

Act No. 160

**PREVENTION OF CRUELTY TO ANIMALS
(AMENDMENT) BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Justices (Prevention of Cruelty to Animals) Amendment Bill 1987 is cognate with this Bill.

The object of this Bill is to amend the Prevention of Cruelty to Animals Act 1979 so as—

- (a) to prohibit the operation of private game parks;
- (b) to prohibit the carriage of horses by “double-deck” vehicles;
- (c) to prohibit the declawing of cats and the tail-docking of cattle, except in limited circumstances;
- (d) to prohibit the sale or possession of certain electrical devices for use on animals;
- (e) to enable the recovery of costs incurred by certain charitable organisations that assist in the enforcement of that Act;
- (f) to raise the maximum penalties for offences under that Act; and
- (g) to make other amendments of a minor nature.

Clause 1 specifies the short title of the proposed Act.

Clause 2 specifies that the proposed Act will, with minor exceptions, commence on a day or days to be proclaimed by the Governor-in-Council.

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Clause 3 defines the Principal Act.

Clause 4 gives effect to the Schedules of amendments.

Clause 5 saves certain regulations and extends the time for which animals may be held pending proceedings for offences concerning them from 7 days to 30 days if the animals were held at the commencement of the proposed amendment to section 26 of the Principal Act.

Schedule 1 (1) amends section 4 (Interpretation) of the Principal Act—

- (a) by inserting definitions of “authorise”, “cat”, “charitable organisation” and “pinion”;
- (b) by including public servants appointed by the Minister as officers within the meaning of the Act;
- (c) by updating the definition of “veterinary surgeon”;
- (d) by extending the scope of acts of cruelty to include kicking; and
- (e) to make it clear that an act of cruelty can result from an omission as well as an act.

Schedule 1 (2) substitutes section 5 (Cruelty to animals) of the Principal Act so as to make it clear that a person who is in charge of an animal commits an offence if the person fails to exercise reasonable care, control or supervision of an animal to prevent the commission of an act of cruelty on the animal, fails to alleviate pain inflicted on the animal or fails to provide veterinary treatment. The maximum fine for an offence against the section is increased from \$1,000 to \$2,000.

Schedule 1 (3) amends section 7 (Carriage and conveyance of animals) of the Principal Act to make it an offence to carry or convey, or authorise the carriage or conveyance of, a horse on a multi-deck vehicle. This is intended to prevent the use of transport such as “double-deck” trucks. The maximum fine for an offence against the section is increased from \$1,000 to \$2,000.

Schedule 1 (4) amends section 8 (Animals to be provided with food, drink or shelter) of the Principal Act to make it clear that it is an offence not to provide an animal with proper and sufficient food, drink or shelter. The maximum fine for an offence against the section is increased from \$1,000 to \$2,000.

Schedule 1 (5) amends section 9 (Confined animals to be exercised) of the Principal Act—

- (a) to require confined horses to be exercised;
- (b) to reduce the period for which an exhibited animal or an animal being carried or conveyed may be confined without exercise from 48 to 24 hours; and
- (c) to increase the maximum fine for an offence against the section from \$1,000 to \$2,000.

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Schedule 1 (6) amends section 12 (Certain operations not to be performed on animals) of the Principal Act—

- (a) to make it an offence to dock the tail of a bull, ox, bullock, steer, cow, heifer or calf or remove one or more of the claws of a cat; and
- (b) to create additional defences to the offences against the section.

The defences are that—

- (a) in the case of the docking of a calf's tail not performed by a veterinary surgeon, the animal was less than 6 months of age and the act was performed in accordance with the regulations; and
- (b) in the case of the docking of a cow, heifer or calf's tail, declawing of a cat or debarking of a dog, the act was performed in accordance with the regulations by a veterinary surgeon.

Schedule 1 (7) inserts proposed section 12A (Registers relating to certain procedures) into the Principal Act. The proposed section requires veterinary surgeons who carry out procedures that are normally prohibited by section 12 of the Principal Act to enter particulars of such procedures in a register which must be kept for a period of not less than 2 years after a procedure is carried out. The maximum penalty for an offence against the proposed section will be a fine of \$2,000.

Schedule 1 (8) substitutes section 16 (Electrical devices not to be used upon animals) of the Principal Act so as to prohibit the use, sale or possession of an electrical device used or intended for use on animals and increases the maximum fine for an offence against the section from \$1,000 to \$2,000.

Schedule 1 (9) makes an amendment to section 17 (Certain spurs etc. not to be kept) of the Principal Act as a consequence of the amendment to be made by Schedule 1 (8).

Schedule 1 (10) substitutes section 18 (Animal baiting prohibited) of the Principal Act to make it possible to commit an offence against the section in a public place and to increase the maximum fine for an offence against the section from \$1,000 to \$2,000.

Schedule 1 (11) inserts proposed section 19A (Game parks prohibited) into the Principal Act. The proposed section prohibits a person from using, managing or controlling, or authorising the use of or charging admission to, premises used as a game park. It will also be an offence for a person who has paid an admission fee to take or kill an animal in a game park. The penalty for an offence under the proposed section will be a fine of up to \$2,000 or imprisonment for up to 6 months, or both. The proposed section will not apply in relation to animals other than mammals or in any other cases excepted by the regulations.

Schedule 1 (12) amends section 24 (Certain defences) of the Principal Act to provide that the defence that an animal was taken or killed in the course of, and for the purpose of, hunting or other related activities or for human consumption does not apply to an offence under proposed section 19A.

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Schedule 1 (13) amends section 25 (Powers of officers in respect of certain places) of the Principal Act to empower officers to inspect, take copies of, or extracts or notes from, or require the production of, registers required by the Act or the regulations to be kept by people carrying on certain animal trades (for example, operating livery stables) or by veterinary surgeons. The maximum penalty for failure to comply with such a requirement will be \$1,000.

Schedule 1 (14) amends section 26 (Powers of officers, generally) of the Principal Act—

- (a) to extend from 7 to 30 days the period for which an animal may be held pending commencement of proceedings for an offence concerning the animal; and
- (b) to enable the recovery of costs incurred by or on behalf of a charitable organisation, the police force or a government department in respect of the exercise by an officer of the officer's powers under the Principal Act or in complying with duties imposed by the Principal Act in respect of an animal.

Schedule 1 (15) amends section 27 (Search warrant) of the Principal Act to enable a search warrant to authorise the inspection and examination of registers.

Schedule 1 (16) inserts proposed section 27A (Officers may demand name and address) into the Principal Act. The proposed section enables an officer to require a person committing, or suspected on reasonable grounds of committing, an offence against the Act to inform the officer of the person's full name and residential address. The maximum penalty for failure to comply with such a request will be \$1,000.

Schedule 1 (17) inserts proposed section 29A (False or misleading entries in registers) into the Principal Act. The proposed section makes it an offence to knowingly make, or authorise the making of, a false or misleading entry in a register and imposes a maximum fine of \$2,000.

Schedule 1 (18) inserts proposed section 30A (Court may order payment of certain costs) into the Principal Act. The proposed section enables a court which has convicted a person of an offence under the Principal Act or its regulations involving an animal to order the convicted person to pay the costs incurred by any person, charitable organisation, the police force or a government department in taking possession of the animal, transporting the animal, feeding and sheltering the animal or treating the animal. Such costs may be recovered as a debt in a court of competent jurisdiction.

Schedule 1 (19) amends section 31 (Court may make order regarding disposal of animal) of the Principal Act so as to enable a court to order that a person convicted of an offence against section 5 of the Principal Act shall not purchase or acquire, or take possession or custody of, any animal within a specified period.

Schedule 1 (20) inserts proposed section 31A (Sale of certain animals) into the Principal Act. The proposed section enables an animal which has been seized by an officer of a charitable organisation, and not claimed by any person within a specified period, to be sold after the sale has been advertised as required by the regulations or, if not sold, to be disposed of. A person who purchases such an animal will obtain a good title to the animal and compensation will not be recoverable by a former owner in relation to such a sale or disposal.

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Schedule 1 (21) amends section 35 (Regulations) of the Principal Act so as to enable regulations to be made as to the keeping of records or log books by persons who carry or convey animals and the keeping of registers.

Schedule 2 (1) increases the maximum fine for an offence against section 6 (Aggravated cruelty to animals) of the Principal Act from \$2,000 to \$4,000.

Schedule 2 (2)–(14) and (17) increase the maximum fine for an offence against the following sections of the Principal Act from \$1,000 to \$2,000:

section 10 (Tethering of animals)

section 11 (Animals not to be abandoned)

section 12 (Certain operations not to be performed on animals)

section 13 (Certain animals not to be ridden etc.)

section 14 (Injuries to animals to be reported)

section 15 (Poisons etc. not to be administered to animals)

section 17 (Certain spurs etc. not to be kept)

section 18A (Bull-fighting prohibited)

section 19 (Trap-shooting prohibited)

section 20 (Certain animal-catching activities prohibited)

section 21 (Coursing etc. prohibited)

section 22 (Severely injured animals not to be sold)

section 23 (Certain traps not to be set)

section 31 (Court may make order regarding disposal of animal)

Schedule 2 (15) increases the maximum fine for an offence against section 28 (Obstruction of persons exercising powers etc.) of the Principal Act from \$500 to \$2,000.

Schedule 2 (16) increases the maximum fine for an offence against section 29 (Court may order production of animal) of the Principal Act from \$100 to \$200.

Schedule 2 (18) increases the maximum fine for an offence against the regulations made under the Principal Act from \$200 to \$1,000.
