



New South Wales

Prevention of Cruelty to Animals Amendment Bill 2012

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Prevention of Cruelty to Animals Act 1979* as follows:

- (a) to enable the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services to authorise the seizure and disposal of distressed stock animals following the failure of the owner or person in charge of the animals to take notified remedial action in relation to them,
- (b) to require the Director-General, in determining whether to authorise the seizure and disposal of stock animals, to consider the reports of a Stock Welfare Panel in relation to the animals' state and welfare, and implementation of the notified remedial action,
- (c) to provide for associated matters (including the constitution and functions of Stock Welfare Panels, the recovery of costs and expenses incurred in connection with the seizure and disposal of stock animals, and the exclusion of personal liability in the exercise of proposed functions),
- (d) to enable the Director-General to delegate the Director-General's powers under the Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Prevention of Cruelty to Animals Act 1979 No 200

Schedule 1 [2] inserts proposed Part 2B, which deals with the procedure by which the Director-General may deal with stock animals that the Director-General reasonably suspects are in distress due to specified types of neglect, and associated matters.

Proposed section 24O limits the application of proposed Part 2B to stock animals depastured on rateable land (within the meaning of the *Rural Lands Protection Act 1998*) and defines and interprets certain terms and references for the purposes of the Part.

Proposed section 24P enables the Director-General to issue an official warning (by way of written notice) to the owner or person in charge of a relevant stock animal, that the Director-General intends to authorise the seizure and disposal of the animal if the remedial measures specified in the notice are not taken within the specified period. The official warning may only be issued if the Director-General reasonably suspects that the animal is in distress, or is likely to become distressed, due to a lack of necessary veterinary treatment or proper and sufficient food, drink or shelter.

Before issuing the official warning, the Director-General must constitute a Stock Welfare Panel and consider its report on the state of, and appropriate care for, the animal.

The Panel is to monitor compliance with the official warning and, on the expiry of the period specified for compliance, provide a further report to the Director-General on the results of its monitoring, and the appropriate action to be taken in relation to the animal.

Proposed section 24Q enables the Director-General, by written order, to authorise an inspector to seize and dispose of the animal if, after considering the Panel's report on compliance with an official warning, the Director-General is satisfied that it has not been complied with and that the animal remains in distress or likely to become distressed.

Compensation is not recoverable against any person in respect of the seizure and disposal of a stock animal in accordance with the proposed section.

Proposed section 24R provides for the recovery of costs and expenses incurred in connection with the seizure, keeping and disposal of a stock animal under proposed section 24Q, and the application of the proceeds of any sale of a stock animal under that section.

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Proposed section 24S provides that a purchaser of a stock animal sold under proposed section 24Q acquires a good title to the animal.

Proposed section 24T provides for the constitution of Stock Welfare Panels.

Proposed section 24U excludes personal liability for things done or omitted to be done in good faith by the Director-General, a member of the Stock Welfare Panel or an inspector in the exercise of functions conferred or imposed under proposed Part 2B.

Proposed section 24V confers powers on inspectors for the purposes of proposed Part 2B.

Schedule 1 [1] inserts a standard definition relating to functions under the Act.

Schedule 1 [3] enables the Director-General to delegate the Director-General's functions under the Act to any member of staff of the Department.

Schedule 1 [4] enables the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act or any other Act that amends the *Prevention of Cruelty to Animals Act 1979*.

First print



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Prevention of Cruelty to Animals Amendment Bill 2012

No. , 2012

A Bill for

An Act to amend the *Prevention of Cruelty to Animals Act 1979* to make provision with respect to the seizure and disposal of certain stock animals; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Prevention of Cruelty to Animals Amendment Act 2012</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5

Schedule 1	Amendment of Prevention of Cruelty to Animals Act 1979 No 200	1
		2
[1] Section 4 Definitions		3
	Insert in alphabetical order in section 4 (1):	4
	<i>function</i> includes a power, authority or duty, and <i>exercise</i> a function includes perform a duty.	5
		6
[2] Part 2B		7
	Insert after Part 2A:	8
	Part 2B Power of Director-General to authorise seizure and disposal of stock animals	9
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24O Application and interpretation		11
(1)	This Part applies only in relation to a stock animal depastured on rateable land (within the meaning of the <i>Rural Lands Protection Act 1998</i>).	12
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(2)	In this Part, a reference to an animal is taken to be a reference only to a stock animal referred to in subsection (1).	15
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(3)	For the purposes of this Part, an animal is in distress if it is suffering from exposure to the elements, debility, exhaustion or significant physical injury.	17
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(4)	In this Part:	20
	<i>inspector</i> means an inspector within the meaning of Division 2 of Part 2A.	21
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	<i>official warning</i> —see section 24P.	23
	<i>Stock Welfare Panel</i> or <i>Panel</i> means a Stock Welfare Panel constituted in accordance with section 24T.	24
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24P Official warning of intention to authorise seizure and disposal of stock animals		26
		27
(1)	The Director-General may issue an official warning in respect of an animal if the Director-General suspects, on reasonable grounds, that the animal is in distress, or is likely to become distressed, because it has not been provided with necessary veterinary treatment, or proper and sufficient food, drink or shelter.	28
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- (2) An *official warning* is a written notice, to the owner or person in charge of the animal, that the Director-General intends to authorise the seizure and disposal of the animal if the action required to be taken by the notice in relation to the animal's welfare is not taken within the period required by the notice. 1
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- (3) Before issuing an official warning, the Director-General must: 6
- (a) constitute a Stock Welfare Panel to assess, and report to the Director-General on, the state of and appropriate care for the animal and any other matter concerning its welfare that the Director-General considers appropriate, and 7
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- (b) consider the Panel's report. 11
- (4) If the Director-General issues an official warning, the Panel is to: 12
- (a) monitor compliance with the official warning, and 13
- (b) on the expiry of the period for compliance required by the official warning, assess, and report to the Director-General on, compliance with the official warning, and appropriate action to be taken in relation to the animal. 14
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- (5) An inspector may, for the purpose of assisting the Panel in the exercise of its functions under this section: 18
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- (a) enter any land on which the animal is kept, and 20
- (b) examine the animal. 21
- (6) The Director-General may, by further written notice to the owner or person in charge of an animal: 22
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- (a) revoke an official warning, or 24
- (b) extend the period for compliance with an official warning. 25
- (7) A single official warning may be issued in respect of more than one animal. 26
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- 24Q Seizure and disposal of stock animals** 28
- (1) The Director-General may, by order in writing, authorise an inspector to seize and dispose of an animal (by way of sale or otherwise) if, after considering the Panel's report on compliance with an official warning, the Director-General is satisfied: 29
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- (a) that the action required to be taken by the official warning in relation to the animal's welfare has not been taken, and 33
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- (b) that the animal remains in distress or likely to become distressed. 35
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| (2) | An inspector authorised to seize and dispose of an animal under this section may: | 1 |
| | (a) enter any land on which the animal is kept, and | 2 |
| | (b) seize and dispose of the animal in accordance with the authorisation. | 3 |
| (3) | The inspector must: | 4 |
| | (a) produce to the owner or person in charge of the animal a copy of the order authorising the seizure and disposal, if requested to do so, and | 5 |
| | (b) provide the owner or person in charge of the animal with a receipt acknowledging seizure of the animal, if the owner or person is present and it is reasonably practical to do so. | 6 |
| (4) | Compensation is not recoverable against any person in respect of the seizure or disposal of an animal in accordance with this section. | 7 |
| (5) | An animal may not be sold or otherwise disposed of under this section if: | 8 |
| | (a) any proceedings in respect of the animal for an offence against this Act or the regulations have been commenced but have not been finally determined, or | 9 |
| | (b) an order has been made by a court under section 30 or 31 in respect of the destruction or other disposal of the animal. | 10 |
| (6) | A single order may be made under this section in respect of more than one animal. | 11 |
| (7) | Section 31A does not apply to a sale of an animal under this section. | 12 |
| 24R | Recovery of costs of seizure and disposal | 13 |
| (1) | An inspector may certify the costs and expenses incurred by an enforcement authority in connection with the seizure, keeping and sale or other disposal of an animal under section 24Q (the <i>certified disposal costs</i>). | 14 |
| (2) | A single certificate may be issued in respect of more than one animal. | 15 |
| (3) | The proceeds of any sale of an animal under section 24Q are to be applied towards the certified disposal costs. | 16 |
| (4) | The balance (if any) of the proceeds of sale is to be paid to the former owner of the animal. | 17 |

(5)	The certified disposal costs or the balance of the certified disposal costs after applying the proceeds of sale are recoverable in a court of competent jurisdiction by a person acting on behalf of the enforcement authority as a debt payable to the enforcement authority.	1 2 3 4 5
(6)	The Director-General may authorise a person or class of persons to act on behalf of the Crown under this section.	6 7
(7)	In this section, <i>enforcement authority</i> means:	8
(a)	in the case of an animal seized by an officer of an approved charitable organisation, the charitable organisation, or	9 10
(b)	in any other case, the Crown.	11
24S	Purchaser acquires good title	12
	If an animal is sold under section 24Q:	13
(a)	the purchaser acquires a good title to the animal, and	14
(b)	the interest of the former owner or any other person who had an interest in the animal is extinguished.	15 16
24T	Stock Welfare Panels	17
(1)	A Stock Welfare Panel is to consist of the following members:	18
(a)	an inspector,	19
(b)	at least one officer of the Department with expertise in animal welfare or livestock management,	20 21
(c)	at least one representative of a livestock health and pest authority, with expertise in animal welfare or livestock management,	22 23 24
(d)	such other person or persons as the regulations may prescribe.	25 26
(2)	The procedure of a Panel is to be as determined by the Director-General.	27 28
24U	Exclusion of personal liability	29
	Anything done or omitted to be done by the Director-General, a member of a Stock Welfare Panel or an inspector in exercising the functions conferred or imposed under this Part does not, if the thing was done or omitted to be done in good faith, subject the Director-General, member or inspector personally to any action, liability, claim or demand.	30 31 32 33 34 35

24V Powers conferred on inspectors	1
(1) Sections 24C, 24E (2), 24L and 24M apply in relation to the powers conferred on inspectors by this Part in the same way as they apply in relation to powers conferred by Part 2A.	2 3 4
(2) An inspector who has entered land under a power conferred by this Part may exercise a power conferred by Part 2A.	5 6
[3] Section 34C	7
Insert after section 34B:	8
34C Delegation by Director-General	9
The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to any member of staff of the Department.	10 11 12
[4] Schedule 2 Savings and transitional provisions	13
Insert at the end of clause 1 (1):	14
any other Act that amends this Act	15