

Inquiry into the Animal Care and Protection Amendment Bill 2022

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RSPCA Qld submission

Animal Care and Protection Amendment Bill

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Introduction

RSPCA Qld welcomes the Animal Care and Protection Amendment Bill (the Bill) and congratulates Biosecurity Qld on its development. The RSPCA made a submission during the review of the *Animal Care and Protection Act 2001* (the Act) and we are pleased to see that many of our recommendations are either partially or fully adopted. We would like to particularly note the introduction of the need to consider the latest scientific knowledge in the drafting of Codes of Practice and Regulations, prohibition of the possession and use of prong collars, the increase of penalty for serious duty of care offences, the removal of s33, the clarification of certain sections (e.g. s24, s28 & 29), and the improved governance of RSPCA inspectors.

However, we would like to raise a number of issues for further consideration during the review of the Bill.

General comment

The stated purpose of the Act is to “promote the responsible care and use of animals and to protect animals from cruelty, and for other purposes.” (page 11). We support this purpose and would like to see the key focus of the Act be animals. This focus would be strengthened if the sentience of animals was enshrined in the Act and if the welfare and wellbeing of animals were prioritized in prosecution cases as discussed in our original submission. During a prosecution case, animals can remain in the custody of the RSPCA for many months to years, sometimes resulting in negative welfare outcomes for the animals, particularly due to the nature of the environment in which they had been living. This does not need to be the case. The Act needs to look at ways so these animals are not left languishing in shelters for such long periods.

Review of regulations

RSPCA understands that the Animal Care and Protection Regulations (the regs) will be reviewed in the near future and we note that certain amendments in the Bill refer to future changes/potential inclusions in the regs. A number of regulatory changes are important to the RSPCA. These include the prohibition of other restraint devices (s37A) including electronic collars, the possession and use of prohibited nets (s 37B) such as yabby nets, and the prohibition of the possession and use of certain traps used with feral or pest species (s 42) including leg hold traps and glue traps.

RSPCA Qld also wishes for a complete review of the Queensland Animal Welfare Standards and Guidelines for Breeding Dogs and their Progeny with particular emphasis on the breeding of dogs with exaggerated features such as brachycephalic dogs. We would also support the development of standards and guidelines for all domesticated species.

RSPCA Qld feels strongly that certain rodeo events should be prohibited in the regs including calf roping, wild horse racing, wild cow milking and greasy pig events. All these events lead to significant suffering of animals purely for entertainment purposes and serve no practical purposes. Recent research into calf roping highlights the suffering of calves in the calf roping event and how far behind other states Queensland is. Recent papers published in international academic journals include:

Sentience Matters: Analysing the Regulation of Calf-Roping in Australian Rodeos *Animals* 2022, 12(9), 1071; <https://doi.org/10.3390/ani12091071>

The Legality of Calf Roping in Australia *The University of Queensland Law Journal*, 2022, 41(1)

Specific comments

1. *Amendments with respect to the prohibited offences of dog fighting and cock fighting* RSPCA believes the current maximum penalty for these offences of 150 penalty units and one year's imprisonment is insufficient (when the maximum penalty for cruelty is 2000 penalty units and 3 years' imprisonment). People engaged in dog or cock fighting cannot be charged with cruelty when there is a specific offence in the Act for this activity and therefore cannot be given a penalty equivalent to cruelty. Therefore, the maximum sentences of dog and cock fighting must be increased. Also, as it is almost impossible to catch offenders in the act of dog or cock fighting, RSPCA argues that new offences must be developed to really make a difference in this area, including offences to prohibit possession of animals bred for the purpose of fighting, and the possession of certain tools or paraphernalia involved in fighting.
2. *Increased maximum penalty for serious duty of care offences* RSPCA welcomes the increase in the maximum penalty for duty of care offences and the recognition that neglect can lead to significant suffering and even death. However, RSPCA argues that if one person has a duty of care to a large number of animals and fails in that duty, a large number of animals suffer, even if each animal does not fit the description in the new s17(2) (a). The cumulative suffering can be great, for example, in "puppy farms" and people who fail to meet their duty of care for such large numbers of animals should be exposed to a maximum penalty of 2000 penalty units and 3 years' imprisonment.
3. *Broaden s17(3) (iv) to include husbandry related areas* RSPCA Qld submits that this section should recognize that lack of normal husbandry procedures can lead to suffering. For example, matted hair, overgrown nails or hooves or worm or flea infestations all can result in significant suffering. Currently s17(3) (iv) says "the treatment of disease or injury." RSPCA would like the word "condition" added to this to capture these other situations.
4. *Policing of prohibition orders* Currently inspectors have no right to enter premises to check whether a prohibition order is being adhered to unless information is received that provides evidence of a likely breach of the order. There is also no central record of prohibition orders and no requirement for people subject to these orders to keep their address updated with RSPCA or BQ, which means they can simply move to avoid compliance with the order. This is not good enough. Inspectors need to be given entry powers to enter properties periodically to monitor compliance with prohibition orders (subject of course to limitations) and to know where to locate people with prohibition orders. The Bill allows interstate prohibition orders to be enforced in Queensland but without a central register, a mandatory notification program and entry powers, it becomes almost impossible to ensure compliance and protect the welfare of animals.
5. *Possession and use of prohibited devices* The examples listed under s37A(3) should be removed or changed. These examples are causing confusion amongst members of the public who think this means that these examples are going to be prohibited in the regs. It seems unlikely that this

will occur, so perhaps either delete these examples or change to examples of devices which may be prohibited in regs such as electronic collars.

6. *Inspectors' limited power of entry to provide relief to animals (S28)* RSPCA Qld believes that inspectors should be able to enter a premises to provide relief when an animal is in "imminent risk" of the situations listed. For example, an animal may be reported as entangled but by the time an inspector arrives at the property, the animal has disentangled itself but is at risk of tangling again. Also, an inspector finds an animal without cover from extreme weather. The extreme weather is imminent but not occurring at that moment. In these types of situation an inspector should be permitted to enter the property to protect animal(s) from the imminent risk.
7. *Pig hunting* RSPCA understand that there is a major feral pig problem in the state. Farmers, hunters and others play their part in attempting to control this problem. While this problem continues, RSPCA is not opposed to the killing of feral pig. However, it is important that any killing is humane. This means the pigs should not be worried, harried or killed in a slow and painful way. RSPCA argues that pig hunting dogs can help with pig hunting but only by flushing out the pigs where they can then be humanely shot. Dogs should never attack, hold or lug pigs.
8. *Inspector training and failure to disclose conflict of interest (S121A & B)* The failure to satisfactorily complete training provisions is unnecessary. If an inspector fails to complete the required training then their appointment can be suspended or in more serious cases, revoked. Similarly, if the inspector fails to comply with conflict of interest conditions of their appointment, then their appointment is revoked. There may be legitimate reasons why a trainee does not complete training (e.g. sudden diagnosis of cancer, resignation prior to completion of training) and to penalize them with penalty units would not be appropriate. It could be considered that failing to complete training and non-disclosure of conflict of interests would be included in s118A.
9. *Clarification of s178(3) is needed* A definition of 'a person authorized by the chief executive' and what is meant by 'started' need to be clarified in this section.
10. *Verbal Surrender of an animal – S1539(c)* the addition of the provision to allow the owner to agree to transfer of ownership verbally after due process to establish identity is necessary.
11. *Transporting Dogs (S33)(3b)* RSPCA appreciates that dogs used to assist in the movement of livestock could not practically fall within this provision and should be excluded however this should be limited to dogs **actively** assisting in the movement of livestock **on farm**.

Conclusion

This submission has highlighted a few areas that RSPCA Qld believes should be modified to further improve the Act and therefore the welfare outcomes for animals in Queensland. It is important that the Act stays current and meets the expectation of Queenslanders. RSPCA Qld looks forward to continuing to work with Biosecurity Qld and the Queensland Racing Integrity Commission to ensure the welfare of Queensland animals.