

Agriculture and Fisheries and Other Legislation Amendment Bill 2023

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AGRICULTURE AND FISHERIES AND OTHER LEGISLATION AMENDMENT BILL 2023

Submission of the
Australian Veterinary Association Ltd

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The Australian Veterinary Association

The Australian Veterinary Association (AVA) is the peak professional association representing veterinarians in Australia.

Our members come from all fields within the veterinary profession. Clinical practitioners work with companion animals, horses, livestock, and wildlife. Government veterinarians work with our animal health, public health, and quarantine systems while other members work in industry, research, and teaching. Veterinary students are also members of the Association.

We empower the veterinary profession to thrive by providing a voice, education, community, and support.

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Thank you for the opportunity for the AVA to provide input to the ***Agriculture and Fisheries and other legislation Amendment Bill 2023***.

The AVA have provided comments to the below key objectives of the Bill that are relevant to the veterinary profession and animal welfare.

1. Banning certain breeds of dog

Under the AMCD Act, ownership of restricted dogs is limited to people who have been issued a restricted dog permit in relation to an individual dog. Restricted dogs must also be desexed and are not permitted to be supplied to another person except as part of a deceased estate.

A restricted dog is defined as a dog of a breed included in schedule 1 of the Customs (Prohibited Imports) Regulations 1956 (Cwlth) as being prohibited from being imported into Australia.

The breeds currently listed are:

- Dogo Argentino
- Fila Brasileiro
- Japanese Tosa
- American pit bull terrier or pit bull terrier
- Perro de Presa Canario or Presa Canario.

While the importation of these dogs into Australia is prohibited, not all States and Territories have controls on the desexing and breeding of existing restricted breeds. The Bill amends the AMCD Act to remove the ability for new permits to be issued for restricted dogs and prohibit a person from owning the above breeds in Queensland, except under the transitional arrangements.

Chapter 4A of the Bill contains a number of amendments to the AMCD Act to give effect to the banning of restricted dog breeds. The amendments include inserting a new definition of prohibited dogs into the Act, replacing the existing definition of a restricted dog. The amendments also remove provisions that would otherwise be redundant following the ban including the power to issue permits for new restricted dogs or make restricted dog declarations.

The Bill also includes transitional provisions 'grandfathering' existing restricted dogs that have a permit in Queensland at the time of commencement of the ban. This ensures owners compliant with the existing restricted dog laws at commencement of the ban can continue to own their restricted dog for the life of the dog. Statewide requirement for effective control The AMCD Act imposes requirements on dogs that are restricted dogs or are declared dangerous or menacing – including that they be muzzled and under the effective control of an adult who has control of not more than one dog. However, these provisions do not address the risks from non-regulated dogs. A number of local governments in Queensland have made local laws about the effective control of animals in public places. However, this creates inconsistency or uncertainty where the requirements for effective control differ between local government areas, and in some cases there is no effective control requirement. The Bill aims to establish uniform effective control requirements for dogs in Queensland, combining the existing requirements applying to regulated dogs with new state-wide requirements for non-regulated dogs. This gives owners certainty of their obligations wherever they are in the State, and addresses community concerns about uncontrolled dogs.



AVA response to 1 above:

The AVA does not support the practice of banning dogs based solely on their breed, as evidence from other Australian and overseas locations does not support this. Further information can be found in this [AVA media release](#).

As communicated in the [AVA's recent submission](#) to the Queensland Government's consultation on *Strong Dog Laws: Safer communities*, the AVA advocates for the "deed not breed" position regarding dangerous dog classification. This asserts that aggression in dogs is not tied to any particular breed but is influenced by various individual factors and circumstances, not breed alone.

2. Clarifying when to make a destruction order

Under section 127(2) of the AMCD Act, a regulated dog may be destroyed immediately if the authorised person reasonably believes the dog is dangerous and cannot be controlled by the authorised person. Alternatively, under section 127(3), it may be destroyed 3 days after it is seized if it has no registered owner or its owner or a responsible person for the dog cannot be identified.

Otherwise, section 127(4) provides that an authorised person may make a destruction order for a regulated dog and give notice to the owner or a responsible person for the dog. The dog may then be destroyed 14 days after the order is served, if no application for internal review has been made.

The destruction order process in section 127(4) is designed to allow for all other circumstances where destruction may occur outside sections 127(2) or (3), and consequently section 127(4) does not place additional criteria on the making of a destruction order like sections 127(2) or (3). While this provides necessary flexibility in deciding when to make a destruction order, the consequence is limited guidance to assist an authorised person in when to exercise that power.

Clause 18 of the Bill addresses this consequence, without unnecessarily restricting the discretion of authorised persons, by introducing a new power for the chief executive to make guidelines about matters relating to compliance with the Act. This includes guidelines to help authorised persons perform their functions under the Act, which will allow the chief executive to make guidelines to assist authorised persons in deciding when a destruction order should be made.

Clause 66 of the Bill also introduces a mandatory requirement for an authorised person to make a destruction order where the seized dog attacked a person causing grievous bodily harm or death, or attacked an animal and maimed or killed the animal. This will promote consistency in the way in which dogs that cause significant harm are dealt with under the AMCD Act.

Removing the discretion about whether or not a destruction order is made where significant harm occurs is also aimed at streamlining review and appeal processes for a destruction order by eliminating discretion of whether or not to make a destruction order as a relevant factor for review.



3. Limitations on appeals about a destruction order

Under the AMCD Act a destruction order can be contested by the dog's owner or responsible person by applying for an internal review of the decision. If the person is not satisfied with the outcome of the internal review, they can then apply to the QCAT for the external review of the destruction order.

Currently, if the outcome of the QCAT external review is unsatisfactory the person can further appeal the decision to QCAT Appeals jurisdiction (QCATA) in most circumstance. However, under section 142 of the Queensland Civil and Administrative Tribunal Act 2009, a person must first seek leave to appeal decisions on questions of fact or a question of mixed law and fact. By the time a destruction order decision reaches QCATA, the decision will have been through the original decision maker, an internal review process, and a QCAT external review process.

This process typically takes a significant period of time, sometimes exceeding 12 months, during which time the relevant dog remains under the care of the local government. The emotional attachment an owner justifiably has towards a dog can also result in a person appealing to QCATA just to see if QCATA views the facts differently, despite the matter having been through three decision makes.

To reduce the financial and administrative burden on local government and QCAT, clause 17 of the Bill restricts appeals of QCAT external review decisions on destruction orders to only questions of law. This amendment is intended to ensure QCATA and local governments are not burdened by unmeritorious appeals where the factual matters have already been reviewed twice.

Streamlining review processes would provide greater certainty for local government and the community and ensure more humane outcomes for dogs. Providing clarity on when a review can be lodged will also reduce emotional uncertainty experienced by the dog owner.

AVA response to 2 & 3 above

Included in the [AVA's recent submission](#) to the Queensland Government's consultation on *Strong Dog Law: Safer communities* was a call for a more empathetic and welfare-centric approach to managing the dogs involved in incidents, acknowledging their sentience and social needs.

We are opposed to impounding dogs for extended periods without providing proper care, socialisation, and visitation with their owners where appropriate and safe.

Mechanisms to streamline decisions and appeals on the future of seized dangerous animals is welcomed to help improve welfare outcomes for seized dogs and their owners.