



New South Wales

# Prevention of Cruelty to Animals Amendment (Animal Sentience) 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 *principal Act*) to—

- (a) recognise the sentience and intrinsic value of animals and the duty of care people have to ensure the physical and mental welfare of animals in their charge, and
- (b) amend the definition of *pain* to recognise different forms of suffering and distress and insert definitions of *cruelty* and *sentience*, and
- (c) set out the considerations relevant to determining whether pain experienced by an animal is unreasonable or unnecessary for the purposes of the amended definition of *cruelty*, and
- (d) require current animal welfare assessment models and best practice to be taken into account by the court, officers and the Secretary.

## 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.

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

**Schedule 1[1]** provides that the object of the principal Act is to recognise that animals are sentient beings that have intrinsic value, and that people have a duty of care to ensure the physical and

mental welfare of an animal in their charge and to provide opportunities for the animal to feel or experience positive states of comfort, interest or pleasure. The proposed section also sets out how the object is to be achieved.

**Schedule 1[2]** inserts definitions of *cruelty* and *sentience* into the principal Act and amends the definition of *pain* to include physical, mental or emotional suffering or distress.

**Schedule 1[3]** specifies considerations relevant to determining whether pain experienced by an animal is unreasonable or unnecessary for the purposes of interpreting the amended definition of *cruelty*.

**Schedule 1[4]** requires current animal welfare assessment models and best practice to be taken into account by the court in determining whether a person is guilty of an animal cruelty offence and by officers and the Secretary in exercising certain functions under the Act.



New South Wales

# Prevention of Cruelty to Animals Amendment (Animal Sentience) Bill 2022

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New South Wales

# Prevention of Cruelty to Animals Amendment (Animal Sentience) Bill 2022

No. , 2022

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## **A Bill for**

An Act to amend the *Prevention of Cruelty to Animals Act 1979* to recognise the sentience of animals and their intrinsic value; to define cruelty to an animal by reference to different forms of suffering; and for other 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 (Animal Sentience) Act 2022*.

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4

**2 Commencement**

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

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<b>Schedule 1</b>	<b>Amendment of Prevention of Cruelty to Animals Act 1979 No 200</b>	1
		2
<b>[1] Section 3</b>		3
	Omit the section. Insert instead—	4
	<b>3 Object of Act</b>	5
	(1) The object of this Act is to recognise the following—	6
	(a) the sentience of animals and their ability to subjectively feel and perceive the world around them,	7
		8
	(b) that animals have intrinsic value and deserve to be treated with compassion and to have a quality of life that reflects their intrinsic value,	9
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		11
	(c) that people have a duty of care to ensure the physical and mental welfare of an animal in their charge and to provide opportunities for the animal to feel or experience positive states of comfort, interest or pleasure.	12
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	(2) The object is to be achieved by—	15
	(a) preventing and deterring—	16
	(i) cruelty to animals, and	17
	(ii) the abuse and neglect of animals, and	18
	(b) promoting and protecting the welfare of animals, including by requiring information about dogs and cats to be provided when they are advertised for sale, and	19
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		21
	(c) providing for the proper and humane care, management and treatment of animals, including by requiring a person in charge of an animal to—	22
		23
	(i) provide care for, and ensure the welfare of, the animal, and	24
	(ii) treat the animal in a humane way, and	25
	(d) enforcing laws about the matters specified in paragraphs (a)–(c).	26
<b>[2] Section 4 Definitions</b>		27
	Omit section 4(1), definition of <i>pain</i> . Insert in alphabetical order—	28
	<i>cruelty</i> , to an animal, includes an act or omission that causes or is likely to cause the animal to feel or experience pain that is unreasonable or unnecessary.	29
		30
		31
	<i>pain</i> includes physical, mental or emotional suffering or distress.	32
	<i>sentience</i> , of an animal, means the animal’s capacity to feel or experience negative and positive physical, mental and emotional states.	33
		34
<b>[3] Section 4(2B)</b>		35
	Insert after section 4(2A)—	36
	(2B) For the purposes of the definition of <i>cruelty</i> , the considerations relevant to determining whether pain experienced by an animal is unreasonable or unnecessary include the following—	37
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	(a) whether the pain could reasonably have been avoided or reduced,	40
	(b) whether the conduct which caused the pain was in compliance with a relevant law or a relevant provision of a licence, code of practice or instrument,	41
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		43

(c)	whether the conduct which caused the pain was for a legitimate purpose, including—	1
	(i) to benefit the animal, or	2
	(ii) to protect a person, property or another animal,	3
(d)	whether the pain was proportionate to the purpose of the conduct which caused the pain,	4
		5
(e)	whether the conduct which caused the pain was, in all the circumstances, that of a reasonably competent and humane person.	6
		7
		8
<b>[4] Section 4A</b>		9
	Insert after section 4—	10
<b>4A Best practice for animal welfare</b>		11
(1)	Current animal welfare assessment models and best practice must be taken into account by—	12
		13
	(a) the court in determining whether a person is guilty of an animal cruelty offence, and	14
		15
	(b) an officer in exercising a function under Part 2A, and	16
	(c) the Secretary in exercising a function under Part 2B.	17
(2)	In this section—	18
	<i>best practice</i> means best practice principles and standards for ensuring animal welfare that require the physical, emotional and mental needs of animals to be met in a way that conforms with contemporary scientific knowledge.	19
		20
		21