

Inquiry into the Animal Care and Protection Amendment Bill 2022

Submission No: 878
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Publication: Make my submission public but keep my name confidential
Attachments: See attachment
Submitter Comments:

Queensland Animal Care and Protection Amendment Bill 2022

SUBMISSION

01/06/2022 Ref : AM

Clause 3 - Amendment of Section 11 What is an animal

Feedback :

Agree with proposed changes because they improve clarity.

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

Section 17(2), penalty— omit, insert

— Maximum penalty—

- (a) if the breach causes death, serious deformity, serious disability or prolonged suffering of an animal—2,000 penalty units or 3 years imprisonment; or
- (b) otherwise—300 penalty units or 1 year's imprisonment.

Feedback :

- Maximum penalty is too low. 2000 points is hardly a deterrent for large corporations.
- Remove point (b).
- Simplify. Range can be used depending on circumstance. Suggest re-word as follows :

Maximum penalty— 4,000 penalty units or 5 years imprisonment;

Clause 6 - Amendment of s 19 (Unreasonable abandonment or release)

Feedback :

Agree with proposed changes because they improve clarity.

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

Feedback :

Agree with proposed changes but penalty is too low to be a deterrent.

Clause 10 - Insertion of new ss 27A and 27B 27A Spaying cattle

Feedback :

Agree some of this new section but disagree that non-veterinarians should be allowed to spay female cattle, which is a significant internal surgical procedure and presents significant risk of harm to the animal.

Suggest the following for 27A(1) and (2) and remove all subsequent references to the Willis Dropped Ovary technique :

- (1) A person, other than a veterinary surgeon, must not spay female cattle.
- (2) A veterinary surgeon must not use vaginal spreaders to spay cattle that have not given birth.

27B Testing for pregnancy in cattle**Feedback :**

Disagree. Pregnancy testing should only be undertaken by a veterinarian or an accredited person. Internal procedures by unqualified persons have increased risk of harm. Suggested wording :

- (1) A person, other than a veterinary surgeon or an accredited person, must not use rectal palpation or transrectal ultrasound to test for pregnancy in cattle.

Clause 12 - Replacement of ss 28 and 29**Feedback :**

Agree. This will allow re-homing of abandoned animals.

Clause 13 - Replacement of s 33 (Obligation to exercise closely confined dogs)**Feedback :**

Disagree with removal of exercise requirements dogs. Explanatory notes state that this is covered in section 18 but it is not. Suggest S18 (f) (iii) be adjusted to include mention of minimum exercise requirements for confined dogs e.g. minimum of two hours exercise every 24 hours.

Clause 14 - Insertion of new ch 3, pt 5, divs 5 to 7**37A Possession or use of prohibited devices****Feedback :**

The wording in this section is confusing. It seems to indicate that a normal restraint device such as a collar or harness is prohibited ?

A choker collar should be explicitly listed as a prohibited device. Or, at the very least, it should not be left on an unattended animal. There are tragic accounts of dogs strangling themselves with these devices when left

unattended. In one example, a beloved pet husky choked himself to death when the choker collar got caught on a fence.

Clause 14 - Insertion of new ch 3, pt 5, divs 5 to 7

37B Possession or use of prohibited nets

37C Firing or blistering on horses and dogs

Feedback :

Agree wholeheartedly.

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

Feedback :

Agree that this phosphorous poison should be prohibited but should list prohibited poisons separately (similar to prohibited traps) so that they can be easily updated when required. 1080 poison should also be prohibited.

Clause 22 - Insertion of new chs 4A and 4B

Chapter 4A Approved cattle procedures accreditation schemes

Feedback :

Disagree. Non-veterinarians should NOT be allowed to spay female cattle, which is a significant internal surgical procedure and presents significant risk of harm to the animal.

Clause 22 - Insertion of new chs 4A and 4B

Chapter 4B Obligations relating to livestock slaughter facilities

Feedback :

Wholeheartedly agree with the intent of this section.

Suggest add 'sheep and 'cattle' to the definition for livestock e.g.

livestock includes alpacas, buffalo, camels, deer, emus, goats, ostriches, pigs, *sheep*, *cattle* or poultry.

Clause 22 - Insertion of new chs 4A and 4B

93Z Owner of livestock slaughter facility must notify chief executive of particular matter

Feedback :

The facility should not be required to notify the chief executive. This administrative overhead is not required. Instead, inspectors should be doing more frequent random inspections without notice. Cattle and other livestock are just as vulnerable as horses, and experience similar levels of emotion and stress.

Clause 37 - Amendment of s 122 (Power of entry)

Feedback:

Cattle and other livestock are just as vulnerable as horses, and experience similar levels of emotion and stress.

It is imperative that an inspector is able to visit a livestock slaughter facility without notice. That is the job and purpose of an inspector. There is little benefit if the inspector gives prior notice.

Suggested wording :

(i) the place is a livestock slaughter facility and the entry is made during normal business hours.

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

Feedback :

Section 123(1)(a)(i)— Suggest add 'shelter' e.g.

(A) is suffering from lack of food, water or *suitable shelter*; or

Clause 32 - Insertion of new ch 6A

Feedback : Agree

Other Feedback on the Qld Animal Care and Protection Act 2001

Title Page

Animal Care and Protection Act 2001

“An Act to promote the responsible care and use of animals and to protect animals from cruelty, and for other purposes”

Recommendation 1

Change the above statement to “*An Act to protect animals from cruelty and unnecessary suffering*”

Rationale

- The primary purpose of the act needs to clearly be the protection of animals.
- Animals are constantly suffering as a result of human actions and humans clearly have a duty of care to prevent this. There needs to be an increased focus from the government on the protection of animals in their own right, not merely because they are useful to anyone or generate profit.

3 Purposes of Act

The purposes of this Act are to do the following—

- (a) promote the responsible care and use of animals;
- (b) provide standards for the care and use of animals that—
 - (i) achieve a reasonable balance between the welfare of animals and the interests of persons whose livelihood is dependent on animals; and
 - (ii) allow for the effect of advancements in scientific knowledge about animal biology and changes in community expectations about practices involving animals;
- (c) protect animals from unjustifiable, unnecessary or unreasonable pain;
- (d) ensure the use of animals for scientific purposes is accountable, open and responsible.

Recommendation 3.1

Add two new items in the above list as the first two items :

“recognise animals as sentient beings who experience emotions and feel pain and suffering”

“recognise that humans have a duty of care to protect animals from cruelty and suffering that may result from human actions”

Rationale

- These two points are very important and underpin how the community can show respect for animals that are in their care and at their mercy.
- Anybody in our community that has ever encountered an animal understands that animals are sentient beings.
- A duty of care always exists where one party has power over another.

Recommendation 3.2

Replace 3(b) (including i and ii) with the following :

“Provide a minimum baseline for animal welfare”

Rationale

- Codes and Standards must have a consistent baseline. The consistent baseline will enable easier understanding, promotion and enforcement.
- Remove reference to livelihoods. Making money out of cruelty or exploitation is not justifiable, especially in this day and age.

Recommendation 3.3

Add the word ‘justifiable’ to 3(d) as follows :

“ensure the use of animals for scientific purposes is accountable, open, justifiable and responsible”

Rationale

- Subjecting animals to scientific experiments must be justifiable i.e. no humane alternative, benefit to that individual animal species etc etc.

4 How purposes are to be primarily achieved

The purposes are to be primarily achieved by the following—

- (a) providing for regulations about codes of practice for animal welfare;
- (b) allowing regulations to require compliance with codes of practice;
- (c) imposing a duty of care on persons in charge of animals;
- (d) prohibiting certain conduct in relation to animals;
- (e) requiring a person using an animal for scientific purposes to comply with the scientific use code;
- (f) providing for the registration of certain users of animals for scientific purposes;
- (g) providing for the appointment of authorised officers to monitor compliance with compulsory code requirements and the scientific use code;
- (h) providing for the appointment of inspectors to investigate and enforce this Act;
- (i) allowing the Minister to establish an animal welfare advisory committee or another body to advise the Minister on animal welfare issues.

Recommendation 4.1

Expand 4(f) as follows :

“providing for the registration of all users of animals for scientific purposes”

Rationale

- All users of animals for scientific purposes should be registered to allow for monitoring, transparency and oversight.

Recommendation 4.2

Replace 4(i) as follows :

“allow for the establishment of an Independent Office of Animal Protection ”

Rationale

- DAF is not well placed to drive the Animal Protection agenda on behalf of Queenslanders because it also has an agenda to foster economic productivity in animal-use industries. There is a conflict of interest here. Independence is required.

6 Application of Act to State for protected or wild animals

This Act does not apply to the State for an animal only because it is —
 (a) a protected animal or an animal in the wild under the Nature Conservation Act 1992; and
 (b) the property of the State under that Act, another Act or the common law.

Recommendation 6.1

Remove all of section 6 (including (a) and (b))

Rationale

- Section 5(1) already states that the Act binds all persons, including the State.
- The Nature Conservation Act should require higher levels of animal welfare than this Act so the State should be bound by both acts
- It is irrelevant whether the animal is the property of the State or not. All animals should be protected.

6A Relationship with Nature Conservation Act 1992

(1) This Act does not affect the application of the Nature Conservation Act 1992 other than as provided under subsection (2).

(2) This Act applies to an act done, or omission made, by a person for the purposes of either of the following if authorised under the Nature Conservation Act 1992—

- (a) taking, keeping or using an animal to exercise Aboriginal tradition or Island custom;
- (b) using an animal for a scientific purpose.

(3) A person does not commit an offence under this Act only because the person does an act or makes an omission that —

- (a) is authorised under the *Nature Conservation Act 1992*, other than an act or omission mentioned in subsection (2); and
 (b) would, apart from this subsection, constitute an offence under this Act.

Recommendation 6.2

Remove sub-section 6A(3) (including (a) and (b))

Rationale

- This Act should be the minimum baseline for animal welfare. The Nature Conservation Act should require higher levels of animal welfare than this Act.
- A consistent baseline will enable easier understanding, promotion and enforcement.

7 Relationship with certain other Acts

(1) This Act does not affect the application of—

- (a) the Fisheries Act 1994; or
- (b) the Racing Act 2002; or
- (c) the Racing Integrity Act 2016.

(2) A person who lawfully does an act, or makes an omission, authorised under an Act mentioned in subsection (1) that would, apart from this subsection, constitute an offence under this Act, is taken not to commit the offence by reason only of doing the act or making the omission.

(3) However, subsection (2) does not apply if the act is the use of an animal for a scientific purpose.

Recommendation 7.1

Replace 7(1), 7(2) and 7(3) with the following :

“(1) Where there is any overlap between this Act and any other Act, the sections of any Act that are in the best interests of the animal shall apply.”

Rationale

- This Act should be the minimum baseline for animal welfare. Any other acts should require higher levels of animal welfare.
- A consistent baseline will enable greater understanding, promotion and enforcement.
- Allowing animal cruelty for profit or entertainment (e.g. racing) is abhorrent.

Bill Clause 3 - Amendment of Section 11 What is an animal

(2) However, a human being or human fetus is not an animal.

Recommendation 11.1

Replace 11(2) with the following :

“However, whilst a human being is an animal, it is excluded from the definition for the purposes of this Act.”

Rationale

- Align with modern science.

13 Making codes of practice

(1) A regulation may make codes of practice about animal welfare.

(2) Without limiting subsection (1), a code of practice may be

(3) made about any of the following —

(a) the care and handling of animals;

(b) the use of animals —

(i) as companions; or

(ii) for commercial, entertainment, recreational, scientific or other purposes; or

(iii) in any of the following—

- aquaria

- boarding kennels

- pet shops

- theme parks

- zoos;

(c) the performance of medical or surgical procedures on animals;

Recommendation 13.1

Add a new subsection between subsections (1) and (2) :

“This Act represents the minimum baseline for animal welfare. Any Codes or Regulations must provide for higher levels of animal welfare. Where a Code or Regulation overlaps the Act, the rule that is in the best interest of the animal shall apply .”

Rationale

- A consistent baseline will enable greater understanding, promotion and enforcement.

14 Tabling and inspection of documents adopted in codes of practice

(4) The chief executive must keep a copy of the adopted provisions, as in force from time to time, open for inspection, free of charge, by members of the public during office hours on business days at—

(a) the department’s head office; and

(b) other places the chief executive considers appropriate.

Recommendation 14.1

Add a new item between (a) and (b) :

“the State Government website .”

Rationale

- Allow easy access for the public

15 Regulation may require compliance with code of practice

(1) A regulation may require a person to comply with the whole or a stated part of a code of practice.

(2) A requirement under subsection (1) is called a compulsory code requirement.

(3) A person to whom a compulsory code requirement applies must comply with the requirement.

Maximum penalty for subsection (3)—300 penalty units.

Recommendation 15.1

Maximum penalty units is far too low.

Rationale

- Allow flexibility to impose appropriate penalties to match range of possible breaches. For example, where a large number of animals is affected. To be effective, penalties need to be large enough to be a behavioural deterrent.

17 Breach of duty of care prohibited

(1) A person in charge of an animal owes a duty of care to it.

(2) The person must not breach the duty of care.

Maximum penalty—300 penalty units or 1 year’s imprisonment.

(3) For subsection (2), a person breaches the duty only if the person does not take reasonable steps to—

(a) provide the animal’s needs for the following in a way that is appropriate—

- (i) food and water;
- (ii) accommodation or living conditions for the animal;
- (iii) to display normal patterns of behaviour;
- (iv) the treatment of disease or injury; or

(b) ensure any handling of the animal, including any confinement or transportation of the animal, by the person, or caused by the person, is appropriate.

(4) In deciding what is appropriate, regard must be had to—

- (a) the species, environment and circumstances of the animal; and
- (b) the steps a reasonable person in the circumstances of the person would reasonably be expected to have taken.

Recommendation 17.1

The 17(2) maximum penalty units and imprisonment period is far too low.

Rationale

- Allow flexibility to impose appropriate penalties to match range of possible breaches. For example, where a large number of animals is affected. To be effective, penalties need to be large enough to be a behavioural deterrent.

Recommendation 17.2

Change 17(3)(a)(1) to :

“food, water and shelter”

Rationale

- Unfortunately some humans do not understand that all animals need shelter. Examples are paddocks and feedlots without adequate shade. To get relief from the sun during heat waves the animals all try to huddle under a tiny spot of shade (if any) which is heart breaking.

Recommendation 17.3

Add a note to 4(a) as follows :

“One example of a normal pattern of behaviour for the bird species is flight. Therefore it is inappropriate to confine a bird to a cage unless it is allowed out of the cage to fly daily. ”

Rationale

- It is abhorrent that the current Queensland law allows birds to be kept in cages for their whole lives. Birds such as galahs and cockatoos have long lifespans and they do not deserve life-long imprisonment just because someone wants an ornament.

18 Animal cruelty prohibited

(1) A person must not be cruel to an animal.

Maximum penalty—2000 penalty units or 3 years imprisonment.

(2) Without limiting subsection (1), a person is taken to be cruel to an animal if the person does any of the following to the animal—

- (a) causes it pain that, in the circumstances, is unjustifiable, unnecessary or unreasonable;

- (b) beats it so as to cause the animal pain;
- (c) abuses, terrifies, torments or worries it;
- (d) overdrives, overrides or overworks it;
- (e) uses on the animal an electrical device prescribed under a regulation;
- (f) confines or transports it—
 - (i) without appropriate preparation, including, for example, appropriate food, rest, shelter or water; or
 - (ii) when it is unfit for the confinement or transport; or
 - (iii) in a way that is inappropriate for the animal's welfare; or
 Examples for subparagraph (iii)—
 - placing the animal, during the confinement or transport, with too few or too many other animals or with a species of animal with which it is incompatible
 - not providing the animal with appropriate spells
 - confining the animal in or on a vehicle in a way that causes heat stress or other pain for the animal
 - (iv) in an unsuitable container or vehicle;
- (g) kills it in a way that—
 - (i) is inhumane; or
 - (ii) causes it not to die quickly; or
 - (iii) causes it to die in unreasonable pain;
- (h) unjustifiably, unnecessarily or unreasonably—
 - (i) injures or wounds it; or
 - (ii) overcrowds or overloads it.

Recommendation 18.1

The 18(1) maximum penalty units and imprisonment period is far too low.

Rationale

- Allow flexibility to impose appropriate penalties to match range of possible breaches. For example, where a large number of animals is affected. To be effective, penalties need to be large enough to be a behavioural deterrent, even to large corporations.

Recommendation 18.2

Add an extra example under subsection 18(2)(f)(iii) as follows :

“placing any animal, including a bird, in a cage or tied up for long periods of time”

Rationale

- It is disappointing that the current Queensland law allows birds to be kept in cages for their whole lives. Birds do not deserve to be sentenced to life imprisonment just because someone wants an ornament. Birds such as galahs and cockatoos have very long lifespans.

- A person should not be allowed to own or be in charge of an animal if they are going to tie it up or put it in a cage for long periods of time. Those people should be encouraged to get ornaments, plants or artwork instead.

20 Meaning of prohibited event

Recommendation 20.1

Add Calf Roping to the list of prohibited events.

Rationale

- Anyone who watches calf roping contest can see how cruel they are. It is completely unnecessary pain and suffering.

21 Participation in prohibited event

A person must not—

- (a) organise a prohibited event; or
- (b) knowingly—
 - (i) permit a prohibited event to be organised; or
 - (ii) supply an animal for use in a prohibited event; or
 - (iii) supply premises for use for a prohibited event.

Maximum penalty—300 penalty units or 1 year's imprisonment.

Recommendation 21.1

Add an extra item between 21(a) and 21(b) as follows :

“profit from a prohibited event”

Rationale

- More comprehensive

Recommendation 21.2

The maximum penalty units and imprisonment period is far too low.

Recommendation 21.2 Rationale

- Allow flexibility to impose appropriate penalties to match range of possible breaches. For example, where a large number of animals is affected. To be effective, penalties need to be large enough to be a behavioural deterrent, even to large corporations.

22 Presence at prohibited event

A person must not be present at a prohibited event unless the person has a reasonable excuse.

Maximum penalty—150 penalty units or 1 year's imprisonment.

Recommendation 22.1

The maximum penalty units and imprisonment period is far too low.

Rationale

- Allow flexibility to impose appropriate penalties to match range of possible breaches. For example, where a large number of animals is affected. To be effective, penalties need to be large enough to be a behavioural deterrent.

Sections 23 and 24 and 27 : Cropping a Dog's Ear, Docking a Dogs Tail, Docking tail of Cattle or Horse.

Recommendations 23.1

- Change these sections so that they apply to all animals, not just dogs.
- Change these sections so that all procedures on all animals for cosmetic reasons, whether by veterinarian or other surgeon, constitute an offence.
- The maximum penalty units and imprisonment period is far too low.
- If a procedure is absolutely required for the animals health, anaesthetic is mandatory when conducting the procedure.

Rationale

There is no justification for cosmetic procedures such as tail docking or ear cropping whether it be dogs, cattle or any other animal.

- Allow flexibility to impose appropriate penalties to match range of possible breaches. For example, where a large number of animals is affected. To be effective, penalties need to be large enough to be a behavioural deterrent.

Division 1 Other offences relating to dogs

Recommendation 24.1

The maximum penalty units and imprisonment periods specified throughout this section is far too low.

Rationale

- Allow flexibility to impose appropriate penalties to match range of possible breaches. For example, where a large number of animals is affected. To be effective, penalties need to be large enough to be a behavioural deterrent.

44 Fishing using certain live bait

Recommendation 44.1

Remove the exemption to use fish and other species as live bait.

Rationale

- This is extremely cruel to these poor sentient beings who often have their eyes pierced by the hooks ! In this day and age this is abhorrent and inhumane.

Chapter 4 Using animals for scientific purposes

Recommendation 48.1

The use of animals for product testing should be an offence under this Act.

Rationale

- Modern techniques and technologies mean that there are now alternatives to these archaic practices.

Section 178 Offences under Act are summary

(b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

Recommendation :

The maximum timeframe of two years is far too short. Change to five years.