air should be in accordance with the *International Air Transportation Association Live Animal Regulations*.

6. Commercial Sellers of Animals

Basic approach: commercial sellers of animals must meet additional requirements because of the scale and permanence of their operations. These provisions are in addition to the requirements of the rest of this code.

S6. Commercial establishments offering animals for sale - mandatory provision under section 23 of the *Animal Welfare Act 1992*

S6.1 Where an animal (other than an aquatic animal) is returned to a commercial seller within three days of purchase, for any reason except as a result of injury to the animal while under the care of the buyer, the seller must take back the animal. For dogs, cats and larger animals, a written guarantee to that effect must be provided to the buyer at the time of sale.

S6.2 At any time when open for business, at least one staff member on duty must be experienced and knowledgeable in the care of the species of animals kept. In this provision, 'staff member' includes the proprietor.

S6.3 Commercial sellers must have a nominated veterinarian who can be called upon in an emergency or for advice. Veterinary care must be sought promptly as and when required.

S6.4 Managers of markets at which live animals are sold must ensure that each seller of live animals is provided with a copy of the Code.

S6.5 Managers of markets must keep a record of all sellers of live animals at their markets, including the names and contact details of the principals and an ABN if one is held.

Additional information

Commercial sellers include pet shops, commercial breeders, the RSPCA, DAS Animal Shelter and people selling animals as a commercial business in other locations such as at markets. Some are more extensive establishments than others, and the above provisions attempt to recognise that variability.

Pet shops are encouraged to forge relationships with the ACT's pounds and animal shelters so as to help in the sale and rehoming of stray, lost or abandoned animals.

6.1 Return of animal after sale

The requirement that a commercial establishment must take an animal back if returned within three days of purchase does not apply to fish and other aquatic animals, where problems of cross-infection may prevent the return of the animal to the tank, once sold. The buyer and the seller may wish to negotiate a partial or complete refund (which would not extend to accessories purchased at the same time).

6.2 Staff

The Manager of staff is responsible for the supervision of staff, whether they are working full-time or part-time and whether or not they are working for fee or reward.

All staff employed by a commercial seller should respect animals and exhibit the skills, knowledge and commitment required to care for them. Staff should be aware of their responsibilities and be competent to carry out their duties. It is required that at least one full-time member of staff (including for example the proprietor) should be experienced and knowledgeable in the care of the species of animals kept.

6.3 Safety

Appropriate fire fighting equipment must be readily available. Whoever is responsible for the animal while it is being held for sale should be trained and practised in its use and in the procedures for emergency evacuation of animals from the premises. Where the person responsible for implementing an emergency evacuation does not reside on the premises, a contact number should be prominently displayed.

6.4 Veterinary attention

All owners and staff of commercial sellers must be familiar with the signs of diseases that are common in the species of animals held. A commercial seller must have a nominated veterinarian who can be called upon in an emergency or for advice.

6.5 Animals sold at markets

It is common for animals to be sold at markets, sometimes on a casual or one-off basis, but at other times as part of an ongoing operation. Those who sell animals through such

venues are subject to this Code, but it may be more difficult to enforce, as many sellers operate from different venues at different times. The provisions above relating to market managers are aimed at dealing with this problem.

7. Special requirements – fish and crustaceans

Basic approach: these provisions in relation to fish and crustaceans are in addition to the other provisions of this Code. They will apply until a code of practice for the welfare of fish and crustaceans has been developed and approved. So far as the provisions relate to crustaceans they apply only to crustaceans held for sale for human consumption, because of the definition of ‘animal’ in the *Animal Welfare Act 1992*.

S7. Fish and crustaceans offered for sale - mandatory provision under section 23 of the *Animal Welfare Act 1992*

S7.1 Twenty-five per cent of the water in the aquaria must be replaced at least fortnightly or water maintained to a high quality through filtration or other technologies. Water chemistry must be checked at least weekly and appropriate measures taken to correct any imbalance.

S7.2 Tanks must be sheltered from excessive amounts of direct sunlight. Lids should be fitted or appropriate measures taken to prevent fish and crustaceans from jumping out of tanks

S7.3 Lights must be dimmed for at least eight hours a day. Filtration equipment should be working at all times

S7.4 All nets must be disinfected after use. Treatment of sick or injured animals must be by medications and other preparations appropriate for aquarium use. Antibiotics must only be used on veterinary advice and according to directions.

S7.5 When fish are to be captured, soft wet nets must be used. Live fish must not be touched with dry hands or a dry cloth.

S7.6 Containers or bags for transportation of fish must be watertight and used in such a way as to ensure maximum contact between air and the water surface. If fish are to be in plastic bags for more than two hours the bag must contain a high proportion of air (greater than 50%). Bags or containers must be transported in insulated containers if significant chilling or warming is possible.

Additional information

Earlier provisions relating to care of animals and, where relevant, commercial sellers, apply to sales of fish and crustaceans (where the latter are for human consumption). This section applies in addition to those provisions.

7.1 Tanks

Tank size should be in accordance with individual animals and the needs of the species and stocking rates should take account of water quality factors.

The temperature of the water should be appropriate to the requirements of the species.

All electrical equipment such as lights and heater thermostats should be checked regularly for correct performance. Lights should not be left on for more than 16 hours. At least 8 hours of darkness should be provided in each 24-hour period.

Where possible, environmental enrichment devices should be used. The provision of aquaria plants, rocks and shelters will allow animals to retreat when stressed.

7.2 Feeding and Health Care

Fish and crustaceans must be fed as often as required by the species. A balanced diet should be provided with the inclusion of appropriate plants for herbivorous species. Care should be taken not to over or under feed fish. Excessive feeding pollutes the water and may lead to the death of fish if not corrected.

Animals showing signs of illness should be separated from others to prevent possible spread of illness and any attack on weaker animals by healthy ones. Special attention is required to prevent the possible spread of disease.

7.3 Capture and Transport

Capturing fish for the purpose of sale should be done with soft wet nets. Under no circumstances should a live fish be touched with dry hands or a dry cloth. If a fish jumps or falls from a tank or net every care should be taken to capture the fish with wet hands or a wet net and return it to the tank.

When transporting live fish care needs to be taken to ensure that injury and stress are minimised. Transportation and translocation should also minimise significant or rapid changes in temperature.