

Passed by both Houses



New South Wales

Prevention of Cruelty to Animals Amendment Bill 2021

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2021



New South Wales

Prevention of Cruelty to Animals Amendment Bill 2021

Act No _____, 2021

An Act to amend the *Prevention of Cruelty to Animals Act 1979* to increase penalties for certain animal welfare offences; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Prevention of Cruelty to Animals Amendment Act 2021*.

2 Commencement

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

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

[1] Section 4 Definitions

Insert in alphabetical order in section 4(1)—

animal cruelty offence means—

- (a) an offence under this Act in relation to an animal, or
- (b) an offence against section 79, 80, 530 or 531 of the *Crimes Act 1900*.

[2] Section 4(1)

Omit the definition of *court*.

[3] Section 5 Cruelty to animals

Omit the penalty provision. Insert instead—

Maximum penalty—

- (a) for a corporation—2,000 penalty units, or
- (b) for an individual—400 penalty units or imprisonment for 1 year, or both.

[4] Section 6 Aggravated cruelty to animals

Omit the penalty provision from section 6(1). Insert instead—

Maximum penalty—

- (a) for a corporation—5,000 penalty units, or
- (b) for an individual—1,000 penalty units or imprisonment for 2 years, or both.

[5] Section 8 Animals to be provided with food, drink or shelter

Omit the penalty provision from section 8(1). Insert instead—

Maximum penalty—

- (a) for a corporation—750 penalty units, or
- (b) for an individual—150 penalty units or imprisonment for 6 months, or both.

[6] Section 26

Insert before section 26AA—

26 Definitions

In this Part—

disqualification order means an order that a person must not, for the period specified in the order, do one or more of the following—

- (a) purchase or acquire, or take possession or custody of, an animal,
- (b) keep, or participate in keeping, an animal,
- (c) be party to an arrangement under which the person is entitled to control or influence the keeping of an animal, including an animal owned by another person or in another person's possession,
- (d) otherwise be involved with the keeping or care of an animal, including an animal owned by another person or in another person's possession.

[7] Section 29 Court may order production of animal

Omit “offence against this Act or the regulations is being, or has been, committed in respect of an animal, a Magistrate” from section 29(1).

Insert instead “animal cruelty offence is being, or has been, committed, a court”.

[8] Sections 29 and 31(3)

Omit the penalty provisions. Insert instead—

Maximum penalty—50 penalty units or imprisonment for 6 months, or both.

[9] Sections 30(1)(a), 30A(1) and 33(1)

Omit “offence against this Act or the regulations in respect of an animal”.

Insert instead “animal cruelty offence”.

[10] Section 30A(11)

Omit the definition of *court*.

[11] Section 30B

Insert after section 30A—

30B Court may make interim disqualification order during proceedings

- (1) In proceedings against a person for an animal cruelty offence, if a court is satisfied that, were the person to be in charge of an animal, the person would be likely to commit another animal cruelty offence, the court may make a disqualification order (an *interim disqualification order*).
- (2) An interim disqualification order ceases to have effect on the earlier of—
 - (a) completion of all proceedings against the person under this Act or section 79, 80, 530 or 531 of the *Crimes Act 1900*, or
 - (b) the end of the period of the order specified by the court.
- (3) A person must not fail to comply with an interim disqualification order.
Maximum penalty—50 penalty units or imprisonment for 6 months, or both.

[12] Section 31, heading

Omit “relating to convicted persons”. Insert instead “following conviction”.

[13] Section 31(1)–(1B)

Omit section 31(1). Insert instead—

- (1) If a court has convicted a person of an animal cruelty offence and the court is satisfied that, were the person to be in charge of an animal, the person would be likely to commit another animal cruelty offence, the court may make either or both of the following orders—
 - (a) an order for the disposal of an animal of which the person is a person in charge,
 - (b) a disqualification order.
- (1A) An order under subsection (1)(a) may require the disposal by a date or within a period specified by the court.
- (1B) An order under subsection (1)(b) ceases to have effect at the end of the period of the order specified by the court.

[14] Section 31AB

Insert after section 31AA—

31AB Prohibitions for persons convicted of certain offences

If a person is convicted of an offence against the *Crimes Act 1900*, section 79, 80, 530 or 531, the person must not—

- (a) purchase or own an animal, or
- (b) engage in work, whether paid or unpaid, involving direct contact with, or care of, an animal.

Maximum penalty—400 penalty units or imprisonment for 1 year, or both.

[15] Section 34 Proceedings for offences

Omit section 34(2).

[16] Section 34(4)

Omit “12 months”. Insert instead “3 years”.

[17] Section 34(4)

Omit “alleged to be the date on which the offence was committed”.

Insert instead “evidence of the alleged offence first came to the attention of an officer”.

[18] Section 34AB

Insert after section 34A—

34AB Code of practice for breeding dogs and cats

- (1) The Minister must, before 31 August 2021, cause a revised version of *Animal Welfare Code of Practice – Breeding dogs and cats*, ISBN 978 0 7347 1945 4 (the **current code of practice**), to be published.
- (2) A reference in any Act or instrument to the current code of practice is taken, on the publication of the revised version of the current code of practice, to be a reference to the revised version.

[19] Schedule 2 Savings and transitional provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering—

Part Provisions consequent on enactment of Prevention of Cruelty to Animals Amendment Act 2021

Meaning of “amending Act”

In this Part—

amending Act means the *Prevention of Cruelty to Animals Amendment Act 2021*.

Orders available to the court and alternative summons

Sections 29, 30, 30A, 31 and 33, as amended by the amending Act, extend to permit the orders referred to in those sections to be made even if the relevant proceedings commenced before the commencement of the amending Act.

Interim disqualification orders

Section 30B, as inserted by the amending Act, extends to proceedings commenced, but not finally determined, before the commencement of the amending Act.

Schedule 2 Amendment of Prevention of Cruelty to Animals Regulation 2012

Schedule 2 Penalty notice offences

Omit the matter relating to sections 5 and 8. Insert instead, respectively—

Section 5	\$1,000	\$5,000
Section 8	\$500	\$2,500