



New South Wales

# Prevention of Cruelty to Animals Amendment (Increased Penalties) Bill 2020

## 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) increase penalties for offences, and
- (b) introduce minimum penalties for the offences of cruelty to animals and aggravated cruelty to animals, and
- (c) prohibit a person convicted of the offence of aggravated cruelty to animals under the principal Act, or the offence of bestiality or serious animal cruelty against the *Crimes Act 1900*, from owning, taking custody of or having certain contact or involvement with an animal.

The Bill also amends the *Prevention of Cruelty to Animals Regulation 2012* to increase penalties for offences and the *Crimes Act 1900* to make consequential amendments.

## 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**

### **Increased penalties and minimum penalties**

**Schedule 1[2] and [3]** increase the maximum penalties, and introduce minimum penalties, for the offences of cruelty to animals and aggravated cruelty to animals. **Schedule 1[1]** provides for the interpretation of provisions imposing minimum penalties.

**Schedule 1[4], [5] and [7]–[9]** increase the maximum penalties for other offences against the principal Act.

**Schedule 1[11]** increases the maximum penalty for offences against the regulations.

### **Prohibitions on persons convicted of serious offences**

**Schedule 1[10]** provides that a person convicted of an offence of aggravated cruelty to animals under the principal Act, or an offence of bestiality or serious animal cruelty against the *Crimes Act 1900*, is prohibited for life from owning, taking custody of or having certain contact or involvement with an animal.

### **Wild animals not abandoned**

**Schedule 1[6]** provides that for the purposes of the offence of abandoning an animal, it is not abandonment if a person releases into the wild an animal that was previously living in the wild and is, in the person's reasonable opinion, capable of surviving in the wild.

## **Schedule 2      Amendment of Crimes Act 1900 No 40**

**Schedule 2[1] and [3]** insert notes into the *Crimes Act 1900*, consequential on the new offence inserted by Schedule 1[10]. **Schedule 2[2]** makes a consequential amendment.

## **Schedule 3      Amendment of Prevention of Cruelty to Animals Regulation 2012**

**Schedule 3[1] and [2]** increase the maximum penalties for offences against the *Prevention of Cruelty to Animals Regulation 2012*.

**Schedule 3[3]** increases the penalty notice amounts payable for offences under the principal Act and the *Prevention of Cruelty to Animals Regulation 2012*.



New South Wales

# Prevention of Cruelty to Animals Amendment (Increased Penalties) Bill 2020

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New South Wales

# Prevention of Cruelty to Animals Amendment (Increased Penalties) Bill 2020

No. , 2020

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## **A Bill for**

An Act to amend the *Prevention of Cruelty to Animals Act 1979* to increase penalties for offences; 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 (Increased Penalties) Act 2020*.

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**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 4A</b>		3
Insert after section 4—		4
<b>4A Interpretation of provisions imposing penalties</b>		5
If a provision under this Act creates an offence and a minimum penalty is specified at the end of the provision, a person who is guilty of the offence is liable, on conviction, to a penalty not less than the minimum penalty.		6 7 8
<b>[2] Section 5 Cruelty to animals</b>		9
Omit the penalty provision. Insert instead—		10
Minimum penalty—90 penalty units for a corporation and 20 penalty units for an individual.		11 12
Maximum penalty—1,400 penalty units for a corporation and 500 penalty units or imprisonment for 1 year, or both, for an individual.		13 14
<b>[3] Section 6 Aggravated cruelty to animals</b>		15
Omit the penalty provision from section 6(1). Insert instead—		16
Minimum penalty—180 penalty units for a corporation and 35 penalty units for an individual.		17 18
Maximum penalty—2,275 penalty units for a corporation and 900 penalty units or imprisonment for 2 years, or both, for an individual.		19 20
<b>[4] Sections 7(1) and (2), 8(1), 9(1) and (3), 10(1), (2) and (3), 11, 12(1), 13, 16(2), 17, 18(1) and (2), 18A, 19, 19A(2) and (3), 20, 21A–21C, 22(1) and (3), 23(1) and (2) and 24N(2)</b>		21 22
Omit the penalty provisions. Insert instead—		23
Maximum penalty—1,400 penalty units for a corporation and 500 penalty units or imprisonment for 1 year, or both, for an individual.		24 25
<b>[5] Section 7 Carriage and conveyance of animals</b>		26
Omit the penalty provision from section 7(2A). Insert instead—		27
Maximum penalty—500 penalty units or imprisonment for 1 year, or both.		28
<b>[6] Section 11 Animals not to be abandoned</b>		29
Insert at the end of the section—		30
(2) For the purposes of this section, a person does not abandon an animal if the person releases into the wild an animal that—		31 32
(a) was previously living in the wild, and		33
(b) is, in the person’s reasonable opinion, capable of surviving in the wild.		34
<b>[7] Sections 15(2) and 21(1)</b>		35
Omit the penalty provisions. Insert instead—		36
Maximum penalty—2,275 penalty units for a corporation and 900 penalty units or imprisonment for 2 years, or both, for an individual.		37 38

<b>[8] Section 23A Information required when dogs or cats are advertised for sale or for giving away</b>	1
	2
Omit the penalty provisions from section 23A(1) and (2). Insert instead—	3
Maximum penalty—1,400 penalty units for a corporation and 500 penalty units for an individual.	4
	5
<b>[9] Section 31 Court may make further orders relating to convicted persons</b>	6
Omit the penalty provision from section 31(3). Insert instead—	7
Maximum penalty—500 penalty units or imprisonment for 1 year, or both.	8
<b>[10] Section 31AAA</b>	9
Insert after section 31—	10
<b>31AAA Prohibitions for persons convicted of certain offences</b>	11
If a person has been convicted of an offence against section 6(1), or an offence against section 79 or 530 of the <i>Crimes Act 1900</i> , the person must not—	12
(a) purchase or acquire, or take possession or custody of, an animal, or	13
(b) keep, or participate in keeping, an animal, or	14
(c) be party to an arrangement where 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, or	15
(d) be otherwise involved with the keeping or care of an animal, including an animal owned by another person or in another person’s possession.	16
Maximum penalty—500 penalty units or imprisonment for 1 year, or both.	17
	18
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<b>[11] Section 35 Regulations</b>	22
Omit section 35(3). Insert instead—	23
(3) A regulation may create an offence punishable by a penalty not exceeding 1,400 penalty units for a corporation and 500 penalty units or imprisonment for 1 year, or both, for an individual.	24
	25
	26

## Schedule 2 Amendment of Crimes Act 1900 No 40

### [1] Section 79 Bestiality

Insert at the end of the section—

**Note.** Section 31AAA of the *Prevention of Cruelty to Animals Act 1979* prohibits a person convicted of an offence under this section from owning, taking custody of or having certain contact or involvement with an animal.

### [2] Section 530 Serious animal cruelty

Omit “**Note.**”. Insert instead “**Note 1.**”.

### [3] Section 530, note 2

Insert after note 1—

**Note 2.** Section 31AAA of the *Prevention of Cruelty to Animals Act 1979* prohibits a person convicted of an offence under this section from owning, taking custody of or having certain contact or involvement with an animal.



**Schedule 3 Amendment of Prevention of Cruelty to Animals Regulation 2012**

[1] **Clauses 5(1), 6, 7(1), (2) and (3), 8(1), 9(1), (2) and (3), 10(2), 11(1), 13(2) and (4), 14(1), 15, 16(1), 17, 18, 26(1), 38(1) and 39(1)**

Omit the penalty provisions. Insert instead—

Maximum penalty—1,400 penalty units for a corporation and 500 penalty units or imprisonment for 1 year, or both, for an individual.

[2] **Clause 26 Conduct of animal trades**

Omit the penalty provision from clause 26(2). Insert instead—

Maximum penalty—500 penalty units or imprisonment for 1 year, or both.

[3] **Schedule 2 Penalty notice offences**

Omit the table. Insert instead—

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty (individuals)</b>	<b>Penalty (corporations)</b>
<b>Offences under the Act</b>		
Section 5	\$1,000	\$3,000
Section 7(1) and (2)	\$1,000	\$3,000
Section 7(2A)	\$1,000	—
Section 8(1)	\$1,000	\$3,000
Section 9(1) and (3)	\$1,000	\$3,000
Section 10(1), (2) and (3)	\$1,000	\$3,000
Section 12(1)	\$1,000	\$3,000
Section 12A(1), (2) and (3)	\$200	—
Section 13	\$1,000	\$3,000
Section 14	\$1,000	—
Section 16(2)	\$1,000	\$3,000
Section 17	\$1,000	\$3,000
Section 18(1) and (2)(a) and (c)	\$1,000	\$3,000
Section 18A	\$1,000	\$3,000
Section 19	\$1,000	\$3,000
Section 19A(2) and (3)	\$1,000	\$3,000
Section 20	\$1,000	\$3,000
Section 21A	\$1,000	\$3,000
Section 21B	\$1,000	\$3,000
Section 21C	\$1,000	\$3,000
Section 22(1) and (3)	\$1,000	\$3,000
Section 23(1) and (2)	\$1,000	\$3,000
Section 23A(1) and (2)	\$1,000	\$3,000

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty (individuals)</b>	<b>Penalty (corporations)</b>
Section 24N(2)	\$1,000	\$3,000
<b>Offences under this Regulation</b>		
Clause 5(1)	\$1,000	\$3,000
Clause 6	\$1,000	\$3,000
Clause 7(1), (2) and (3)	\$1,000	\$3,000
Clause 8(1)	\$1,000	\$3,000
Clause 9(1), (2) and (3)	\$1,000	\$3,000
Clause 10(2)	\$1,000	\$3,000
Clause 11(1)	\$1,000	\$3,000
Clause 13(2) and (4)	\$1,000	\$3,000
Clause 14(1)	\$1,000	\$3,000
Clause 15	\$1,000	\$3,000
Clause 16(1)	\$1,000	\$3,000
Clause 17	\$1,000	\$3,000
Clause 18	\$1,000	\$3,000
Clause 26(1)	\$1,000	\$3,000
Clause 26(2)	\$1,000	—
Clause 38(1)	\$1,000	\$3,000
Clause 39(1)	\$1,000	\$3,000

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