

FACT SHEET

Animal Welfare Amendment Bill 2022

The Tasmanian animal welfare system has the *Animal Welfare Act 1993* (the Act), regulations, standards and guidelines in place to ensure the welfare of animals - including pets, livestock and wildlife. The Act and associated regulations prescribe animal welfare offences and set minimum standards of care.

In recognition of the need for continuous improvement, the former Minister sought advice from the Tasmanian Animal Welfare Advisory Committee in 2021. This process has resulted in the *Animal Welfare Amendment Bill 2022* (the Amendment Bill). These amendments represent a substantial strengthening of the Act and will provide greater protections for Tasmanian animals.

The Amendment Bill will strengthen the Act through ten key amendments which are outlined below.

1. Presumption of control, custody or possession of an animal

The Act will be amended to enable an allegation in a prosecution complaint that a specified person had control, custody, or possession of an animal to be accepted by a court as evidence of that fact. This will create an evidentiary presumption that the defendant would be required to disprove in criminal proceedings.

Currently a person in charge of an animal can simply deny ownership, making investigations and prosecutions unnecessarily difficult and expensive in some cases.

2. Power to take possession of animals

The Act will be amended to enable an officer to take possession of an animal if they reasonably believe that any one or more of the following grounds exist:

- an animal welfare offence has been, is being or is likely to be committed in respect of the animal; or
- the animal requires medical treatment by a veterinary surgeon to relieve, or reduce, the pain or suffering of the animal; or
- the animal's life is endangered; or
- the animal's pain or suffering will be unreasonably or unjustifiably prolonged.

The changes will complement the extension of powers under section 16 which allow entry to a premise or dwelling in the case of an emergency.

3. Emergency entry power

The Act will be amended to give officers the power to enter premises, including dwellings, in an emergency such as fire or flood, to provide immediate assistance to animals in urgent need.

The emergency power to enter a premises without a warrant would only be used in situations where the animals are in actual or imminent danger, the occupier of the premises is absent or incapacitated, and it is not possible to gain the occupier's consent to entry.

Emergency powers of entry without warrant (for officers to assist animals in immediate need) are consistent with legislation in other jurisdictions including New South Wales, Queensland, Northern Territory, South Australia and the Australian Capital Territory.

4. Provision for an alternative verdict

The Act will be amended to provide for an alternative conviction under section 8 of the Act (cruelty) if a person is found not guilty of aggravated cruelty under section 9.

This will allow a person charged with an offence under section 9 (aggravated cruelty) to instead be convicted of the less serious offence under section 8 in cases where the court finds cruelty has occurred but is not satisfied beyond reasonable doubt that it was intentional or reckless.

5. Power to require information - extraterritorial application for the purposes of requiring information

Section 26 of the Act, which enables officers to require persons to provide information, will be amended to ensure that it can have extra-territorial operation. The amended section expressly empowers officers to obtain records, documents and other information from persons who are outside Tasmania.

6. Reduce the time carcasses of euthanised animals must be kept

The Act will be amended to reduce the time for which carcasses of animals euthanised by officers must be kept from 7 days to 48 hours.

Currently the carcass must be made available to the owner if the owner so requests within 7 days of the animal being killed. In the absence of a request for its return, the carcass must be held for 7 days even if no tests are to be performed.

7. Magistrates disposal order

The Act will be amended to clarify the meaning of 'disposal', to include euthanasia, sale or rehoming for animals.

8. Cost recovery mechanism for pre-trial.

The Act will be amended to provide for early (pre-trial) cost recovery from animal owners for care of seized or treated animals and to remove doubt that this applies to costs incurred by the Crown in the lead-up to a court case - particularly important in cases including large numbers of animals and/or protracted periods of care.

9. Animal research exemptions.

The Act will be amended to enable authorised disease surveillance and monitoring programs (using accepted methodologies) to be added to the current exemptions from animal research licensing requirements. The current exemptions are observational studies, normal animal management operations and veterinary treatment administered for the welfare of the animal. An example could be the taking of blood samples for disease status determination.

The Amendment Bill also includes a provision making it an offence to threaten, intimidate or abuse an inspector (animal research) appointed under the Act, as exists for an officer.

10. Pronged dog collars.

The Act will be amended to specifically ban the use of pronged collars as defined. The ban has been extended across all species as there is no animal welfare friendly basis for the use of pronged collars.