

Agriculture and Fisheries and Other Legislation Amendment Bill 2023

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by the Honourable Mark Furner MP, Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities

Short title

The short title of the Bill is the Agriculture and Fisheries and Other Legislation Amendment Bill 2023 (the Bill).

Policy objectives and the reasons for them

The objectives of the amendments are to:

- ensure there is adequate time to advise the public of the amendments to offences under the *Animal Management (Cats and Dogs) Act 2008* (AMCD Act), including a new effective control offence, before they commence;
- clarify references to ‘the attack’ in the new effective control offence;
- avoid unintended consequences related to transferring the primary lists of prohibited and restricted matter from the *Biosecurity Act 2014* (Biosecurity Act) to regulation; and,
- correct a minor oversight in the definition of an ‘exclusion zone’ under the *Fisheries Act 1994* (Fisheries Act).

Achievement of policy objectives

Chapter 4, Part 3, commencement

Chapter 4, Part 3, of the Bill amends several existing offences under the AMCD Act and introduces a new statewide requirement that the responsible person for any dog must keep the dog under effective control at all times in a public place and the associated offence provision for a person who fails to keep their dog under effective control. Delaying the commencement date of Chapter 4, Part 3, until 31 July 2024 will ensure there is adequate time to advise the public of the new offence before it commences.

Clarifying references to ‘the attack’

Clause 25 of the Bill amends the AMCD Act to insert new section 193 which provides an offence where a person does not effectively control a dog in a public place.

New section 193 includes maximum penalties ranging up to 2 years imprisonment where a person did not effectively control their regulated dog and their dog attacked a person causing death or grievous bodily harm.

During committee consideration of the Bill it was submitted that the provision should be amended to better clarify the references to ‘the attack’ in relation to the maximum penalties. The amendment will clarify that the references to ‘the attack’ are references to ‘if the dog attacks a person’ or ‘if the dog attacks an animal’ and the resultant harm of that attack.

Prescribing prohibited and restricted matter by regulation

The Bill makes several amendments to the Biosecurity Act which have the effect of transferring the primary lists of prohibited and restricted matter under the Biosecurity Act to regulation. In particular, Clauses 107 and 108 replace the definitions of prohibited matter in section 19, and restricted matter in section 21 of the Biosecurity Act respectively.

New sections 19 and 21 include powers for the Minister to recommend a regulation listing matter as prohibited matter or restricted matter, provided it meets certain criteria. The criteria included in the Bill were substantially those already in the Biosecurity Act and include that prompt action is required to declare the biosecurity matter to be prohibited or restricted matter.

Further review identified that ‘prompt action’ may inadvertently restrict the listing of biosecurity matter in cases where prompt action is not immediately required, such as where nationally significant pests and diseases pose no immediate risk in Queensland. The amendment omits the criteria that prompt action is required.

In addition, some animals currently declared to be prohibited matter would not meet one of the criteria under section 20, because they are already present in Queensland. For example, zoo animals such as lions and tigers, managed under an exhibition authority granted under the *Exhibited Animals Act 2015*.

The amendment will insert a transitional provision to ensure all matter that is already prescribed as prohibited matter at the time of commencement can be declared by regulation, consistent with the original intention.

Amended definition of ‘exclusion zone’

Clause 138 of the Bill amends the references to ‘*shark control apparatus*’ to instead refer to ‘*shark control equipment*’ in the Fisheries Act. It has been identified that two additional references require updating. The minor amendment will update two additional references to ‘*shark control apparatus*’ in section 31(4) of the Fisheries Act to also refer to ‘*shark control equipment*’.

Alternative ways of achieving policy objectives

There are no alternative means of achieving the policy objectives.

Estimated cost for government intervention

There are no additional costs to government in implementing the amendments.

Consistency with fundamental legislative principles

The proposed amendments are consistent with fundamental legislative principles.

Consultation

Due to the minor nature of the amendments, no further consultation was carried out.

Notes on provisions

Amendment 1 Clause 2 (Commencement)

Amendment 1 replaces the 1 May 2024 commencement date of Chapter 4, Part 3 of the Bill, with 31 July 2024.

Amendment 2 Chapter 4, part 3, heading

Amendment 2 makes a consequential update to the heading of Chapter 4, Part 3 of the Bill, which references the commencement date in Amendment 1.

Amendments 3-6 Clause 25 (Insertion of new ss 191–193)

Amendments 3-6 amend new section 193 of the AMCD Act, inserted by Clause 25, to clarify that references to ‘the attack’ which causes harm are references to an attack where ‘the dog attacks a person’ or ‘the dog attacks an animal’ and the resultant harm of that attack.

Amendment 7 Clause 29 (Insertion of new ch 10, pt 6, div 3)

Amendment 7 makes a consequential update to a reference to the commencement date in Amendment 1 for Chapter 4, Part 3 of the Bill.

Amendment 8 Clause 107 (Replacement of s 19 (What is prohibited matter))

Amendment 8 omits new subsection 19(2)(b) of the Biosecurity Act, inserted by Clause 107, regarding prompt action being required to declare prohibited matter by regulation.

Amendment 9 Clause 108 (Replacement of s 21 (What is restricted matter))

Amendment 9 omits new subsection 21(2)(c) of the Biosecurity Act, inserted by Clause 108, regarding prompt action being required to declare restricted matter by regulation.

Amendment 10 117A Insertion of new ch 19, pt 4

Amendment 10 inserts a new transitional provision for the Biosecurity Act which provides that new section 19(2) regarding prescribing prohibited matter does not apply to biosecurity matter that was already prescribed as prohibited matter immediately before commencement for a regulation made on commencement.

Amendment 11 Clause 138 (Amendment of s 31 (Exclusion zone))

Amendment 11 replaces ‘shark control apparatus’ with ‘shark control equipment’ in the definition of an exclusion zone under the Fisheries Act.