

Queensland



Subordinate Legislation 1999 No. 136

Criminal Code Act 1899

**CRIMINAL CODE (ANIMAL VALUERS)
REGULATION 1999**

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DICTIONARY

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Criminal Code (Animal Valuers) Regulation 1999*.

Dictionary

2. The dictionary in the schedule defines terms used in this regulation.

PART 2—ANIMAL VALUERS

Eligibility to be appointed as animal valuer

3. A person is eligible to be appointed as an animal valuer only if the chief executive is satisfied the person is an adult who—

- (a) has not been convicted of an indictable offence or an offence involving dishonesty; and
- (b) is not bankrupt or taking advantage of the laws about bankruptcy; and
- (c) has the competence to perform the functions of an animal valuer, including the necessary skill because of the person's qualifications, if any, experience and work history.

How to apply for appointment

4. An application for appointment as an animal valuer must be made to the chief executive in the approved form.¹

¹ Animal valuers are appointed by the Governor in Council by gazette notice. See the Code, section 450F(2). There is no fee for the application.

Functions of chief executive for applications

5.(1) The chief executive must consider each application for appointment as an animal valuer and may refuse to consider the application until the applicant gives the chief executive all the information the chief executive requires about the application in the way the chief executive requires.

Example—

The chief executive may require additional information about the application to be verified by statutory declaration.

(2) The chief executive may make enquires to help decide an application.

(3) If requested by the chief executive, the commissioner of the police service must give the chief executive a written report about an applicant's criminal history.

(4) Subsection (3) applies to the criminal history in the commissioner's possession or to which the commissioner has access.

Termination of appointment as animal valuer

6.(1) An animal valuer's appointment ends² if the animal valuer—

- (a) is convicted of an indictable offence or an offence involving dishonesty; or
- (b) becomes bankrupt or takes advantage of the laws about bankruptcy; or
- (c) resigns by signed notice given to the chief executive.

(2) Resignation takes effect on the later of the following—

- (a) 14 days after the chief executive receives the notice;
- (b) the day for resignation stated in the notice.

(3) A person who resigns as an animal valuer must still attend proceedings, and do anything else, in relation to inspections the person has carried out, or valuations for which the person has signed a certificate of valuation, as if the person were still an animal valuer.

² An animal valuer's appointment also ends if the Governor in Council revokes the appointment.

Animal valuer to notify chief executive of certain changes

7.(1) It is a condition of a person's appointment as an animal valuer that the person notify the chief executive if any of the following events happen—

- (a) the person changes his or her name or address;
- (b) the person is convicted of an indictable offence or an offence involving dishonesty;
- (c) the person becomes bankrupt or takes advantage of the laws about bankruptcy.

(2) Notification under subsection (1)(a) must be given within 28 days after the event happens.

(3) Notification under subsection (1)(b) or (c) must be given as soon as possible after the event happens.

**PART 3—VALUATION OF ANIMALS FOR CERTAIN
CODE FINES, AND OBTAINING INSPECTIONS***Division 1—What prosecutor must do***Prosecutor to ask for tribunal as soon as practicable after it is needed**

8.(1) This section applies if the prosecutor of a charge for an offence involving an animal decides a tribunal is needed to—

- (a) inspect³ the animal; or
- (b) value the animal under section 450F of the Code for the charge.⁴

³ See the schedule (Dictionary) for the meaning of “inspect”.

⁴ For the offences to which the Code, section 450F (Animal valuers and valuations) applies, see section 398 (Punishment of stealing) and chapter 44 (Offences analogous to stealing relating to animals).

(2) As soon as practicable after deciding the tribunal is needed, the prosecutor must ask the chief executive to select a tribunal to value the animal or inspect it.

(3) When making the request, the prosecutor must give the chief executive the following details of the charge (“**charge details**”)—

- (a) the name of the accused;
- (b) the type of offence alleged;
- (c) the date on which the offence is alleged to have happened;
- (d) a description of the animal;
- (e) the present location of the animal or its remains;
- (f) the prosecutor’s name and contact address;
- (g) the scheduled date, if known, of the hearing of the charge.

*Division 2—Chief executive’s functions, and duties of animal valuers
and tribunal members*

Chief executive to select tribunal etc.

9.(1) This section applies if a prosecutor asks the chief executive to select a tribunal to value or inspect an animal.

(2) The chief executive must, as soon as practicable after receiving the request, select 2 animal valuers to constitute a tribunal to value or inspect the animal.

(3) An animal valuer selected to constitute a tribunal must be a member of the tribunal unless the animal valuer is unavailable at the time because of illness, work or other commitments.

(4) More than 1 tribunal may be selected for a charge, but only if the tribunals are selected for different animals.

(5) The chief executive must inform—

- (a) each tribunal member of the charge details; and

- (b) the prosecutor of the name and contact address of each animal valuer selected to be a member of the tribunal for the valuation or inspection.

Duties of tribunal members

10.(1) For the purposes of a valuation or inspection of an animal, the chief executive may require a tribunal member to do any of the following—

- (a) attend a specified place at a specified reasonable time;
- (b) inspect the animal;
- (c) carry out a valuation of the animal;
- (d) complete and sign a certificate of valuation of the tribunal and immediately send it to the chief executive;
- (e) if required, attend a proceeding relating to the inspection or valuation, or appear as a witness for the prosecution in the proceeding, unless there are special or unusual circumstances preventing the member from doing so.⁵

(2) Subsection (1)(e) does not prevent the subpoena of an animal valuer.

Division 3—Tribunal to decide animal's value

Tribunal to decide animal's value

11.(1) Under section 450F⁶ of the Code, the value of the animal for the offence is its value as decided by a tribunal.

(2) The tribunal must use a method of valuation that reflects a fair and reasonable estimate of the cost to the animal's owner of replacing the animal with a comparable animal as at the day of the offence (the "**appropriate method**").

(3) If the tribunal members do not agree on the animal's value, its value is the average of the values decided by the members.

⁵ See also section 16 (Court may order tribunal member to be called as a witness).

⁶ Section 450F (Animal valuers and valuations)

(4) If in a proceeding for the offence to which a valuation relates, a different value is proven to be the correct value using the appropriate method, the value for the offence is the value proven to be correct.⁷

(5) A valuation is of no effect if 1 or both of the purported tribunal members were no longer animal valuers during part or all of the period from the tribunal's selection to its issue of a certificate of valuation.

(6) If the animal to be valued is not available for examination by the tribunal, the tribunal may use any of the following to decide the animal's value—

- (a) hides, skins, ears or another part of the animal;
- (b) photographs, tapes, films or other means of visual reproduction of the animal;
- (c) books, electronic records or other records about the animal;
- (d) information about comparable prices for comparable animals.

PART 4—EVIDENTIARY PROVISIONS

Certificate of valuation—requirements as to form and signature

12.(1) A certificate of valuation must be in the approved form.

(2) The approved form must include provision for the tribunal—

- (a) to state or attach information identifying the animal; and
- (b) to state the tribunal's estimate of the value of the animal as at a stated date; and
- (c) to state each tribunal member's estimate of the value of the animal as at that date; and
- (d) to state details of each member's method of valuation.

⁷ See section 14 (Notice of intention to challenge value in certificate of valuation).

(3) The approved form must—

- (a) be signed by both tribunal members; and
- (b) include a statement by each person signing the certificate that the person's appointment as an animal valuer has not ended; and
- (c) be verified on oath.

(4) The approved form may include provision for the tribunal to state or attach other information relevant to the tribunal's valuation.

Certificate of valuation—evidentiary effect

13. In a proceeding, a certificate of valuation purporting to be signed by 2 members of an animal valuer's tribunal is evidence—

- (a) of the tribunal's selection for deciding the value of the animal to which the certificate relates; and
- (b) of the tribunal's decision about the value of the animal as at the day stated in the certificate; and
- (c) that the value has been determined in accordance with a regulation made under section 450F of the Code; and
- (d) of any other matter for which the approved form of certificate of valuation must or may make provision.

Notice of intention to challenge value in certificate of valuation

14.(1) A party to a proceeding who intends to challenge a value stated in a certificate of valuation must, if possible, give the prosecutor at least 14 days notice of the intention.

(2) If the notice is not given within that time, the court may allow the value to be challenged on terms the court considers just.

Court may grant adjournment to obtain certificate if required

15. If a prosecutor tells a court in a proceeding that the prosecutor intends to tender a certificate of valuation that is not available, the court may grant an adjournment, on terms it considers just, to allow the certificate to be tendered.

Court may order tribunal member to be called as a witness

16.(1) This section applies if the court in a proceeding for a charge of an offence is satisfied that either or each member of a tribunal that issued a certificate of valuation for the charge should be called as a witness.

(2) The court may order either or each member to be called as a witness, and grant an adjournment for that purpose.

(3) The order may be made—

- (a) on the application of a party or on the court's own initiative; and
- (b) in addition to, or instead of, the certificate of valuation being tendered in evidence.

(4) Whether or not an order is made, the court must adopt the procedure it considers just to enable the member or members to be called and examined by the parties, regardless of the stage reached in the proceedings.

PART 5—MISCELLANEOUS**Replacement of tribunal member**

17. The chief executive may replace a tribunal member if—

- (a) there is a vacancy in the tribunal; or
- (b) the member is unwilling to perform the member's functions; or
- (c) the chief executive considers the member is unable, because of illness or for another reason, to perform the member's functions.

Register of animal valuers

18.(1) The chief executive must keep a register of animal valuers.

(2) The register must contain the following information about each animal valuer—

- (a) name and address;
- (b) date of appointment as an animal valuer;

- (c) details of any resignation, or revocation, of the appointment;
- (d) if the chief executive knows that a person has stopped being an animal valuer because of section 6⁸—the person has stopped being an animal valuer because of section 6 and the date that happened, if known;
- (e) a full description of each charge for which the animal valuer has been selected to carry out an inspection or valuation;
- (f) if more than 1 tribunal is appointed for a charge—details of the animal or animals for which each tribunal is selected;
- (g) details of the fees, allowances and expenses paid to the animal valuer.

(3) If the chief executive receives written notice from an animal valuer of a change in the animal valuer's name or address, the chief executive must record the new name or address in the register.

Fees, expenses and allowances

19.(1) This section states the fees, expenses and allowances payable to a tribunal member.

(2) The total fee payable for each day or part of a day on which inspections or valuations, or both, are carried out is \$200.

(3) The travelling expenses payable for carrying out inspections or valuations are—

- (a) the fares reasonably incurred; or
- (b) if a private vehicle is used—the same rate for each kilometre as is payable to a public service officer for the vehicle under the *Public Service Act 1996*.

(4) The fees, allowances and expenses payable for attending at court (“**allowances**”) are the same allowances as are payable under the court's rules to a professional witness attending to give evidence of a professional nature or, to the extent to which the rules do not provide for those allowances, the same allowances as are payable to an expert witness.

⁸ Section 6 (Termination of appointment as animal valuer)

(5) For subsections (3) and (4), if part or all of a member's attendance at court or travelling is common to more than 1 charge, the allowances or travelling expenses payable must be apportioned to reflect that fact.

(6) An inspection at court is taken to be an attendance at court for the purposes of fees, expenses or allowances.

(7) Payment of a tribunal member's fee, expenses or allowances is to be made by the chief executive—

- (a) for carrying out a valuation—after receipt of the certificate of valuation, proof of expenses, if any, and a claim for payment; or
- (b) for performing another function—after receipt of proof of performance of the function, proof of expenses, if any, and a claim for payment.

Delegation

20.(1) The chief executive may delegate the chief executive's powers under this regulation to an appropriately qualified officer of the department.

(2) In this section—

“appropriately qualified” includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

A person's classification level in the public service.

Approval of forms

21. The chief executive may approve forms for use under this regulation.

Transitional

22.(1) To remove any doubt, it is declared that an animal valuer who immediately before the commencement was appointed to a district is an animal valuer without any district limitation.

(2) Anything done or existing in relation to a tribunal selected under the repealed regulation continues to have effect as if the repealed regulation had not been repealed.

(3) Also, anything started by the tribunal may be completed as if the repealed regulation had not been repealed, and in particular—

- (a) the tribunal may issue a certificate of valuation for a valuation for which the tribunal was selected; and
- (b) a certificate of valuation issued by the tribunal before or after the commencement of this section may be received in evidence.

(4) This section expires 2 years after it commences.

Repeal

23.(1) The *Animal Valuers Regulation 1987* is repealed.

(2) This section expires the day after it commences.

SCHEDULE**DICTIONARY**

section 2

“animal” see the Code section 450D.⁹

“animal valuer” means a person appointed as an animal valuer under the Code, section 450F.¹⁰

“approved form” see section 21.

“certificate of valuation” means a certificate of valuation issued under this regulation.

“conviction” means a finding of guilt, or an acceptance of a plea of guilty, by a court in Queensland or elsewhere.

“criminal history”, of a person, mean the convictions for offences recorded against the person.

“inspect”, an animal, means—

- (a) perform the functions of a tribunal for the animal under the Code, section 450G;¹¹ or
- (b) re-inspect the animal to identify it when it is produced for tendering as an exhibit.

“proceeding” means a court proceeding for a charge of an offence involving an animal for which the value of the animal may be decided

⁹ Section 450D (Meaning of term “animal”)

¹⁰ Section 450F (Animal valuers and valuations)

¹¹ Section 450G (Identification of animals and return to owners prior to tender in certain cases)

in accordance with a regulation made under the Code, section 450F to fix the minimum fine for the offence.¹²

“prosecutor” means the person currently prosecuting in a proceeding.

“repealed regulation” means the *Animal Valuers Regulation 1987*.

“the Code” means the Criminal Code.

“tribunal” means a tribunal of animal valuers constituted under section 9.

“valuation” means a determination of an animal’s value by a tribunal.

ENDNOTES

1. Made by the Governor in Council on 24 June 1999.
2. Notified in the gazette on 25 June 1999.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Justice and Attorney-General.

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¹² For the offences to which section 450F applies, see the Code, section 398 (Punishment for stealing) and chapter 44 (Offences analogous to stealing relating to animals).