

# TASMANIA

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## ANIMAL WELFARE AMENDMENT BILL 2022

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## **ANIMAL WELFARE AMENDMENT BILL 2022**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*  
27 October 2022

*(Brought in by the Minister for State Development,  
Construction and Housing, the Honourable Guy Barnett)*

### **A BILL FOR**

#### **An Act to amend the *Animal Welfare Act 1993***

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

#### **1. Short title**

This Act may be cited as the *Animal Welfare Amendment Act 2022*.

#### **2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

#### **3. Principal Act**

In this Act, the *Animal Welfare Act 1993*\* is referred to as the Principal Act.

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\*No. 63 of 1993

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**4. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended by inserting after the definition of *conveyance* the following definition:

*dispose*, in relation to an animal, includes, but is not limited to –

- (a) the sale or rehoming of the animal; and
- (b) euthanising the animal;

**5. Section 3A amended (Care or charge of animals)**

Section 3A of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) For the purposes of subsection (1)(b), an allegation contained in a complaint for an offence under this Act that states that a specified person had, or has, control, possession or custody of a specified animal is admissible as evidence in any legal proceedings as evidence of the matter stated.

**6. Section 8 amended (Cruelty to animals)**

Section 8 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2)(c) “may” after “subjects or”;

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- (b) by inserting the following paragraph after paragraph (j) in subsection (2):
  - (ja) uses a pronged collar, or a similar collar, on an animal; or
- (c) by omitting “section 8A.” from the definition of *pest register* in subsection (3) and substituting “section 8A.”;
- (d) by inserting the following definition after the definition of *pest register* in subsection (3):

***pronged collar*** means a collar, designed for use on animals, that consists of a series of links or segments with prongs, teeth or blunted open ends turned towards the animal’s neck so that, when the collar is tightened, it pinches the skin around the animal’s neck.

**7. Section 9 amended (Aggravated cruelty)**

Section 9 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) If a person is charged with, but not found guilty of, an offence under this section, the person may be convicted of an offence under section 8 if the evidence in the proceedings on the charge under

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section 9 establishes that the person committed an offence under section 8.

**8. Section 16 amended (Power to enter, search and inspect premises)**

Section 16 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) Despite subsection (1), an officer may, without warrant, enter, search and inspect any premises, including premises or a part of premises being used as a dwelling, if the officer reasonably believes that –
- (a) an emergency exists that –
    - (i) causes, or threatens to cause, injury, illness or distress to an animal on the premises; or
    - (ii) places, or is likely to place, the premises at risk; and
  - (b) there is on the premises, or in the dwelling, an animal that is in need of assistance.

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**9. Section 17 amended (Power to take possession of animals)**

Section 17(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “been or is being” and substituting “been, or is being or is likely to be,”;
- (b) by omitting from paragraph (a) “and” and substituting “or”;
- (c) by inserting the following paragraph after paragraph (a):
  - (ab) the animal requires medical treatment by a veterinary surgeon to relieve, or reduce, the pain or suffering of the animal; or

**10. Section 17A inserted**

After section 17 of the Principal Act, the following section is inserted in Part 3:

**17A. Court may order seizure or disposal of animals**

- (1) In any proceedings under this Act in respect of an animal or on the application of an officer, a magistrate may make an order in respect of one or more of the following:

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- (a) that the animal be removed from the person who has care or charge of the animal;
  - (b) that the animal be placed in the care of, or returned to, another person specified in the order;
  - (c) that the animal –
    - (i) be sold, and any proceeds of the sale be distributed in accordance with section 46; or
    - (ii) be otherwise disposed of;
  - (d) any other order, or direction, in respect of the animal that the magistrate considers appropriate in the circumstances.
- (2) A magistrate may only make an order under subsection (1) in respect of an animal if the magistrate is satisfied that, without the order, the welfare of the animal is at risk.

**11. Section 24 amended (Power to kill animals)**

Section 24(3)(a) of the Principal Act is amended by omitting “7 days” and substituting “48 hours”.



**12. Section 26 amended (Power to require information)**

Section 26 of the Principal Act is amended by inserting after subsection (5) the following subsection:

- (6) For the avoidance of doubt, an officer may perform a function, or exercise a power, under this section in respect of a person, regardless of whether –
  - (a) the person is in Tasmania or elsewhere; or
  - (b) compliance with a requirement under this section requires information, or documents, that are in Tasmania or elsewhere.

**13. Section 27 amended (Animal research)**

Section 27 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

- (1) A person must not carry out animal research unless it is carried out –
  - (a) by an institution licensed under this Part; and
  - (b) in accordance with the licence issued, under this Part, to the institution.

Penalty: In the case of –

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- (a) a body corporate, a fine not exceeding 500 penalty units; or
  - (b) a natural person, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.
- (2) Subsection (1) does not apply to –
- (a) an observational study of an animal that is conducted by the owner of the animal; or
  - (b) disease surveillance and monitoring, of an animal, that is conducted –
    - (i) by a person for the purposes of disease identification or disease management; and
    - (ii) in accordance with recognised methodologies and practices; or
  - (c) the administration of a veterinary treatment to an animal by a person if that treatment is administered for the welfare of the animal; or
  - (d) normal animal management practices, conducted by a person

in respect of an animal, if those practices are conducted for the welfare of the animal.

**14. Section 41B inserted**

After section 41A of the Principal Act, the following section is inserted in Part 7:

**41B. Offences against inspector**

A person must not intimidate, threaten or abuse an inspector.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
- (b) a natural person, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

**15. Section 45 amended (Costs and expenses)**

Section 45 of the Principal Act is amended as follows:

- (a) by inserting the following subsections after subsection (1):
  - (1A) An order made under subsection (1) may be made to

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recover costs and expenses in respect of an animal, whether or not proceedings under this Act, in respect of the animal, have been completed.

(1B) For the avoidance of doubt, more than one order may be made under subsection (1) in respect of an animal, if –

(a) additional costs and expenses are reasonably incurred in respect of the animal after an order under subsection (1) has already been made in respect of that animal; and

(b) those additional costs and expenses are not covered by an existing order under subsection (1).

(b) by inserting the following subsection after subsection (2):

(3) In this section, a reference to a person includes a reference to the Crown.

## **16. Repeal of Act**

This Act is repealed on the first anniversary of the day on which it commenced.