



# Animal Protection Index (API) 2020

## New Zealand: ranking C

### Executive summary

New Zealand's main animal welfare legislation is the Animal Welfare Act 1999. Since the API was first published in 2014, the long title of the Act has been amended to recognise animal sentience for vertebrates, as well as some cephalopods and decapod crustaceans. 19 Codes of Welfare expand the basic obligations laid out in the Animal Welfare Act by setting minimum standards, as well as recommended best practices. To remedy the fact that the Codes are not directly enforceable, changes were made to the Act in 2015 to provide for the making of regulations which could be enforced. The Animal Welfare (Care and Procedures) Regulations were promulgated in 2018, outlining detailed and species-specific anti-cruelty requirements. These 2018 Regulations allow for better enforcement of low to medium animal welfare offending. These 2018 Regulations marginally improved pig welfare, notably by prohibiting sow stalls for longer than seven days per reproductive cycle and by mandating anaesthesia to be used during piglet castration. New Regulations enacted in 2016 continue the prohibition on the export of cattle, sheep, deer and goats (livestock) for slaughter unless approved by the Director-General of MPI, which in practice has dramatically reduced the live export of animals from New Zealand. Furthermore, the 2015 amendments to the Animal Welfare Act 1999 have banned the use of animal testing for cosmetic products and their ingredients.

However, there remains room for improvement in many domains related to animal welfare. Notably, the Codes of Welfare are not legally binding in themselves: breaches of minimum standards laid out in the Codes can only be used as evidence to support prosecution of animal welfare crimes. Moreover, the Codes undermine the purposes and principles of the Animal Welfare Act, by providing defences to conduct contrary to the Act. In addition, the fact that animal welfare falls within the remit of the Ministry for Primary Industries (MPI) indicates that economics is likely to be prioritised over animal welfare. Indeed, the MPI is primarily concerned with promoting and increasing exports, which conflicts with its animal welfare responsibilities. The New Zealand Society for the Prevention of Cruelty to Animals (RNZSPCA) is also entrusted with enforcing animal welfare. However, as an NGO, it has to fundraise to survive and hence it lacks extensive resources to carry out animal cruelty prosecutions, which ultimately leaves the vast majority of animal cruelty and neglect unreported. Regarding farm animals, broiler chickens are left out of the 2018 Regulations; it is still legal to keep hens in cages and to slaughter poultry without prior stunning. Confining pigs to farrowing crates is still legal. Other cruel practices are still allowed such as fur farming, the use of animals for entertainment – circuses, rodeos or greyhound racing, among others.

Animal welfare falls within the responsibility of the Ministry for Primary Industries (MPI), with the help of two other agencies at the national level. The National Animal Welfare Advisory Committee (NAWAC) has been established as an independent body to advise the Minister and is entrusted with preparing detailed rules on the treatment of animals. Furthermore, the National Animal Ethics Committee advises the MPI on issues relating to the use of animals in research, testing and teaching. NAWAC has repeatedly said its work is limited by lack of funding. It has made very slow progress on



producing regulations and has a very limited work programme each year due to its lack of adequate resources. MPI's monitoring of farms is similarly restricted by its lack of funding. In November 2019, one of the worst-known mass animal deaths in New Zealand history took place when 200,000 caged chickens died at a poultry farm after there was a power cut and a back-up system failed. MPI apparently was not aware of the catastrophe until notified by the media.

The Government of New Zealand is urged to outlaw cruel practices still occurring to animals in New Zealand. Namely, the Government of New Zealand is strongly encouraged to ban all piglet mutilations conducted without anaesthesia, and to outlaw farrowing crates altogether. Furthermore, the live export of animals should be fully banned due to the cruel conditions experienced by the animals during the transport process and the often inhumane slaughter of the animals at their destination. The live animal trade should be replaced by a meat only trade. The Government of New Zealand is urged to fully ban fur farming. Fur farming is inherently cruel and causes pain, distress and suffering to animals. Moreover, New Zealand is highly encouraged to ban the use of animals for entertainment purposes, which includes circuses, rodeos and greyhound racing. The Government of New Zealand is also encouraged to strengthen the current ban on animal testing for cosmetic, so as to include all cosmetic ingredients – at present, only ingredients which are only used for cosmetic products are forbidden to be tested on animals. In addition, the Government of New Zealand is strongly encouraged to appoint a Minister and Commissioner for Animal Welfare, and to allocate consistent funding for proper monitoring and enforcement of animal welfare standards. Further legal and policy recommendations are associated with each Animal Protection Index (API) indicator and contained in the relevant sections of this report.



## Animal Protection Index Indicators

### Goal 1: Recognition of animal sentience and prohibition of animal suffering

#### 1. Animal sentience is formally recognised in legislation

Analysis of the legislation	
Ranking	B
<p>In 2015, New Zealand amended the long title of the Animal Welfare Act 1999<sup>1</sup> to include sentience – the long title of the Act gives a more thorough description of the legislation’s purpose and effect. The long title now explicitly recognises that animals are sentient, and requires owners of animals, and persons in charge of animals, to attend properly to the welfare of those animals. The term ‘animal’ is defined as any mammal, bird, reptile, amphibian, fish, octopus, squid, crab, lobster, or crayfish (including freshwater crayfish) or any other species as declared by the Governor-General by Order in Council.</p> <p>Although the basic purposes and principles of the Animal Welfare Act are positive, widespread exceptions mean millions of animals – particularly farmed animals – are denied these legal protections.<sup>2</sup></p> <p>The New Zealand Animal Welfare Strategy ‘Animal welfare matters’, which sets out a high-level framework for how animals are treated in New Zealand, states that animals are sentient, can feel pain and distress, and that as a humane society we have responsibilities to ensure their needs are met.<sup>3</sup> ‘Animal welfare matters’ is a strategy, not a policy, as is confirmed by its subtitle ‘New Zealand Animal Welfare Strategy.’ The strategy is not legally enforceable and “is not aiming to lift animal welfare standards immediately from their current settings.”<sup>4</sup> The strategy states that it is “not a detailed action plan.”<sup>5</sup> The ‘Safeguarding our Animals, Safeguarding our Reputation’ is a programme to improve voluntary compliance with animal welfare laws by providing information and education.<sup>6</sup> However, MPI itself in other documents admits that verbal advice, educational information and warnings are not effective in halting frequent or repetitive offending of a lower level of seriousness.<sup>7</sup> For example, in relation to young calves, the Ministry said that, without direct consequences, the minority of people not attending properly to the animals’ welfare were likely to continue to do that.<sup>8</sup> In 2018, the Government published a four-part ‘Framework for action on animal welfare’ aimed at</p>	

<sup>1</sup> <http://www.legislation.govt.nz/act/public/1999/0142/latest/DLM49664.html>

<sup>2</sup> See sections 73 and 183A(2) of the Animal Welfare Act 1999 and the codes of welfare and regulations made under the Act.

<sup>3</sup> <http://www.mpi.govt.nz/dmsdocument/3963/send>

<sup>4</sup> Ibid, p 6.

<sup>5</sup> Ibid, p 9.

<sup>6</sup> Ministry for Primary Industries – Safeguarding our Animals, Safeguarding our Reputation  
<https://www.mpi.govt.nz/protection-and-response/animal-welfare/safeguarding-programme/>

<sup>7</sup> Ministry for Primary Industries – Animal Welfare (Calves) Regulations 2016 Regulatory Impact Statement, p 4.

<sup>8</sup> Ministry for Primary Industries – Animal Welfare (Calves) Regulations 2016 Regulatory Impact Statement, p 4.



improving New Zealand's animal welfare system and placing the country at the forefront of animal matters internationally. The framework is not legally enforceable.<sup>9</sup>

### Analysis

*It is positive that animal sentience is formally acknowledged at the beginning of the New Zealand's main animal protection legislation, the Animal Welfare Act 1999. Furthermore, the definitions of 'animals' is inclusive of vertebrates, as well as cephalopods and decapod crustaceans.*

*Although there is now a declaration of sentience in the Animal Welfare Act, neither the act itself nor other legislation and policies relating to animals effectively recognise sentience. They all continue to refer to animals as "it," rather than by their genders, and thus still imply that animals are inanimate objects, rather than living beings. The inclusion of sentience on the Declaration of the Animal Welfare Act does not provide legally-enforceable rights for animals. There is no definition of sentience in the Animal Welfare Act, meaning that the practical impact - if any - of including it in the legislation is unclear and could only be determined by bringing an expensive and time-consuming court challenge. There has never been a legal challenge about animal welfare laws in New Zealand. However, the first legal proceedings relating to animal welfare were filed in the High Court earlier this year in relation to pig farrowing crates by the New Zealand Animal Law Association and Save Animals from Exploitation.<sup>10</sup>*

*New Zealand has conferred legal personality on both land and a river. This was done by the Te Urewera Act 2014<sup>11</sup> and the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017.<sup>12</sup> Section 11 of the former Act provides that "Te Urewera is a legal person and has all the rights, powers, duties, and liabilities of a legal person." Section 14 of the latter Act makes the same statement in relation to Te Awa Tupua (the Whanganui River). There is accordingly a strong precedent in New Zealand for extending the granting of legal personality, but no government has even discussed granting it to animals.*

### Enforcement mechanisms

The Animal Welfare Act 1999 is the overarching law governing the protection and treatment of animals in New Zealand. Its long title states that it is an Act to reform the law relating to the welfare of animals and the prevention of their ill-treatment, including recognising their sentience and specifying permissible and impermissible conduct towards animals. Section 10 provides that owners and every person in charge of animals must ensure that their physical, health and behavioural needs are met in accordance with both good practice and scientific knowledge. However, the Act also provides for the creation of Codes of Welfare and regulations, which legally sanction conduct in breach of the basic purposes and principles of the Act. Millions of farmed New Zealand animals are accordingly

<sup>9</sup> Ministry for Primary Industries - Framework for action on animal welfare - <https://www.mpi.govt.nz/dmsdocument/29603-framework-for-action-on-animal-welfare-in-new-zealand>

<sup>10</sup> New Zealand Animal Law Association - SAFE and NZALA file proceedings against Government for failure to ban farrowing crates 12 February 2019 <http://nzala.org/farrowingcrates11feb19/>

<sup>11</sup> Te Urewera Act 2014 <http://www.legislation.govt.nz/act/public/2014/0051/latest/whole.html>

<sup>12</sup> Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 <http://www.legislation.govt.nz/act/public/2017/0007/latest/whole.html>



permitted by law to be deprived of their physical, health and behavioural needs. This is why the use of farrowing crates and hen cages, rodeos, permanent dog chaining, greyhound racing, goat tethering and other ill-treatment of animals continue. Section 73 further undermines animal welfare by providing that NAWAC – which is responsible for producing codes – may take into account practicality and economic impact. The 2015 amendments to the Act also inserted section 183A(2), which permits the making of regulations that do not fully meet the obligations of sections 10 or 11, or the obligations a person would need to observe in the treatment, transport or killing of animals to avoid committing offences against sections 12, 23 or 29. Section 182A(2) provides that regulations which do not meet these obligations can last for up to a total of 15 years.

The Act provides under Section 169 for people convicted of offences against animals to be disqualified from owning or exercising authority in respect of animals, but this provision is seldom used, and the ban periods are typically short.

The 2015 amendments to the Animal Welfare Act provided for the promulgation of regulations incorporating infringement offences, designed to overcome the problem of lack of enforceability of codes. However, progress in promulgating regulations has been extremely slow, as NAWAC has very limited resources to devote to making regulations.

**Key recommendations**

- **Since the API was first published in 2014, New Zealand has included animal sentience into law, as part of the long title to the Animal Welfare Act 1999. New Zealand should lead by example since it acknowledges that vertebrates, decapods and cephalopod crustaceans are sentient.**
- **However, the inclusion of sentience has been of no practical value in improving the treatment of animals. The basic purposes and principles of the Act are positive, but millions of farm animals are denied these protections by some very broad exceptions. Therefore, New Zealand should use the recognition of animal sentience to implement stronger animal protection provisions.**

**2. There are animal protection laws that prohibit causing animal suffering either by a deliberate act of cruelty or by a failure to act**

**Analysis of the legislation**

<b>Ranking</b>	<b>C</b>
<p>The Animal Welfare Act 1999 is the main animal welfare legislation in New Zealand. The stated purpose of the Animal Welfare Act is to ensure that owners of animals and those in charge of animals attend properly to the welfare of those animals (Section 9). The Act prohibits causing animals suffering through cruelty or failure to act. Sections 28, 28A, 10 and 11 specify obligations such as provision of food, water, shelter and treatment, and ban the wilful and reckless ill-treatment of animals and other</p>	



related offences. Section 10 creates a duty of care onto animal owners, who must ensure that the physical, health and behavioural needs of their animals are met, in accordance with good practice and scientific knowledge. Section 11 creates an obligation onto animal owners to alleviate pain or distress of ill or injured animals. Sections 28 and 28A respectively ban the wilful and reckless ill-treatment of animals. The legislation formally provides for the National Animal Welfare Advisory Committee (NAWAC)<sup>13</sup> and the National Animal Ethics Advisory Committee<sup>14</sup> (which were first established in the late 1980s).

The Crimes Act 1961<sup>15</sup> also bans deliberately causing disease or sickness to animals (section 298A).

Codes of Welfare expand on the basic obligations of the Animal Welfare Act by setting minimum standards. Breaches of minimum standards can be used as evidence to support prosecution of animal welfare crimes. Furthermore, Codes set out recommended best practices for the care and management of animals. These recommended best practices are not legally binding. A completely new set of Codes of Welfare was released and came into force on 1<sup>st</sup> October 2018.

To deal with the issue of Codes not being directly enforceable, changes were made to the Act in 2015 to provide for the making of regulations which could be enforced. In 2016, regulations were completed relating to bobby calves and the export of livestock for slaughter. The Animal Welfare (Care and Procedures) Regulations were promulgated in 2018.<sup>16</sup> Such Regulations outline detailed anti-cruelty requirements specific to species – e.g. the prohibition of killing calves by blunt force to head (Regulation 8) – and to circumstances – e.g. stock transport. In December 2019, MPI announced that a new set of regulations governing who could carry out surgical procedures on animals and how they must be done would come into force in May 2020.

### Analysis

*Part 1 of the Animal Welfare Act 1999 requires that scientific developments and good practice principles are taken into account to meet the needs of animals, including their physical, health and behavioural needs, which means that as further practices are recognised as cruel, these should be considered.*

*Part 2 of the Act lists requirements for conduct towards animals, and both wilful and reckless offences are recognised in sections 28 and 28A. Making the ill-treatment of animals a strict liability offence is symbolic of the tough stance that the New Zealand Government wishes to take. The government agency responsible for animal welfare, the Ministry for Primary Industries (MPI), is primarily concerned with promoting and increasing exports, which conflicts with its animal welfare responsibilities. It devotes only a tiny fraction of its budget to animal welfare. The other organisation dealing with animal welfare is the RNZSPCA, which is a non-governmental body that has to fundraise to survive. It has very few resources and carries out a wide range of different functions.<sup>17</sup> Enforcing animal welfare is only one of them and it lacks resources and expertise to prepare and carry out more than a very few*

<sup>13</sup> <https://www.mpi.govt.nz/protection-and-response/animal-welfare/national-animal-welfare-advisory-committee/>

<sup>14</sup> <https://www.mpi.govt.nz/protection-and-response/animal-welfare/national-animal-ethics-advisory-committee/>

<sup>15</sup> <http://www.legislation.govt.nz/act/public/1961/0043/latest/DLM327382.html>

<sup>16</sup> <http://www.legislation.govt.nz/regulation/public/2018/0050/latest/whole.html>

<sup>17</sup> <https://www.sPCA.nz/report-animal-cruelty>



prosecutions. The vast majority of animal cruelty and neglect goes unreported and undetected. MPI's On-Farm Verification programme involves the agency visiting farms to monitor them. In 2005 there were 12,786 dairy farms in New Zealand. MPI aims to visit 300 farms a year, meaning it would take more than 38 years for all dairy farms to be visited.<sup>18</sup> It is unclear whether the visits are notified in advance. If they are, cruelty and neglect are unlikely to be detected.

Additional funding for animal welfare compliance was provided in the Government's 2018/19 budget. This included substantially increasing SPCA funding and increasing the number of MPI animal welfare inspectors over four years. However, the number of animal welfare staff is and will remain very small. MPI employs 26 full-time animal welfare inspectors and the SPCA employs approximately 70. An additional 25 MPI compliance officers and 200 MPI vets also hold animal welfare warrants and work on animal welfare cases when needed. MPI is increasing the number of animal welfare inspectors and expects to have 34 by 2023.

The Animal welfare strategy released in 2013 shows the intention of New Zealand to follow closely and maintain adherence to international standards. It acknowledges that the humane treatment of animals will benefit New Zealand, including through financial benefits. It is apparent that the status of animals in New Zealand has moved beyond the traditional perception of being mere property to being worthy of having a duty of care placed on those who have control of animals – this was reinforced as the Animal Welfare Act was amended in 2015 to include animal sentience.

A Framework for Action on Animal Welfare was released in June 2018. It aims to ensure continued improvement of animal welfare in New Zealand. MPI is progressing a number of initiatives under the four pillars of capacity building, enhancing transparency, strengthening codes and an independent voice. This includes developing a shared communication strategy to ensure that people who handle or own animals understand standards and their responsibilities, and a review of monitoring and project approval in the use of animals in research, testing and teaching.

The basic purposes and principles of the Act are sound, but millions of farmed and other animals are denied their protection by huge exemptions which undermine the entire Act and place economics and practicality above animal welfare in many instances. The Codes have been disastrous for animals, as they set extremely low standards. Specific provisions in the Act – such as sections 73 and 183A(2) – provide for economic and practical matters to be taken into account.

Since the API was first published in 2014, New Zealand has passed regulations, such as the Animal Welfare (Care and Procedures) Regulations in 2018, to remedy the fact that Codes are not directly enforceable. Progress in making regulations as provided for by the 2015 amendments to the Act has been extremely slow, as it is hampered by lack of funding. By mid-2019, only three sets of regulations had been completed.

The way NAWAC interprets its role and carries out its work is also very problematic. It appears to balance the views of industry and animal advocates and seek to come down somewhere in the middle. This is contrary to the law. NAWAC should instead be referring to and applying the Act at every stage

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<sup>18</sup> Ministry for Primary Industries – MPI Verification Services On-Farm Verification programme.



of its work. There is no lawyer as a member of NAWAC. The ten members of NAWAC as listed online in April 2019 included two members involved in 'pest' control, one vet employed as product manager for a fertiliser company, a DairyNZ economist and former DairyNZ vet, and the national president of Federated Farmers. Since then the list has been updated to record that there is an SPCA representative, two vets, and a person involved in marine mammal research and welfare advocacy. There is no lawyer on the committee. The number of animal welfare representatives is small. Parliament's Regulations Review Committee in 2006<sup>19</sup> and 2016<sup>20</sup> examined and reported on complaints about NAWAC's approach to its work. The committee in 2006 upheld a complaint that hen battery cages did not comply with the obligations of the Act, but the then-Government ignored the report and permitted battery cages to continue to be used. In 2016, the committee examined a complaint about the layer hen code. It criticised NAWAC's failure to apply the Act to its work and cast doubt on NAWAC's use of an essential/non-essential test in respect of animal patterns of behaviour. Although the committee declined to uphold the complaint, it said there were deficiencies in NAWAC's approach to the statutory report required to accompany the layer hen code and that difficulties in applying the Act should be addressed in future. No government has acted on these findings.

Overall, there has been a pattern of very lenient sentences imposed by the courts for animal abuse and neglect for the entire time the Animal Welfare Act has been in force. The maximum sentence has never been imposed in any case, and it was years before any jail sentence at all was imposed, despite severe animal cruelty and neglect cases regularly coming before the courts. In 2009, Jeffrey Hurring was sentenced to a year in jail after killing a dog by strangling, pouring petrol on the animal and stuffing a pillow down the dog's throat. He then hit the dog on the head with a spade. Mr Hurring's 12-month jail term was reduced on appeal to 10 months. The maximum penalties for animal offences were increased in 2010, in a signal from Parliament to the courts that higher penalties should be imposed. The maximum three-year jail term was raised to five years and the maximum fine was doubled to \$100,000. However, sentences continue to be lenient. In 2012, two men convicted of 11 offences under the Act for killing 33 pet dogs in an attack described by the judge as inhumane and bloodthirsty, were each sentenced to six months' home detention and 300 hours of community work and ordered to pay reparation of \$4775. In 2013, two men who bludgeoned 23 seals to death, using steel pipes and inflicting crushed skulls and open wounds on them, were each sentenced to eight months' home detention and 200 hours of community work, despite the maximum penalty being five years' jail.<sup>21</sup> A list published on news website 'Stuff' records severe cases of farm animal cruelty and neglect which have received lenient sentences.<sup>22</sup> These include a 2012 case in which a farmer broke 115 cows' tails and beat cows repeatedly with steel milking cups and a three foot long steel bar and was not sentenced to jail. On appeal, a jail sentence was imposed. In a 2015 case, two farmers were not

<sup>19</sup> Regulations Review Committee - Final report on complaint about Animal Welfare (Layer Hens) Code of Welfare 2005, Report of the Regulations Review Committee, Forty-eighth Parliament (Dr Richard Worth, Chairperson), May 2006.

<sup>20</sup> Regulations Review Committee - Complaint about Animal Welfare (Layer Hens) Code of Welfare, Report of the Regulations Review Committee, 2016.

<sup>21</sup> Maclennan, C - Soft sentencing salt in animals' wounds, New Zealand Herald, 5 November 2013  
[https://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11151392](https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11151392)

<sup>22</sup> Maclennan, C - New Zealand has a long history of animal cruelty and neglect, [www.stuff.co.nz](http://www.stuff.co.nz) 28 June 2018  
<https://www.stuff.co.nz/business/farming/opinion/105077433/new-zealand-has-a-long-history-of-animal-cruelty-and-neglect>





sentenced to jail after 152 starving cows had to be euthanised, despite MPI saying it was one of the worst cases it had encountered.

Much of the animal cruelty and neglect which has been revealed in recent years has been uncovered by animal activists working with hidden cameras. Examples include footage of shocking treatment of pigs, cows, hens, rodeo animals and bobby calves (as previously mentioned) MPI did not detect any of this illegal behaviour. When the footage has been provided to MPI, it has almost always declined to prosecute. Research published in May 2019 found that the resources provided to MPI for animal welfare allowed it in 2018 to recommend prosecution in 26 cases – or two per cent – of the 1190 complaints received. The SPCA prosecuted 62 – or 0.4 per cent – of the complaints it received in 2017/18.<sup>23</sup>

A recent example of cruelty uncovered not by MPI but by someone else is a case in May 2019, involving a Taihape farmer being banned from owning, exercising authority over or being in charge of any farm animals for five years, after the deaths of dozens of ewes on his farm. William Chase pleaded guilty to four charges under the Animal Welfare Act, including, two charges of reckless ill-treatment of animals resulting in death. MPI animal welfare inspectors had responded to a complaint about animal welfare and found 30 ewes in various states of decomposition as well as dying ewes, 22 of whom were so emaciated they had to be euthanised to end their suffering. One third – 100 – of the remaining ewes on the property were assessed by a veterinarian as having body condition scores of one or less. Mr Chase was sentenced to three months' community detention.<sup>24</sup>

Many other breaches of the law are reported by members of the public, but in these cases, there are also very few prosecutions and MPI continues to rely on information and education to change behaviour, despite admitting that these are not effective strategies. A July 2017 Cabinet paper said that in the past three years, approximately 15,000 complaints about animal welfare had been received by MPI and the SPCA. Around 30% were not substantiated. Of the remaining 10,000 substantiated cases, less than 100 – or less than 1% – were prosecuted annually by both agencies. The remainder were dealt with through education and/or warning letters.<sup>25</sup> In a separate paper, MPI calculated that the level of complaints was very small in relation to the number of production animals. It put the figure at 0.0004 per cent and said that this served to illustrate that the level of offending against the number of animals in New Zealand was very small.<sup>26</sup> The Ministry said that it was therefore 'reasonable' to assume that most owners and people in charge of animals cared for their animals well. MPI did not acknowledge its own failure to monitor and detect ill-treatment, and the strong incentives to conceal rather than report criminal offending. The credibility of MPI's calculations is

<sup>23</sup> Rodriguez Ferrere, M, King, M, Larsen, L M – Animal Welfare in New Zealand – Oversight, Compliance and Enforcement, University of Otago, May 2019 <https://ourarchive.otago.ac.nz/handle/10523/9276>.

<sup>24</sup> MPI – Taihape farmer banned from owning sheep after convictions for reckless ill-treatment, 7 May 2019 <https://www.mpi.govt.nz/news-and-resources/media-releases/taihape-farmer-banned-from-owning-sheep-after-convictions-for-reckless-ill-treatment/>

<sup>25</sup> Guy, N – Proposed New Animal Welfare Regulations, Cabinet Economic Growth and Infrastructure Committee, Office of the Minister for Primary Industries, July 2017, p 3.

<sup>26</sup> Ministry for Primary Industries – Overview of required information – Animal Welfare Regulations 2017, Agency Disclosure Statement, July 2017, pp 16 – 17.



*undermined by the fact that it said there were more than 30 million production animals in New Zealand, when there are in fact over 160 million.*

*In 2019, there was a public outcry in New Zealand when pictures were published of cows in pastures with no grass, standing knee-deep in mud and in some cases giving birth in such conditions. This practice is described by farmers as "winter grazing." It involves sheep, beef cattle, dairy cattle and deer being held on a restricted area of pasture or crop at a high stocking density. The concern about animal welfare relating to winter grazing led the Government to speedily announce the appointment of a taskforce that made recommendations to improve the situation. However, it is concerning that MPI investigated and reported there were no welfare concerns, despite the Minister for Primary Industries saying the conditions were unacceptable and members of the public finding the treatment of the animals unacceptable.*

*It is disappointing that the surgical procedures regulations that will take effect in May 2020 merely provide rules for how such procedures are to be performed. Procedures that are painful and contrary to the animals' interests should be prohibited, rather than simply lessen the adverse impacts of these procedures on animals.*

### Enforcement mechanisms

There are sanctions for non-compliance with the Animal Welfare Act 1999 including fines and jail time for individuals, and higher fines for corporations. Ill-treatment of animals is a strict liability offence unless it can be proven that minimum guidelines have been complied with (Section 30). The Ministry for Primary Industries, the Royal New Zealand Society for the Prevention of Cruelty to Animals (RNZSPCA) and the police currently enforce the Act.

Changes to the Animal Welfare Act in 2015 significantly improved available enforcement mechanisms for compliance with the Act by expanding on the ability to make regulations under the Act, which specify mandatory and enforceable animal welfare standards.

A first set of regulations made under the new provisions came into force in August 2016. The next set came into force in October 2018 and a further set will take effect in May 2020, and more are planned to complement the Codes. Each regulation has an associated penalty. The penalty level is determined by whether the offence is an infringement offence (resulting in an infringement fee but no criminal conviction) or a prosecution under regulations (more serious than an infringement offence and may result in a criminal conviction). The court can impose a fine up to the maximum in the Regulations. There is no imprisonment for regulation offences.

Overall, whilst severe animal cruelty is covered under the Animal Welfare Act 1999, the Animal Welfare (Care and Procedures) Regulations 2018 allow better enforcement of low to medium animal welfare offending. Most of the Regulations have been applicable since 1<sup>st</sup> October 2018. Regulations around disbudding and dehorning cattle are delayed until 1<sup>st</sup> October 2019, to give animal owners and practitioners (such as veterinarians and contractors) time to prepare. Regulations, like the Codes, continue to permit conduct contrary to the basic purposes and principles of the Act.



Section 60 of the Act states that NAWAC must, as soon as practicable after 31<sup>st</sup> December of each year, provide to the Minister a report of its operations during the year. The most recent annual report on NAWAC’s website is for the year 1<sup>st</sup> January to 31<sup>st</sup>December 2017. It is dated October 2018 and was posted on the website in 2019.

**Key recommendations**

- **New Zealand has legislation that prohibits causing animal suffering either by a deliberate act of cruelty or by a failure to act. However, the basic purposes and principles of the Animal Welfare Act 1999 are undermined by the Codes of Welfare, the 2018 Regulations and specific provisions of the Act. All permit conduct that is contrary to the basic protections of the Act. New Zealand should repeal provisions which do not comply with the Act’s basic purposes and principles.**
- **Codes and Regulations legalise cruelty and permit the continuation of practices contrary to the basic thrust of the Act, such as hen cages, farrowing crates, greyhound racing and rodeos. The lack of attention to the law in the way in which NAWAC, the key agency responsible for preparing detailed rules for the treatment of animals, carries out its work has been criticised by Parliament’s Regulations Review Committee. New Zealand should pass a new Act protecting animals, which provides basic protections to all animals and does not allow for exceptions.**

**Goal 2: Presence of animal welfare legislation**

**3. There are laws that apply to animals used in farming including rearing, transport and slaughter**

**Analysis of legislation**

<b>Ranking</b>	<b>C</b>
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Rearing

Animals used in farming are protected by the Animal Welfare Act 1999, including the general anti-cruelty and duty of care provisions. Specific sections address surgical procedures and transport.

Codes created under the Act provide detailed standards for transport, painful husbandry procedures, commercial slaughter and specific requirements for farm animals.<sup>27</sup> There are Codes of welfare issued for dairy cattle, sheep and beef cattle, llamas and alpaca, goats and deer. There are also Codes for egg-laying hens, pigs and meat chickens.<sup>28</sup> Breaches of minimum standards laid out in the Codes can

<sup>27</sup> <https://www.mpi.govt.nz/protection-and-response/animal-welfare/codes-of-welfare>

<sup>28</sup> <https://www.mpi.govt.nz/protection-and-response/animal-welfare/codes-of-welfare/>



be used as evidence to support prosecutions. The recommended best practices highlighted in the Codes are, however, non-binding and not enforceable.

Since the API was first published in 2014, changes to the Animal Welfare Act in May 2015 gave MPI the ability to make regulations under the Animal Welfare Act, which are legally binding and enforceable. In 2016, regulations relating to the welfare of young calves and the export of live animals were introduced.<sup>29</sup>

### Rearing – pigs

Section 73 of the Act states that NAWAC, in considering draft Codes, must be satisfied that the proposed standards are the minimum necessary to ensure the purposes of the Animal Welfare Act and the recommendations for best practice are appropriate. Section 73(2) provides that, in preparing Codes, NAWAC must have regard to good practice, scientific knowledge and available technology. NAWAC has been in breach of that requirement in the production of almost all the Codes of Welfare. For instance, the pig Code of Welfare<sup>30</sup> allows the use of farrowing crates and fails to include a minimum standard of providing manipulatory material such as straw on the floors of housing systems, despite NAWAC recognising the advantages of doing so. The Committee said that, as a large number of New Zealand housing systems could not currently cater for the presence of straw due to the inability of drainage systems to cope with such material, a requirement to provide material would not be included in the Pig Code.

The 2018 Regulations allow for farrowing crates that are big enough for the pig to be able to stand and not touch one of the crate's sides (Regulation 26). The Regulations also prohibit sow stalls other than for mating, for no more than seven days per reproductive cycle (Regulation 27). Pigs' castration is prohibited unless it is done by a veterinarian and the animal is given pain relief. Tail docking for pigs is allowed without pain relief up to seven days' old. After seven days, the procedure must be performed by a veterinarian using pain relief.

### Rearing – broiler chickens

NAWAC has developed a Code of Welfare for Meat Chickens,<sup>31</sup> which entered into force on 1<sup>st</sup> October 2018. Minimum Standard No.10 addresses stocking density, stating that 'chickens must be managed at a stocking density that takes account of growth rate, competition for space, access to feeders and water, air temperature and quality, humidity, litter quality and activity levels, so as to maintain good health and welfare'. When chickens are reared in sheds, stocking density must not exceed 38kg/m<sup>2</sup>. When reared outdoors, the stocking density 'must not exceed the capacity of the outside area or cause overcrowding.' The 2018 Regulations do not address the welfare of broiler chickens.

### Rearing – egg-laying hens

<sup>29</sup> <https://www.mpi.govt.nz/law-and-policy/legal-overviews/animal-welfare/animal-welfare-regulations/>

<sup>30</sup> <https://www.mpi.govt.nz/dmsdocument/1445-pigs-animal-welfare-code-of-welfare>

<sup>31</sup> <https://www.mpi.govt.nz/dmsdocument/1441-meat-chickens-animal-welfare-code-of-welfare>



In relation to egg-laying hens, the Regulations introduce a phased prohibition on the use of conventional cages for layer hens (Regulation 21). The government had already released in 2012 the Animal Welfare (Layer Hens) Code of Welfare,<sup>32</sup> which bans the standard battery cage yet allows for a colony cage system. According to the 2018 Regulations, it is also prohibited to induce moulting in the hens (Regulation 22).

The Section 74 statutory report accompanying the egg-laying hen Code, dated 6<sup>th</sup> December 2012, states that NAWAC has reviewed the world's scientific literature and lists four-and-a-half pages of references.<sup>33</sup> However, 27 of the references relate to publications prior to 2000 – the oldest being published in 1984 and two dated 1986. The best practice recommended by NAWAC in respect of maximum ammonia levels in poultry houses was based on 2000 and 2007 international guidelines and was therefore dated.

NAWAC has also developed a distinction between 'essential' and 'non-essential' animal behaviours to justify keeping animals in conditions which do not allow them to display all normal patterns of behaviour.<sup>34</sup> The Animal Welfare Act does not recognise such a distinction and does not place any conditions on the requirement to provide for normal patterns of behaviour. The report acknowledges concerns about colony cages and states that they allow birds to 'perform a range of their normal behaviours'.<sup>35</sup> NAWAC concludes that colony cages are acceptable by ruling out some normal behaviours, which again is not in compliance with the Animal Welfare Act.

### Rearing – dairy cattle and calves

Regarding cattle, it is prohibited to stimulate milk let-down in a cow by inserting anything into the cow's vagina (Regulation 6). Tail docking is forbidden (Regulation 50) and castrating cattle beasts must be done when the animal is under 6 months-old (Regulation 53). A person must not disbud or dehorn a cattle beast unless throughout the procedure the cattle beast is under the influence of an appropriately placed and effective local anaesthetic (Regulations 57 and 58).

Regulations relating to the welfare of calves are found in the 2018 Animal Welfare (Codes and Procedures) Regulations. Notably, these regulations address the slaughter of young calves, specifying that calves must not be killed by using blunt force to the head.

NAWAC has also developed a Code of Welfare for Dairy Cattle, which entered into force on 1<sup>st</sup> October 2018.<sup>36</sup> Minimum Standard No.12 on restraint states that cattle who are tethered must be inspected at least once every 12 hours. Other welfare provisions concern feed and water, shelter and husbandry practices, among others.

In 2019, footage was published of cows standing in mud up past their knees in paddocks with no feed. This practice is known as 'winter grazing'. The footage showed calves lying in the mud. The

<sup>32</sup> <https://www.mpi.govt.nz/dmsdocument/1438-layerhens-animal-welfare-code-of-welfare>

<sup>33</sup> NAWAC – Animal Welfare (Layer Hens) Code of Welfare Report, 29 June 2012.

<sup>34</sup> Ibid, pp 9 - 10.

<sup>35</sup> Ibid, p 15.

<sup>36</sup> <https://www.mpi.govt.nz/dmsdocument/1415-dairy-cattle-animal-welfare-code-of-welfare>



Minister of Agriculture said that the conditions in which the animals were kept were unacceptable and set up a taskforce to recommend changes. The taskforce has not yet reported.

### Transport

NAWAC has developed a Code of Welfare for the Transport of Animals within New Zealand,<sup>37</sup> which entered into force on 1<sup>st</sup> October 2018. This Code lays out welfare-specific provisions regarding ventilation, feed, water and rest to be provided during the journey. Minimum Standard No.10 states that animals must be rested as required for the species, age, physical state and condition of the animal. Specific provisions are laid out depending on the mode of transport used (by road, train, water or air).

Regarding export of live animals, 2016 Regulations replaced the rules under the Customs Export Prohibition (Livestock for Slaughter) Order (CEPO) 2013.<sup>38</sup> The Regulations mean that the export of cattle, sheep, deer and goats (livestock) for slaughter cannot occur unless approved by the Director-General of MPI. No applications for the export of livestock for slaughter have been made or approved since 2007. In addition, the Director-General may require exporters to provide reports on the welfare of exported animals (during their journey and for up to 30 days post-arrival). These Regulations do not apply to poultry.

The 2018 Animal Welfare (Care and Procedures) Regulations added several mandatory requirements relating to the transport of livestock (Regulations 30 to 45). Most provisions relate to the requirement that transport should not occur in a manner that causes acute injury to the animal. Section 30 lays out that a person transporting a cattle, deer, sheep, goat or pig must not do in a manner that causes acute injury to the animal. Calves must not be transported for sale or slaughter if they are younger than 4 days old (Section 33); journeys for calves must last no longer than 12 hours (Section 34).

MPI in 2017 acknowledged that there was likely a significant level of under-reporting relating to the transporting of lame sheep.<sup>39</sup> Affected industry groups had said they believed that lameness was endemic in the national sheep flock and was difficult to control and identify.<sup>40</sup> The Ministry said that there were 30 to 40 cases of lameness in sheep identified at processing plants each year. However, research undertaken by the Ministry in 2013 found that approximately 1% of all sheep in the study transported for slaughter displayed lameness at the level to be targeted by proposed new 2018 Regulations. This was despite the fact that obligations relating to lameness in sheep were already spelt out in Codes. Extrapolating the 1% to the 24 million sheep slaughtered each year, MPI said that 240,000 sheep could be transported in a condition susceptible of infringement.<sup>41</sup> MPI said that the higher than anticipated levels of non-compliance in this area supported the need for regulation. However, the Ministry backed down on the content of the Regulations and said it would take an

<sup>37</sup> <https://www.mpi.govt.nz/dmsdocument/1441-meatchickensanimal-welfare-code-of-welfare>

<sup>38</sup> <http://www.legislation.govt.nz/regulation/public/2016/0173/latest/whole.html>

<sup>39</sup> Ministry for Primary Industries - Overview of required information - Animal Welfare Regulations 2017 Agency Disclosure Statement, July 2017, p 2.

<sup>40</sup> Ibid, p 17.

<sup>41</sup> Ibid, p 18.



educative approach in the first instance to assist affected farmers with voluntary compliance.<sup>42</sup> Weaker regulations took effect from 1 October 2018.

### Slaughter

NAWAC has developed a Code of Welfare for the Commercial Slaughter of Animals, which came into force on 1<sup>st</sup> October 2018.<sup>43</sup> Minimum Standard No. 6 requires that all large mammals must be stunned, so that they are immediately rendered insensible and must be maintained in this state until death. However, Minimum Standard No.15A, applicable to poultry, states that poultry may be slaughtered without prior stunning in accordance with Jewish religious requirements.

### Other relevant legislations

Importantly, these 2018 Regulations prohibit mulesing of sheep (Regulation 59), which consists of cutting a portion of skin from sheep backsides to prevent flystrike, often without painkillers.<sup>44</sup> Despite knowing as far back as 2012 that goat tethering and restraints were contrary to the Act as they prevented goats from displaying normal patterns of behaviour, NAWAC in 2018 issued a Code again allowing these practices and MPI proposed that new regulations would also allow them to continue.<sup>45</sup>

### Analysis

*There are multiple Codes setting recommendations and minimum standards for various areas of welfare relating to farmed animals, including husbandry, slaughter and transport. Codes of welfare are extensive and go into depth about the appropriate welfare standards expected. The initial codes were drafted by industry groups. The Pork Industry Board drafted the pig code; the Deer Farmers' Association drafted the deer code; the Poultry Industry Association drafted the broiler chicken code; and the Egg Producers' Federation drafted the layer hen code.<sup>46</sup> This is a clear conflict of interest as industries have a vested interest in downplaying animal welfare and permitting practices contrary to the Act to continue so they can reap economic benefits. Most of the Codes have been updated and the newest versions have entered into force on 1 October 2018.*

*Regarding pigs, it is positive that the 2018 Regulations limit the use of sow stalls to no more than seven days per reproductive cycle. It is also positive that castration cannot be conducted unless the animal is given pain relief. However, it is regrettable that other piglet mutilations are allowed to be performed without anaesthesia, such as tail-docking. Furthermore, regarding the provision of straw as bedding material, stating that a requirement for straw would not be included as current systems could not cope with it, is not a correct or legally valid approach to Code drafting.*

*Regarding broiler chickens, it is positive that the stocking density is limited to 38kg/m<sup>2</sup> in the Code of Welfare, however, since this Code is not directly enforceable, this limitation should be included in the 2018 Regulations, which are legally binding. The 2018 Animal Welfare (Codes and Procedures)*

<sup>42</sup> Ibid, p 18.

<sup>43</sup> <https://www.mpi.govt.nz/dmsdocument/1409-commercial-slaughter-animal-welfare-code-of-welfare>

<sup>44</sup> <https://www.livekindly.co/new-zealand-becomes-first-wool-producing-country-to-ban-sheep-mulesing/>

<sup>45</sup> NAWAC - Animal Welfare (Goats) Code of Welfare, p 9.

<sup>46</sup> Wells, N - Animal Law in New Zealand, Thomson Reuters, Wellington, 2011, p 284.



Regulations contribute to mainstreaming the welfare of farm animals, by laying out precise mandatory requirements that complement the Codes. Such Regulations leave out broiler chickens, which is rather surprising considering that they address the killing of crabs, rock lobsters, crayfish and koura (Regulation 11), which are less commonly mentioned in welfare regulations.

Regarding egg-laying hens, if the phasing out of battery cages is an incremental positive step for the welfare of animals, the use of colony cages is still allowed. When reared in cages, hens are unable to perform natural behaviours. Therefore, this goes against the very purpose of the Animal Welfare Act.

Regarding dairy cattle and calves, it is positive that 2018 Regulations address specific welfare issues. However, the tethering of cows is still allowed, and the Code of Welfare for Dairy Cattle recommends inspecting tethered cows only once in 12 hours, which is a really long time.

Regarding animal transport, it is positive that the live export of cattle, sheep, deer and goats for slaughter can only occur if approved by the Director-General of MPI. In practice, this has meant that since 2007, no live export of these animals for slaughter has occurred. However live exports for breeding are permitted and New Zealand exports large numbers of live animals every year. In 2018, over 2 million, day-old chicks were exported live out of the country. Large numbers of sheep and cows are also exported live. Pregnant ewes were air freighted to the Middle East, and most of their lambs died soon after birth. There has also been concern about New Zealand animals exported to Mexico and Malaysia.<sup>47</sup>

Regarding slaughter, the Code on the commercial slaughter of animals requires that slaughter personnel must be competent and requires that priority should be given for slaughter of dairy cattle calves, milk lambs and heavily lactating animals. However, it is very concerning that it is still allowed to slaughter non-stunned chickens. Humane slaughter should be mandated for all species.

The Animal Welfare Amendment Act (2015) provided for the making of new regulations containing mandatory standards for live animal exports, with offences and penalties for non-compliance, and replaced the existing Customs Exports Prohibition (Livestock for Slaughter) Order. However, there are calls for an outright ban on all live animal exports, since animals are exported to countries whose animal welfare standards do not meet New Zealand's standards.<sup>48</sup>

Prior to issuing the first set of regulations on young calves' welfare and on the export of live animals in 2016, the government launched a public consultation on more than 91 proposals for animal welfare regulations on live animal exports, care and conduct towards animals, as well as surgical and painful procedures.<sup>49</sup> This demonstrates the government's intent to include the public in the animal welfare debate. The impetus regulations specifically relating to calves was not concerned either by MPI or the Government about the welfare of calves, but rather by a public outcry following a national television programme showing appalling abuse of calves. Undercover footage of the treatment of calves on

<sup>47</sup> <https://www.mpi.govt.nz/dmsdocument/29966live-animal-and-germplasm-export-statistics-2018/sitemap>

<sup>48</sup> <https://www.stuff.co.nz/business/farming/110207316/calls-for-ban-on-live-animal-exports-as-europe-moves-to-tighten-rules>

<sup>49</sup> <https://www.mpi.govt.nz/law-and-policy/legal-overviews/animal-welfare/animal-welfare-regulations/>





farms and at slaughterhouses was filmed by animal activists and state broadcast on Television New Zealand's 'Sunday' programme in November 2015. It showed calves being tossed onto a stock truck (akin to sacks of potatoes), deliberate and repeated kicking of calves, and animals being thrown down onto concrete. The pictures were shot on 10 different farms, so the cruelty was not isolated or one-off.<sup>50</sup> A worker who was secretly filmed kicking, hitting and throwing bobby calves while working in a slaughterhouse was convicted for his cruelty. He was initially sentenced to 10 months' home detention and 200 hours of community work but, following an appeal, was sentenced to jail.<sup>51</sup>

In April 2019, an investigation was begun after hundreds of New Zealand and Australian cattle died after being exported to Sri Lanka. 5,000 animals were exported to Sri Lanka, including 2,000 from New Zealand, and 10% died. MPI said it did not have jurisdiction after animals arrived at their destination. There were no shipments of New Zealand cattle to Sri Lanka in 2018 after concern about the fate of 2,000 New Zealand cattle sent there in 2017.<sup>52</sup>

The 2015 amendments to the Animal Welfare Act contributed to improving animal welfare by providing for the making of legally enforceable regulations. There seems to be a very slowly increasing social acceptance and demand for higher welfare products. For instance, supermarkets have pledged not to source eggs from colony cages from 2024 (Countdown, Fresh Choice and Super Value) and 2027 (for Foodstuffs and Pak'n'Save).<sup>53</sup> This suggests that there is a societal environment receptive to some calls for enhancing welfare standards. However, New Zealand's long tradition of farming animals and the associated culture of treating animals as objects and there to make money

for humans, continue to heavily influence the country's culture and significantly hamper the better treatment of animals.

### Enforcement mechanisms

There are sanctions for not adhering to legislative standards in the Animal Welfare Act 1999, including the revocation of veterinary certificates for improperly performed procedures. Where animals are exported in conditions below the required standards, there is provision for fines and imprisonment. The Director-General may delegate his or her powers of inspection to other bodies and impose conditions on export certificates including powers of inspection, powers to seize animals, to take steps or order steps to be taken to prevent animal suffering and keep the animals until forfeited to the Crown or returned (section 53).

The Codes specific to species and different industries have indirect legal effect as they can be used as evidence of failure to meet standards in prosecutions brought under the Act.

<sup>50</sup> Television New Zealand, 30 November 2015 <https://www.tvnz.co.nz/one-news/new-zealand/irate-animal-rights-activists-threaten-to-send-footage-of-bobby-calves-uk-media>

<sup>51</sup> Cruelty to bobby calves results in jail time after appeal, New Zealand Herald, 8 November 2016 [https://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11743817](https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11743817)

<sup>52</sup> Hundreds of New Zealand and Australian cattle die in export deal. Radio New Zealand 4 April 2019 <https://www.radionz.co.nz/news/national/386342/hundreds-of-new-zealand-and-australian-cattle-die-in-export-deal>

<sup>53</sup> <https://www.stuff.co.nz/business/farming/109969799/new-rules-on-hen-cages-and-rising-feed-costs-lift-egg-prices>



The Animal Welfare Amendment Act 2015 paved the way for the introduction of enforceable regulations to complement the codes of Welfare by providing mandatory and enforceable standards in respect of specific species and different industries.

Each Regulation made under the 2015 amendment to the Animal Welfare Act has an associated penalty. The penalty level is determined by whether the offence is an infringement offence – resulting in an infringement fee but no criminal conviction – or a prosecution under regulations – which is more serious than an infringement offence and may result in a criminal conviction. The court can impose a fine up to the maximum in the Regulations. There is no imprisonment for regulation offences.

### Key recommendations

- Farm animal welfare is addressed under the 1999 Animal Welfare Act – establishing basic anti-cruelty requirements – as well as Codes of Welfare, which lay out detailed species-specific minimum standards. Such minimum standards can be used during prosecutions for breaches of animal welfare requirements. However, the Codes are not directly enforceable, and their recommended best practices are non-binding. Since the API was first published in 2014, the Government has passed 2015 amendments to provide for the making of regulations which are enforceable. However, very broad exceptions mean that both codes and regulations continue to sanction and legalise cruel behaviour contrary to the basic provisions of the Act, such as hen cages, rodeos, greyhound and horse racing, and pig farrowing crates.
- The Government of New Zealand is encouraged to consider a ban on all types of cages for laying hens, including colony systems.
- The Government of New Zealand is strongly encouraged to mandate surveillance at slaughter facilities, to ensure anti-cruelty legislation is respected.
- Building on current restrictions, the Government of New Zealand is urged to mandate the humane slaughter of all farm animals. Animals should be instantaneously rendered unconscious and insensible to pain and distress prior to slaughter. Today, there is growing consensus amongst religious authorities worldwide that pre-slaughter stunning is compatible with religious principles.<sup>54</sup> Humane halal slaughter allows for the animal to be temporarily rendered unconscious via stunning prior to slaughter, as long as the animal's skull remains intact and the animal would regain consciousness in time should slaughter not occur. Therefore, animals should be unconscious before being bled, and no further processing should occur until irreversible loss of consciousness is confirmed. No animal should be forced to witness other animals being slaughtered as this is inherently distressing.

<sup>54</sup> [http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20\(Halal%20and%20Kosher\)](http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20(Halal%20and%20Kosher))

#### 4. There are laws that apply to animals in captivity

Analysis of the legislation	
Ranking	C
<p>The general anti-cruelty and duty of care provisions of the Animal Welfare Act 1999 apply to this category of animals. In particular, Article 30A of the Act prohibits the ill-treatment of animals in a wild state, including those in captivity.</p> <p><u>Zoos</u></p> <p>The Wild Animal Control Act 1977<sup>55</sup> specifies that a permit or a licence is required to keep an animal for the purpose of any zoo.</p> <p>There is also a Code of Welfare dedicated to animals kept in zoos.<sup>56</sup> Since the API was first published in 2014, the 2005 Code was replaced in 2018. However, the 2018 Code was simply a technical re-enactment. No research was done and the substantive provisions of the 2005 Code were not updated.</p> <p>The Code contains 16 minimum standards, among which are provisions on staff training, enclosure design, controlled breeding and daily activities at the zoo. The Code lays out that animals should be kept in appropriate social groups. The Code states that ‘the method of containment must not cause harm to animals’ (Standard No.7) and that animals ‘must not be routinely tethered except for safety or demonstration reasons, in emergencies, or to facilitate management practices directly benefiting the animal’ (Standard No.11). Standard No.2 mandates daily inspections of animals, except in situations where such inspections would infringe upon their welfare. However, the Code still allows interaction with the public and animal performances. It is mentioned that ‘animals must not be forced to perform where this would cause them undue stress or negatively impact on their physical or mental health’ (Standard No.12).</p> <p>Recommendations are provided where it is desirable to exceed the minimum standard, but these are not legally enforceable. The Animal Welfare (Care and Procedures) Regulations 2018 do not directly address the welfare of wild animals in captivity.</p> <p>Section 74 of the report prepared in respect of the 2005 zoo Code listed only eight references or studies consulted by NAWAC in preparing the Code.<sup>57</sup> The articles ranged between three and 12 pages long. The report said that, due to the wide range of species held in New Zealand zoos, the Code did not attempt to cover individual species but established minimum standards and best practice applying to all species. Section 4 of the Act states that the needs of animals must be met in a way ‘which, in each case, is appropriate to the species.’</p>	

<sup>55</sup> <http://www.legislation.govt.nz/act/public/1977/0111/latest/DLM17209.html>

<sup>56</sup> <https://www.mpi.govt.nz/dmsdocument/1455/loggedIn>

<sup>57</sup> NAWAC - Animal Welfare (Zoos) Code of Welfare 2004 Report.



A new zoo Code took effect in 2018 without public notification or consultation or any updating of the substance of the Code, or any account being taken of scientific developments in the past 13 years.

The Marine Mammals Protection Act 1978<sup>58</sup> bans the ownership of marine animals without a permit. However, the New Zealand Government has, thus far, declined to enshrine a prohibition against marine mammals in captivity in law. Furthermore, Section 2.3 of the zoo Code states that 'a marine mammal must not be taken from the wild unless a permit has been obtained from the Director-General of Conservation'.

### Private keeping of wild animals

Section 12 of the Wild Animal Control Act 1977 states that unless permitted, it is prohibited to capture or keep in captivity any wild animal for farming, zoo or safari park purposes (where safari parks are generally used for recreational hunting). However, private ownership of wild animals as companion animals is not addressed in this legislation.

Furthermore, there is no definition of companion animals in the Animal Welfare Act 1999.

### Fur farming

While New Zealand prohibits the import of minks, fur farming of ferrets is still allowed.<sup>59</sup> There are no animals farmed for fur in New Zealand. Strict controls around farming species such as ferrets would mean permission would be required under the Biosecurity Act 1993 and the Wildlife Act 1953. No such permissions have been granted.

### Analysis

*The Animal Welfare Act applies to captive animals and forbids the ill-treatment of wild animals in captivity. Beyond this broad consideration, the zoo Code provides more detailed minimum standards and recommended practices. However, this Code has not been updated in detail since 2005 and was based on very little scientific research when it was developed.*

*New Zealand's attitude to keeping animals in zoos is very outdated. For example, it is still considered acceptable for elephants to be imported into New Zealand, despite the fact that both the international travel and the confined conditions they face living in New Zealand are contrary to their welfare.<sup>60</sup> Auckland Council's finance and performance committee in 2017 approved NZD\$1.6 million to bring an elephant from Sri Lanka to Auckland. In 2015, Auckland Council gave Auckland Zoo a NZD\$3.2 million loan so it could bring two elephants to New Zealand.*

*The fact that New Zealand law still allows fur farming tarnishes the country's reputation regarding animal welfare standards. Fur farming should be banned by law.*

<sup>58</sup> <http://www.legislation.govt.nz/act/public/1978/0080/latest/DLM25111.html>

<sup>59</sup> <https://safe.org.nz/fur-new-zealand>

<sup>60</sup> Te, M - Where is Auckland Zoo's \$1.6 million elephant? New Zealand Herald, 27 March 2019  
<https://www.stuff.co.nz/auckland/111546642/where-is-auckland-zoo-s-16-million-elephant>



**Enforcement mechanisms**

The basic welfare needs of captive animals are covered by the Animal Welfare Act 1999. There is some evidence of the Government providing guidance on the expected conditions to be maintained for animals used in zoos, through the zoo Code. Although these levels of guidance are not directly legally enforceable, they have some enforcement status as they can be used as evidence of whether minimum standards are met, should proceedings be brought against an alleged offender.

**Key recommendations**

- **New Zealand’s key piece of animal welfare legislation, the Animal Welfare Act 1999, provides broad anti-cruelty provisions for animals in captivity. There is also a Code of Welfare for animals kept in zoos, which has not been substantively updated since 2005. The Code lays out welfare standards which are not directly enforceable, but which can be used as evidence in prosecutions.**
- **The Government of New Zealand is encouraged to pursue regular-random inspections of zoo facilities, in order to verify their compliance with the Animal Welfare Act and the minimum standards laid out in the Code. The results of zoo inspections should be made publicly available.**
- **The Government of New Zealand is encouraged to enact a prohibition against keeping marine mammals in captivity. Moreover, the wild capture of marine mammals should be fully forbidden.**
- **Fur farming is inherently cruel and causes pain, distress and suffering to animals. Therefore, the Government of New Zealand is urged to immediately ban fur farming for all species.**

**5. There are laws that apply to companion animals**

**Analysis of the legislation**

Ranking	D
<p><u>Care of companion animals</u></p> <p>As well as the general provisions under the Animal Welfare Act 1999 that provide for a basic duty of care for animals and the prohibition of ill-treatment, the Animal Welfare Act 1999 prohibits both a wilful ill-treatment (Section 28) and a reckless ill-treatment of animals (Section 28A). However, it is not clear whether this duty of care encompasses a failure to act.</p> <p>The Animal Welfare Act 1999 also contains specific provisions relating to companion animals such as debarking of dogs and declawing of cats. Both are considered ‘restricted surgical procedures’</p>	



(Section 2) which can be performed only by a veterinarian, when the veterinarian is satisfied that the procedure 'is in the interests of the animal' (Section 17).

Furthermore, there are Codes relating to companion cats (the Animal Welfare (Companion Cats) Code of Welfare<sup>61</sup>) and dogs (Animal Welfare (Dogs) Code of Welfare<sup>62</sup>) and the temporary housing of companion animals that provide guidance on animal welfare standards. Although these recommendations are not legally enforceable, they can be used to as evidence of substandard welfare in a prosecution.

The Companion Cat Code of Welfare lays out provisions on food and water, housing, transport, health and breeding of cats. The desexing of cats is encouraged, prior to the sale or adoption of cats. Minimum Standard No.6 lays out that kittens may not be taken away from their mothers before 8 weeks of age. Minimum Standard No.11 states that when a cat is euthanised, the operation must be carried out in such a way as to ensure that death occurs quickly, and that pain and distress is minimised. Cats must not be killed by drowning.

The Dogs Code of Welfare outlines similar requirements regarding food and water requirements, housing, transport, health and breeding. The recommended practices state that puppies should not be removed from their mother before four weeks of age. People supplying puppies must inform the person receiving them of any inherited disorders that the puppy or adult dog may be predisposed to. Minimum Standard No.21 states that when a dog is euthanised, the operation must be carried out in such a way as to ensure that death occurs quickly, and that pain and distress is minimised. Dogs must not be killed by drowning.

Since the API was first published in 2014, the Government of New Zealand has enacted the Animal Welfare Care and Procedures Regulations in 2018, which include specific provisions relating to companion animals. In particular, the Regulations state that a muzzle on a dog must not cause a high degree of suffering, dogs must have dry and shaded shelter and that their welfare must be ensured in vehicles. The Regulations prohibit tail docking for dogs and the removal of a front limb first digit (dew claw), unless it is performed by a veterinarian and the dog is given pain relief (Section 56). It is not specified whether the veterinarian must consider that it is in the animal's interest to perform such operations. Finally, the Regulations also state that the use of collars and tethers shall not cause a high degree of suffering (i.e. bleeding, swelling, preventing the animal from breathing or drinking). Such Regulations are legally binding and their breach constitutes an offence subject to a fine.

In addition, the Dog Control Act 1996<sup>63</sup> iterates a list of obligations onto dog owners, which include registration of the dog.

Breeders and sellers do not currently need a license to sell companion animals in New Zealand.<sup>64</sup>

<sup>61</sup> <https://www.mpi.govt.nz/dmsdocument/1413-companion-cats-animal-welfare-code-of-welfare>

<sup>62</sup> <https://www.mpi.govt.nz/dmsdocument/1428-dogs-animal-welfare-codes-of-welfare>

<sup>63</sup> <http://www.legislation.govt.nz/act/public/1996/0013/latest/whole.html#DLM374486>

<sup>64</sup> <https://www.stuff.co.nz/national/100685428/breeding-and-selling-companion-animals-largely-unregulated-in-nz>



### Stray animals

The Animal Welfare Act 1999 provides that any traps set must be checked daily within 12 hours after sunrise, commencing from the day after the trap is first set. Any animal caught must be attended to without delay (Section 36).

Part 12 of the Companion Cat Code of Welfare is dedicated to stray cats. The Government acknowledges that since New Zealand has one of the highest rates of cat ownership in the world, it is 'not surprising' that there are correspondingly high number of stray cats. Some colonies of stray cats are managed by either an individual or a local council, and should include means of identification; provision of food, water and access to shelter; a vaccination and parasite programme; provision of veterinary treatment; a desexing programme; and a long-term management strategy including continuity of care. Further information on management of cat colonies can be obtained from the SPCA. With regards to trapping, the Code sets out that 'any trapped cat must be provided with basic care to meet the requirements of the [Animal Welfare] Act or be released if it is uninjured or be killed humanely if it is a feral cat'. No other legislation has been found regarding stray dogs.

### Analysis

*It is positive that the government has produced policy and minimum standards in this area, including Codes of Welfare for cats and dogs and the temporary housing of companion animals. The fact that the Government has produced Codes of Welfare for the most common companion animals shows that there is intent to acknowledge the welfare of companion animals as an important issue. In fact, Codes of Welfare have recommended best practices, which set out standards of care and conduct above the minimum required to meet the obligations in the Animal Welfare Act. Through such Codes, the Government encourages higher standards of animal welfare.*

*However, these Codes of Welfare are not directly enforceable, contrary to the Animal Welfare Act. The Ministry for Primary Industries justifies that the codes are separate from the Act since 'with so many different types of animals and situations, it is impractical to include them all in the Act - it would make for lengthy and unwieldy legislation'.<sup>65</sup>*

*Killing or managing unowned animals - whether they live in a wild state or receive some care from humans - and the hunting or killing of animals in a wild state are regulated under the Animal Welfare Act. The Companion Cats Code of Welfare covers owned and unowned cats. However, feral cats are not included in the protections of the Companion Cats Code of Welfare. It provides that feral cats may be defined as pests under the Biosecurity Act 1993 and may be subject to a pest management strategy.*

*The New Zealand Companion Animal Council (NZCAC) was established in 1996 as a forum to 'facilitate relationships between animals, humans and the environment'.<sup>66</sup> The Council is an umbrella organisation gathering actors concerned by animal welfare, namely university and polytechnic departments, companion animal rescues and other charities, local government animal control departments, veterinary practices, pet stores, pet insurance companies, and pharmaceutical*

<sup>65</sup> <https://www.mpi.govt.nz/protection-and-response/animal-welfare/codes-of-welfare>

<sup>66</sup> <http://nzcac.org.nz/>



companies.<sup>67</sup> According to NZCAC's 2016 report, the 4.6 million pets present in the country outnumber people.<sup>68</sup> 64% of New Zealand households are home to at least one companion animal. There is also broad social support for animal welfare, with increasing expenditures for products and services ensuring the wellbeing of companion animals.

However, the main body responsible for the welfare of companion animals is the RNZSPCA, which is a private charity. It relies on bequests and donations for funding to carry out its work and receives very limited funding from the Government. This is the reason there are so few prosecutions in relation to cruelty to companion animals, and also the reason many complaints of cruelty are not followed up or investigated – the SPCA simply does not have the funding to do this work. Lack of funding, New Zealand's cultural tolerance for high levels of cruelty to animals and its farming history all act as handbrakes on better treatment of animals.

### Enforcement mechanisms

The Animal Welfare Act 1999 contains enforceable basic requirements for all animals, such as providing for animals' health and behavioural needs and alleviating any distress or illness. Codes of Welfare provide guidance relating to companion animals and exceeding the legislative minimum. Although these recommendations are not legally enforceable, they can be used to as evidence of substandard welfare in a prosecution. Additionally, the regulations covering dogs provide an enforcement mechanism to punish low and medium level offending.

The enforcement of animal cruelty offences committed against companion animals is left to a private charity, the Royal Society for the Prevention of Cruelty to Animals (RNZSPCA), which is the only charity in New Zealand with statutory powers.<sup>69</sup> Relying on a charity with limited resources to enforce criminal law undermines the effectiveness of the Animal Welfare Act, resulting in a low number of prosecutions of animal welfare crimes.<sup>70</sup> For instance, in 2013, it is reported that the RNZSPCA animal welfare inspectors received 13,542 complaints from the public reporting animal cruelty but took only 67 prosecutions.<sup>71</sup>

Having said that, the RNZSCPA reports that new regulations brought by the 2015 amendment to the Animal Welfare Act make it easier for MPI and SPCA inspectors to take action against medium and lower-level offending. For instance, for most rules laid out in the Animal Welfare (Care and Procedures) Regulations 2018, anyone who fails to comply with these regulations commits an offence and is liable on conviction to a fine not exceeding NZD\$900.

Any breach of Section 36 of the Animal Welfare Act 1999 relating to traps, whereby the person would fail to remove an animal caught in that trap or would fail to attend properly to the care of the

<sup>67</sup> <https://www.companionanimals.nz/what-we-do>

<sup>68</sup> [https://www.nzvna.org.nz/site/nzvna/files/Documents/Companion%20Animals\\_in\\_New\\_Zealand\\_2016\\_Report\\_web.pdf](https://www.nzvna.org.nz/site/nzvna/files/Documents/Companion%20Animals_in_New_Zealand_2016_Report_web.pdf)

<sup>69</sup> <https://www.sPCA.nz/news-and-events/news-article/new-animal-welfare-regulations-announced-what-this-means-for-sPCA>

<sup>70</sup> <https://www.stuff.co.nz/the-press/news/92556879/enforcement-of-new-zealands-animal-welfare-act-inadequate>

<sup>71</sup> <https://www.lawsociety.org.nz/law-society-services/young-lawyers/auckland-young-lawyers/news-archive/interview-with-danielle-duffield-from-the-nz-animal-law-association>





animal or kill the animal without delay, commits an offence and is liable to a fine not exceeding of NZD\$5,000.

Section 12C(1) of the Wild Animal Control Act 1977 grants power to an employee of the Department or a responsible Ministry to inspect any regulated deer farm or safari park to ensure that it complies with the requirements prescribed by the Act, with costs recoverable from the permit holder (Section 12C(2)). It also grants the power of warranted officers to make inspections (Section 13) which allow them to exercise powers of search and seizure.

### Key recommendations

- New Zealand has basic anti-cruelty legislation for animals, including for companion animals, in its Animal Welfare Act 1999. More precise best practice recommendations are outlined in various Codes of Welfare. However, such Codes are not directly enforceable. New Zealand is encouraged to incorporate higher standards of welfare in enforceable regulations. It has started to do so with the enactment of the Animal Welfare (Care and Procedures Regulations) 2018, which added legally binding requirements to the welfare of companion animals, by prohibiting cruelty towards dogs in specific scenarios. Moreover, the Government of New Zealand is strongly encouraged to include a failure to act in the definition of animal cruelty. The abandonment of companion animals should also be forbidden in legislation.
- The Government of New Zealand is invited to promote responsible pet ownership, with encouraging adoption over the purchase of pets. The Government should legislate to require all companion animals being bought or adopted to first be desexed. There should be extremely stringent controls on breeding companion animals, and pet shops should be allowed to sell only rescued animals.
- The Government of New Zealand is strongly encouraged to promote humane stray animal population management, which relies on promoting responsible ownership, mass vaccinations and reproduction control programmes. Culling has been scientifically proven to be ineffective and should therefore be banned.
- The Government of New Zealand is encouraged to allocate sufficient resources to the prosecution of animal welfare crimes, through the RNZSPCA or through appointed government officers.

## 6. There are laws that apply to animals used for draught or recreational purposes

**Analysis of the legislation**

Ranking	E
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Animals used for entertainment

The Animal Welfare Act 1999, including the general anti-cruelty and duty of care provisions, applies to this category of animals. Section 31 of the Act lays out that a person commits an offence through training, breeding, selling or transporting an animal intended to be used in an animal fight. Animal fighting ventures are forbidden, as these include a fight between at least 2 animals and is conducted for the purposes of sport, wagering, or entertainment, but these do not include the use of one or more animals to hunt another animal in the wild.

NAWAC in 2019 is working on a Code relating to animals used in entertainment.<sup>72</sup> At present, there exist two Codes of Welfare which are relevant for this category of animals. Firstly, there is a Code of Welfare dedicated to rodeo animals.<sup>73</sup> The Code was replaced in 2018 without any research or substantive updating being done. Section 71 of the Animal Welfare Act requires public notification of draft Codes if NAWAC intends to proceed with a Code. There was no public notification of this Code, which is a breach of the Act. Section 74(2) requires a statutory report to accompany each Code. There was no report in respect of this Code, which is a breach of legislation.

The Code sets out minimum standards which can be used as evidence during the prosecution of an animal welfare offence. The Code’s standards address the need for competent personnel, access to food and water for the animals, the use of equipment, tie, rope, calf riding, humane destruction of the animals used in rodeos. The Code specifies that all animals to be used must be fit enough and must be inspected by a veterinarian prior to the commencement of the rodeos (Minimum standard No.3). The Animal Welfare (Care and Procedures) Regulations 2018 prohibit the use of fireworks at rodeos (Section 46). Such Regulations are legally binding and enforceable.

Section 73 of the Act states that NAWAC, in considering draft Codes, must be satisfied that the proposed standards are the minimum necessary to ensure the purposes of the Animal Welfare Act and the recommendations for best practice are appropriate. Section 73(2) provides that, in preparing Codes, NAWAC must have regard to good practice, scientific knowledge and available technology. NAWAC has been in breach of that requirement in the production of almost all the Codes of Welfare. Its scientific research is extremely scanty, and much of it is very dated. For example, the Section 74 statutory report accompanying the 2014 rodeo Code was only 11 pages long and cited only nine references. One of these was a letter to the editor and only three of the articles were published in the same decade in which the code was prepared. The majority of the articles were between four and 13 pages long. Only five of the articles related specifically to rodeo. Since the 2014 rodeo Code was published, the important 2016 Queensland study ‘Behavioural and Physiological Responses of Calves to Marshalling and Roping in a Simulated Rodeo Event’ has been released. The researchers concluded that the roping event in rodeos was stressful for both experienced and naïve calves. Despite

<sup>72</sup> See NAWAC’s current work programme.

<sup>73</sup> <https://www.mpi.govt.nz/dmsdocument/4810/loggedIn>

that evidence, NAWAC in October 2018 promulgated a new rodeo Code which continues to allow calf roping.

In addition to calf roping, the rodeo Code continues to allow the use of electric prodders, flank straps and ropes. This runs contrary to the basic purposes and principles of the Animal Welfare Act. The then-Associate Minister of Agriculture, Meka Whaitiri, in 2018 asked NAWAC to prepare advice relating to rodeos. NAWAC produced a report titled 'Rodeo events - How do they impact the sentient animal?', dated May 2018 and released in October.<sup>74</sup> The paper concluded there were serious concerns about steer wrestling and rope and tie rodeo events.<sup>75</sup> NAWAC said they regularly caused negative impacts, and potentially quite serious impacts. NAWAC said that calf roping, bull and steer riding, bronc riding and team roping had a variety of negative impacts and did not appear to provide much - if any - positive experience for animals. Despite that, NAWAC did not recommend that such events should be banned, in compliance with the Act. Instead, it proposed that a voluntary forum should be created for rodeo organisers, vets and animal welfare officers to meet with MPI and the SPCA to discuss improving practices.

Similarly, there exists a Code for animals used in circuses, which came into force in 2018 and replaced the former Code dating back from 2004.<sup>76</sup> The Code's minimum standards address issues such as facilities, staff training, exercise of the animals, access to food and water, shelter and housing, among others. The Animal Welfare (Care and Procedures) Regulations 2018 do not refer to animals used in circuses. However, it is important to note that Dunedin and Wellington Councils have local bans on the use of wild animals in circuses.<sup>77</sup>

Furthermore, New Zealand is one of the eight countries where commercial greyhound racing is legal, along with the United States, parts of Australia, Ireland, the United Kingdom, Macau, Mexico and Vietnam. The industry is governed by the New Zealand Racing Board (NZRB) in accordance with the 2003 Racing Act<sup>78</sup> and three Racing Codes.<sup>79</sup> All individuals training greyhounds in New Zealand have to be registered as a member of the New Zealand Greyhound Racing Association Incorporated (NZGRA).

Since the API was first published, NZGRA has introduced a new importation system that came into force on 1<sup>st</sup> August 2016, limiting the imports to 20 dogs per month used for racing.<sup>80</sup> Amendments were proposed to the Racing Act in 2017 but these did not concern animal welfare, as they focus on to improve the competitiveness of the New Zealand Racing Board's betting operation.<sup>81</sup> There has been extensive media publicity in both Australia and New Zealand about the cruelty involved in greyhound racing - including 'live baiting' - but both Governments allow it to continue. Concern

<sup>74</sup> NAWAC - Rodeo events - How do they impact the sentient animal? May 2018.

<sup>75</sup> Ibid, p 4.

<sup>76</sup> <https://www.mpi.govt.nz/dmsdocument/1405-circuses-animal-welfare-codes-of-welfare>

<sup>77</sup> <https://thesolution.org.nz/2011/02/09/circus-animal-bans/>

<sup>78</sup> <http://www.legislation.govt.nz/act/public/2003/0003/latest/whole.html>

<sup>79</sup> <http://www.scoop.co.nz/stories/CU1703/S00415/racing-codes-welcome-proposed-changes-to-racing-act.htm>

<sup>80</sup> <https://www.mpi.govt.nz/dmsdocument/16759-nzwac-report-on-new-zealand-greyhound-racing-association-incorporated-implementation-of-greyhound-welfare-reforms/loggedin>

<sup>81</sup> [https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL\\_74731/racing-amendment-bill](https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_74731/racing-amendment-bill)



about the treatment of racing greyhounds in New Zealand led to the commissioning of a report by a retired High Court judge in 2017. He found that 1447 dogs had been euthanised in four years, but thought the actual figure would be much higher, as trainers often did not report deaths.<sup>82</sup>

Horse racing is also legal in New Zealand and the Government provides money to encourage its continuation.

### Draught animals

Animals are rarely used for draught purposes in New Zealand. Low numbers of horses, such as Clydesdale horses are used for ploughing by enthusiasts. The Animal Welfare (Care and Procedures) Regulations 2018 address the issue of tethering horses (Regulation 18) and the use of equipment that may injure horses (Regulation 19). The Regulations also prohibit a person from striking a horse on the head (Regulation 20).

Moreover, there is a Code of Welfare for Horses and Donkeys.<sup>83</sup> Animals must be provided with shelter. Horses may be tied in a stall, but for no more than 6 hours in a 24-hour period (Standard No.5). Electric prodders must not be used on horses, and horses must not be prodded in sensitive areas. Furthermore, horses must not be worked at such an intensity that is likely to cause exhaustion, heart stress, injury or distress.

### Analysis

*Regarding animals used for entertainment, the continuation of practices such as rodeos, circuses and greyhound racing poses a challenge in animal welfare. Even though regulated, animal welfare is put at risk in the permitted use of animals in such activities. NAWAC's 2013 report underscores that the majority of rodeos are run under the auspices of the New Zealand Rodeo Cowboys Association (NZRCA) which was formed 60 years ago. There are about 35 rodeos taking place annually in New Zealand, which reflects that there is still social acceptance for this practice.<sup>84</sup>*

*Regarding the use of animals in circuses, New Zealand's last circus elephant was retired in 2009 to the San Diego Zoo after a campaign by the NGO Save Animals From Exploitation (SAFE).<sup>85</sup> So far, there are no more circuses that use wild animals in New Zealand, but the practice is still allowed.<sup>86</sup> This suggests that there remains a lack of political will to ban the use of wild animals in circuses.*

*The NAWAC report prepared to accompany the 2004 circus Code stated that there was little published material describing the welfare of circus animals.<sup>87</sup> This seems a surprising statement and calls into question the thoroughness of NAWAC's research. The report said that NAWAC considered that the use of animals for entertainment was acceptable, provided that the welfare of the animals was*

<sup>82</sup> Anger over greyhound racing as 353 dogs euthanised this year, New Zealand Herald, 12 December 2018 <https://www.stuff.co.nz/sport/racing/109308697/anger-over-greyhound-racing-as-353-dogs-euthanised-this-year>

<sup>83</sup> <https://www.mpi.govt.nz/dmsdocument/11003-horses-and-donkeys-code-of-welfare>

<sup>84</sup> <https://www.mpi.govt.nz/dmsdocument/4810/loggedIn>

<sup>85</sup> <https://safe.org.nz/mila-the-ex-circus-elephant-has-died/>

<sup>86</sup> <https://thesolution.org.nz/2011/02/09/circus-animal-bans/>

<sup>87</sup> NAWAC - Animal Welfare (Circuses) Code of Welfare 2004 Report, p 3. <https://mpigovt.nz.cwp.govt.nz/dmsdocument/1456/send>

addressed.<sup>88</sup> That is an outdated attitude. NAWAC concluded that the keeping of exotic animals in circuses was acceptable, provided that they had the opportunity to display normal patterns of behaviour, to interact with animals of their own kind, and to maintain good health and welfare.<sup>89</sup> However, animals cannot display normal patterns of behaviour in circuses. In fact, circuses rely on animals being unable to display normal patterns of behaviour. In addition, travel and confinement are extremely stressful for animals and contrary to their welfare. NAWAC said that travelling and performing might present enhanced welfare for some animals.<sup>90</sup> That seems extremely questionable.

Regarding greyhound racing, in 2013 an independent welfare review into the welfare of greyhounds was completed, which covered the issues of standards; enforcement; breeding industry regulations; database management and greyhound tracking; and, industry awareness and options for education.<sup>91</sup> It put forward 36 recommendations for improvement and some key findings, among which: a lack of enforcement and awareness of welfare standards, leading to a culture of noncompliance; inadequate tracking and reporting of the lifecycle of greyhounds; the issue of the euthanasia of, and transparency around the euthanasia of, healthy greyhounds; and track safety and injuries.

In December 2015, the Ministry for Primary Industries requested NAWAC to provide advice on the NZRB's second report on the implementation of greyhound welfare reforms, in particular addressing overpopulation and euthanasia.<sup>92</sup> Overall, NAWAC continues to fully support the intent of the original 36 recommendations from the independent welfare review. NAWAC noted that the 'greatest public ethical concern' is the number of dogs whom have to be euthanised, specifying that 'if euthanasia is conducted humanely this is not an animal welfare concern'.<sup>93</sup> NAWAC found no issue no sign of live baiting. NAWAC's key recommendations included to for the New Zealand Greyhound Racing Association Incorporated (NZGRA) to report rehoming and euthanasia figures annually, as well as achieving best practice in frequency of breeding standards.

Greyhound betting has increased by about 5% from 2011-2016, while the number of races held in New Zealand increased nearly 3% per year in the same period. 5,573 races were held in 2016. This suggests a strong economic interest vested in gambling activities.<sup>94</sup> This economic activity is a barrier to improving animal welfare, since competitiveness requirements mean that numerous dogs considered too slow to race and are thus euthanised. In 2018, 353 dogs were euthanised after failing to be rehomed.<sup>95</sup>

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<sup>88</sup> Ibid, p 5.

<sup>89</sup> Ibid, p 6.

<sup>90</sup> Ibid, p 7.

<sup>91</sup> <https://www.grnz.co.nz/Files/Downloads/Independent%20Review/WHK%20NZGRA%20Independent%20Welfare%20Review%20Report.pdf>

<sup>92</sup> <https://www.mpi.govt.nz/dmsdocument/16759-nzwac-report-on-new-zealand-greyhound-racing-association-incorporated-implementation-of-greyhound-welfare-reforms/loggedin>

<sup>93</sup> <https://www.mpi.govt.nz/dmsdocument/16759-nzwac-report-on-new-zealand-greyhound-racing-association-incorporated-implementation-of-greyhound-welfare-reforms/loggedin>

<sup>94</sup> <https://www.stuff.co.nz/business/industries/83731636/greyhound-racing-faces-uncertain-future-in-nz-following-damning-nsw-report>

<sup>95</sup> [https://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=12175451](https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12175451)



*Regarding animals used for draught, it is positive that the 2018 Regulations have addressed the welfare of draught animals. New Zealand is not heavily reliant on the use of draught animals.*

### Enforcement mechanisms

The Animal Welfare (Care and Procedures) Regulations 2018 are legally binding and enforceable. Regulations 18, 19 and 20 specify that a person who fails to comply with this regulation commits an offence and is liable on conviction to a fine not exceeding NZD\$900, and NZD\$1,500 if the person has struck a horse on the head. These Regulations provide for a fine up to NZD\$5,000 for an individual and up to NZD\$25,000 for a corporate body if the prohibition on the use of fireworks during rodeos is not respected.

However, most of the provisions relating to the welfare of animals used in rodeos and circuses are laid out in Codes of Welfare, which are not directly enforceable, though their minimum standards can be used as evidence in prosecutions.

The most progressive measures for animal welfare are unfortunately outlined in the recommended best practices of the Codes, which are not legally binding. For instance, the Code for animals in circuses lays out that 'exotic species, such as lions, tigers, bears, elephants and large primates that require large living spaces and complex environments should not be held in a circus'. However, this provision is not binding or enforceable. Therefore, enforcement mechanisms for this category of animals are limited.

### Key recommendations

- **Regarding animals used for entertainment, New Zealand has Codes for animals used in rodeos and circuses. Unfortunately, the best practices recommended in such Codes are not legally binding. The Codes also sanction the continuation of cruel practices such as calf roping, and the use of spurs, electric prodders and ropes. Ultimately, welfare provisions for such cruel practices will never provide enough protection for the animals exploited in these practices: the Government of New Zealand is strongly encouraged to ban rodeos altogether.**

- **In addition, the Government of New Zealand is urged to enact a nation-wide ban on the use of animals in circuses, since training an animal necessarily infringes upon his/her ability to display normal patterns of behaviours, which is a mandatory requirement of the Animal Welfare Act (Section 4(c)). At a minimum, New Zealand is encouraged to adopt a ban on the use of wild animals in circuses.**

- **On the grounds of animal welfare, New Zealand is highly encouraged to adopt a total ban on the breeding, training and racing of greyhounds. At a minimum, the Government of New Zealand should issue a moratorium on the euthanasia of healthy dogs, regardless of whether they are too slow to race. Rehoming programmes should be encouraged.**

- **In relation to animals used for draught, the Code of Welfare for horses and donkeys applies to this category of animals, though the Code is not directly enforceable. The Animal Welfare**



**(Care and Procedures) Regulations 2018 address the welfare of horses and are legally binding. Overall, New Zealand is not heavily reliant on the use of draught animals. The Government of New Zealand is strongly encouraged to enshrine all the best practices laid out in the Code of Welfare in legally binding legislation.**

## 7. There are laws that apply to animals used for scientific research

Analysis of the legislation	
Ranking	B
<p>Part 6 of the Animal Welfare Act 1999 sets legislative standards for animals used in research, testing and teaching, and excludes animals used in this way from the rest of the Act.</p> <p>In order to carry out research, testing or teaching, institutions or individuals must hold a code of ethical conduct that has been approved under the Act or be authorised by a contract of employment to conduct such research, testing or teaching (Section 82(1)). The law provides for compulsory reviews of animal ethics committees and code-holders that are established under the Act (section 105).</p> <p>Specifically, there is an obligation imposed to ensure that benefits derived from the use of animals in this category are not outweighed by the suffering and harm caused to animals (Section 80). There are further restrictions on the use of non-human hominids, requiring that research using such animals can only be approved if in the best interests of the individual animal or of the species to which the animal belongs (Section 85).</p> <p>Section 62 of the Act establishes the National Animal Ethics Advisory Committee (NAEAC) and lists its functions (Section 63). One of its functions is notably to advise the Minister on ethical issues and animal welfare issues arising from research, testing and teaching, to provide advice to animal ethics committees, and to make recommendations regarding restrictions on the use of non-human hominids for research). NAEAC is made up of a chairperson and up to 9 other members, chosen for their expertise in a range of knowledge and experience, including veterinary science, commercial use of animals, education, animal welfare advocacy, among other.<sup>96</sup></p> <p>Regarding the use of cosmetics, the 2015 amendment to the 1999 Animal Welfare Act ‘bans the use of animals to test finished cosmetic products or ingredients that are intended for use exclusively in cosmetics’ (Section 84A).<sup>97</sup> When this particular change was added to the bill by a government supplementary order paper in March 2015, then-Minister for Primary Industries Nathan Guy stated that “[t]o the best of our knowledge there never has been any animal testing for cosmetics in New</p>	

<sup>96</sup> <https://www.agriculture.govt.nz/protection-and-response/animal-welfare/national-animal-ethics-advisory-committee/>

<sup>97</sup> <http://www.legislation.govt.nz/act/public/1999/0142/latest/DLM6475801.html>



Zealand, but this amendment will send an important message that this kind of testing is unacceptable to New Zealanders and will never happen here".<sup>98</sup>

The 2018 Animal Welfare (Care and Procedures) Regulations do not explicitly refer to animals used in scientific research. There are no Codes of Welfare dedicated to this category of animals.

### **Analysis**

*The Animal Welfare Act 1999 applies to all who engage in research, testing and teaching with animals within New Zealand, and includes animal welfare in the decision-making process for decisions that might have an impact on the welfare of the animals used in research. All projects requiring ethical approval must be overseen by an approved animal ethics committee and includes animal welfare in the decision-making process for decisions that might have an impact on the welfare of the animals used in research.*

*NAEAC has several functions listed in the legislation, including advising the Minister on ethical and animal welfare issues arising from research, testing, and teaching, and providing advice to animal ethics committees (Section 63(a), 63(g)). Those who are code-holders must establish animal ethics committees who will consider and determine approval for projects and monitor compliance with conditions of the approved projects. In April 2017, the New Zealand Anti-Vivisection Society and the animal rescue organisation Helping You Help Animals (HUHA) presented the Out of the Labs petition to Parliament, with a total of 16,845 signatures.<sup>99</sup> The petition asked to make it mandatory to consider rehoming as an alternative to euthanasia for research animals. NAEAC has responded that to meet the intent of the petition, the committee does not consider it necessary to amend the Act. The committee is currently updating the 'Good practice guide for the use of animals in research, testing and teaching' to include guidance for rehoming.<sup>100</sup>*

*The Act encompasses the principles of the Three Rs - Replacement, Reduction, Refinement - through the criteria and restrictions which are placed on applications for approval of experiments, including avoiding duplication where possible and using non-animal methods where appropriate. MPI also promotes the Three Rs on its website.<sup>101</sup> In July 2018, NAEAC launched two biennial awards to celebrate achievement in the development and implementation of the Three Rs.<sup>102</sup> MPI and the Australian and New Zealand Council for the Care of Animals in Research and Teaching (ANZCCART) are also partners in a New Zealand-specific 3Rs programme to promote understanding and application of the 3Rs in New Zealand; profile New Zealand's 3Rs contributions and network and liaise with other 3Rs centres internationally.<sup>103</sup> MPI and ANZCCART have produced a series of booklets on the application of the Three Rs.*

<sup>98</sup> <https://www.beehive.govt.nz/release/law-change-ban-cosmetic-testing-animals>

<sup>99</sup> [https://www.parliament.nz/resource/en-](https://www.parliament.nz/resource/en-NZ/51SCPP_EVI_51DBHOH_PET74004_1_A560610/7d86ddc92756fdc12224190b59a6bfe78b3a8f19)

[NZ/51SCPP\\_EVI\\_51DBHOH\\_PET74004\\_1\\_A560610/7d86ddc92756fdc12224190b59a6bfe78b3a8f19](https://www.parliament.nz/resource/en-NZ/51SCPP_EVI_51DBHOH_PET74004_1_A560610/7d86ddc92756fdc12224190b59a6bfe78b3a8f19)

<sup>100</sup> <https://www.mpi.govt.nz/protection-and-response/animal-welfare/national-animal-ethics-advisory-committee/>

<sup>101</sup> <https://www.mpi.govt.nz/protection-and-response/animal-welfare/animals-in-research-testing-and-teaching/the-3rs/>

<sup>102</sup> <https://www.mpi.govt.nz/dmsdocument/29903/loggedIn>

<sup>103</sup> <https://anzccart.org.nz/anzccartresources/>





*In addition, the interdiction of animal testing on cosmetic products is a progressive step towards phasing out animal experiments altogether. However, the Australia NZ Council for the Care of Animals in Research and Testing (ANZCCART) affirmed in 2012 its continued support for animal testing.<sup>104</sup> Moreover, the ban is slightly limited in the sense that it bans the testing of ingredients which are used only in cosmetic products.*

*254,453 animals were used in research, testing and teaching in New Zealand in 2016, the latest year for which statistics are available.<sup>105</sup> That was 29,143 more animals than in the previous year, representing a 12.9% rise. 62,401 animals were killed. The animals used included 104,728 cattle, 926 cats, 924 horses, 1900 guinea pigs, 47,548 sheep as well as birds, deer, dogs, goats, pigs and other animals. There is no trend towards New Zealand reducing the number of animals used in testing, research and teaching. The figures fluctuate by up to 30% when different years are compared.<sup>106</sup> In most countries, mice, rats, fish and birds account for over 90 per cent of animals in research but in New Zealand that figure is under 50 per cent. Instead, over 40% of animals used are cattle, sheep and deer.<sup>107</sup> From 1<sup>st</sup> January 2018, the definition of 'manipulation' was expanded to include killing an animal for the purpose of interfering with the animal's body or tissues, and the breeding or production of an animal using a breeding technique that may result in the birth of an animal that is more susceptible to pain or distress during his or her life. These manipulations now require animal ethics committee approval and need to be reported in annual animal use statistics provided to MPI. New Zealand continues to use hundreds of thousands of animals every year, despite the unreliability of animal testing when applied to humans and despite the availability of alternatives including in vitro cell culture; in silico computer simulation; the use of humans for skin irritancy tests; the use of donated human blood for pyrogenicity tests; micro-dosing; and organs-on-chips.*

*The reports produced annually recording the numbers of animals used in research, testing and teaching also record that many animals suffer severely while being used for these purposes. Although it was positive that animal testing for cosmetics was banned, the only reason this was done was because there has never actually been cosmetic animal testing in New Zealand, so it was a theoretical change only. Similarly, party pill testing on animals was not banned because of cruelty concerns, but because the then-Government wanted to get party pills off shelves as quickly as possible and that was the speediest way to do it.*

*New Zealand could choose to lead the world by immediately banning all testing on animals but chooses not to do so. It has no plans to phase out animal testing, despite its inaccuracy and the plethora of alternatives now available.*

### Enforcement mechanisms

<sup>104</sup> <https://www.sciencemediacentre.co.nz/2012/12/07/ending-animal-testing-in-nz/>

<sup>105</sup> Ministry for Primary Industries – Statistics on the Use of Animals in Research, Testing and Teaching 2016.

<sup>106</sup> Speaking of Research – New Zealand publishes statistics showing use of animals in research in 2015

<sup>107</sup> Ibid, p 2.



Part 6 of the Animal Welfare Act 1999 regulates the use of animals in scientific experiments. Section 100 sets out criteria that must be taken into account by animal ethics committees when giving their clearance for the experiments.

The Director-General may revoke approval under certain conditions, such as if it is believed that the code holder has been convicted of an offence or has failed to comply with the requirements of the Act (section 86(1)).

Enforcement is also provided for in the Act through the requirement of code holders to create an animal ethics committee to oversee any research, testing and teaching involving animals. The animal ethics committee is responsible for monitoring compliance with the conditions of the project approvals and for ensuring the code holder collects and maintains records as required by the Act and by the code of ethical conduct. Those wanting to engage in research, testing and teaching using animals must apply to the Director General for a code of ethical conduct in relation to the use of animals (section 87). This must contain provisions and procedures to be followed to enable the animal ethics committee to carry out its functions effectively and ensure the purposes of Part 6 are met adequately (section 88). Any complaints of members of the animal ethics committee are required to be addressed by the code holder and committee as a whole (Section 88(2)).

**Key recommendations**

- **As the Government of New Zealand promotes the Three Rs principles on its website, the Government is encouraged to create a multi-stakeholder committee dedicated to developing alternatives to animal experimentation and set a date for a complete ban on testing on animals. So far, this is not one of the functions allocated to NAEAC.**
- **The Government of New Zealand is encouraged to allocate funding and to engage with animal welfare organisations in order to promote alternatives to animal experiments.**
- **New Zealand is strongly encouraged to amend the Animal Welfare Act to include a mandatory requirement for rehoming animals used in research, testing or teaching.**

**8. There are laws that apply to wild animals**

**Analysis of the legislation**

<b>Ranking</b>	<b>C</b>
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The anti-cruelty provisions of sections 28, 28A and 29 of the Animal Welfare Act 1999 cover wild animals (including fish). Under Section 34, it is an offence to use a prohibited trap or a prohibited device, or without complying with relevant regulations to use a restricted trap or a restricted device.



However, Section 175 provides that it is lawful to hunt or kill any wild animal in a wild state, any wild animal, pest or game in accordance with relevant legislation, and any fish from a constructed pond, thus exempting lawful hunting and fishing activities from the humane killing provisions of the Act.

Furthermore, the 2015 amendments to the Animal Welfare Act made it an offence to either wilfully or recklessly ill-treat an animal in a wild state (Section 30A). However, during a prosecution, if a defendant satisfied the court that the conduct alleged to constitute an offence is or is part of a generally accepted practice in New Zealand, the hunter's conduct might be allowed.

The Wild Animal Control Act 1977 specifies where animals may be hunted (Section 8) and gives powers of inspection of premises to those within the Ministry and those with powers delegated by the Minister and Director General (Sections 6 and 7). It states that hunting for recreation is a legal means of controlling the numbers of wild animals (Section 27). Furthermore, with a warrant the powers of search and seizure are granted for safari parks to monitor compliance with the Act.

The Minister is given wide powers over hunting areas and wild animal recovery operations on Crown Land (Section 22). Section 12C(1) of the Wild Animal Control Act 1977 grants power to an employee of the Department or the responsible Ministry to inspect any regulated deer farm or safari park to ensure that it complies with the requirements prescribed by the Act, with costs recoverable from the permit holder (section 12C(2)). Section 12C also grants the power of warranted officers to make inspections which allow them to exercise powers of search and seizure (Section 13). Section 9 refers to the ownership of wild animals, specifying that all wild animals are the property of the Crown.

Hunting regulations under the Wildlife Act 1953<sup>108</sup> include some welfare-related restrictions. It is prohibited to hunt using traps, motor vehicles or dogs (other than for finding, flushing or retrieving game) (Section 18). Pig hunting with dogs is still allowed in New Zealand,<sup>109</sup> as well as using leghold traps for possums.<sup>110</sup> In fact, Section 31 of the Animal Welfare Act forbids the creation of animal fighting ventures, however, these do not include the use of one or more animals to hunt another animal in the wild.

The Game Animal Council Act 2013<sup>111</sup> allows the Game Animal Council to develop Codes of Practice for hunting, including aerial hunting (Section 28). However, it appears that no such code has been published. Aerially-assisted trophy hunting (AATH), also known as heli-hunting, involves flying recreational hunters and their guides into high country areas by helicopter in search of trophy animals.<sup>112</sup> This includes carrying recreational hunters (and their guide) by helicopter, actively searching for wild animals considered trophies, on the ground guiding and killing of the wild animal and the recovery of the animal by helicopter. This practice is still allowed in New Zealand and hunters may apply for permit to hunt in extensive areas.<sup>113</sup> In January 2011, the New Zealand Conservation

<sup>108</sup> <http://www.legislation.govt.nz/act/public/1953/0031/latest/DLM276814.html>

<sup>109</sup> <https://www.doc.govt.nz/parks-and-recreation/things-to-do/hunting/what-to-hunt/feral-pigs/>

<sup>110</sup> <https://safe.org.nz/fur-farming>

<sup>111</sup> <http://www.legislation.govt.nz/act/public/2013/0098/latest/whole.html>

<sup>112</sup> <https://www.doc.govt.nz/getinvolved/apply-for-permits/business-or-activity/aerially-assisted-trophy-hunting/>

<sup>113</sup> <https://www.doc.govt.nz/globalassets/documents/parks-and-recreation/hunting/permits-and-licences/2014-2019-aath-permit-blocks.jpg>



Authority (NZCA) provided advice on aerial trophy hunting, which concluded that 'Aerial trophy hunting is too large and complex a topic for long term decisions to be rushed'.<sup>114</sup> MPI in a 2013 paper said that there was a lack of clarity regarding the ill-treatment of animals in the wild.<sup>115</sup> Section 175 of the Act said that nothing in the legislation made it unlawful to hunt or kill any wild animal. It was uncertain whether wilfully or recklessly ill-treating an animal in the course of hunting or killing (for example, setting fire to a possum in a trap or breaking the legs of a deer and throwing him or her into a river), would constitute wilful or reckless ill-treatment under the Act.

New Zealand continues to use 1080 to kill animals categorised as 'pests,' despite knowing that it is very cruel and that animals can take up to 40 hours to die. The Minister of Conservation is very preoccupied with obtaining funding for poisoning, trapping and shooting animals considered to be pests.<sup>116</sup> On 8<sup>th</sup> April 2019, she announced that new funding of NZD\$81.2 million in budget 2018 had allowed the Department of Conservation to scale up its predator control programme. She said that the department was planning its largest-ever predator control programme for 2019-20 at a cost of NZD\$38 million, to suppress rats, stoats and possums over one million hectares or 12% of conservation land.<sup>117</sup> The Minister said this was a step up from the previous largest programme of 840,000 hectares in 2016 and 600,000 hectares in 2014 and 2017. 1080 is no longer used in most other countries. There are regularly media reports in New Zealand of native species and companion animals inadvertently being poisoned by 1080.<sup>118</sup> In November 2016 it was reported that 24 protected kea deaths had been attributed to 1080 poisoning.<sup>119</sup> In March 2019, it was reported that 90 per cent of deer on Molesworth block had been killed during a 1080 poison drop targeting possums.<sup>120</sup> Authorities in New Zealand fail to acknowledge the link between their war on 'pests' and cruelty to mammals in New Zealand, including the clubbing to death of 23 seals, the shooting of protected leopard seals, ill-treatment of possums and other abuse.

### **Analysis**

*Although there are some welfare considerations such as banning certain types of trap, and it being made an explicit offence to either wilfully or recklessly ill-treat an animal in a wild state, current legislation does not sufficiently cover the welfare of wild animals being hunted. For instance, there is no Code of Welfare relating to animals being hunted; and the most recent 2018 Regulations on Animal Welfare (Care and Procedures) also do not mention hunting. In addition, the Wild Animal Control Act 1977 does not emphasise the need for humane killing or any concern for animal welfare. This Act establishes a National Recreational Hunting Advisory Committee (Section 29), the duty of which is to foster hunting or shooting in recreational hunting areas. The creation of this Committee demonstrates that hunting is marketed as a recreational activity.*

*The Game Animal Council has been given a function to develop codes of practice for hunting of*

<sup>114</sup> <https://www.doc.govt.nz/about-us/statutory-and-advisory-bodies/nz-conservation-authority/advice-to-the-minister-and-or-director-general/aerial-trophy-hunting-heli-hunting-january-2011/>

<sup>115</sup> Ministry for Primary Industries - Options to Amend the Animal Welfare Act 1999: Regulatory Impact Statement, p 15.

<sup>116</sup> Sage, E - Mega mast confirmed for New Zealand forests, 8 April 2019.

<sup>117</sup> Ibid, p 1.

<sup>118</sup> Satherley, D - Kea deaths linked to 1080 trial, Newshub, 27 April 2019

<sup>119</sup> Plumb, S - Two dozen kea fall prey to 1080, New Zealand Herald, 21 November 2016.

<sup>120</sup> Morton, J - 1080 drop wiped out 90 per cent of deer on Molesworth block, New Zealand Herald, 27 March 2019.



particular game animals. The Council has since developed the AATH (Aerial Assisted Trophy Hunting) code of practice. In addition, the National Animal Welfare Advisory Committee has a function to work with the hunting and fishing sectors to develop humane best practice guidance. The guidance is not normally mandatory, although this depends on the situation. For instance, pest control contractors operating according to tuberculosis management contracts can be held to Codes of Practice as a contractual requirement.

General acceptance of recreational hunting in the country represents a barrier to improvement of the welfare of wild animals. There are numerous television programmes about hunting and fishing and these activities continue to be regarded as 'sport' and the suffering of the animals involved is disregarded. Media outlets regularly publish pictures of dead fish killed by people fishing in the name of sport. Each year, there is an Easter rabbit hunt in central Otago, in which the killing of thousands of rabbits is celebrated. This has been taking place for 25 years. Duck shooting is also regarded as a sport and the suffering of animals who are maimed and take a long time to die is ignored. The very speedy shearing of sheep is admired and there are competitions celebrating this, despite the injuries and pain suffered by the animals. A rural Manawatu school held a possum throwing competition.<sup>121</sup> In 2017, a rural Auckland school held a fundraiser involving drowning baby possums in a bucket.<sup>122</sup>

Making it an offence to wilfully or recklessly illtreat an animal in a wild state should lead to improvement through clarifying that acts of cruelty are not permitted as part of normal hunting and fishing practices, with a defence of following generally accepted practice.

Furthermore, the practice of aerially-assisted trophy hunting (AATH) impairs animal welfare, as it deprives animals from any means for self-defence and escape. The presence of strong hunting associations, which may explain the fact that the Ministry of Conservation endorses AATH, represents a barrier to mainstreaming animal welfare.<sup>123</sup>

New Zealand is heavily dependent on exports for its income and agricultural exports comprise a significant proportion of the country's total income. Economic factors accordingly trump animal welfare in almost every case. New Zealand's agricultural history of animal exploitation means that animal cruelty is widely accepted and condoned, and it is extremely hard to change public attitudes. A focus on native birds and animals means that introduced mammals are regarded as pests and it is considered acceptable to spend millions of dollars on poisoning and trapping them, irrespective of the cruelty and suffering involved. A 'New Yorker' feature article examined these attitudes in detail and expressed surprise at attitudes which regard it as acceptable and commendable for New Zealanders to devote weekends to killing mammals.<sup>124</sup> In Australia, there are positive attitudes to

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<sup>121</sup>Possum throwing immoral - SPCA, [www.stuff.co.nz](http://www.stuff.co.nz), 2010 <http://www.stuff.co.nz/national/4155269/Possum-throwing-immoral-SPCA>

<sup>122</sup> Baby possums drowned at Drury School's 'inhumane' fundraiser, [www.newshub.co.nz](http://www.newshub.co.nz), 2 July 2017 <https://www.newshub.co.nz/home/new-zealand/2017/07/baby-possums-drowned-at-drury-school-sinhumane-fundraiser.html>

<sup>123</sup> <https://www.nzphga.com/hunting-in-new-zealand.html>

<sup>124</sup> Kolbert, E - The Big Kill



possums, while in New Zealand they are regarded as pests and millions are killed each year in cruel ways which see them suffer for up to 40 hours before they die.

**Enforcement mechanisms**

There are enforcement mechanisms for breach of the relevant legislation including use of unauthorised traps. Any breach of Section 36 of the Animal Welfare Act 1999 relating to traps, whereby the person would fail to remove an animal caught in that trap or would fail to attend properly to the care of the animal or kill the animal without delay, commits an offence and is liable to a fine not exceeding of NZD\$5,000.

**Key recommendations**

- **New Zealand’s legislation regarding wild animals mostly lies within hunting regulations, as part of the Wild Animal Control Act 1977. Section 175 exempts lawful hunting and fishing activities from the humane killing provisions of the Act, which demonstrates that animal welfare is not made a priority for wild animals.**
- **The Government of New Zealand is encouraged to ban any form of hunting that does not directly support subsistence i.e. feeding oneself and one’s family and not for commercial gain. Subsistence hunting operations must employ the least cruel methods of hunting and slaughter, and that all possible efforts should be made to reduce the time to death of animals killed in these hunts. At a minimum, the Government of New Zealand is encouraged to ban the cruellest forms of hunting, which includes dog hunting, live baiting, poisoning, trapping, falconry, bow hunting. Aerial-assisted trophy hunting should equally be banned.**

**Goal 3: Establishment of supportive government bodies**

**9. The Government has assigned responsibility and accountability for improving animal protection at a high government level and has provided resources**

**Analysis of the legislation**

<b>Ranking</b>	<b>C</b>
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New Zealand has never had a full (as opposed to an Associate) Minister for Animal Welfare or a Minister with animal welfare responsibility sitting at the Cabinet table. It has never had an Independent Commissioner for Animals with a sole focus on animal welfare. Animal welfare falls within the remit of the Ministry for Primary Industries (MPI).



In 2017, an Associate Minister of Agriculture, responsible for animal welfare, was appointed for the first time. However, the person who held the role was ranked as almost the lowest member of the Executive and did not sit in Cabinet, where important decisions are made. The person was dismissed in 2018 (for reasons unrelated to animal welfare) and their responsibilities were transferred to the Minister of Agriculture, who is mainly responsible for improving returns from farming and exports. Since assuming responsibility for animal welfare, the Minister of Agriculture issues very few press releases relating to animal welfare. The majority of press releases relate to economic growth and improving exports.<sup>125</sup>

The Prime Minister conducted a Cabinet reshuffle in (June) 2019 but did not appoint anyone to the role of Minister for Animal Welfare. This indicates that the Government does not intend to make this issue a priority. The Government also does not plan to appoint a Commissioner for Animal Welfare. New Zealand does not have a Chief Veterinary Officer. Animal welfare is accordingly not represented at a high level of government.

The Animal Welfare Act 1999 offers some animal protection, but millions of animals are deprived of its protections by broad exceptions. The National Animal Welfare Advisory Committee (NAWAC) has been established as an independent body to advise the Minister for Primary Industries, as set out in Section 57 of the Act. Due to limited resources, NAWAC uses a framework to decide which animal welfare issues to address first.<sup>126</sup> The Committee updates its work programme every year.

The National Animal Ethics Advisory Committee has been established as an independent body to advise the Minister for Primary Industries, as authorised by Section 63 of the Act, on issues relating to the use of animals in research, testing and teaching.

Schedule 1 of the Act outlines the fees and allowances for both Committees. Members may be remunerated out of public money for fees, salary, allowances and travel expenses. The Animal Welfare Strategy, released in 2013, emphasises the perspective of the New Zealand government that it wishes to take a progressive stance in relation to animal welfare, keeping up to date with scientific and technological advances.

MPI has an annual budget of NZD\$991 million but spends only around NZD\$3 million on animal welfare. The 'Estimates of Appropriations 2018/19 - Primary Sector' record that Vote Agriculture, Biosecurity, Fisheries and Food Safety budgeted NZD\$1.46 million for animal welfare policy advice and NZD\$1.02 million for animal welfare policy advice implementation and ministerial servicing.<sup>127</sup>

The strategy also emphasises the need for leadership and partnership across sectors to set standards and provide education so that adequate animal welfare standards are maintained by all those involved with and responsible for animals.

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<sup>125</sup> O'Connor, D - Press releases, <https://www.beehive.govt.nz/portfolio/labour-led-government-2017-2020/agriculture>

<sup>126</sup> <https://www.mpi.govt.nz/dmsdocument/8491/loggedIn>

<sup>127</sup> Government of New Zealand - Budget 2018 - The Estimates of Appropriations 2018/19 - Primary Sector, Vote Agriculture, Biosecurity, Fisheries and Food Safety, p 6.

### **Analysis**

The 2013 Animal Welfare Strategy emphasises the role that all New Zealanders should play in ensuring that New Zealand maintains high animal welfare standards. The Government has assigned overall responsibility under the Animal Welfare Act 1999 to the Minister for Primary Industries, with some delegated functions performed by subsidiary bodies in specific areas such as the National Animal Welfare Advisory Committee and the National Animal Ethics Advisory Committee. The Ministry for Primary Industries (MPI), which is responsible for animal welfare, has a major conflict of interest as its key role is to promote and increase exports from agriculture and other sources such as horticulture. The Government has also stated its expectation that the strategy is dynamic and that it will be subject to progress and constant improvement to keep up with best practice and scientific standards. It is emphasised in the 2013 Strategy that animal welfare is everyone's responsibility.

However, New Zealand's dependence on agricultural exports, its farming history and its high tolerance for domestic violence and animals abuse weigh against animal welfare being accepted as a mainstream concern. A key economic barrier to improving animal welfare is that New Zealand depends heavily on exports for its income and a very large percentage of those exports are derived from agriculture. For example, New Zealand exports 95% of the dairy milk it produces and dairy accounts for one in every three dollars earned by New Zealand from exporting goods and 20% of the country's total goods and services' export earnings.<sup>128</sup> Dairy contributes NZD\$7.8 billion to New Zealand's GDP (3.5%) and remains this country's largest export sector, earning NZD\$13.6 billion in the year to March 2016.<sup>129</sup> New Zealand's red meat exports in 2017-18 increased by NZD\$1.2 billion or 21 per cent on the previous year, to NZD\$6.7 billion.<sup>130</sup> Treating animals well costs money and cuts into profits from farming. Identifying animal cruelty also has a negative impact on profits, as consumers both in New Zealand and overseas are likely to be less likely to buy goods if there is publicity about animal cruelty. Thus, there are economic incentives for not uncovering animal cruelty and for not publicising it.

MPI is the government agency responsible for animal welfare, but it is also the government agency with primary responsibility for increasing export returns. MPI's website states that it is 'the public service department of New Zealand charged with overseeing, managing and regulating the farming, fishing, food, animal welfare, biosecurity, and forestry sectors of New Zealand's primary industries'.<sup>131</sup> Previously, there was no reference at all to animal welfare on the main pages of MPI's website. The 'About us' page of the website states that MPI is "helping to seize export opportunities for our primary industries, improve sector productivity, ensure the food we produce is safe, increase sustainable resource use, and protect New Zealand from biological risk".<sup>132</sup> There are eight members in the Ministry's senior leadership team. There is only one reference – in brackets – to animal welfare in the

<sup>128</sup> Dairy Companies Association of New Zealand - About the New Zealand Dairy Industry <https://www.dcanz.com/aboutthe-nz-dairy-industry/>

<sup>129</sup> Ballingall, J and Pambudi, D - Dairy trade's economic contribution to New Zealand, NZIER report to DCANZ, February 2017, p 1.

<sup>130</sup> Beef and Lamb New Zealand - NZ red meat exports top \$6.7 billion in 2017-18 <https://beeflambnz.com/news-views/nz-red-meat-exports-top-67-billion-2017-18>

<sup>131</sup> Ministry for Primary Industries - [www.mpi.govt.nz](http://www.mpi.govt.nz)

<sup>132</sup> Ministry for Primary Industries - About us - [www.mpi.govt.nz](http://www.mpi.govt.nz)





five-and-a-half pages detailing their backgrounds and responsibilities.<sup>133</sup> MPI's primary economic promotion responsibilities conflict with its animal welfare role. MPI's budget for 2017/18 was NZD\$991 million.<sup>134</sup> Only a tiny fraction of that is spent on animal welfare – approximately NZD\$8 million.

NAWAC has repeatedly said its work is limited by lack of funding. It has made very slow progress on producing regulations and has a very limited work programme each year due to its lack of adequate resources. MPI's monitoring of farms is similarly restricted by its lack of funding. In 2015, MPI had only 11 animal welfare inspectors to cover all of New Zealand. This country in 2016/17 had 160 million farmed animals.<sup>135</sup> That would mean that each inspector would need to cover approximately 14.5 million animals. By 2017, the number of animal welfare inspectors had been increased to 22 as a result of NZD\$10 million of additional funding in the 2015 Budget for animal welfare, to be spread over four years.<sup>136</sup>

### Enforcement mechanisms

Responsibilities of relevant government bodies, including the National Animal Welfare Advisory Committee and the National Animal Ethics Advisory Committee, are set out in primary legislation but shortcomings in the way NAWAC carries out its functions are permitted to continue, despite Parliament's Regulations Review Committee having twice criticised NAWAC's approach.

### Key recommendations

- **The Government of New Zealand allocates minimal resources to animal welfare – less than one per cent of MPI's budget.**
- **The Government of New Zealand is encouraged to continue engaging with all actors involved in maintaining animals' well-being to find solutions for welfare concerns. This would be considerably enhanced by the appointments of a Minister for Animal Welfare and a Commissioner for Animal Welfare and NZD\$100 million in funding for proper monitoring and enforcement of animal welfare.**

## Goal 4: Support for international animal welfare standards

<sup>133</sup> Ministry for Primary Industries – Senior leadership team – [www.mpi.govt.nz](http://www.mpi.govt.nz), p 2.

<sup>134</sup> Ministry for Primary Industries – [www.mpi.govt.nz](http://www.mpi.govt.nz)

<sup>135</sup> Save Animals from Exploitation calculated from Statistics New Zealand and other sources that there were 27.6 million sheep; 3.5 million beef cattle; 6.5 million dairy cattle; 625,000 pigs; 118 million broiler hens; and 3 million laying hens. Not included in that total were 850,000 deer; 250,000 turkeys and additional numbers of goats and other animals.

<sup>136</sup> Guy, N – Proposed New Animal Welfare Regulations, Cabinet Economic Growth and Infrastructure Committee, Office of the Minister for Primary Industries, July 2017, p 23.



## 10. The Government has incorporated the OIE’s guiding principles for animal welfare and its animal welfare standards into policy and legislation

Analysis of the legislation	
Ranking	A
<p>The OIE Animal Welfare Standards focus on transport, slaughter, production systems (beef cattle, broiler chickens, dairy cattle, pigs), stray dog population control, the use of animals in research and education, and working equids.<sup>137</sup></p> <p>At present, New Zealand’s legislation seems to be on par with the OIE’s minimum standards and it is clear that the OIE’s guiding principles have been considered in creating the Animal Welfare Strategy in 2013. New Zealand’s legislation goes even further than OIE standards with regards, for instance, to limiting the stocking density of broiler chickens to 38 kg/m<sup>2</sup>. However, the basic purposes and principles of the Animal Welfare Act 1999 are undermined by Codes of Welfare, the 2018 Regulations and specific provisions of the Act which permit conduct that is contrary to the basic protections of the Act. New Zealand should repeal provisions which do not comply with the Act’s basic purposes and principles.</p> <p>In terms of animals used in research, the OIE places more emphasis on veterinary care than does the Animal Welfare Act 1999, which places emphasis on ethics committees overseeing any teaching or research involving animals. However, it is a statutory requirement that animal ethics committees contain at least one veterinarian.</p> <p>Policy does extend further than legislation regarding animal welfare but is not legally enforceable.</p> <p><b>Analysis</b></p> <p><i>The Animal Welfare Act 1999 emphasises the importance of collaboration between government, industries, scientists, professionals and non-government organisations to achieve and maintain high levels of animal welfare. Various Codes have been produced that recommend practice standards that exceed the minimums stipulated in the Animal Welfare Act 1999. The 2013 strategy highlights the intention of the New Zealand Government to continue to collaborate internationally on animal welfare and to help develop international welfare guidelines.</i></p> <p><i>There is very limited practical government support for improvement. The 2013 welfare strategy demonstrates that the Government aims to continue to contribute to international obligations, networks and guidelines. Evidence for this is the establishment of the National Animal Welfare Advisory Committee and the National Animal Ethics Advisory Committee under the Animal Welfare Act 1999. The Committees are tasked with working closely with the Minister on areas of animal welfare where research is required, making legislative proposals, making recommendations to the Minister and promoting current guidelines (sections 57 and 63 Animal Welfare Act 1999). The 2015 amendments</i></p>	

<sup>137</sup> <http://www.oie.int/infographic/StandardsAW/index.html>



to the Animal Welfare Act provide for enforceable regulations, but these deal with less serious infringements.

### Enforcement mechanisms

There are enforcement mechanisms (fines, imprisonment) in relation to the provisions of the Animal Welfare Act 1999 that cover the OIE's standards.

The Animal Welfare Amendment Act 2015 added enforcement of standards that come closer to meeting the OIE's guidelines than the current Animal Welfare Act 1999, with the introduction of detailed mandatory enforceable standards and regulations. However, this is undermined by a lack of resources to produce regulations, and lack of funding for monitoring and enforcement of welfare.

### Key recommendations

- **New Zealand incorporates the OIE's principles and standards into legislation, however, the Codes of Practice and 2018 Regulations permit conducts that would be considered cruel under the Animal Welfare Act 1999. Therefore, New Zealand is strongly encouraged to repeal these provisions and to provide all animals with the basic protections, as laid out in the Animal Welfare Act 1999.**

- **The Government of New Zealand is urged to provide proper funding for animal welfare.**

## 11. The Government has pledged in principle support for the Universal Declaration on Animal Welfare (UDAW)

### Analysis of the legislation

Then-Agriculture Minister, Jim Anderton, in 2008 expressed support for the Universal Declaration on Animal Welfare.

Note: The UDAW is a proposed formal international acknowledgement of a set of principles giving animal welfare due recognition among governments and the international community. An expression of support for the UDAW demonstrates a government's commitment to working with the international community to improve animal welfare.

#### Analysis

*It is positive that the Government of New Zealand has expressed support for UDAW in 2008. However, there have been three Agriculture Ministers since then and none has expressed support for the declaration, and neither has any Government as a whole. No steps have been taken to progress acceptance of the Declaration.*

*Many of the UDAW principles are reflected in the codes of welfare and regulations that support the Animal Welfare Act 1999. Codes of welfare set minimum standards that articulate what is acceptable*



*in the treatment of animals. They are not directly enforceable but have evidential status in establishing compliance with legal requirements. Changes to the Animal Welfare Act in May 2015 gave the Ministry for Primary Industries (MPI) the ability to make regulations under the Animal Welfare Act. This means that MPI can better enforce the Act by setting out clear rules to protect animal welfare. MPI is releasing regulations as they are developed.*

*MPI commonly adopts an informational and educative approach to animal welfare, rather than an enforcement approach. This means that there are very few prosecutions and people who choose to flout the law and treat animals cruelly or neglect them can continue to do so with impunity over long periods. Even when enforcement action is taken, the lenient penalties are insufficient to deter the behaviour. Northland farmer Alan Summers is an example of that. He had convictions for his treatment of animals over decades while still continuing to farm.<sup>138</sup> The regulations already promulgated and being developed deal only with infringements and provide for low penalties. The codes provide defences condoning behaviour contrary to the basic purposes and principles of the Act.*

#### Enforcement mechanisms

There are no enforcement mechanisms relevant to this indicator.

#### Key recommendations

- **The Government of New Zealand has provided full government support to UDAW, through a declaration from the then Ministry of Agriculture in 2008. New Zealand should act as an example for other countries to pledge support in principle to UDAW.**

Last edited: 3 March 2020

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<sup>138</sup> MacLennan, C - New Zealand has a long history of animal cruelty and neglect, Newsroom, 28 June 2018.