

# Animal Care and Protection Amendment Bill 2022

## Explanatory Notes

### Short title

The short title of the Bill is the Animal Care and Protection Amendment Bill 2022.

### Policy objectives and the reasons for them

The *Animal Care and Protection Act 2001* (ACPA) has been the principal legislative framework for animal welfare since its commencement over 20 years ago. In that time, without any comprehensive review of the ACPA, there have been significant advances in animal welfare science which has led to a better understanding of animal biology and behaviour which, in turn, has assisted in developing improved animal husbandry practices and, in general, has reduced the risks to the welfare of all animals.

The greater awareness of animal welfare requirements has influenced community expectations which demand more humane care and use of animals, including livestock. Animal welfare for livestock has become increasingly important for persons whose livelihood is dependent on animals to retain market access with international trading partners.

The State government committed to a review of the ACPA in December 2020. The intent of the review was to ensure the legislation keeps pace with contemporary animal welfare standards, practices, and community expectations.

A discussion paper, *Review of the Animal Care and Protection Act 2001 Discussion Paper* (the Discussion Paper) was released in April 2021 and submissions for responses to the paper closed in May 2021. Although broad community views were sought on the current legislative framework in the ACPA, the paper also set out high-level proposals which included maintaining or changing current provisions and introducing new provisions.

The broad tenor of the submissions received through the consultation process was that the current legislative framework is generally appropriate, however it requires updating to reflect contemporary standards, and to address several other identified issues.

The Martin Inquiry, an independent inquiry commissioned by the State government into the management of retired racehorses, delivered its report to the Queensland Government in January 2020. In February 2020 the Queensland Government published its response, supporting each of the recommendations either in full or in part.

Although the State government's commitment to implement the recommendations were not part of the ACPA review, the commitments relate to animal welfare and are

appropriate to include in the Bill, and thereby will provide for more effective monitoring of livestock slaughter facilities by the Department of Agriculture and Fisheries (the department) and safeguarding of the welfare of retired racehorses by the Queensland Racing Integrity Commission (QRIC).

The Queensland Audit Office (QAO) commenced an audit in March 2021 to assess the effectiveness of the department's oversight of the Royal Society for the Prevention of Cruelty to Animals Queensland Inc (RSPCA) to deliver services and exercise powers under the ACPA. The QAO tabled its final report on *Regulating Animal Welfare (Report 6:2021-22)* (QAO report) in November 2021. The Bill amends the ACPA to address the central issues that arose during the audit and recommendations from the QAO report.

### **Contemporary animal welfare legislation**

The main policy objective of the Bill is to modernise animal welfare laws to reflect contemporary science, community attitudes, and expectations by:

- *facilitating the ethical use of animals for scientific purposes* while ensuring that animal welfare is not compromised
- *strengthening enforcement powers* to address risks to animal welfare by clarifying or prescribing new offences, such as an 'aggravated' breach of duty of care offence
- *prohibiting inhumane practices*, such as the use of 'CSSP Pig Poison' on pest or feral animals, firing or blistering of the legs of horses and dogs, and the use of prong collars on cats and dogs
- *providing for an approved cattle procedures accreditation scheme* to enable a person to gain accreditation to perform a cattle procedure
- *clarifying the law and removing redundant provisions.*

#### *Facilitating the ethical use of animals for scientific purposes*

The Bill amends the ACPA to achieve the following policy objectives:

- allow persons other than veterinary surgeons to perform acts of veterinary science on animals used for scientific use purposes, provided they are performed in accordance with the *Australian code for the care and use of animals for scientific purposes*, (Scientific Use Code), which is a mandatory code under the ACPA
- enable the chief executive to decide the term of scientific use registration up to a maximum of 4 years, rather than the current fixed 3-year term
- align the definition of 'scientific purposes' with the Scientific Use Code
- require a scientific use registration holder to notify the chief executive of any changes to the information provided in their registration application
- clarify that the scientific use register can be inspected by the public at the department's head office.

#### *Strengthening enforcement powers*

The Bill amends the ACPA to strengthen powers to reduce risks to the welfare of animals by:

- introducing a new offence of ‘aggravated’ breach of duty of care with the same maximum penalty of 2000 penalty units or 3 years imprisonment as that which applies to a cruelty offence. It provides for circumstances where a person breaches section 17 of the ACPA and the breach results in the death, serious deformity, serious disability, or prolonged suffering of an animal. This is intended to cover breaches of duty of care where the animal may be subjected to significant or gross neglect in circumstances where a person has failed to provide the animal with adequate food and water over a prolonged period, or where a person has not taken appropriate measures to treat an animal. This offence can be distinguished from cruelty because it is intended to apply where an animal has suffered as a result of an omission by the person to adequately feed, provide water, or treat an animal, compared with an act that inflicts harm
- allowing an inspector to enter a place to provide relief to an animal from adverse weather conditions or another animal that is aggressive
- allowing the chief executive to give a direction for the disposal, forfeiture, or prohibition on possessing, purchasing, or otherwise acquiring animals to a person who is subject to a decision made under an interstate law that corresponds with provisions of the ACPA
- clarifying the meaning of ‘unreasonable abandonment’ to remove any doubt that the person in charge of an animal remains responsible even where another person such as a neighbour, has volunteered to provide the animal with food and/or water
- allowing an inspector to issue an animal welfare direction to a person to whom a compulsory code requirement applies
- requiring a person who has obtained an animal that has undergone a regulated procedure such as tail docking, to obtain and retain the signed veterinary surgeon’s certificate, (already required to be provided by the veterinary surgeon under sections 28 and 29), stating that the regulated procedure was done in the interests of the animal’s welfare
- prohibiting the transportation of an unsecured dog travelling on a tray of a vehicle, or a trailer attached to a vehicle, or a dog’s body, other than its head to protrude from an open window.

#### *Prohibiting inhumane practices*

The Bill amends the ACPA and introduces new offences which will prohibit the inhumane practice of:

- ‘firing’ or ‘blistering’ of a horse or dog which are painful and ineffective methods of treating tendon injuries
- possessing or using a prong collar, which is designed to bruise or pierce an animal’s skin, or another prescribed restraint on an animal
- possessing or using prescribed prohibited nets
- using a poison on feral or pest animals that includes the ingredients carbon disulfide and phosphorus.

#### *Approved cattle procedures accreditation scheme*

The Bill amends the ACPA to allow the chief executive to approve cattle procedures accreditation schemes under which a person may gain accreditation to perform prescribed procedures on cattle. This will allow a lay person, (non-veterinarian), to spay cattle using the Willis dropped-ovary technique, or pregnancy test cattle using rectal palpation, or transrectal ultrasound, (each a prescribed procedure). The amendment to include spaying of cattle using the Willis dropped-ovary technique implements a requirement under the 'Australian Animal Welfare Standards and Guidelines for Cattle' agreed to by State and Territory Governments in 2016.

*Clarify and remove any redundant provisions*

The Bill will provide clarity and remove redundant provisions by amending the ACPA to:

- state that codes of practice are to be based on good practice and scientific knowledge
- provide that all species from the class Cephalopoda are prescribed as animals under section 11 of the ACPA, rather than prescribing them by regulation
- clarify that rodeos are not a prohibited event
- remove the obligation to exercise closely confined dogs, which is difficult to enforce and is already adequately covered by the cruelty provisions under section 18 of the ACPA
- provide an offence exemption for veterinary surgeons where they decide to euthanase sick and/or injured animals if the owner cannot be readily located
- make minor amendments to headings of sections and parts of chapters to reflect the amendments proposed in the Bill.

*Amendments to the Disability Services Act 2006*

The Bill amends the *Disability Services Act 2006* (DS Act) to:

- correct an error in a cross-reference in the DS Act
- prescribe the new offence of 'aggravated' breach of duty of care under the ACPA as a serious offence under the DS Act.

**Martin Inquiry recommendations**

Another policy objective is to implement some of the recommendations of the *Inquiry into animal cruelty in the management of retired Thoroughbred and Standardbred horses in Queensland*, (the Martin Inquiry), through amendments to the ACPA and the *Racing Integrity Act 2016* (RI Act). The Martin Inquiry delivered its report to the Queensland Government in January 2020, and in February 2020 the Queensland Government published its response, supporting each of the recommendations either in full or in part.

Although the State government's commitment to implement the recommendations were not part of the ACPA review, the commitments relate to animal welfare. Therefore, it is considered appropriate to include them in the Bill, and as such, will provide for more effective monitoring of livestock slaughter facilities by the department, and safeguarding

of the welfare of retired racehorses by the Queensland Racing Integrity Commission (QRIC).

The Bill will implement the following recommendations of the Martin Inquiry to amend the ACPA:

- Recommendation 10.2.2 to require the use of closed-circuit television equipment at livestock slaughter facilities at all critical animal handling and processing areas, to record clear surveillance of the movement of animals from arrival to exsanguination, and store it for at least 30 days
- Recommendation 10.2.6 to provide inspectors an entry power to enter a livestock processing facility and remain at the place while horses are being unloaded, kept, and processed
- Recommendation 10.2.7 to require a livestock slaughter facility to give the chief executive notice of arrival of horses to the livestock slaughter facility at least two days prior to their arrival.

The Bill will implement following recommendations to amend the RI Act:

- Recommendation 2.3.3 to extend the functions of QRIC to protect the welfare of retired racehorses
- Recommendation 2.2.4 to clarify that a standard for a licensing scheme for a code of racing can be made for horses
- Recommendation 6.4 to impose reporting and recording obligations on the suppliers to, and owners of, a livestock slaughter facility to enable QRIC access to information to verify whether retirement and rehoming information for horses has been reported correctly.

### **Queensland Audit Office recommendations**

Another objective of the Bill is to implement some of the recommendations of the 2021 audit report prepared by the Queensland Audit Office (QAO), *Regulating animal welfare services Report 6:2021-22* (QAO report). In July 2020, the then Natural Resources, Agricultural Industry Development and Environment Committee requested the Queensland Auditor-General to undertake an audit of the effectiveness of the department's oversight of the RSPCA to perform animal welfare investigations on behalf of the State.

The QAO report tabled in the Legislative Assembly on 30 November 2021 made a number of recommendations aimed at strengthening the legislative framework, clarifying and strengthening the department's role in overseeing the RSPCA's regulatory functions, and managing the performance of RSPCA inspectors.

The Bill will implement some of the QAO report recommendations on strengthening the legislative framework with regard to the department's oversight of RSPCA inspectors by amending the ACPA to:

- clarify the accountabilities and accreditation of inspectors

- provide for oversight by the chief executive of recommendations from inspectors for prosecutions, and any related proposals for charge and plea negotiations, between the defendants and prosecutors before presenting the case in the court
- provide the chief executive with access to all information that inspectors collect as part of their investigations and prosecutions
- include requirements for managing conflicts of interest
- require the approval of a publicly available fee schedule of reasonable cost recovery.

## Achievement of policy objectives

### Contemporary animal welfare legislation

The Bill will achieve its main policy objective to modernise the animal welfare laws to reflect contemporary attitudes and expectations by amending the ACPA, the DS Act, the Animal Care and Protection Regulation 2012 (ACP Regulation), the RI Act, the *Veterinary Surgeons Act 1936* (VS Act), and the *Veterinary Surgeons Regulation 2016* (VS Regulation) to address the issues identified within Queensland's current animal welfare legislative framework.

The Bill will *facilitate the ethical use of animals for scientific purposes* by:

- amending section 2A (Meaning of veterinary science) of the VS Act to allow persons other than veterinary surgeons to perform acts of veterinary science on animals used for scientific use purposes, provided they are performed in accordance with section 91 of the ACPA. Section 91 details the conditions a person must comply with when using an animal for scientific purposes, including complying with the *Australian code for the care and use of animals for scientific purposes* (Scientific Use Code)
- replacing section 58 (Term of registration) of the ACPA to enable the chief executive to decide the term of scientific use registration up to a maximum of 4 years. This is to provide more flexibility than the current fixed 3-year term which does not meet the individual requirements of smaller research organisations. Also, a fixed 3-year term does not always align with the independent external reviews conducted every 4 years, which are required to be conducted for the applicant under the Scientific Use Code. The external review reports are considered by the chief executive when deciding a registration application
- amending section 48 of the ACPA to amend the definition of 'scientific purposes' to align with the Scientific Use Code by listing, as examples of the areas of science, the same activities listed in the definition of 'scientific purposes' in the Scientific Use Code
- amending section 62 of the ACPA to clarify that the scientific use register can be inspected by the public at the department's head office, rather than any other office of the department not involved in the regulation of the scientific use of animals
- introducing a new section 87A into the ACPA to require a scientific use registration holder to notify the chief executive within 7 days of a change in a

material particular to the information provided in their registration application, or a disqualifying event.

The Bill will *strengthen enforcement powers* under the ACPA by:

- amending section 17 of the ACPA to prescribe a new offence of ‘aggravated’ breach of the duty of care with the same maximum penalty, (2000 penalty units or 3 years imprisonment), that applies for an animal cruelty offence under section 18 of the ACPA. This new offence applies in situations for example where, as a result of gross or significant neglect, a person has failed to provide for an animal’s care to the extent that the animal has died, or suffered serious deformity, serious disability, or prolonged suffering
- amending section 123 to provide a limited entry power to inspectors to enter and access the non-residential parts of a place to provide relief to an animal from adverse weather conditions, or another animal that is aggressive, if the person in charge is not, or is apparently not, present at the place
- introducing a new Chapter 6A to provide for the chief executive to make an order recognising prohibition, disposal, and forfeiture orders made under the law of another State or the Commonwealth
- amending section 19 to remove any doubt that the person in charge of an animal remains responsible for an abandoned animal even where another person, such as a neighbour, may have volunteered to temporarily provide the animal with food or water. This change will clarify the interpretation of a person in charge for the purpose of the ‘unreasonable abandonment’ offence under section 19 of the ACPA
- amending the provisions in chapter 6, part 2, division 5 which allow an inspector to give a written direction to a person to whom a compulsory code requirement applies, such as a direction to remove protrusions from truck crates, or containers that are used to transport livestock. An animal welfare direction can currently only be given to a person in charge of an animal, which is problematic because there are circumstances where a person who has an obligation to comply with a code of practice requirement is not the person in charge
- amending sections 28 and 29 and inserting a new section 29A to introduce a requirement for a person who has been supplied an animal that has undergone a regulated procedure, such as tail docking, to keep the signed veterinary surgeon’s certificate stating that the regulated procedure was done in the interests of the animal’s welfare
- inserting new section 33 to prohibit the transportation of an unsecured dog travelling on tray of a vehicle, or a trailer attached to a vehicle, or of a dog whose body (other than its head) is able to protrude from an open window. There is a risk of serious injury or death when dogs are transported unsecured as they may fall or jump from moving vehicles. The restrictions will not apply to dogs being transported for the purpose of assisting in the movement of livestock.

The Bill will amend the ACPA to *prohibit inhumane practices* by introducing new offences for:

- firing or blistering of a horse or dog, which are painful and ineffective methods of treating tendon injuries, by inserting new section 37C

- possession or use of prong collars designed to bruise or pierce an animal's skin, or other restraint devices that cause harm, injury, or fear if worn by a cat or a dog by new sections 37A
- possession or use of netting to reduce the risk of wildlife becoming entangled in tree netting and suffering horrific injury and death, by inserting new section 37B
- use of a poison on feral or pest animals that includes ingredients carbon disulfide and phosphorus such as CSSP Pig Poison by amending section 42.

The Bill will insert a new chapter 4A, which gives the chief executive a power to approve cattle procedures accreditation schemes which allow a person to gain accreditation to perform cattle procedures on animals. An accredited lay person will be able to spay cattle using the Willis dropped-ovary technique, which implements a requirement under the 'Australian Animal Welfare Standards and Guidelines for Cattle' agreed to by all State and Territory Governments in 2016. An accredited person will also be able to use the procedures of rectal palpation or transrectal ultrasound to test for pregnancy in cattle.

As a consequence of the introduction of approved cattle procedures accreditation schemes, the Bill will also amend the ACP Regulation to omit section 17 of schedule 2B (Code of practice about cattle) to remove the provisions allowing a person to spay a cow using the Willis dropped-ovary technique if they have successfully completed a prescribed unit of competency.

The Bill will amend the ACPA to *clarify and remove any redundant or displaced provisions* by:

- stating that codes of practice are based on good practice and scientific knowledge, which is confirming the current accepted practice, and is consistent with the requirements for the development of national standards for the welfare of animals
- amending the definition of 'animal' in section 11 of the ACPA to include all species from the class Cephalopoda as animals, rather than prescribing them by regulation
- removing the obligation to exercise closely confined dogs because it is adequately covered under section 18 (Animal cruelty prohibited) of the ACPA. Section 18 provides that a person is cruel to an animal if they confine it in such a way that is inappropriate for the animal's welfare
- providing an offence exemption for veterinary surgeons (new section 41B) who may be required to euthanase sick and injured animals, whose pain and suffering would otherwise be prolonged or exacerbated by the extended journey to another place, such as to the RSPCA, to be euthanased, if the owner cannot be readily located
- making minor amendments to headings of sections and parts of chapters to reflect the amendments in the Bill
- inserting into new section 27A for the prohibition on the use of vaginal spreaders to spay cattle that have not given birth, contained in section 17(2) of Schedule 2B of the ACP Regulation.

### **Martin Inquiry recommendations**

The Bill will achieve its policy objective of implementing the Martin Inquiry recommendations to amend the ACPA by:



- inserting new chapter 4B, which will introduce new obligations on an owner of a livestock slaughter facility to comply with requirements of installation, operation, maintenance, and storage of closed-circuit television equipment. The amendments will allow an inspector to inspect and view the recordings made by closed-circuit television equipment and require, by written notice, that the owner not erase or destroy a recording
- requiring an owner of a livestock slaughter facility to notify the chief executive at least 2 business days before the arrival of a horse at the facility, or if the owner becomes aware of the arrival later than 2 business days, then the owner must notify the chief executive as soon as possible. This will give the department an opportunity to arrange for the presence of an inspector when horses are being processed at a livestock slaughter facility, as horses are only processed at certain times e.g., fortnightly, or sporadically
- providing an entry power for inspectors to enter and remain at a livestock slaughter facility when livestock are present at the facility
- under new section 93S, livestock slaughter facilities are defined as a facility used to slaughter horses and other livestock prescribed by regulation. No other livestock slaughter facilities are being prescribed by the Bill.

The ACP Regulation will be amended to prescribe the minimum requirements, maintenance, operation, and storage of closed-circuit television equipment as part of the implementation of the Martin Inquiry recommendations to support the ACPA amendments.

The Bill will implement the Martin Inquiry recommendations in the RI Act by:

- amending section 3 and 10 to provide that QRIC has a function to protect the welfare of retired racehorses in the care of a licensed person under the RI Act, in addition to animals involved in racing
- amending section 63 to provide that a standard can be made for a licencing scheme for the responsible breeding of horses for racing
- inserting new Chapter 5A and new sections 210A–210C that will require a person (a supplier) who supplies a horse to a livestock slaughter facility to give the owner of the facility information such as an image of a brand, (if the horse has a brand), contact details of the supplier, the day the supplier took possession of the horse, and the contact details of the person transporting the horse to the facility. The owner of a livestock slaughter facility will be required to keep a record of the date of arrival, any number shown on the horse's microchip, the information provided by the supplier, and other prescribed information, and to provide a monthly report to the QRIC with the prescribed information, including the number of horses that had arrived at the facility in that month. The information will be required to be kept for at least 2 years after the day the horse arrives at the facility. These reporting requirements will enable the QRIC to ensure compliance with rehoming obligations regarding horses by having access to information to verify whether retirement and rehoming information has been reported correctly by the owners of the horses.

### **Queensland Audit Office recommendations**

The Bill will achieve its policy objective of implementing some of the QAO report recommendations on strengthening the legislative framework with regard to the department's oversight of RSPCA inspectors by amending the ACPA to:

- insert new Chapter 6, part 1 division 1A to enable the chief executive to cancel or suspend the appointment of an inspector if the chief executive reasonably believes that the inspector is no longer suitable for appointment, or the inspector failed to comply with a condition of the appointment
- insert new Chapter 6, part 1, Division 3 to enable the chief executive to require an inspector to satisfactorily complete prescribed training within the period prescribed under a regulation, and to give notice to the chief executive of any conflicts of interest
- insert a new section 215DA to enable the chief executive to request by written notice a copy of, or access to, all documents and information relating to an investigation of an alleged animal welfare offence conducted by an RSPCA inspector in relation to proceedings to be commenced under the ACPA. The RSPCA must provide the information within 14 days of being notified
- Amend section 178 to provide that a prosecution may only be started by a person authorised by the chief executive to bring the prosecution.

### ***Disability Services Act 2006***

The Bill will achieve its policy objective by amending the *Disability Services Act 2006* (DS Act) to:

- to prescribe the new offence of ‘aggravated’ breach of duty of care (amendment to section 17) as a current serious offence under Schedule 2 of the DS Act, with the effect that an applicant for a disability worker screening clearance with a charge or conviction for aggravated breach of duty of care under the ACPA—if committed or alleged to have been committed as an adult—must be issued an exclusion, unless they can demonstrate through a show cause process that exceptional circumstances exist. The person is then prevented from making a further application unless that exclusion is cancelled
- correct an error in a cross-reference in section 48(1)(c) of the DS Act.

## **Alternative ways of achieving policy objectives**

### **Contemporary animal welfare legislation**

#### Alternative 1 – Retain the status quo

Making no legislative amendments may be considered an alternative option, but the general community has an expectation that inappropriate practices and behaviour that impact on the welfare of animals should be prohibited. Retaining the status quo may be seen as failing to take the community and stakeholder’s concerns seriously and may also be seen as being inconsistent with interstate and international welfare legislation.

Retaining the status quo will not address:

- the risks to the welfare of animals through the use of devices such as prong collars, or practices such as firing or blistering of the legs of horses and dogs
- market access, in particular premium export markets which expect a commitment to animal welfare standards being met, which can only be demonstrated by legislation
- reputational risk to the Queensland Government and the department by failing to appropriately respond to the review of a 20-year-old legislative framework.

Retaining the status quo would not allow research activities to be conducted by persons other than veterinary surgeons, as it would be contrary to the VS Act. The consequence is that it may reduce the ability for research institutes to undertake research projects in Queensland. This may force them to relocate to other jurisdictions as most of the other Australian jurisdictions exempt research activities from veterinary science. This would have a significant and detrimental impact to the Queensland scientific community and would reduce the State's ability to access cutting edge research.

#### Alternative 2 – Amend the legislation

Amending legislation is the only way of achieving the policy objectives. The Bill will address legitimate animal welfare concerns raised during the extensive consultation through the Discussion Paper and targeted stakeholder meetings, while at the same time, reducing some identified areas of unnecessary regulation.

Furthermore, the Bill will allow lay persons to undertake cattle procedures including spaying by the Willis dropped-ovary technique, pregnancy testing by rectal palpation, and transrectal ultrasound without the involvement of a veterinary surgeon. This is anticipated to have benefits for cattle producers including more timely access to pregnancy testing services, avoidance of logistical challenges and associated opportunity costs, and reduction in travel costs charged by testers.

The regulatory approach is consistent with other Australian and international jurisdictions which define and prohibit inappropriate practices and behaviour that impact on the welfare of animals.

#### Other alternatives

Non-legislative options have not effectively reduced the animal welfare risks identified through the review of the ACPA and are not considered an appropriate or effective way to meet community expectations. Education campaigns and best practice publications are not likely to be effective in achieving the policy objectives.

#### **Martin Inquiry recommendations**

There are no alternative ways of achieving the policy objectives other than by legislative amendment, as the recommendations were specifically to amend the legislation.

#### **Queensland Audit Office recommendations**

There are no alternative ways of achieving the policy objectives other than by legislative amendment, as the recommendations were specifically to amend the legislation.

## **Estimated cost for government implementation**

Any costs to the Government resulting from the amendments contained in this Bill will be met from within existing resources.

## **Consistency with fundamental legislative principles**

The Bill has been drafted to have sufficient regard to fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992* (LSA). Potential breaches of FLPs are addressed below.

### **Legislation should make rights and liberties, or obligations dependent on administrative power only if the power is sufficiently defined – LSA - 4(3)(a)**

- Clause 19 Replacement of section 58 (Term of registration)
- Clause 22 Insertion of new chapters 4A and 4B including new section 93G (Deciding application) and new section 93B (What is a *cattle procedures accreditation scheme*)
- Clause 24 Insertion of new chapter 6, part 1, division 1A (Cancellation or suspension of appointment) new section 118A (Grounds for suspending or cancelling appointment)
- Clause 32 Insertion of new chapter 6A (Recognising offences under interstate laws) new section 173B (Power to give directions).

Under section 4(3)(a) of the LSA, legislation should set out rights and obligations dependent on administrative power only if the power is sufficiently defined. Depending on the seriousness of a decision made in the exercise of administrative power and the consequences that follow, it is generally inappropriate to provide for administrative decision-making in legislation without providing criteria for making the decision. The legislation should generally provide express and relevant criteria in the ordinary sense of the word to which a decision-maker must have regard in exercising a statutory administrative power.

New section 93G provides a power to the chief executive to approve a cattle procedures accreditation scheme if satisfied the scheme has provided arrangements, including procedures and controls, for each of the functions listed in new section 93B. The functions do not specify any particular arrangements, as it will need to be determined on a case-by-case basis by the accreditation scheme owner and the chief executive. The documentation that accompanies the application for approval of an accreditation scheme to address the functions is expected to be extensive and quite technical. It will require examination on the chief executive's expertise and knowledge to determine whether the arrangements are sufficient. It is therefore considered to be consistent with the principle that administrative power should be sufficiently defined.

This approach is justified and necessary as the functions of the accreditation scheme are to clearly demonstrate that appropriate arrangements are in place, including ensuring the level of knowledge and skills required to perform a cattle procedure are met so that the risks to the welfare of the animal from the scheme are minimised.

The Bill amends the definition of 'original decision' in the schedule to allow an applicant to apply for an internal review of a refusal to grant an application or the granting of an application on conditions under chapter 7, part 4 (Reviews and appeals) of the ACPA.

New section 58 provides that the chief executive may make a term of registration for the scientific use of an animal up to a maximum term of 4 years.

The purpose of providing the flexibility to the chief executive to approve a shorter or longer term than the current fixed term of 3 years is so the chief executive can consider the circumstances and requirements of each applicant. By tailoring the term of registration to meet the applicant's requirements, particularly for terms shorter than the current fixed 3-year term, the disproportionate cost of registration as being one of the barriers to compliance is eliminated. Also, the new term limit of 4 years enables the chief executive, when deciding applications, to factor in the independent external reviews conducted every 4 years.

New section 118A provides grounds for the chief executive to suspend or cancel an inspector's appointment. The grounds include the chief executive no longer believes that the inspector is suitable for appointment as an inspector under section 114 of the ACPA, or the inspector has failed to comply with a condition of appointment.

The purpose of providing the power to the chief executive to suspend or cancel an inspector's appointment is to implement a QAO report recommendation to provide clarity on the circumstances in which an inspector's appointment can be revoked or suspended. New section 118B requires the chief executive to provide a notice to an inspector if the chief executive decides to take action under Division 1A. The notice must state the information prescribed in subsections (a) to (e), which includes an invitation for the inspector to make written representation to show why the proposed action should not be taken. Further provisions are provided for making the proposed decision, (new section 118D) and providing the inspector with a notice of the proposed action (new section 118E).

Section 118D will also be included under the definition of 'original decision' in the Schedule Dictionary, which provides an inspector effected by a decision to suspend or revoke their appointment can apply for an internal review under section 197, and an external review under section 198A of the ACPA.

It is considered these provisions are consistent with the principle that administrative power should be sufficiently defined. This approach is justified and necessary as it is appropriate that the chief executive should have the power to suspend or revoke the appointment of an inspector if the chief executive considers an inspector has breached a condition of appointment or is no longer suitable for appointment. Further, the grounds on which an inspector's appointment can be suspended or revoked are clearly stated in the provisions.

New chapter 6A (Recognising offences under interstate laws) introduces powers for the chief executive to direct a person who is the subject of an interstate prohibition decision to forfeit animals that are the subject of the interstate prohibition decision, or direct that the person does not possess, purchase, or otherwise acquire any animal or stated type of

animal. New section 173C sets out the criteria for the chief executive to make a direction under section 173B(2). The criteria include that the chief executive may make the direction only if satisfied it is just to make the decision. New section 173C provides the considerations that the chief executive must address in deciding whether to make a direction under section 173B(2).

New section 173E (Applying for amendment or revocation of a direction) allows a person subject to a direction to apply to the chief executive to amend or revoke the direction. New section 173F (Deciding application) sets out what the chief executive must consider when a person has made an application under section 175E. New section 173B(2) is also to be included under the definition of 'original decision' in the Schedule Dictionary, which provides an inspector effected by a decision to suspend or revoke their appointment can apply for an internal review under section 197, and an external review under section 198A of the ACPA.

It is considered these provisions are consistent with the principle that administrative power should be sufficiently defined. This approach is justified and necessary, as it is considered appropriate that the chief executive should have the power to give directions to people who are the subject of interstate prohibition decision. The risks to the welfare of the animal posed by a person who is subject to an interstate order is the same regardless of where the person resides. Therefore, it is considered appropriate that a person who is subject to an interstate prohibition order should not be able to avoid the operation of the order by changing their jurisdiction. Further, the grounds on which the chief executive can make a direction are clearly stated in the provisions.

**Legislation does not reverse the onus of proof in criminal proceedings without adequate justification – LSA - 4(3)(d)**

- Clause 12 Replacement of ss28 (Restriction on supplying debarked dog) and 29 (Other restrictions)
- Clause 14 Insertion of new chapter 3, part 5, divisions 5 to 7 New section 37A (Possession or use of prohibited devices)
- Clause 14 Insertion of new chapter 3, part 5, divisions 5 to 7 New section 37B (Possession or use of prohibited nets)
- Clause 15 Insertion of new s41B (Euthanasing sick or injured animals by veterinary surgeons)
- Clause 48 Insertion of new chapter 5A New section 210B (Records to be kept by livestock slaughter facility).

Section 4(3)(d) of the LSA states that whether legislation has sufficient regard to the rights and liberties of individuals depends on whether the legislation does not reverse the onus of proof in criminal proceedings without adequate justification.

Amendments to ss 28 and 29 and the addition of a new section 29A requires a person, unless they have a reasonable excuse, to keep the veterinary surgeon's certificate given by a person supplying an animal that has had a regulated procedure performed on it and make the certificate available for inspection on request by an inspector.

New section 37A prohibits the possession of a prong collar or another restraint device prescribed by regulation, unless the person has a reasonable excuse.

New section 37B prohibits the possession of nets prescribed by regulation unless the person has a reasonable excuse.

New section 41B provides that it is a defence for a veterinary surgeon to prove the act of euthanasing an animal was done in the belief that the animal was so diseased or severely injured, or in such poor physical or psychological condition that it would have been cruel to keep it alive and the act was done in a humane way. The veterinary surgeon is also required to have taken reasonable steps to identify and contact the person in charge of the animal before doing the act.

New section 210B requires the owner of a livestock slaughter facility to keep records about each branded animal that arrives at the facility, unless the operator has a reasonable excuse.

Under these sections a person would bear the onus of proof to show that they had a reasonable excuse to be in possession of the prohibited items, or why they haven't kept the prescribed records. The reversal of the onus of proof is justified because the relevant facts of the offences involve matters which would be within the defendant's knowledge, and/or on which evidence would be available to them. It is appropriate for a defendant to provide the necessary evidence of the reasonable excuse.

New section 41B provides that it is a defence for a veterinary surgeon to prove the act of euthanasing an animal was done in the belief that the animal was so diseased or severely injured, or in such poor physical or psychological condition that it would have been cruel to keep it alive, and the act was done in a humane way. The veterinary surgeon is also required to have taken reasonable steps to identify and contact the person in charge of the animal before doing the act.

Under new section 41B a veterinary surgeon who performed the act would bear the onus of proof that they believed that the animal was so diseased or severely injured, or in such poor physical or psychological condition that it would have been cruel to keep it alive, and the act was done in a humane way. The veterinary surgeon would also have to provide details of the reasonable steps that were taken to determine if the person in charge of the animal could be found.

The reversal of the onus of proof is justified because the relevant facts of the offences involve matters which would be within the defendant's knowledge, and/or on which evidence would be available to them. It is appropriate for a defendant to provide the necessary evidence of the defence.

**Legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer – LSA - s4(3)(e)**

- Clause 27 Amendment of section 122 (Power of entry)

- Clause 28 Amendment of section 123 (Limited entry power to provide relief to animal).

A power to enter premises should generally be permitted only with the occupier's consent, under a warrant, or if it is a public place. In particular, residential premises should not be entered without consent or a warrant, except in the most exceptional circumstances.

Section 122 is amended to provide an additional entry power for inspectors to enter and stay at a horse slaughter facility during normal business hours. The circumstances are limited to when there are horses at the facility and during normal business hours. The entry power is justified because an inspector should be able to be present at a livestock slaughter facility to monitor compliance with the ACPA and the compulsory codes of practice while horses are being unloaded, handled, and slaughtered.

The entry power was found to be necessary by the Martin Inquiry because there is a lack of sufficient oversight within an export abattoir, which poses significant risks to the welfare of animals, and therefore it is necessary in that environment for inspectors to have an entry power into the facilities to check compliance.

The inspector's attendance while horses are processed will provide the community and industry with greater confidence that animal welfare risks are being proactively managed and regulated. The impact on the rights of the owner of the facility by this provision is limited by the fact that the entry is only allowed during normal business hours, and when horses are at the facility.

Section 123 is amended to provide an additional limited power for an inspector to enter and stay in a non-residential part of a place if the inspector reasonably suspects that an animal at the place is exposed to extreme weather conditions, or is at risk of being injured or killed by an animal that is acting aggressively towards it, and the person in charge of the animal that is exposed or threatened is not, or is apparently not, present at the place. The circumstances in which an inspector may enter a place are sufficiently limited.

Additionally, section 123 provides appropriate safeguards which limit entry powers to non-residential parts of the premises and only for a period necessary, which is limited to moving an animal to a sheltered area or away from another aggressive animal. When the inspector exercises this power, they must leave a notice identifying the inspector, the action taken, and when the action was taken before leaving the place. This information will enable the person in charge of the animal to take action if the person considers that the action taken by the inspector was unreasonable.

The additional entry powers are justified to assist animals because providing a suitable environment for an animal is an important consideration to maintain the health and wellbeing of an animal, including shelter during an extended period of extreme temperatures, and particularly in respect to very young or old animals, or animals that are in poor condition or sick.

A suitable environment is also important for an animal to feel safe and to escape from any other animal that is being aggressive towards it. The lack of protection can pose the risk



of physical trauma, (e.g., wounds, lacerations) to an animal, as well as psychological trauma, such as stress or anxiety.

**Legislation should not confer immunity from proceeding or prosecution without adequate justification – LSA - s4(3)(h).**

**Euthanasing a sick or injured animal**

- Clause 34 Insertion of new section 215AA (Protection from liability for euthanasing sick or injured animals).

New section 215AA provides that a veterinary surgeon is not liable, civilly, criminally or under an administrative process, for euthanasing animals under new section 41B.

A significant number of veterinary practitioners expressed a reluctance or unwillingness to euthanase an animal without some legislative authority in a situation where the owner or person in charge of the animal cannot be found. This has resulted in some veterinary practitioners being conflicted about their ethical obligations and authorising environment.

The RSPCA has provided significant evidence to the department that some veterinary practitioners are diverting seriously ill animals to the RSPCA via the rescuer, veterinary nurses, or the RSPCA ambulance. The evidence demonstrated that some animals:

- died during transport or
- were in such pain when they arrived at the RSPCA that it was cruel to keep them alive (and transport them) and were immediately euthanased.

The protection from liability will provide an offence exemption to veterinary surgeons that they will not be liable for euthanising a suffering animal if the owner cannot be identified or located. This will also reduce the suffering of untreated animals which would otherwise be prolonged or exacerbated by the extended journey to the RSPCA.

The circumstances in which a veterinary surgeon may euthanase an animal are limited to when the veterinarian believes the animal is so diseased or severely injured or is in such poor physical or psychological condition that it is cruel to keep it alive.

**Legislation should have sufficient regard to the institution of Parliament – LSA – s4(4)**

Whether legislation has sufficient regard to the institution of Parliament depends on whether, for example, the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons. – LSA – s4(4)(a)

The regulation-making power in the Bill is limited to well-defined circumstances, ensuring that the ACPA and the RI Act are able to quickly respond to changes that impact on animal welfare.

The amendments are considered justified as the amendment to the authorising law clearly provides the power for the regulation to be made, the regulation will be subject to sufficient

legislative scrutiny as a disallowance legislative instrument, and the amendments are consistent with the purposes of the Act.

#### Definition of an animal

- Clause 3 Amendment of section 11 (What is an *animal*).

The power to make a regulation to prescribe a live invertebrate creature of a species, or a stage of the life cycle of a species, from the class of Malacostraca as an animal was previously provided for in the former section 11. It has been relocated into a separate paragraph (e) distinct from the class Cephalopoda.

#### Possession of prohibited collars, devices and nets

- Clause 14 Insertion of new chapter 3, part 5, divisions 5 to 7 New section 37A (Possession or use of prohibited devices)
- Clause 14 Insertion of new chapter 3, part 5, divisions 5 to 7 New section 37B (Possession or use of prohibited nets).

New section 37A allows for the possession of additional types of collars or devices to be prescribed. The amendment is required because continuous developments in collars and devices for animals means that some existing and new collars and devices become unacceptable to the community. In response, other collars and devices may need to be prohibited on the basis of scientific evidence if they are found to cause harm, injury, or fear to an animal.

New section 37B allows for the possession of prohibited nets to be prescribed. The power to make such a regulation is required because, the use of some netting on fruit trees pose an unacceptable risk to wildlife.

#### Prescribed livestock

- Clause 22 Insertion of new chapter 4B new section 93S (Definitions for chapter).

New section 93S defines 'livestock slaughter facility' as a facility used to slaughter horses or other livestock of a kind or class prescribed by regulation.

The power to prescribe by regulation other livestock slaughter facilities, is considered justified as the amendment will provide the flexibility to adopt CCTV requirements and reporting and record-keeping obligations as community expectations about the need for these requirements in other slaughter facilities evolves.

#### Closed-circuit television equipment requirements

- Clause 22 Insertion of new chapters 4A and 4B New section 93U (Requirements for closed-circuit television equipment)

New section 93U provides that a regulation may prescribe minimum requirements including maintenance, inspection, and storage of closed-circuit television equipment. The

Bill amends the *Animal Care and Protection Regulation 2012* (the Regulation) to prescribe initial minimum requirements for the equipment, certification, inspection, and maintenance of the equipment.

This approach of providing for delegation of power regarding CCTV is justified because CCTV surveillance at livestock processing establishments is an emerging standard which involves equipment that is subject to changing technology.

Therefore, requirements may change because of technological advances which may require a responsive change to the requirements. Further, the application of CCTV surveillance across all livestock processing facilities is being considered as part of the development of new national 'Australian Animal Welfare Standards and Guidelines for Livestock Welfare at Processing Facilities (the standards and guidelines)'.

### Training requirements

- Clause 26 Insertion of new chapter 6, part 1, division 3 New section 121A (Training).

New section 121A provides that an inspector must satisfactorily complete the training prescribed by regulation and within the period required.

It would be impractical to list all the types of training that an inspector may be required to undertake in the Act because the type of training cannot be anticipated with changes to compliance and investigation practices.

### **Individuals' rights and liberties—FLP issues not listed in the Legislative Standards Act**

#### **Legislation should have sufficient regard to rights and liberties of individuals – LSA - s4(2)(a)**

***Legislation should not abrogate other rights, in the broadest sense of the word, from any source without sufficient justification***

#### *Privacy and confidentiality rights*

Privacy and confidentiality rights have generally been identified as being relevant to consideration of whether legislation has sufficient regard to an individual's rights and liberties.

### Closed-circuit television equipment

- Clause 22 Insertion of new chapter 4B (Obligations relating to livestock slaughter facilities), part 2 (Closed-circuit television equipment for livestock slaughter facilities).

New chapter 4B, part 2 requires the owner of a livestock slaughter facility to install, maintain, and operate closed-circuit television equipment which must clearly record the

movement of livestock at each prescribed monitoring point from arrival to exsanguination. The recording will be required to be stored for a minimum period of 30 days from the date of recording and be made available upon request by an inspector.

The potential FLP is that the use of closed-circuit television (CCTV) breaches the right to privacy and confidentiality.

CCTV surveillance at livestock processing establishments is an emerging standard that promotes better practice and increased public trust in the meat processing industry. The Martin Inquiry advocated the use of CCTV as a useful tool for: detecting and addressing systemic animal welfare issues that may otherwise go undetected; sets an expectation that animal welfare is a priority; holds employees to account; and provides useful information to make improvements in the way that animals are handled at the facilities. Furthermore, CCTV may act as a deterrent to poor practices and is an important tool in the investigation of offences.

There are appropriate safeguards in chapter 4B, part 2 to protect the privacy of individuals, including the requirement for signage to make a person at the facility aware that CCTV equipment is installed, and restricting the operation of the CCTV equipment to the owner or a person authorised by the owner.

There is also an existing safeguard in section 214B (Confidentiality of information) of the ACPA which prohibits the use and disclosure of confidential information that may be gained by a person in administering or performing a function under the ACPA, unless expressly authorised.

New section 93Y also provides that a recording may only be used by an inspector for the purposes of investigating or prosecuting an animal welfare offence. This restricts the use of the recordings as evidence being used for a derivative use such as for investigating offences under other legislation.

Further, information must be retained in accordance with the department's record-keeping security obligations.

***Legislation should not without sufficient justification unduly restrict ordinary activities***

*Right to conduct business without interference*

- Clause 10 Insertion of New sections 27A (Spaying cattle) and 27B (Testing for pregnancy in cattle)
- Clause 12 amended section 28 (Restriction on supplying debarked dog), amended section 29 (Other restrictions) and new section 29A (Restriction on persons supplied animals that have undergone regulated procedure)
- Clause 22 Insertion of new chapter 4B (Obligations relating to livestock slaughter facilities), part 2 (Closed-circuit television equipment for livestock slaughter facilities)
- Clause 42 Amendment of section 48 (When a person is engaged to carry out State disability work)

- Clause 43 Amendment of schedule 2 (Current serious offences) of DSA, new entry under item 1
- Clause 48 Insertion (into RIA) of new chapter 5A New sections 210A (Reporting requirement for supplier of horses to a livestock slaughter facility), 210B (Records to be kept by livestock slaughter facility) and 210C (Reporting obligation of owner of livestock slaughter facility).

New sections 27A (Spaying cattle) and 27B (Testing for pregnancy in cattle) of the ACPA prohibit a person, other than a veterinary surgeon or person accredited under an approved cattle procedures accreditation scheme under new chapter 4A (Approved cattle procedures accreditation schemes), from performing the Willis dropped-ovary technique for spaying cattle, or from performing for a fee or reward, a rectal palpation, or a transrectal ultrasound to test pregnancy in cattle (cattle procedures).

Allowing accredited persons to perform cattle procedures will provide producers with a greater choice of service providers, particularly in remote areas of the State where there are significant travel costs for veterinarians. However, the right to conduct business in these circumstances must be balanced with ensuring that the risks to the welfare of an animal undergoing the procedures are minimised, and the requirement for a lay person to be accredited to perform these procedures is justified.

Amended section 28 (Restriction on supplying debarked dog), amended section 29 (Other restrictions) and new section 29A (Restrictions for person supplied an animal that has undergone regulated procedure) require a person, unless they have a reasonable excuse, to keep the veterinary surgeon's certificate given by a person supplying an animal that has had a regulated procedure performed on it, and make the certificate available for inspection on request by an inspector.

This proposal involves creating an obligation on a person who has been supplied an animal that has undergone a regulated procedure to retain a signed veterinary surgeon's certificate stating the regulated procedure has been performed in accordance with the ACPA.

The potential FLP issue is whether requiring a person to retain the veterinary surgeon's certificate while they are still the person in charge of the animal is unduly restricting a person's ordinary activity without sufficient justification.

The restriction on any business involving the supply of an animal that has undergone a regulated procedure is justified because it will act as a deterrent to persons requesting animals that have undergone a regulated procedure and a person responding to a demand by continuing to perform such procedures other than for welfare reasons. For example, seeking dogs that have undergone debarking operations to prevent nuisance barking is still occurring.

A range of excuses has been offered by persons in charge of animals for not producing a certificate to an inspector, including they never received a certificate from the person selling the animal, or they do not have the details of the person who they obtained the animal from, or they have purchased the animal from interstate. As a result, the person who supplied the animal cannot be identified or located.

The community generally regards these procedures as being acceptable only if they are carried out in a humane way, and only if they are being done in the interests of the animal's welfare. The requirement to retain the certificate will demonstrate to the community that animal welfare risks are being appropriately managed.

New chapter 4B, part 2 requires an owner of a livestock slaughter facility to install, maintain, and operate closed-circuit television equipment which must clearly record the movement of livestock at each prescribed monitoring point from arrival to exsanguination. The recording will be required to be stored for a minimum period of 30 days from the date of recording and be made available upon request by an inspector.

This intervention in a person's right to conduct business in the way they want is considered appropriate because a livestock slaughter facility is a high-risk environment for the welfare of animals. The use of CCTV at livestock slaughter facilities is an emerging standard that promotes better practice and increased public trust in the livestock processing industry.

Domestic retailers and international trading partners are increasingly focusing on animal welfare as an important consideration of product quality. The use of CCTV to assist in the monitoring of animal welfare will provide reassurance to the community and trading partners that animal welfare risks are being appropriately regulated and managed.

Amending section 48 of the DS Act to correct a cross-reference is a minor, technical amendment to clarify the original intent of section 48(1)(c) of the DS Act, as inserted by the Disability and Other Legislation (Worker Screening) Amendment Bill 2020 (the 2020 Bill). The amendment clarifies the intent that members of all Ministerial advisory committees established under section 222 of the Act, rather than just a committee established under subsection 222(a), are required to hold a Queensland disability worker screening clearance. This intent was inadvertently not carried into effect through the Bill as enacted by Parliament.

This amendment clarifies the intended position that members of the Queensland Disability Advisory Council (QDAC) and any other committees established under section 222(b) are taken to be engaged in State disability work. As such, prospective members are required to be screened through the State disability worker screening system as a condition of their appointment. Prospective members who are found through the screening process to constitute an unacceptable risk of harm to people with disability must then be issued an exclusion preventing them from taking up the appointment or otherwise engaging in State disability work. This requirement is enforced by penalty provisions under the DS Act.

There is a range of safeguards in place under the DS Act to ensure natural justice for persons for whom an adverse decision is to be, or has been, made. These include:

- a show cause process, under which person in relation to whose application the chief executive (disability) is intending to issue an exclusion may make submissions which demonstrate they do not pose an unacceptable risk of harm to people with disability
- the opportunity to seek internal review of a decision by the chief executive (disability) to issue an exclusion
- if dissatisfied with the outcome of an internal review, the opportunity to seek an external review of the internal review decision

- the opportunity to apply for an exclusion to be cancelled five years after it was issued, or five years after a previous application to cancel the exclusion was decided
- if a person has a significant or exceptional change in their circumstances during that five-year period, the opportunity to apply for their exclusion to be cancelled prior to the expiration of the period.

These safeguards ensure affected persons have a reasonable opportunity to raise their particular circumstances and have those circumstances taken appropriately into account in the decision-making process. As such, they are sufficient to mitigate any FLP issues associated with this minor and technical amendment to correct the screening requirements under the DSA, in accordance with the original intent.

Including a new entry in Schedule 2, item 1 of the DS Act to prescribe the offence of aggravated breach of duty of care under the ACPA as a serious offence for the disability worker screening system under the DS Act has the effect that an applicant for a disability worker screening clearance with a charge or conviction for the new offence—if committed or alleged to have been committed as an adult—must be issued an exclusion, unless they can demonstrate through a show cause process that exceptional circumstances exist. The person is then prevented from making a further application unless that exclusion is cancelled.

This is a potential departure from the FLP under section 4(2)(a) of the LSA that sufficient regard should be given to the rights and liberties of individuals, as it prevents an affected person from working in particular roles with people with disability, other than where exceptional circumstances are established.

This potential breach is justified on the grounds that a charge or conviction for the new offence is directly relevant to whether a person poses an unacceptable risk of harm to people with disability.

The new offence is likely to arise in comparable circumstances to the existing offence of animal cruelty under the ACPA, which is already prescribed as a serious offence for the disability worker screening system and would evince the same serious underlying risk of harm to people with disability. Further, the new offence is treated as being of equivalent seriousness to that existing offence, through the imposition of the same maximum penalty.

Having regard to these considerations, giving a charge or conviction for the aggravated breach of duty offence the same effect as a charge or conviction for the animal cruelty offence for the purpose of the disability worker screening system is a proportionate response to the risk involved.

There are also safeguards in place under the disability worker screening system, including processes that incorporate natural justice, which appropriately mitigate the potential FLP departure. These include:

- a show cause process, under which person in relation to whose application the chief executive (disability) is intending to issue an exclusion may make submissions which demonstrate they do not pose an unacceptable risk of harm to people with disability;

- the opportunity to seek internal review of a decision by the chief executive (disability) to issue an exclusion
- if dissatisfied with the outcome of an internal review, the opportunity to seek an external review of the internal review decision
- the opportunity to apply for an exclusion to be cancelled five years after it was issued, or five years after a previous application to cancel the exclusion was decided
- if a person has a significant or exceptional change in their circumstances during that five-year period, the opportunity to apply for their exclusion to be cancelled prior to the expiration of the period.

New sections 210A and 210B of the RI Act require suppliers of horses to provide the owner of a livestock slaughter facility specific information. That information and other prescribed information must be recorded and kept for at least 2 years. New section 210C requires the owner of a livestock slaughter facility to provide a report in the approved form containing information on the number of horses that arrive at the facility in the monthly period, and other prescribed information.

Implementing these reporting requirements is justified because the requirements implement another finding of the Martin Inquiry, that the use of livestock slaughter facilities as an end-of-life option for retired racehorses must be a last resort. This reporting requirement was one recommendation to increase the success of rehoming retired animals. The information on the date a supplier acquired the horse and the date it was delivered to the abattoir is useful to assist the QRIC to verify whether retirement and rehoming information has been correctly reported.

The Martin Inquiry found that the management of racing horses as a disposable commodity is unethical and is not aligned with the expectations of the community that the racing industry relies on for support. The Inquiry also found that the community would expect the racing industry to take responsibility for attempting to rehome all horses in the first transition out of racing and breeding. This requires the owner of a retired racehorse to make a proper effort to rehome the horse before seeking other alternatives. The reporting requirement assists in ensuring that proper efforts have been made to rehome a horse before a decision is made to send it to a slaughter facility.

#### *Transportation of dogs*

- Clause 13 Replacement of section 33 (Obligation to exercise closely confined dogs) with New section 33 (Transporting dogs).

New section 33 (Transporting dogs) prohibits the transportation of an unsecured dog on the back of a tray of a vehicle, or a trailer attached to a vehicle, except for dogs assisting in moving livestock, and prohibits the transportation of a dog whose body other than its head is protruding from a moving vehicle.

The proposal is justified to protect the welfare of dogs because thousands of dogs die or are injured each year while unsecured on a tray of a vehicle, or on a trailer attached to a vehicle. Common causes of injury are:



- dogs being struck by tree branches
- dogs being struck by another vehicle
- dogs being dragged along the side of vehicles after overbalancing
- dogs attempting to jump from moving vehicles.

RSPCA statistics have reported that nationwide 5,000 dogs each year are either injured or killed as a result of jumping, falling, or protruding from a moving vehicle.

It is considered reasonable to potentially interfere with ordinary activities in these circumstances by requiring that a dog be secured when being transported on or in a vehicle.

Most other jurisdictions specifically prohibit a person transporting dogs unsecured on the back of vehicles or in a vehicle in a way that prevents the dog from falling or escaping from the vehicle.

#### Prohibited collars, devices and nets

- Clause 14 Insertion of new chapter 3, part 5, divisions 5 to 7 New section 37A (Possession or use of prohibited devices)
- Clause 14 Insertion of new chapter 3, part 5, divisions 5 to 7 New section 37B (Possession or use prohibited nets).

New sections 37A prohibits without a reasonable excuse, the possession and use of a prong collar or another prescribed restraint device.

New sections 37B prohibits, without a reasonable excuse, the possession and use of prescribed nets.

Imposing restrictions on the use of prong collars and other devices is justified as they are considered to be inappropriate as a training aid because they cause pain and fear in dogs which is used as a punishment. Research has shown that using aversive training methods including the use of prong collars can cause pain and distress and can compromise the dog's welfare.

If used incorrectly, prong collars can also cause physical injuries, such as bruising, scratching, and punctures to the skin of the dog. Over time, this can lead to scar tissue developing on the dog. In extreme but rare cases, prong collars have been associated with spinal cord injuries and other severe injuries.

Providing a regulation making power to prescribe prohibited netting is justified because of community expectations, and the adverse impact some types of netting has on the welfare of animals, in particular native animals.

Members of the community have voiced their concerns through the consultation process and letters to the Minister seeking to have certain nets prohibited because of the adverse impact they have on the welfare of animals.

Victoria amended its *Prevention of Cruelty to Animals Regulations 2019* to require domestic fruit growers to use netting with an aperture of 5 millimetres at full stretch from 1 September 2021.

Tree netting is a popular way to protect fruit from wildlife, but if the wrong type of netting is used, wildlife such as bats, birds, possums, and snakes can become entangled and suffer horrific injuries and/or death. For example, netting can strangle, cut off circulation and/or cause stress to the animal. An animal caught in netting will frantically try to free itself resulting in stress and further injury. As birds and flying foxes struggle to get free, they can break bones and tear wing membranes.

Netting made from monofilament line can cause deep wounds and stop circulation which eventually leads to shock and death if the animal is not quickly released.

Some netted animals are also in danger of dying from heat exhaustion, dehydration, or an attack by other animals. Flying fox pups can become orphaned and starve if their mothers do not return to the roost within a day.

#### Firing or blistering

- Clause 14 Insertion of new chapter 3, part 5, divisions 5 to 7 New section 37C (Firing or blistering of horses or dogs unlawful).

New section 37C prohibits a person from applying extreme heat or cold, acid or caustic chemicals to the leg of a horse or a dog for the purposes of causing tissue damage or scar tissue around the tendons and ligaments of the leg.

Prohibiting these practices is justified because of the adverse impact on the welfare of animals that undergo these procedures. These procedures have long been considered by veterinarians and horse owners to cause unnecessary pain, and to be an obsolete practice, as there is no scientific evidence to support a belief that it provides any benefits. The Australian Rules of Thoroughbred and Harness Racing also do not support the practice, and the procedure has been prohibited in other jurisdictions.

Prohibiting inappropriate practices, such as the painful practice of firing or blistering of a horse or dog, meets community expectations in relation to reducing and regulating animal welfare risks.

#### Use of particular poisons

- Clause 16 Amendment of section 42 (Feral or pest animals).

Section 42 is amended to exclude from the offence exemption, acts that involve the use of a poison that includes the ingredients of carbon disulfide and phosphorus.

This approach is justified because a poison which contains carbon disulfide and phosphorus is toxic to a wide range of bird and animal species, is generally slow acting and inhumane, and causes a long and painful death. It can cause secondary poisoning from the vomit or carcasses of poisoned animals. The poison has been used in Australia

to control feral pig populations, but more humane alternatives are now available for controlling pigs.

***Consequences imposed by legislation should be proportionate and relevant to the actions to which the consequences are applied by the legislation***

*Penalties of appropriate levels*

An FLP deals with the appropriateness of penalties, including:

- (a) Consequences imposed by legislation should be proportionate and relevant to the actions to which the consequences are applied by the legislation
- (b) Legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence
- (c) Penalties within legislation should be consistent with each other.

The Bill seeks to create a number of new offence provisions. A considered and justified approach was undertaken when determining the maximum penalty for each new offence provision. Each proposed maximum penalty was assessed to align with similar offence provisions within the same legislation, other Queensland legislation, and equivalent offences in other jurisdictions, and to be proportionate to the seriousness of the offence.

It is considered that any potential breaches of individual rights and liberties by the proposed new offence provisions are justified and appropriate as outlined below.

Aggravated breach of duty of care

- Clause 5 Amendment of section 17 (Breach of duty of care prohibited).

Section 17 is amended to prescribe a new aggravated offence provision for a breach of duty of care to an animal which causes death, deformity, serious disability, or prolonged suffering of an animal. A maximum penalty of 2000 penalty units or 3 years imprisonment is prescribed.

An aggravated offence provision which attracts the harsher penalty is in recognition that an animal suffers significant pain and distress when they die, or they are at risk of dying because they are starving, dehydrated, or not being provided veterinary care.

This new offence is a reflection of the community's expectation that offences that subject animals to gross neglect should be subject to higher penalties.

The maximum penalty is justified because of the seriousness of the offence, and it is consistent with the cruelty offence under section 18 (Animal cruelty prohibited), which provides for the equivalent maximum penalty.

The maximum penalty of 2000 penalty units is lower than the penalty of 5,000 penalty units imposed on an individual in section 6 of the New South Wales *Prevention of Cruelty to Animals Act 1979* for aggravated cruelty to animals but is on the higher end of the monetary penalty in other jurisdictions.

The 3-year prison sentence is comparable with prison sentences for aggravated cruelty in other Australian jurisdictions and in New Zealand, which range from 2 years to 5 years.

#### Regulated procedures for dogs

- Clause 9 Replacement of section 24 (Docking dog's tail).

Section 24 no longer allows a lay person to dock a dog's tail in a prescribed way. A dog's tail is only permitted to be docked in the interests of the dog's welfare, and only by a veterinary surgeon. This aligns with community expectations, and similar restrictions have been introduced on tail docking in other Australian jurisdictions.

The maximum penalty of 100 penalty units imposed on the prescribed offences in section 24 remains unchanged. The penalty is consistent with other offences that are considered as having the same level of seriousness relating to regulated procedures imposed in the ACPA.

#### Cattle procedures

- Clause 10 Insertion of new section 27A (Spaying cattle)
- Clause 10 Insertion of new section 27B (Testing for pregnancy in cattle).

Sections 27A and 27B make it an offence for a person to perform particular cattle procedures, unless they are a veterinarian or an accredited person under an approved cattle procedures accreditation scheme.

A maximum penalty for each offence of 300 penalty units or 1 year's imprisonment is consistent with other offences under sections 26 and 27 for a person, other than a veterinary surgeon, to perform regulated procedures.

The maximum penalty is justified because of the risks to the welfare of an animal if the procedures are not performed by a veterinary surgeon, or an accredited person in accordance with an approved cattle procedures accreditation scheme.

#### Restriction on supplying animals that have undergone a regulated procedure

- Clause 12 amended section 28 (Restriction on supplying debarked dog), amended section 29 (Other restrictions), and new section 29A (Restriction on persons supplied animals that have undergone regulated procedure).

Amended section 28 (Restriction on supplying debarked dog), amended section 29 (Other restrictions), and new section 29A require a person, unless they have a reasonable excuse, to keep the veterinary surgeon's certificate given by a person supplying an animal that has had a regulated procedure performed on it and make the certificate available for inspection on request by an inspector.

A maximum penalty of 150 penalty units or 1 year's imprisonment is prescribed for each offence and is consistent with the penalty imposed on a person supplying a debarked dog, and who fails to provide a signed veterinary surgeon's certificate.

The maximum penalty is justified because, during animal welfare investigations, a range of excuses is offered by persons in charge of animals for not producing a certificate to an inspector. Excuses include that they never received a certificate from the person selling the animal, they do not have the details of the person who they obtained the animal from, or they have purchased the animal from interstate. As a result, the person who supplied the animal cannot be identified or located.

The penalty will act as a deterrent to persons who drive the demand for animals that have undergone a regulated procedure other than for welfare reasons. For example, seeking dogs that have undergone debarking operations to prevent nuisance barking is still occurring.

### Transportation of dogs

Clause 13 Replacement of section 33 (Obligation to exercise closely confined dogs).

New section 33 (Transporting dogs) prohibits the transportation of an unsecured dog on the back of the tray of a vehicle, or a trailer attached to a vehicle, except for dogs assisting in the movement of livestock, and transporting a dog whose body other than its head is protruding from inside a vehicle.

The proposed maximum penalty of 60 penalty units is consistent with the maximum penalties in most other jurisdictions. For example, Northern Territory's *Animal Protection Act 2018* (not commenced) imposes a maximum penalty of 50 penalty units. Other jurisdictions that have provisions regulating the transportation of animals attract higher penalties.

The proposed maximum penalty is higher than the 20 penalty units that applies to the offence under section 44(1) of the *Transport Operations (Road Use Management – Vehicle Standards and Safety) Regulation 2021* for a failure to use an appropriate method to secure a load. However, it reflects the potential harm that can be caused to an animal if it fell from a moving vehicle.

The maximum penalty will act as a deterrent for a person to transport an unsecured dog, and the provision is directed at minimising the risks to a dog's welfare, and meeting community expectations that animal welfare risks are being appropriately managed.

### Prohibited collars, devices and nets

- Clause 14 Insertion of new chapter 3, part 5, divisions 5 to 7 New section 37A (Possession or use of prohibited devices)
- Clause 14 Insertion of new chapter 3, part 5, divisions 5 to 7 New section 37B (Possession or use of prohibited nets)
- Clause 14 Insertion of new chapter 3, part 5, divisions 5 to 7 New section 37C (Firing or blistering of horses or dogs unlawful).

New section 37A contains a maximum penalty of 30 penalty units for possession of a prong collar or another prescribed restraint device, and a maximum penalty of 100 penalty units for the use of a prong collar or another prescribed restraint device.

New sections 37B contains a maximum penalty of 30 penalty units for possession of a prescribed net, and a maximum penalty of 100 penalty units for the use of a prohibited net.

The maximum penalty of 30 penalty units for possession of a prong collar, prescribed restraint device, and prohibited nets is considered a reasonable and appropriate level given the nature of the offence. The consequences of possessing these prohibited devices are considered less serious than the possession of traps under section 34 of the ACPA for which a considerably higher penalty applies. Traps such as serrated jaw traps are regarded by the community as more inhumane than other devices such as prong collars, as animals can be caught in traps and left for days to suffer significant injuries and trauma.

The maximum penalty of 100 penalty units for the use of prohibited collars, devices, and nets are comparable with offences under the ACPA which pose similar risks and act as deterrent to acts which have an impact on the welfare of an animal. It also reflects the increased welfare risk that the use of such devices has on the welfare of an animal.

The community generally expects that acts that pose a risk to the welfare of animals will be subject to maximum penalty levels that to reflect the seriousness of the act.

#### Firing or blistering

- Clause 14 Insertion of new chapter 3, part 5, divisions 5 to 7 New section 37C (Firing or blistering of horses or dogs unlawful).

New section 37C will prohibit a person from applying extreme heat or cold, acid or caustic chemicals to the leg of a horse or a dog for the purposes of causing tissue damage or scar tissue around the tendons and ligaments of the leg. A maximum penalty of 300 penalty units or 1 year's imprisonment will apply.

The maximum penalty is appropriate and justified because of the serious risks to the welfare of a horse or dog due to tissue damage and the development of scar tissue around the tendons and ligaments of the leg. It is considered by many veterinarians and horse owners to cause unnecessary pain and to be obsolete, as there is no scientific evidence to support that it provides any benefits. The practice has been prohibited in the racing industry and is an offence in other jurisdictions. The community expects that penalty levels reflect the seriousness of the act and be of sufficient deterrent value to stop people practising horse or dog firing.

The maximum penalty is consistent with the penalties imposed for other serious regulated procedures offences prescribed in the ACPA. The 1 year's imprisonment is in the middle of the comparable penalties imposed for this offence in other jurisdictions which range from 6 months to 2 years. The maximum penalty of 300 penalty units is at the higher end of the comparison which ranges from 50 to 250 penalty units.

#### Notification requirements

- Clause 21 Insertion of new section 87A (Notification of change in circumstances)
- Clause 48 Insertion of new chapter 5A New section 210C (Reporting obligation of owner of livestock slaughter facility).

New section 87A will require that a holder of a registration to use an animal for a scientific purpose must notify the chief executive if a disqualifying event has happened in relation to the holder, or there has been a change in any material particular in the information provided in the registration application. A maximum penalty of 50 penalty units will apply.

The notification requirement is justified for the purpose of ensuring that the use of animals for scientific purposes is conducted in an accountable, open and responsive manner, because a person's registration was approved on the basis of the information provided to the chief executive to decide the application, and any changed circumstances may affect eligibility.

The proposed maximum penalty is appropriate and justified as it is consistent with sections 164–166 of the ACPA, which require a person to provide information to an inspector.

New section 210C (RI Act) will impose a maximum penalty of 200 penalty units on the owner of a livestock slaughter facility that fails to keep the records, and impose a maximum penalty of 300 penalty units on the owner of a livestock slaughter facility that fails to report information without a reasonable excuse.

The maximum penalties reflect the community's expectation that the requirement for records about whether genuine attempts to rehome retired racing horses has been made prior to seeking alternatives. The community expectations are that retired racehorses are treated appropriately at the end of their racing or breeding careers, and that sending them to slaughter is as a last resort. The maximum penalty is consistent with the maximum penalties provided for non-compliance with information requirements in the RI Act, including under sections 200, 201 and 203.

#### Closed-circuit television equipment requirements

- Clause 22 Insertion of new chapter 4B New section 93T (Closed-circuit television equipment)
- Clause 22 Insertion of new chapter 4B New section 93U (Requirements for closed-circuit television equipment)
- Clause 22 Insertion of new chapter 4B New section 93V (Signs to be displayed at livestock slaughter facilities)
- Clause 22 Insertion of new chapter 4B New section 93W (Inspecting recordings)
- Clause 22 Insertion of new chapter 4B New section 93X (Operating closed-circuit television equipment)
- Clause 22 Insertion of new chapter 4B New section 93Y (Use of recordings)
- Clause 22 Insertion of new chapter 4B New section 93Z (Owner of livestock facility must notify chief executive of particular matters).

A maximum penalty of 300 penalty units applies to the owner of a livestock slaughter facility for failing to comply with the requirements of installation, operation, minimum requirements for storage of recordings, maintenance, inspection, operation and use of recordings for closed circuit television equipment.

The maximum penalty of 300 penalty units is at the higher end compared with similar provisions in Queensland legislation. Under the *Liquor Act 1992*, non-compliance with the licence conditions for CCTV requirements is 100 penalty units (section 142AH and

142AK). Section 64 of the *Waste Reduction and Recycling Act 2011* provides for a penalty of 200 penalty units for not complying with the requirements of a monitoring system, and under section 65, 100 penalty units for related offences such as not notifying the chief executive.

The maximum penalty reflects the significant risk to animals in livestock slaughter facilities and the community expectations that animal welfare risks are being monitored and appropriately managed. The penalty level is consistent with other penalties in the ACPA that deter activities having a similar detrimental impact on animal welfare.

For the less serious offence requiring a person to display signage to alert the persons at a livestock slaughter facility that closed circuit equipment is in use, the maximum penalty prescribed is 30 penalty units. The penalty is less than a breach of a licence condition imposing CCTV requirements which is 100 penalty units under sections 142AH and 142AK of the *Liquor Act 1992*, and 200 penalty units under section 64 of the *Waste Reduction and Recycling Act 2011*.

The maximum penalty is slightly higher than the 20 penalty units for a requirement to display signage under section 26HC of the *Tobacco and Other Smoking Products Act 1998*.

#### Return of identity card

- Clause 25 Amendment of section 121 (Return of identity card)
- Clause 26 New section 121A (Training and reporting obligations)
- Clause 26 New section 121B (Conflicts of interests).

The amendment to section 121 will impose a maximum penalty of 20 penalty units is prescribed if a person, whose appointment as an inspector is suspended, fails to return their identity card to the chief executive within 14 days after being given notice of the decision to suspend.

New section 121A has a maximum penalty of 20 penalty units is prescribed if an inspector does not complete the training prescribed by regulation within the period required by regulation.

New section 121B carries a maximum penalty of 20 penalty unit if an inspector fails to give notice to the chief executive of all interests, pecuniary or otherwise, that the inspector has, or acquires, and that conflict, or could conflict, with the proper performance of the inspector's functions.

The maximum penalty for new sections 121, 121A and 121B are consistent with the maximum penalty imposed under other sections of the ACPA such as 106 and 121 that contain similar obligations for inspectors.

#### Recognising offences under interstate laws

- Clause 32 Insertion of new Chapter 6A Recognising offences under interstate laws  
New section 173D (Compliance with direction).



New chapter 6A provides for the chief executive to give a direction to a person who is subject to an interstate prohibition decision. The chief executive may direct the person to forfeit an animal that is the subject of an interstate prohibition order, or direct the person to not possess, purchase, or otherwise acquire a particular or stated type of animal.

New section 173D requires a person subject to the direction to comply with the direction. The maximum penalty for not complying is 300 penalty units or 1 year's imprisonment. This maximum penalty is justifiable as it is the same for contravention of a prohibition order or interim prohibition order under section 187 of the ACPA. Also, the new provisions have been introduced to protect animals becoming the subject of an animal welfare offence. Without these provisions people who are subject to equivalent interstate orders could enter Queensland and avoid the operation of the orders. This places the animals that may be in their care at an unacceptable risk of harm, as well as allows them to acquire new animals or become in charge of new animals which places the animals at an unacceptable risk of harm.

#### Reporting and record keeping requirements

- Clause 48 Insertion of new chapter 5A New section 210A (Reporting requirement for supplier of horses to livestock slaughter facility)
- Clause 48 Insertion of new chapter 5A New section 210B (Records to be kept by owner of livestock slaughter facility).

New section 210A requires that a person who supplies a horse to a livestock slaughter facility must give the prescribed information. New 210B requires that the owner of a livestock slaughter facility must retain the information given by the supplier and other prescribed information for at least 2 years. A maximum penalty of 200 penalty units is prescribed for each offence.

The maximum penalty reflects the community's expectation that the requirement for records about whether genuine attempts to rehome retired racing horses has been made prior to seeking alternatives. The community expectations are that retired racehorses are treated appropriately at the end of their racing or breeding careers and that sending them to slaughter is as a last resort. The maximum penalty is consistent with the maximum penalties provided for non-compliance with information requirements in the RI Act, including sections 200, 201 and 203.

## **Consultation**

### **Contemporary animal welfare legislation**

The State government committed to review the operation of the ACPA in December 2020. A discussion paper, *Review of the Animal Care and Protection Act Discussion Paper* (the Discussion Paper) was released in April 2021 and submissions closed in May 2021. Although broad community views were sought on the current legislative framework in the ACPA, it did set out high-level proposals which included maintaining or changing current provisions and introducing new provisions.

Responses to the Discussion Paper were able to be provided directly through the Department of Agriculture and Fisheries (the department) 'engagement hub' portal either by completing a survey or via a written submission.

There was a significant interest in the review with a total of 2353 responses received. In response to the release of the Discussion Paper and stakeholder meetings, a total of 1439 survey responses and 914 written submissions were received from organisations and individuals, (including 79 written submissions from representative organisations). Feedback was well represented across the State including from regional and rural locations, and on a range of animal interest areas, including:

- veterinary/animal health
- domestic/companion animals
- animals in agriculture and aquaculture
- animals in sport, recreation, and entertainment
- animals in science, research, and teaching
- wildlife
- pest animals
- caged birds.

Consultation on the Discussion Paper indicated that while there are varying views about the way in which animal welfare may be regulated, stakeholders and the community expect robust animal welfare standards and legislation for Queensland. Key consultation outcomes were:

- strong support for clear provisions to require the restraint of dogs travelling on vehicle trays and trailers, with useful insight from rural stakeholders about considerations for transporting working dogs on properties that has been taken into account in drafting the Bill
- mixed feedback on whether the current powers of inspectors appointed under ACPA are appropriate. A key theme from respondents who considered inspectors should have greater powers was to provide inspectors with the ability to address animal welfare issues without delay. There was strong support for the Queensland Government to appoint inspectors from non-government organisations (e.g., the RSPCA), provided these inspectors are subject to the same measures of accountability as inspectors from the public service, e.g., the department
- support for extra powers for inspectors to address animal welfare incidents, appropriate training, and improved departmental oversight of external inspectors
- strong support for an increase in maximum penalties due to a view that the penalties imposed on convictions do not reflect the current maximum penalties. The Bill does not increase current maximum penalties, however it introduces new offences including an aggravated breach of the duty of care offence with a penalty that aligns with the penalty imposed for a cruelty offence
- that the restrictions imposed for docking a dog's tail be clarified
- that the meaning of when a dog is 'closely confined' be clarified.

The department also established an ACPA Review Reference Group with representation from RSPCA Queensland, Animals Australia, Queensland Farmers' Federation, AgForce, the Australian Veterinary Association (Queensland Branch), the Animal Welfare Advisory Board, the Queensland Racing Integrity Commission, and the Horse Biosecurity Market Access Liaison Group.

The Reference Group met on 5 May 2021, 29 June 2021, 19 October 2021, 26 November 2021, 25 January 2022, and 23 February 2022. At these meetings, the Reference Group was provided with updates on the status of the review of the ACPA. At later meetings (from 26 November 2021), the Reference Group was also provided with information about the proposals and identified areas where further consultation with specific stakeholders was desirable.

Further consultation was undertaken with several stakeholder organisations regarding the review of the ACPA. This consultation has involved online meetings and in some cases follow-up correspondence. The meetings provided an overview of proposed amendments to key stakeholders, and an opportunity to ask questions and raise specific concerns.

<b>Date</b>	<b>Organisation</b>	<b>Key topics discussed</b>
26/11/2021 25/1/2022 23/2/2022	Animal Care and Protection Act Reference Group	<ul style="list-style-type: none"> <li>• Updates on progress of the review of the Act</li> <li>• Overview of proposed amendments, with invitation for separate meetings on particular amendments of interest to individual members</li> </ul>
2/12/2021 3/2/2022	RSPCA	<ul style="list-style-type: none"> <li>• Overview of proposed amendments</li> <li>• Implementation of QAO report amendments</li> </ul>
3/12/2021	Veterinary Surgeons Board	<ul style="list-style-type: none"> <li>• Amendments to the VSA and euthanasia of sick and injured animals by veterinary surgeons</li> </ul>
6/12/2021	Animal Liberation Queensland; Animals Australia	<ul style="list-style-type: none"> <li>• Overview of proposed amendments</li> </ul>
8/12/2021	Queensland Racing Integrity Commission	<ul style="list-style-type: none"> <li>• Overview of proposed amendments</li> <li>• Emphasis on proposals relevant to horses e.g., prohibiting firing procedures, implementing Martin Inquiry recommendations</li> </ul>
9/12/2021	Australian Veterinary Association; Equine Veterinarians Australia	<ul style="list-style-type: none"> <li>• Overview of proposed amendments</li> <li>• Emphasis on proposals relevant to horses e.g., prohibiting firing procedures, implementing Martin Inquiry recommendations</li> <li>• Amendments to the VSA</li> </ul>
14/12/2021	Queensland Horse Industry Alliance	<ul style="list-style-type: none"> <li>• Overview of proposed amendments</li> <li>• Emphasis on proposals relevant to horses e.g., prohibiting firing procedures, implementing Martin Inquiry recommendations</li> </ul>
6/1/2022	Animal Welfare Advisory Board	<ul style="list-style-type: none"> <li>• Overview of proposed amendments</li> </ul>
7/2/2022	Australian Veterinary	<ul style="list-style-type: none"> <li>• Euthanasia of sick and injured animals by veterinary surgeons</li> </ul>

	Association; Queensland Farmers Federation	<ul style="list-style-type: none"> <li>• Scientific use of animals and acts of veterinary science</li> <li>• Accreditation of laypersons to conduct spaying and pregnancy testing of cattle</li> </ul>
14/2/2022 21/2/2022 7/3/2022 9/3/2022	AgForce Queensland	<ul style="list-style-type: none"> <li>• Overview of proposed amendments</li> <li>• Accreditation of laypersons to conduct spaying and pregnancy testing of cattle</li> <li>• Restraint of dogs in vehicles</li> </ul>

The Queensland Racing Integrity Commission and Equine Veterinarians Australia provided clarifications around terminology for firing procedures, which have been taken into account in drafting the relevant provision.

The Australian Veterinary Association raised concerns about proposals to allow laypersons in scientific research settings to conduct procedures otherwise restricted to veterinary surgeons, and acts of veterinary science and accreditation of laypersons spaying and pregnancy testing cattle. Their concerns centred around the capacity of non-veterinary surgeons to carry out procedures safely and respond to any emergencies that arise during the procedure. It is considered that in the research setting, these concerns can be addressed by working with animal ethics committees overseeing research to encourage adequate supervision or support by veterinary surgeons for research without specifically requiring veterinary surgeons to carry out the procedures.

With regard to lay spaying and pregnancy testing of cattle, it is considered that the concerns can be addressed by the department working with accreditation scheme owners to ensure adequate input from veterinary surgeons into the training and assessment of lay spayers and pregnancy testers and encouraging the provision of on-call veterinary advice to lay spayers and pregnancy testers.

### **Martin Inquiry recommendations**

The Martin Inquiry recommendations were subject to a separate consultation process conducted by the Inquiry. It was targeted to individuals and organisations with a direct interest in the management of retired racing horses and the operational facilities accepting horses for slaughter. Other individuals and organisations, who contacted the department offering to contribute to the Martin Inquiry, were also able to make submissions. A total of 21 stakeholder interviews were conducted and 29 stakeholder submissions were received.

### **Queensland Audit Office report recommendations**

The department has consulted with the RSPCA on the recommendations of the Queensland Audit Office report and is working with the RSPCA to implement the recommendations.

The Office of Best Practice Regulation (OBPR) within Queensland Treasury was consulted on a Preliminary Impact Assessment for the amendments contained in the Bill.

The OBPR provided advice that most of the proposals in the Bill are unlikely to result in significant adverse impacts or are machinery in nature. Those proposals with additional regulatory burden have been subject to analysis involving consultation with those affected. No further regulatory impact analysis of the Bill is required under the Queensland Government Guide to Better Regulation guidelines (the guidelines).

The proposal on lay pregnancy testing was subject to a full RIS consultation in 2018 in accordance with the guidelines. Lay spaying formed part of a RIS consultation on the *Australian Animal Welfare Standards and Guidelines for Cattle*, conducted at national level in accordance with Australian Government requirements in 2013.

## **Consistency with legislation of other jurisdictions**

### **Contemporary animal welfare legislation**

#### *Amendments to the Animal Care and Protection Act 2001*

The proposed amendments in the Bill will bring Queensland's animal welfare legislation framework into line with current good practices and scientific knowledge, and the approaches employed by most other jurisdictions.

While some amendments are unique to the State of Queensland, such as an aggravated duty of care offence and closed-circuit television equipment requirements in animal slaughter facilities, the Bill includes provisions which are similar to those in other jurisdictions, such as prohibiting prong collars, creating provisions to prescribe prohibited nets, and prohibiting the practice of firing or blistering a horse's or dog's leg.

#### *Amendments to the Veterinary Surgeons Act 1936*

The amendment to exclude the use of animals for scientific purposes as acts of veterinary science is consistent with the approach in other jurisdictions to allow persons other than veterinary surgeons to conduct procedures on animals for scientific purposes, if they are performed in accordance with the *Australian code for the care and use of animals for scientific purposes* (Scientific Use Code), which is a mandatory code under the ACPA, and which is consistent with other jurisdictions.

### **Martin Inquiry recommendations**

#### *Amendments to the Animal Care and Protection Act 2001 and Racing Integrity Act 2016*

The amendments to the ACPA and the RI Act arising from the Martin Inquiry are specific to the State of Queensland and are not uniform with legislation in other jurisdictions. The amendments implement recommendations made by the Martin Inquiry regarding the breeding of horses, welfare of retired racehorses, and the risks to the welfare of animals in livestock slaughter facilities.

### **Queensland Audit Office recommendations**

The amendments to the ACPA arising from the QAO report on regulating animal welfare are specific to the State of Queensland and are not uniform with legislation in other jurisdictions. The amendments implement recommendations made by the QAO regarding the appointment and oversight of RSPCA inspectors, managing investigations, accreditation, exercising powers, managing conflicts of interest, and undertaking prosecutions.

# Notes on provisions

## Part 1 Preliminary

*Clause 1* states that when enacted, the Bill will be cited as the *Animal Care and Protection Amendment Act 2022*.

## Part 2 Amendment of *Animal Care and Protection Act 2001*

*Clause 2* states that Part 2 of the Bill will amend the *Animal Care and Protection Act 2001* (ACPA).

*Clause 3* amends section 11 (What is an animal) by replacing paragraph (1)(d) of the definition of 'animal' with two new paragraphs (d) and (e) to describe the class Cephalopoda (for example cuttlefish, nautilus, octopi, and squid), and class Malacostraca, (for example crabs, crayfish, lobsters and prawns) respectively.

Paragraph (1)(d) will provide that an animal includes a live invertebrate creature of a species, or a stage of the life cycle of a species, from the class Cephalopoda. The species of the class Cephalopoda will no longer be prescribed in the *Animal Care and Protection Regulation 2012* (Regulation) and is removed by clause 41 (Omission of s6 (Prescribed species for meaning of animal—Act, s11)). The effect is that, rather than prescribing all the individual species of the class Cephalopoda in the Regulation, all Cephalopoda species will now be captured in the definition of 'animal' in the ACPA.

The definition of 'animal' relating to a live invertebrate creature of a species, or a stage of the life cycle of a species, from the class Malacostraca prescribed by regulation will be retained in paragraph (1)(e).

*Clause 4* amends section 13 (Making codes of practice) to state that a regulation may make codes of practice about animal welfare that are based on good practice and scientific knowledge. This amendment is consistent with the current accepted practice that codes of practice are made on the basis of 'good practice and relevant scientific knowledge', which is a requirement for the development of the Australian Animal Welfare Standards and Guidelines for the welfare of livestock.

*Clause 5* amends section 17 (Breach of duty of care prohibited) to provide that the maximum penalty for a breach of duty of care offence that causes death, serious deformity, serious disablement, or prolonged suffering of an animal will be 2,000 penalty units or 3 years imprisonment.

*Clause 6* amends section 19 (Unreasonable abandonment or release) which makes it an offence for a person in charge of an animal to abandon or release an animal, unless the person has a reasonable excuse or is authorised by law. Clause 6 inserts subsection (3) to remove any doubt that an animal may be abandoned even if a person not in charge of the animal has volunteered to temporarily provide the animal with food or water. An example is provided of a person providing food and water to an abandoned dog near the person's premises.

*Clause 7* amends section 20 (Meaning of *prohibited event*) by omitting subsection (2). Removing subsection (2) will clarify that all events at rodeos are not prohibited events.

However, the conduct of rodeos is subject to compliance with the 'Code of practice about rodeos' (the Code), prescribed under schedule 3B of the Animal Care and Protection Regulation 2012 (ACP Regulation). The Code defines the activities associated with a rodeo event, and prescribes the requirements relating to the care, handling, and use of rodeo animals at a rodeo.

*Clause 8* amends the heading of chapter 3, part 4 (Regulated surgical procedures) by omitting 'surgical'. Omitting 'surgical' from the heading will allow regulated procedures that are not surgical in nature to be prescribed.

*Clause 9* amends section 24 (Docking dog's tail) to prohibit a person, other than a veterinary surgeon, from docking a dog's tail. A maximum penalty of 100 penalty units is retained. Subsection (2) provides that a veterinary surgeon must not dock a dog's tail unless the veterinary surgeon reasonably considers the docking is in the interests of the dog's welfare. A maximum penalty of 100 penalty units is retained. The amendment removes the provision that allowed a person other than a veterinary surgeon to dock a dog's tail if the docking was done in a way prescribed by a regulation. Allowing tail docking, other than for welfare reasons, and allowing a person other than a veterinary surgeon to perform the procedure prescribed by regulation no longer aligns with community expectations.

*Clause 10* inserts new sections 27A (Spaying cattle) and 27B (Testing for pregnancy in cattle) to prohibit a person, other than a veterinary surgeon, or person accredited under an approved cattle procedures accreditation scheme under new chapter 4A (Approved cattle procedures accreditation schemes), from performing the Willis dropped-ovary technique for spaying cattle, or from performing pregnancy testing in cattle for a fee or reward by rectal palpation or transrectal ultrasound. Clause 10 also prohibits the use of vaginal spreaders to spay cattle that have not given birth. A maximum penalty of 300 penalty units or 1 year's imprisonment will apply.

*Clause 11* amends the heading of chapter 3, part 4, (Restriction on supplying animals that have undergone a regulated surgical procedure) to omit 'surgical' from the heading to allow regulated procedures that are not surgical in nature to be prescribed.

*Clause 12* amends sections 28 (Restriction on supplying debarked dog) to require that a person (**supplier**) must not supply another person a dog that the supplier knows has had a debarking operation performed on it, unless the supplier gives the other person a signed veterinary surgeon's certificate stating that the operation was performed in accordance with section 25(2). A maximum penalty of 150 penalty units or 1 year's imprisonment will apply.

Subsection (2) provides that subsection (1) does not apply if the dog was abandoned, and the supplier is surrendering the dog to a pound or shelter.

Subsection (3) provides that subsection (4) applies if (a) a pound or animal shelter takes possession of a dog that has had a debarking procedure performed on it before the pound or animal shelter took possession of the dog; and (b) the pound or animal shelter was not given a veterinary surgeon's certificate for the dog in subsection (1).

Subsection (4) provides that the pound or animal shelter must not supply a person with the dog, unless the pound or animal shelter gives the person a certificate stated that the dog had the debarking procedure performed on it before the pound or shelter took



possession of the dog. A maximum penalty of 150 penalty units or 1 year's imprisonment will apply.

Subsection (5) provides that subsection (6) applies to a person who is supplied a dog, (a) by a person in accordance with subsection (1), or (b) by a pound or animal shelter in accordance with subsection (4).

Subsection (6) provides that the person (an **on-supplier**) must not on-supply the dog to another person, unless the on-supplier gives the other person (a) the signed veterinary surgeon's certificate given for the dog under subsection (1), or (b) the certificate given for the dog under subsection (4). A maximum penalty of 150 penalty units or 1 year's imprisonment will apply.

Clause 12 also amends section 29 (Other restrictions) to require that a person (the **supplier**) must not supply another person an animal that the supplier knows has had a regulated procedure performed on it, unless the supplier has given the other person a signed veterinary surgeon's certificate stating that the operation was performed in the interests of the animal's welfare. A maximum penalty of 150 penalty units or 1 year's imprisonment will apply.

Subsection (2) provides that subsection (1) does not apply if – (a) the animal was abandoned; and (b) the supplier is surrendering the animal to a pound or animal shelter.

Subsection (3) provides that subsection (4) applies if (a) a pound or animal shelter takes possession of an animal that has had a regulated procedure performed on it, and (b) the pound or animal shelter is not given a veterinary surgeon's certificate for the animal in accordance with subsection (1).

Subsection (4) provides that the pound or animal shelter must not supply someone else the animal, unless the pound or shelter gives the person a certificate stating that the animal had the regulated procedures performed on it before the pound or animal shelter took possession of it. A maximum penalty of 150 penalty units or 1 year's imprisonment will apply.

Subsection (5) provides that subsection (6) applies to a person who is supplied an animal, (a) by a person in accordance with subsection (1), or (b) by a pound or animal shelter in accordance with subsection (4).

Subsection (6) provides that the person (an **on-supplier**) must not on-supply the animal to another person, unless the on-supplier gives the other person - (a) the signed veterinary surgeon's certificate given for the animal under subsection (1); or (b) the certificate given for the animal under subsection (4). A maximum penalty of 150 penalty units or 1 year's imprisonment will apply.

Clause 12 also inserts new section 29A (Restriction for person supplied animal that has undergone regulated procedure) that applies to a person supplied a dog under section 28 or an animal under section 29. Subsection (2) provides that the person must keep the certificate given for the supplied animal while the person remains in charge of the animal. A maximum penalty of 150 penalty units or 1 year's imprisonment will apply. Subsection (3) provides that the person must if required by an inspector, make the certificate given for the supplied animal available for inspection by the inspector. A maximum penalty of 150 penalty units or 1 year's imprisonment will apply. Subsection (4) provides that in section 29A a certificate for a supplied animal means (a) a signed veterinary surgeon's

certificate given for the animal as stated in section 28(1) or 29(1); or (b) a certificate given for the animal as stated in section 28(4) or 29(4).

*Clause 13* omits section 33 (Obligation to exercise closely confined dogs) which provided for exercise requirements for closely confined dogs within prescribed time periods. This section is no longer required, as the circumstances are adequately covered under section 18 (Animal cruelty prohibited) of the ACPA, which provides that a person is cruel to an animal if they confine it in a way that is inappropriate for the animal's welfare.

A new section 33 (Transporting dogs) provides that a driver must not transport a dog inside a vehicle if any part of the dog, other than its head, is able to protrude from the vehicle. A maximum penalty of 60 penalty units will apply.

Subsection (2) provides that a driver must not transport a dog on the tray of a vehicle, or on a trailer, unless the dog is secured in such a way as to prevent it from – (a) falling off or out of, the tray or trailer; (b) or moving off the tray or trailer; or (c) being injured by the movement of the vehicle or trailer. A maximum penalty of 60 penalty units will apply.

Subsection (3) provides that the transportation restrictions under subsection (2) does not apply if – (a) the dog is being transported on a tray of a vehicle or on a trailer, and (b) the purpose of the transporting the dog in the vehicle is to assist in the movement of livestock.

*Clause 14* inserts new chapter 3, part 5, divisions 5 to 7 after section 37.

#### Division 5 Possession or use of prohibited devices

New section 37A (Possession or use of prohibited devices) prohibits the possession of a prong collar or another restraint device prescribed by regulation. A maximum penalty of 30 penalty units will apply.

Subsection (2) prohibits a person from using a prohibited device on an animal, unless the person has a reasonable excuse. A maximum penalty of 100 penalty units will apply.

Subsection (3) provides that a **prong collar** means a collar that – (a) is designed for use on a dog; and (b) consists of a series of links in segments with prongs, teeth or blunted open ends turned towards the skin of a dog so that, when the collar is tightened, the collar pinches the skin around the dog's neck. A restraint device is defined as a device fitted to an animal for the purposes of restraining it. Examples of collars, leads, harnesses, muzzles, and halters are provided.

#### Division 6 Possession or use of prohibited nets

New section 37B (Possession or use of prohibited nets) makes it an offence for a person, to possess a net prescribed by regulation (a *prohibited net*), unless the person has a reasonable excuse. A maximum penalty of 30 penalty units applies.

Subsection (2) provides that a person must not use a prohibited net, unless the person has a reasonable excuse. A maximum penalty of 100 penalty units will apply.

#### Division 7 Firing or blistering

New section 37C (Firing or blistering on horses and dogs) provides that a person must not apply extreme heat or cold, acid or another caustic chemical to the leg of a horse or dog, with the intention of causing tissue damage or developing scar tissue around the ligaments or tendons of the animal's leg. A maximum penalty of 300 penalty units or 1 year's imprisonment will apply.

*Clause 15* inserts new section 41B (Euthanasing sick or injured animals by veterinary surgeons) which applies for an offence if the act that constitutes the offence – (a) involves the killing of an animal; and (b) is done by a veterinary surgeon.

Subsection (2) provides that in a proceeding for the offences it is a defence for a veterinary surgeon to prove (a) that the act was done in the belief that the animal was so diseased or severely injured, or in such poor physical or psychological condition that it would be cruel to keep the animal alive; and (b) the act was done in a humane way; and (c) that the veterinary surgeon took reasonable steps to identify and contact the person in charge of the animal before doing the act.

Subsection (3) provides that without limiting subsection (2)(c) reasonable steps include – (a) scanning the animal for a microchip; and (b) searching any relevant registers; and (c) searching for any other form of identification including for example collars or tags.

*Clause 16* amends section 42 (Feral or pest animals) to replace subsection (1)(b)(ii) to exclude from the offence exemption acts that involve the use of a poison that includes the ingredients carbon disulfide and phosphorus, for example CSSP Pig Poison.

*Clause 17* amends section 47 (Supplying animal) to amend the note provided for in paragraph (a) by omitting 'surgical'.

*Clause 18* amends section 48 (When an animal is used for *scientific purposes*) by replacing subsection (1) to align with the definition of 'scientific purposes' provided for in the Scientific Use Code.

*Clause 19* replaces section 58 (Term of registration) to provide registration is for the term stated on the registration certificate, and the stated term must not be longer than 4 years. Subsection (3) retains the existing provision that a replacement certificate given under section 79 or 88 does not extent or otherwise affect the term.

*Clause 20* amends section 62 (Inspection of register) to provide that the register will be open for inspection free of charge by members of the public during office hours on business days at the department's head office.

*Clause 21* inserts after section 87, new section 87A (Notification of change in circumstances) that applies to a registered person if - (a) a disqualifying event happens in relation to the person; or (b) a material particular in the information given for the person's application for registration changes.

Subsection (2) provides the person must give notice of the event or change to the chief executive within 7 business days after the event or change happens. A maximum penalty of 50 penalty units will apply.

Clause 22 inserts new chapters 4A and 4B after chapter 4.

#### Chapter 4A Approved cattle procedures accreditation schemes

New Chapter 4A provides a legislative framework for the approval of cattle procedures accreditation schemes to allow persons to be accredited to perform a prescribed procedure. A prescribed procedure means - (a) spaying cattle using the Willis dropped-ovary technique; or (b) testing for pregnancy in cattle using (i) rectal palpation, or (ii) transrectal ultrasound.

##### Division 1 Preliminary

New section 93A (Definitions for chapter) defines terms used in new chapter 4A (Approved cattle procedures accreditation schemes).

New section 93B (What is a *cattle procedures accreditation scheme*) provides that a cattle procedures accreditation scheme is a scheme that provides for the functions prescribed in subsection (a) to (e).

Subsection (a) provides that accrediting person to perform a prescribed procedure on cattle in accordance with the scheme, including:

- (i) setting the competency requirements for accreditation; and
- (ii) granting an accreditation; and
- (iii) setting the terms and conditions of accreditation including provisional accreditation; and
- (iv) setting the terms and conditions of accreditation, including provisional accreditation; and
- (v) auditing an accredited persons activities under an accreditation; and
- (vi) responding to an accredited person's non-compliance with the accreditation, including by suspending or cancelling the accreditation.

Subsection (b) provides for a function of reviewing decisions made and resolving disputes under the scheme.

Subsection (c) provides for a function of assessing and investigating complaints about the conduct of accredited persons.

Subsection (d) provides for a function of developing operational procedures to apply under the scheme.

Subsection (e) provides a function for recording and disclosing information about a person's accreditation.

New section 93C (Purpose of cattle procedures accreditation scheme) states that the purpose of the cattle procedure accreditation scheme is to allow persons to gain accreditation to perform prescribed cattle procedures on cattle under the ACPA.

##### Division 2 Approval of cattle procedures accreditation schemes.

New section 93D (Applying for approval) provides that an owner of a cattle procedures accreditation scheme may apply to the chief executive for the approval of the scheme.

Subsection (2)(a) provides the application must be made in the approved form, and subsection (2)(b) provides the application must be accompanied by a document that sets out the arrangements for each of the functions of the cattle procedures accreditation scheme listed in section 93B.

New section 93E (Criteria for approval) provides the chief executive may approve a cattle procedures accreditation scheme if satisfied the scheme provides for each of the functions mentioned in section 93B (What is a *cattle procedures accreditation scheme*).

New section 93F (Request for further information) provides the chief executive may by written notice given to the applicant, request the applicant to give the chief executive further information the chief executive reasonably requires to decide the application to approve a cattle procedures accreditation scheme.

Subsection (2) provides that the written notice must state – (a) the information requested; and (b) the day not earlier than 28 days after the notice is given to the applicant by which the further information is required to be given to the chief executive; and (c) that the chief executive may cancel the application if the applicant does not comply with the notice.

Subsection (3) provides that the applicant must give the information to the chief executive in writing unless the notice states a different way in which to give the information.

Subsection (4) provides that if the applicant does not comply with the notice, the chief executive may give the applicant a written notice cancelling the application.

Subsection (5) provides the cancellation of the application under subsection (4) takes effect on the day the notice cancelling the application is given to the applicant.

New section 93G (Deciding application) provides that the chief executive must decide to – (a) approve the application; or (b) refuse the application; or (c) approve the application subject to conditions.

Subsection (2) provides that if the chief executive approves the application the chief executive must give the applicant notice of the decision.

Subsection (3) provides that if the chief executive refuses to approve the application, or approves the application subject to conditions, the chief executive must give the applicant an information notice about the decision as soon as practicable after making the decision.

### Division 3 Amendment of approval

New section 93H (Applying for amendment of approval) allows a holder of an approved cattle procedures accreditation scheme to apply to the chief executive to amend the approval. The application must be – (a) made in the approved form; and (b) be supported by enough information to enable the chief executive to decide the application.

New section 93I (Request further information) provides that the chief executive may by written notice given to the applicant request the applicant give the chief executive further information the chief executive reasonably requires to decide the application.

Subsection (2) provides that the written notice must state – (a) the information requested; and (b) the time, not earlier than 28 days after the notice is given to the applicant by which the further information is required to be given to the chief executive; (c) and that the chief executive may cancel the application for the amendment if the applicant does not comply with the notice.

Subsection (3) provides that the applicant must give the information to the chief executive in writing, unless the notice states a different way in which to give the information.

Subsection (4) provides that if the applicant does not comply with the notice, the chief executive may give the applicant a written notice cancelling the application.

Subsection (5) states that the cancellation of the application under subsection (4) takes effect on the day the notice cancelling the application for the amendment is given to the applicant.

New section 93J (Deciding amendment application) provides that for each application amendment of an approved cattle procedures accreditation scheme, the chief executive must decide to – (a) approve the application, or (b) refuse to approve the application; or (c) if the applicant agrees in writing to another amendment - approve the agreed amendment.

Subsection (2) provides that if the chief executive approves the application the chief executive must give the applicant notice of the decision.

Subsection (3) provides that if the chief executive refuses to approve the application, the chief executive must give the applicant an information notice about the decision as soon as practicable after making the decision.

New section 93K (Amendment of approval by chief executive) provides the chief executive may decide to amend an approved cattle procedures accreditation scheme at any time without an application from the holder of the approval.

Subsection (2) provides that without limiting subsection (1) an amendment of an approved cattle procedures accreditation scheme may impose, vary, or remove a condition of the approval.

Subsection (3) provides that if the chief executive amends an approved cattle procedures accreditation scheme, the chief executive must give the holder of the approval an information notice about the decision as soon as practicable after making the decision.

#### Division 4 Cancellation or suspension of approval

New section 93L (Application of division) provides that the purpose of division 4 is to provide the process for suspending or cancelling an approved cattle procedures accreditation scheme.

New section 93M (Grounds for suspending or cancelling approval) states that each of the following is a ground for suspending or cancelling an approved cattle procedures accreditation scheme -

- (a) the approval was granted because of a materially false or misleading information;
- (b) the holder of the approval failed to comply with a condition of the approval.

New section 93N (Notice of proposed action) applies if the chief executive believes a ground exists to suspend or cancel an approved cattle procedure accreditation scheme.

Subsection (2) provides that the chief executive must give the holder of the approval a notice stating each of the following:

Subsection (2)(a) the action (the **proposed action**) the chief executive proposes to take under division 4.

Subsection (2)(b) the grounds for the proposed action.

Subsection (2)(c) the facts and circumstances that are the basis of the grounds.

Subsection (2)(d) if the proposed action is to suspend the approval - the proposed suspension period of not longer than 2 years.

Subsection (2)(e) that the holder may make, within a stated period, written representations to show why the proposed action should not be taken.

Subsection (3) provides that the stated period must not end less than 28 days after the holder is given the notice.

New section 93O (Considering representations) requires the chief executive to consider all written representations made under section 93N.

Subsection (2) provides that after considering the written representations, the chief executive may decide to take no further action.

Subsection (3) provides that if the chief executive decides not to take any further action, the chief executive must give the holder of the approval notice of the decision as soon as possible after making the decision.

New section 93P (Decision on proposed action) provides that if after considering all written representations made under section 93N, the chief executive believes a ground exists to take the proposed action, the chief executive may decide to take the action outlined in subsection (a) or (b).

Subsection (a) provides that if the proposed action was to suspend the approval – the chief executive may suspend the approval for a period of no longer than the suspension period stated in the notice given to the holder of the approval under section 93N;

Subsection (b) provides that if the proposed action was to cancel the approval – the chief executive may either cancel the approval or suspend the approval for a term of not longer than 2 years.

New section 93Q (Notice and effect of decision) provides that after making a decision about the approved cattle procedures accreditation scheme under section 93P, the chief executive must give the holder of the approval an information notice about the decision as soon as practicable after making the decision.

Subsection (2) provides that the decision takes effect on the later of either the day – (a) the information notice is given to the holder or (b) a later day stated in the information notice.

#### Division 5 Register

New section 93R (Register) requires the chief executive to keep a register of approved cattle procedures accreditation schemes.

Subsection (2) provides that the register must contain the following particulars for each scheme – (a) the name of the scheme; (b) the day the scheme was approved; (c) the status of the scheme; (d) the name and contact details of the owner of the scheme.

Subsection (3) requires the chief executive to publish the register on the department's website.

#### New Chapter 4B Obligations relating to livestock slaughter facilities

##### Part 1 Preliminary

New section 93S (Definitions for chapter) defines the terms 'livestock' and 'livestock slaughter facility' for chapter 4B.

##### Part 2 Closed-circuit television equipment for livestock slaughter facilities

New section 93T (Closed-circuit television equipment) requires an owner of a livestock slaughter facility to install, maintain and operate closed-circuit television equipment at the facility that records movement at the facility as required by subsection (2). A maximum penalty of 300 penalty units will apply.

Subsection (2) requires the closed-circuit television equipment to be clearly recording the movement of livestock at prescribed locations at the livestock slaughter facility (each a **monitoring point**). Subsections (2)(a)-(e) lists the monitoring points - an entrance to the facility; an area used to unload livestock; an area used to hold livestock; an area at which livestock is handled before slaughter; an area used to slaughter livestock including the areas used to restrain exsanguinate or stun livestock.

New section 93U (Requirements for closed-circuit television equipment) requires an owner of a livestock slaughter facility to – (a) ensure that closed-circuit television equipment meets the prescribed minimum requirements for equipment prescribed by



regulation, complies with all requirements about maintaining the equipment prescribed by regulation. and is recording at all times when livestock is at the facility.

Subsection (b) requires the owner to store each recording made by the closed-circuit television equipment at the facility in a secure place in compliance with all requirements about storage prescribed by regulation. A maximum penalty of 300 penalty units will apply.

New section 93V (Signs to be displayed at livestock slaughter facilities) requires an owner of a livestock slaughter facility to display signage at the facility in a way that is likely to make any person at the facility aware that closed-circuit television equipment is installed at the facility. A maximum penalty of 30 penalty units will apply.

New section 93W (Inspecting recordings) requires an owner of a livestock slaughter facility to keep each recording made by closed-circuit television equipment available for inspection by an inspector until the recording is erased or destroyed in accordance with subsections (2) and (3). A maximum penalty of 300 penalty units will apply.

Subsection (2) provides that an owner may only erase or destroy a recording 30 days after the recording is made.

However, subsection (3) provides that under subsection (2) an inspector may, within 30 days after the recording is made, require that the owner not erase or destroy the recording earlier than 1 year and 30 days after it is made.

Subsection (4) provides that a requirement made of the owner under subsection (3) must be made by written notice given to the owner.

New section 93X (Operating closed-circuit television equipment) prohibits the owner of a livestock slaughter facility to allow the closed-circuit television equipment at the facility to be operated by anyone other than – (a) the owner; or (b) a person approved by the owner. A maximum penalty of 300 penalty units will apply.

New section 93Y (Use of recordings) provides a recording made by closed-circuit television equipment at a livestock slaughter facility may only be used by an inspector for the purpose of investigating or prosecuting an animal welfare offence, including using the recording as evidence of the offence. A maximum penalty of 300 penalty units will apply.

### Part 3 Requirement to notify chief executive

New section 93Z (Owner of livestock slaughter facility must notify chief executive of particular matters) requires the owner of a livestock slaughter facility to give the chief executive written notice in the approved form of the arrival of any horse at the facility no later than two business days before the horse arrives at the facility. A maximum penalty of 300 penalty units will apply.

However, subsection (2) provides that if the owner is made aware of the arrival of a horse at the facility later than 2 business days before the horses arrives, the notice must be given to the chief executive as soon as possible after the owner becomes aware of the arrival.

*Clause 23* amends section 117 (When inspector ceases to hold office) to insert a new paragraph (1)(d) to provide that an inspector ceases to hold office if the inspector's appointment is cancelled under section 118D (Decision on proposed action).

*Clause 24* inserts new chapter 6, part 1, division 1A after section 118.

#### Division 1A (Cancellation or suspension of appointment)

New section 118A (Grounds for suspending or cancelling appointment) provides that each of the following is a ground for suspending or cancelling an inspector's appointment – (a) the chief executive reasonably believes that the inspector is no longer suitable for appointment as an inspector under section 114, or (b) the inspector failed to comply with a condition of appointment.

New section 118B (Notice of proposed action) provides that this section applies if the chief executive believes a ground exists for suspending or cancelling an inspector's appointment.

Subsection (2) provides that the chief executive must give the inspector a notice stating the information outlined in subsections (2)(a) to (e).

Subsection (2)(a) requires the notice to state the action (the ***proposed action***) the chief executive proposes to take under division 1A.

Subsection (2)(b) requires the grounds for the proposed action.

Subsection (2)(c) requires the facts and circumstances that are the basis for the grounds.

Subsection (2)(d) provides that if the proposed action is to suspend the appointment – the proposed suspension period of no longer than 2 years.

Subsection (2)(e) provides that the inspector may, within a stated period, make written representations to show why the proposed action should not be taken.

Subsection (3) provides that the stated period must not end earlier than 28 days after the inspector is given the notice.

New section 118C (Considering representations) provides that the chief executive must make all written representations made under section 118B.

Subsection (2) provides that after considering the written representations the chief executive may decide to take no further action.

Subsection (3) provides that if the chief executive decides not to take any further action, the chief executive must give the inspector notice of the decision as soon as possible after making the decision.

New section 118D (Decision on proposed action) provides that if after considering all written representations made under section 118B (Notice of proposed action), the chief

executive believes that a ground exists to take the proposed action, the chief executive may decide to take the action provided in subsections (a) or (b).

Subsection (a) provides that if the proposed action was to suspend the appointment, the chief executive may suspend the appointment for a period no longer than the suspension period stated in the notice given to the inspector under section 118B.

Subsection (b) provides that if the proposed action was to cancel the appointment, the chief executive may decide to cancel the appointment or suspend the appointment for a term of not longer than 2 years.

New section 118E (Notice and effect of proposed action decision) provides that after making a decision about an inspector's appointment under section 118D (Decision on proposed action) the chief executive must give the inspector an information notice about the decision as soon as practicable after making the decision.

Subsection (2) states that the decision takes effect on the later of the following days – (a) the day the information notice is given to the inspector; or (b) a later day stated in the information notice.

*Clause 25* amends section 121 (Return of identity card) by inserting new subsection (2) which requires an inspector suspended under section 118D to return the inspector's identity card to the chief executive within 14 days after being given notice of the decision to suspend. A maximum penalty of 20 penalty units will apply.

*Clause 26* inserts new chapter 6, part 1, division 3 (Training and reporting obligations of inspectors) after section 121.

#### Division 3 Training and reporting obligations

New section 121A (Training) provides that an inspector must satisfactorily complete the training prescribed by regulation within the period required by regulation. A maximum penalty of 20 penalty units will apply.

New section 121B (Conflicts of interest) requires an inspector to give notice to the chief executive of all interests, pecuniary or otherwise, that the inspector has or acquires, and that conflict, or could conflict, with the proper performance of the inspector's functions. A maximum penalty of 20 penalty units will apply.

*Clause 27* amends section 122(1) (Power of entry) to give inspectors a power of entry to a livestock slaughter facility without a warrant or consent of the occupier of the facility, and when entry is made when a horse is present at the facility during normal business hours.

The amendment implements a Martin Inquiry recommendation to allow inspectors to enter a livestock slaughter facility without consent to monitor compliance with the ACPA when horses are at the facility and during normal business hours.

The recommendation resulted from a finding that there is a lack of sufficient oversight within an export abattoir and, given there are significant risks to the welfare of horses in

that environment, it is considered justified that an inspector should have the power to enter without consent.

Clause 27 also amends section 122 (Power of entry) to insert a new subsection (3) that applies to subsection (1)(h) that an animal may be abandoned by a person in charge of the animal regardless of whether the animal is provided with food or water by a person who is not the person in charge of the animal. An example is provided where a person is providing food and water to a dog that has been abandoned near the person's premises.

Subsection (3) clarifies section 122(1)(h) of the ACPA which provides that an inspector may enter a place without a warrant, if the inspector reasonably suspects an animal at the place has been abandoned.

*Clause 28* amends section 123 (Limited entry power to provide relief to animal) to extend section 123(1)(a)(i) to include the power to provide relief to an animal at a place, other than a vehicle, when the animal is; (A) suffering from lack of food or water; or (B) is entangled; or (C) is exposed to extreme weather conditions; or (D) is at risk of being injured or killed by another animal that is acting aggressively towards it (an **aggressive animal**)

Subsection (2) extends section 123(2) of the ACPA to allow an inspector to enter and stay at a place while it is reasonably necessary to – (a) provide food or water to the animal; or (b) disentangle the animal; or (c) move an animal to area within the place that protects the animal from extreme weather conditions or the aggressive animal.

Subsection (5) defines new terms used in the amended section 123 - '**Extreme weather conditions**', '**Heat stress**' and '**Cold stress**'.

*Clauses 29—31* amend sections 158—160 to provide inspectors with the power to give an animal welfare direction to a person for non-compliance with a compulsory code requirement. These provisions allow an inspector to give a direction to a person who may not be in charge of an animal but has obligations under a compulsory code of practice. For example, a direction to remove protrusions, injury risks or faulty equipment from vehicles that are used for transporting livestock.

*Clause 29* amends section 158 (Application of division 5) to insert new paragraph (1)(c) to provide that an inspector may give a written direction (an **animal welfare direction**) to a person who has not complied with a compulsory code requirement.

*Clause 30* amends section 159 (Power to give animal welfare direction) to insert new paragraph (1) to provide that the inspector may give a written direction (an **animal welfare direction**) requiring stated action about (a) the animal or its environment; or (b) if section 158(1)(c) applies – the non-compliance with the compulsory code requirement.

New subsection (2)(d) is also inserted to provide that a direction may be given to another person to whom a relevant compulsory code requirement applies.

*Clause 31* amends section 160 (Requirements for giving animal welfare direction) to insert new paragraph (1)(b)(iii) with requirements that if the direction is given because the inspector reasonably believes a person has not complied with a compulsory code requirement – the particulars of the non-compliance.

Clause 32 inserts new 6A (Recognising offences under interstate laws) after section 173.

## Chapter 6A Recognising offences under interstate laws

### Part 1 Preliminary

New section 173A (Definitions for this chapter) defines **interstate law** to mean a law of another State or the Commonwealth, that corresponds to the provisions of the ACPA.

An '**interstate prohibition decision**' is defined to mean an order or another decision that (a) is made under an interstate law; and (b) has the effect of ordering the disposal or forfeiture of a thing or an animal; or prohibiting a person from possessing, purchasing, or otherwise acquiring an animal.

### Part 2 Directions

New section 173B (Power to give directions) subsection (1) provides that the section applies if a person is the subject of an interstate prohibition decision.

Subsection (2)(a) provides that the chief executive may direct the forfeiture of an animal that is the subject of the interstate prohibition decision.

Subsection (2)(b) provides that as an alternative to subsection (2)(a) the chief executive may direct that the person not possess, purchase or otherwise acquire - (i) a particular animal; or (ii) a stated type of animal.

Subsection (2)(c) provides that as an alternative to subsection (2)(a) and (2)(b) the chief executive may direct that the person not possess, purchase, or otherwise acquire any animal, or a stated type of animal for trade, or commerce or another stated purpose.

Subsection (3) provides that a direction made under subsection (2) must – (a) be made in writing; and (b) be given to the person subject to the direction; and (c) for a direction made under subsection (2)(b) or (c) – state the period for which the direction applies.

New section 173C (Criteria for making direction) provides that the chief executive may only make a direction under section 173B(2) only if satisfied, it is just to make the direction in all the circumstances.

Subsection (2) provides that in considering whether to make the direction, the chief executive must consider each of the following - (a) the interstate prohibition decision; (b) the nature of the act or omission that is the subject of the interstate prohibition decision; (c) the effect of the act or omission on any animal; (d) the welfare of an animal that is the subject of the act or omission; (e) the welfare of any other animal owned by the person; (f) the person's compliance or otherwise with the interstate law or interstate prohibition decision; and (g) the likelihood of the person committing an animal welfare offence.

Subsection (3) provides that subsection (2) does not limit the matters the chief executive may consider.

New section 173D (Compliance with direction) requires a person subject to a direction made under section 173B(2) to comply with the direction, unless the person has a reasonable excuse. A maximum penalty of 300 penalty units or 1 year's imprisonment will apply.

However, subsection (2) provides that if the person applies for a revocation of the direction under section 173E, subsection (1) does not apply while the application is being considered.

### Part 3 Amendment or revocation of directions

New section 173E (Applying for amendment or revocation of a direction) provides that a person subject to a direction under section 173B(2) may apply to the chief executive to amend or revoke the direction.

Subsection (2) provides that the application must be - (a) made in the approved form; and (b) be supported by sufficient information to enable the chief executive to decide the application.

New section 173F (Deciding application) provides that the chief executive must consider an application to amend or revoke a direction and decide to- (a) approve the application; or (b) refuse the application; or (c) if the applicant agrees in writing to another amendment – approve the agreed amendment.

Subsection (2) provides that the chief executive may only approve an application under subsection (1) if satisfied - (a) there has been a substantial change in the person's circumstances after the direction was made; or (b) in all the circumstances, it is reasonable to amend or revoke the order.

However, subsection (3) provides that the chief executive must approve an application to revoke a direction if the interstate prohibition decision to which the direction relates is reversed, cancelled, or otherwise ends.

Subsection (4) provides that if the chief executive approves the application, the chief executive must give the applicant notice about the decision.

Subsection (5) provides that the chief executive refuses to approve the application, the chief executive must give the applicant an information notice about the decision as soon as practicable after making the decision.

*Clause 33* amends section 178 (Offences under Act are summary) to provide that a prosecution may only be started by a person authorised by the chief executive to bring the prosecution.

*Clause 34* inserts new section 215AA.

New section 215AA (Protection from liability for euthanasing sick or injured animals) applies if a veterinary surgeon has euthanased an animal under new section 41B (Euthanasing sick or injured animals by veterinary surgeons).

Subsection (2) provides the veterinary surgeon is not liable civilly, criminally, or under an administrative process, for euthanasing the animal.

*Clause 35* inserts new section 215DA (Disclosure requirement) after section 215D.

New section 215DA applies if – (a) an inspector, who is investigating an alleged animal welfare offence; and (b) the inspector is an employee or agent of the Royal Society for the Prevention of Cruelty to Animals (Queensland) Limited (RSPCA).

Subsection (2) provides that the chief executive may by written notice require the RSPCA to give the chief executive copies of, or access to, all documents and information relating to the investigation that are held by the RSPCA.

Subsection (3) provides that the RSPCA must provide the information by the day stated in the notice.

Subsection (4) provides that the stated day must not be less than 14 days after the notice is given to the RSPCA.

Subsection (5) defines 'RSPCA' to mean the Royal Society for the Prevention of Cruelty to Animals (Queensland) Limited.

*Clause 36* amends the schedule (Dictionary) to:

- insert a definition of 'animal shelter' to mean a premises maintained for the purpose of providing shelter to, or finding a home for, stray, abandoned, or unwanted animals.
- insert a definition of 'approval' to mean for a cattle procedures accreditation scheme for chapter 4A, see section 93A
- insert a new definition of 'approved cattle procedures accreditation scheme' – see section 93A
- replace the definition of 'owner' to include the persons defined as owner under section 93A for the purposes of a cattle procedures accreditation scheme, and persons defined as owner under section 93N for the purposes of a livestock slaughter facility
- define 'pound' as a premises maintained for the purpose of impounding animals
- define 'prong collar' as a collar that is designed for use on a dog, and consists of a series of links or segments with prongs, teeth, or blunted open ends turned towards the skin of the dog so that, when the collar is tightened, the collar pinches the skin around the dog's neck
- replace the definition for 'register' when used as a noun, as either the register of scientific users kept under section 60, or the register of approved cattle procedures accreditation schemes that the chief executive must keep under new section 93M (Register)
- define 'regulated procedure' for the purpose of chapter 3, part 4, division 3 to include cropping a dog's ear, declawing a cat, or docking the tail of a horse, dog, or cow.
- refer to definitions provided in various sections of the Act.

Clause 36 also adds to the existing definition of ‘original decision’ a number of decisions provided in new provisions. The effect is that these decisions are subject to internal review by the chief executive under Chapter 7, Part 4, Division 1, and subsequently to external review under Chapter 7, Part 4, Division 1A by the Magistrates Court or the Queensland Civil and Administrative Tribunal (QCAT).

### Part 3 Amendment of *Animal Care and Protection Regulation 2012*

*Clause 37* provides that Part 6 of the Bill amends the Animal Care and Protection Regulation 2012.

*Clause 38* inserts new part 2A (Closed-circuit television equipment for livestock slaughter facilities) after part 2.

New part 2A of the Regulation prescribes the minimum requirements for the installation, maintenance, and operation of closed-circuit television equipment in livestock slaughter facilities provided for under part 2 of chapter 4B (Obligations relating to livestock slaughter facilities) of the ACPA – section 93U.

New section 4A (Minimum requirements for closed-circuit television equipment—Act, section 93U) prescribes the minimum requirements for closed-circuit television equipment, as provided for in section 93U(a)(i) of the ACPA. The equipment must produce images that allow for the identification of individuals or animals at the facility. Furthermore, the equipment must display the time and date on each recording, and record the whole area of a **monitoring point** in the livestock slaughter facility prescribed under new section 93U(2) of the ACPA.

Furthermore, the equipment, and any related device used for storing recordings made by the equipment, must be able to store each recording made by the equipment for at least 1 year and 30 days, and be able to produce a digital copy of each recording stored on the equipment or device.

**Monitoring point** for a livestock slaughter facility is defined in new section 93T(2).

New section 4B (Requirements for maintaining closed-circuit television equipment—Act, section 93U) prescribes the maintenance requirements for closed-circuit television equipment under section 93U(a)(ii) of the ACPA. The equipment must be inspected each day when there is livestock at a livestock slaughter facility to ensure it is operating effectively. The owner must give the chief executive notice in the approved form if the equipment is not operating effectively or is otherwise malfunctioning and make arrangements to repair the equipment no later than 48 hours after the malfunction is identified. The equipment must be inspected and certified by an appropriately qualified person, as provided for in new sections 4C (Inspecting closed-circuit television equipment) and 4D (Certifying closed-circuit television equipment) at least once a year.

New section 4C (Inspecting closed-circuit television equipment) prescribes this section applies if closed-circuit television equipment is inspected at a livestock slaughter facility under section 4B(3).



Subsection (2) provides that the details about the inspection that must be recorded are – (a) the date and time of the equipment was inspected; (b) the name of the person who inspected the equipment; and (c) whether the equipment was operating effectively.

Subsection (3) provides the records must – (a) be stored in a secure place at the livestock slaughter facility; and (b) be accessible only by the owner or a person authorised by the owner.

New section 4D (Certifying closed-circuit television equipment) applies if closed circuit television at a livestock slaughter facility is certified under section 4B(3).

Subsection (2) provides that the certificate must state whether the equipment and any related device are in good working order and specifically whether - (a) the equipment is able to record images clearly; and (b) the equipment or a related device is able to store each recording made by the equipment for at least 1 year and 30 days; and (c) the equipment and any device is able to produce a digital copy of each recording stored on the equipment or device.

The certificate – (a) must be stored in a secure place at the livestock slaughter facility; and (b) only be accessible by the owner of the facility or a person authorised by the owner of the facility.

**Related device** is defined in section 4A(1)(d).

*Clause 39* omits section 6 (Prescribed species for meaning of animal—Act, section 11) which prescribed the species from the class Cephalopoda as an animal. This provision is redundant as clause 3 amends section 11 to provide that an animal includes a live invertebrate creature of a species, or a stage of life cycle of a species, from the class Cephalopoda.

*Clause 40* amends schedule 2B (Code of practice about cattle) to omit section 17. Section 17(1) allowed a lay person to spay a cow using the Willis dropped-ovary technique, provided the person had completed a competency unit known as AHCLSK335—Conduct dropped ovary technique procedures for spaying cattle. This amendment is consequential to the introduction of the approved cattle procedures accreditation scheme. Section 17 (2) prohibited the use of vaginal spreaders to spay a cow that has not given birth to a calf. This prohibition is to be retained and is contained in new section 27A(2) of the ACPA.

Part 4 Amendment of *Disability Services Act 2006*

*Clause 41* provides that Part 4 amends the *Disability Services Act 2006*.

*Clause 42* replaces the reference in section 48(1)(c) to section 222(a) with a reference to section 222. This corrects a previous drafting error which did not reflect the intent of Parliament in making Disability and Other Legislation (Worker Screening) Amendment Bill 2020. It clarifies the intended position that members of the Queensland Disability Advisory Council (QDAC) and any other committees established under section 222(b) are taken to be engaged in State disability work. As such, prospective members are required to be screened through the State disability worker screening system as a condition of their appointment.

*Clause 43* prescribes the new offence of aggravated breach of duty under the ACPA as a serious offence for the disability worker screening system under the DS Act. This has the effect that an applicant for a disability worker screening clearance with a charge or conviction for the new offence—if committed or alleged to have been committed as an adult—must be issued an exclusion, unless they can demonstrate through a show cause process that exceptional circumstances exist. The person is then prevented from making a further application unless that exclusion is cancelled.

#### Part 5 Amendment of *Racing Integrity Act 2016*

*Clause 44* provides that Part 4 amends the *Racing Integrity Act 2016* (RI Act).

*Clause 45* amends section 3 (Main purposes of Act and their achievement) by replacing paragraph 3(1)(c) to include all animals that have been involved in racing under the RI Act or the *Racing Act 2016*.

This amendment is required to support the new function of the Queensland Racing Integrity Commission (QRIC) outlined in clause 46 to provide for the protection of the welfare of retired racehorses while they are still in the custody of a participant.

*Clause 46* amends section 10 (Functions) to provide a new function in new paragraph (ia) which is to safeguard the welfare of any animal that – (i) used to be involved in racing in Queensland or another jurisdiction; and (ii) is in the possession of a person licensed under a thoroughbred or harness codes of racing.

This amendment was identified as being required by the Martin Inquiry, as the current functions limited QRIC's ability to exercise authority to safeguard the welfare of a horse that has been retired from racing because the function prescribed in paragraph (i) only provided for animals involved in racing.

Subsection (2) and (3) renumbers sections.

*Clause 47* amends section 63 (Purposes of licensing schemes) to insert new paragraph (d) which prescribes an additional purpose of licensing schemes as the responsible breeding of horses for racing.

This amendment is in response to a Martin Inquiry recommendation to 'expand the purposes for which a standard for a licensing scheme for a code of racing can be made to provide for the licensing of breeders.

*Clause 48* inserts new chapter 5A (Reporting and recording requirements for supplier of horses to livestock slaughter facilities).

New section 210A (Reporting requirement for supplier of horses to livestock slaughter facility) requires that a person (a supplier) who supplies a horse to a livestock slaughter facility must give to the owner of the slaughter facility information about;

- a) if the horse has a brand, a photograph or drawing of the brand;
- b) the horse's microchip number;

- c) the supplier's contact details;
- d) the day the supplier took possession of the horse;
- e) the contact details of the person who transported the horse to the facility.

A maximum penalty of 200 penalty units will apply.

New section 210B (Records to be kept by livestock slaughter facility) requires an owner of a livestock slaughter facility, unless the operator has a reasonable excuse, to keep a record information about each horse that arrives at the facility. The information required is:

- a) the day the horse arrives;
- b) the horse's microchip number;
- c) the information provided to the owner in relation to the supply of the horse under section 210A;
- d) any other information prescribed by regulation.

A maximum penalty of 200 penalty units will apply.

Subsection (2) provides that the owner must keep the information recorded under subsection (1) for at least 2 years after the day on which the horses arrive at the facility. A maximum penalty of 200 penalty units will apply.

New section 210C (Reporting obligation of owner of livestock slaughter facility) requires the owner of a livestock slaughter facility to prepare a report for the facility for each month that a horse arrives at the facility. The report must be in the approved form and contain the number of horses that arrived at the facility during the month and other information prescribed by regulation. A copy of the report must be given to QRIC no later than 5 days after the end of the month to which the report relates. A maximum penalty of 300 penalty units will apply.

#### Part 6 Amendment of *Veterinary Surgeons Act 1936*

*Clause 49* provides that Part 6 of the Bill amends the *Veterinary Surgeons Act 1936*.

*Clause 50* amends section 2A (Meaning of *veterinary science*) to replace section 2A(3) to exclude from the definition of *veterinary science* a person using an animal, or allowing an animal to be used, for a scientific purpose if it is used in accordance with section 91 of the ACPA.

*Clause 50* also inserts new subsection (4) to define 'scientific purpose' as provided for in the definition of when an animal is used for scientific purposes in section 48 of the ACPA.

This will allow researchers to perform acts of *veterinary science* if the acts are undertaken in accordance with the Scientific Use Code and under the supervision of an Animal Ethics Committee.

#### Part 7 Amendment of *Veterinary Surgeons Regulation 2016*

*Clause 51* provides that Part 7 of the Bill amends the *Veterinary Surgeons Regulation 2016* (VS Reg).

The amendments to the VS Reg are required as part of the implementation of approved cattle procedures accreditation scheme under new chapter 4A, to allow laypersons who are accredited persons to perform pregnancy testing of cattle using rectal palpation or transrectal ultrasound.

*Clause 52* amends section 3 (Particular acts are not veterinary science—Act, section 2A) to include acts that are not veterinary science, pregnancy testing of cattle using rectal palpation or transrectal ultrasound if the test is done under an approved cattle procedures accreditation scheme.

Clause 52 also amends section 3(2) to insert a definition of ‘approved cattle procedures accreditation scheme’ to direct the reader to new section 93A of the ACPA.