



New South Wales

# Prevention of Cruelty to Animals Amendment (Prohibitions for Convicted Persons) Bill 2022

## 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* (the **POCTA Act**) and the *Exhibited Animals Protection Act 1986* (the **EAP Act**) to prohibit persons convicted of certain offences in relation to animals from caring for or working with animals.

## 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[1]** extends the definition of *animal cruelty offence* to include offences, in relation to animals, under regulations made under the POCTA Act.

**Schedule 1[2]** defines *serious interstate animal offence* to mean certain bestiality and serious animal cruelty offences under legislation of other States and the Territories.

**Schedule 1[3]** allows an officer under the POCTA Act to seize an animal—

- (a) kept in contravention of certain court orders, or
- (b) kept by a person convicted of certain offences in relation to animals, or

- (c) if a person convicted of an animal cruelty offence is breeding the animal or is involved in a business relating to breeding the animal.

**Schedule 1[4]** requires, rather than allows, a court to make a disqualification order against a person convicted of an animal cruelty offence unless special circumstances justify not making the order. Schedule 1[4] also changes the circumstances in which a court may make a disposal order against a person convicted of an animal cruelty offence.

Currently, an interstate prohibition order applies in New South Wales only if the Minister administering the POCTA Act recognises the order. **Schedule 1[6]** provides that interstate prohibition orders automatically apply in New South Wales. **Schedule 1[5] and [7]** make consequential amendments.

**Schedule 1[8]** inserts—

- (a) proposed section 31AC to prohibit a person convicted of a serious interstate animal offence from owning or working with an animal, and
- (b) proposed section 31AD to prohibit a person convicted of an animal cruelty offence from—
- (i) breeding animals, or
  - (ii) being involved in a business relating to breeding animals.

## **Schedule 2      Amendment of Exhibited Animals Protection Act 1986 No 123**

**Schedule 2** provides that the holder of an authority under the EAP Act must not knowingly cause or permit a person convicted of, or charged with, certain offences in relation to animals to work with, or care for, an animal exhibited under the authority.



New South Wales

# Prevention of Cruelty to Animals Amendment (Prohibitions for Convicted Persons) Bill 2022

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New South Wales

# Prevention of Cruelty to Animals Amendment (Prohibitions for Convicted Persons) Bill 2022

No. , 2022

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## A Bill for

An Act to amend animal protection legislation to prohibit persons convicted of certain offences from caring for or working with animals; and for related purposes.

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**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

2

This Act is the *Prevention of Cruelty to Animals Amendment (Prohibitions for Convicted Persons) Act 2022*.

3

4

**2 Commencement**

5

This Act commences on the date of assent to this Act.

6

<b>Schedule 1</b>	<b>Amendment of Prevention of Cruelty to Animals Act 1979 No 200</b>	1
		2
<b>[1] Section 4 Definitions</b>		3
	Insert “or the regulations” after “this Act” in section 4(1), definition of <i>animal cruelty offence</i> , paragraph (a).	4
		5
<b>[2] Section 4(1)</b>		6
	Insert in alphabetical order—	7
	<i>serious interstate animal offence</i> means an offence against the following legislation—	8
		9
	(a) the <i>Crimes Act 1900</i> of the Australian Capital Territory, section 63A,	10
	(b) the <i>Criminal Code Act 1983</i> of the Northern Territory, section 138,	11
	(c) the <i>Criminal Code Act 1899</i> of Queensland, Schedule 1, section 211 or 242,	12
		13
	(d) the <i>Criminal Law Consolidation Act 1935</i> of South Australia, section 69,	14
		15
	(e) the <i>Criminal Code Act 1924</i> of Tasmania, section 122,	16
	(f) the <i>Crimes Act 1958</i> of Victoria, section 54A,	17
	(g) the <i>Criminal Code Act Compilation Act 1913</i> of Western Australia, section 181.	18
		19
<b>[3] Section 24CB</b>		20
	Insert after section 24CA—	21
<b>24CB Powers to seize animals</b>		22
(1)	An officer may seize an animal kept—	23
(a)	in contravention of an order made under section 30B or 31(1), or	24
(b)	in contravention of an interstate prohibition order, within the meaning of section 31AA, or	25
(c)	by a person convicted of an offence against the <i>Crimes Act 1900</i> , section 79, 80, 530 or 531, or	26
(d)	by a person convicted of a serious interstate animal offence.	27
(2)	If a person convicted of an animal cruelty offence breeds an animal, or is involved in a business relating to breeding an animal, an officer may seize the animal.	28
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		31
		32
<b>[4] Section 31 Court may make further orders following conviction</b>		33
	Omit section 31(1)–(1B). Insert instead—	34
(1)	If a court has convicted a person of an animal cruelty offence, the court—	35
(a)	must make a disqualification order unless the court is satisfied special circumstances justify not making the order, and	36
(b)	may make a disposal order.	37
(1A)	An order under subsection (1)(a) ceases to have effect at the end of the period of the order specified by the court.	38
(1B)	An order under subsection (1)(b) may require the disposal by a date or within a period specified by the court.	39
		40
		41
		42

<b>[5] Section 31AA, heading</b>	1
Insert “ <b>prohibition</b> ” after “ <b>interstate</b> ”.	2
<b>[6] Section 31AA(1) and (1A)</b>	3
Omit section 31AA(1). Insert instead—	4
(1) An interstate prohibition order applies in New South Wales in the same way it applies in the State or Territory where it was made.	5 6
(1A) A person subject to an interstate prohibition order must comply with the order. Maximum penalty—50 penalty units or imprisonment for 6 months, or both.	7 8
<b>[7] Section 31AA(3)–(6)</b>	9
Omit the subsections.	10
<b>[8] Sections 31AC and 31AD</b>	11
Insert after section 31AB—	12
<b>31AC Prohibitions for persons convicted of serious interstate animal offences</b>	13
If a person is convicted of a serious interstate animal offence, the person must not—	14 15
(a) purchase or own an animal, or	16
(b) engage in work, whether paid or unpaid, involving direct contact with, or care of, an animal.	17 18
Maximum penalty—400 penalty units or imprisonment for 1 year, or both.	19
<b>31AD Certain convicted persons prohibited from breeding animals</b>	20
If a person is convicted of an animal cruelty offence, the person must not—	21
(a) breed animals, or	22
(b) be involved in a business relating to breeding animals.	23
Maximum penalty—	24
(a) for an individual—400 penalty units or imprisonment for 1 year, or both, or	25 26
(b) otherwise—2,000 penalty units.	27

<b>Schedule 2</b>	<b>Amendment of Exhibited Animals Protection Act</b>	1
	<b>1986 No 123</b>	2
<b>Section 31A</b>		3
Insert after section 31—		4
<b>31A</b>	<b>Prohibition on employing persons convicted of, or charged with, certain offences</b>	5
		6
(1)	The holder of an authority must not knowingly cause or permit a prescribed person to work with, or care for, an animal exhibited under the authority.	7
	Maximum penalty—	8
	(a) for an individual—400 penalty units or imprisonment for 1 year, or both, or	9
	(b) otherwise—2,000 penalty units.	10
(2)	In this section—	11
	<i>prescribed person</i> means—	12
	(a) a person who has been convicted of a relevant offence, or	13
	(b) a person who is charged with a relevant offence until one of the following events occurs—	14
	(i) the charge is heard and determined by a court,	15
	(ii) the charge is withdrawn,	16
	(iii) a decision is made not to take or continue proceedings against the person.	17
	<i>relevant offence</i> means—	18
	(a) an offence under this Act or the regulations in relation to an animal, or	19
	(b) an offence under the <i>Crimes Act 1900</i> , section 79, 80, 530 or 531, or	20
	(c) an offence under the <i>Prevention of Cruelty to Animals Act 1979</i> , or regulations made under that Act, in relation to an animal.	21
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