



New South Wales

# Prevention of Cruelty to Animals Amendment Bill 2021

## 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*) as follows—

- (a) to increase maximum penalties for certain offences,
- (b) to enable certain powers of a court under the principal Act, to make orders or discharge a defendant and issue a summons against an alternative person, to be available in relation to animal cruelty offences under sections 79, 80, 530 and 531 of the *Crimes Act 1900*,
- (c) to allow a court, in proceedings for an animal cruelty offence, to make an interim order against a person if the court is satisfied that, were the person to be in charge of an animal, the person would be likely to commit an animal cruelty offence,
- (d) to remove the maximum penalty available in proceedings brought before the Local Court.

## 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**

**Schedule 1[3]–[5] and [8]** increase maximum penalties for cruelty to animals, aggravated cruelty to animals, failure to provide animals with food, drink or shelter, failure to comply with a summons to produce an animal and failure to comply with an order to dispose of an animal or to not have certain responsibilities in respect of an animal.

**Schedule 1[14]** removes the maximum penalty, currently 200 penalty units, available to a magistrate for an offence in Local Court proceedings.

### **Orders available for animal cruelty offences**

**Schedule 1[1]** defines an *animal cruelty offence* as an offence under the principal Act or sections 79, 80, 530 or 531 of the *Crimes Act 1900*.

**Schedule 1[6]** defines a *disqualification order* as an order that a person must not, for a period specified in the order, have certain responsibilities for an animal.

**Schedule 1[7], [9] and [13]** provide that the following orders, currently available in relation to certain offences under the principal Act and regulations, may be made in relation to an animal cruelty offence—

- (a) production of an animal under section 29,
- (b) destruction of an animal under section 30,
- (c) payment of care and maintenance costs of an animal under section 30A,
- (d) disposal of an animal under section 31,
- (e) a disqualification order under section 31,
- (f) discharge of a defendant from proceedings and issuing of a summons against an alternative person for the animal cruelty offence under section 33.

**Schedule 1[11]** provides that a court may, in proceedings against a person for an animal cruelty offence, make an interim disqualification order against the person if the court is satisfied that the person would be likely to commit an animal cruelty offence if the person were in charge of an animal.

The interim disqualification order does not apply to an animal if the person is in charge of the animal at the time of the proceedings. The interim disqualification order expires on completion of relevant proceedings against the person or at the end of the period of the order. A penalty of 50 penalty units or imprisonment for 6 months, or both, applies for failure to comply with an interim disqualification order.

**Schedule 1[2], [10] and [12]** make consequential amendments.

**Schedule 1[15]** inserts savings and transitional provisions.

## **Schedule 2      Amendment of Prevention of Cruelty to Animals Regulation 2012**

**Schedule 2** increases maximum penalties for certain penalty notice offences.



New South Wales

# Prevention of Cruelty to Animals Amendment Bill 2021

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New South Wales

# Prevention of Cruelty to Animals Amendment Bill 2021

No. , 2021

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## **A Bill for**

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

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

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**1 Name of Act**

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

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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 4 Definitions</b>		3
	Insert in alphabetical order in section 4(1)—	4
	<i>animal cruelty offence</i> means—	5
	(a) an offence under this Act in relation to an animal, or	6
	(b) an offence against section 79, 80, 530 or 531 of the <i>Crimes Act 1900</i> .	7
<b>[2] Section 4(1)</b>		8
	Omit the definition of <i>court</i> .	9
<b>[3] Section 5 Cruelty to animals</b>		10
	Omit the penalty provision. Insert instead—	11
	Maximum penalty—	12
	(a) for a corporation—2,000 penalty units, or	13
	(b) for an individual—400 penalty units or imprisonment for 1 year, or both.	14
		15
<b>[4] Section 6 Aggravated cruelty to animals</b>		16
	Omit the penalty provision from section 6(1). Insert instead—	17
	Maximum penalty—	18
	(a) for a corporation—5,000 penalty units, or	19
	(b) for an individual—1,000 penalty units or imprisonment for 2 years, or both.	20
		21
<b>[5] Section 8 Animals to be provided with food, drink or shelter</b>		22
	Omit the penalty provision from section 8(1). Insert instead—	23
	Maximum penalty—	24
	(a) for a corporation—750 penalty units, or	25
	(b) for an individual—150 penalty units or imprisonment for 6 months, or both.	26
		27
<b>[6] Section 26</b>		28
	Insert before section 26AA—	29
<b>26 Definitions</b>		30
	In this Part—	31
	<i>disqualification order</i> means an order that a person must not, for the period specified in the order, do one or more of the following—	32
		33
	(a) purchase or acquire, or take possession or custody of, an animal,	34
	(b) keep, or participate in keeping, an animal,	35
	(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,	36
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		38
	(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.	39
		40

<b>[7] Section 29 Court may order production of animal</b>	1
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).	2 3
Insert instead “animal cruelty offence is being, or has been, committed, a court”.	4
<b>[8] Sections 29 and 31(3)</b>	5
Omit the penalty provisions. Insert instead—	6
Maximum penalty—50 penalty units or imprisonment for 6 months, or both.	7
<b>[9] Sections 30(1)(a), 30A(1) and 33(1)</b>	8
Omit “offence against this Act or the regulations in respect of an animal”.	9
Insert instead “animal cruelty offence”.	10
<b>[10] Section 30A(11)</b>	11
Omit the definition of <i>court</i> .	12
<b>[11] Section 30B</b>	13
Insert after section 30A—	14
<b>30B Court may make interim disqualification order during proceedings</b>	15
(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 <i>interim disqualification order</i> ).	16 17 18 19
(2) An interim disqualification order does not apply in relation to an animal if, at the time of the order, the person was a person in charge of the animal.	20 21
(3) An interim disqualification order ceases to have effect on the earlier of—	22
(a) completion of all proceedings against the person under this Act or section 79, 80, 530 or 531 of the <i>Crimes Act 1900</i> , or	23 24
(b) the end of the period of the order specified by the court.	25
(4) A person must not fail to comply with an interim disqualification order.	26
Maximum penalty—50 penalty units or imprisonment for 6 months, or both.	27
<b>[12] Section 31, heading</b>	28
Omit “relating to convicted persons”. Insert instead “following conviction”.	29
<b>[13] Section 31(1)–(1B)</b>	30
Omit section 31(1). Insert instead—	31
(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—	32 33 34 35
(a) an order for the disposal of an animal of which the person is a person in charge,	36 37
(b) a disqualification order.	38
(1A) An order under subsection (1)(a) may require the disposal by a date or within a period specified by the court.	39 40

(1B)	An order under subsection (1)(b) ceases to have effect at the end of the period of the order specified by the court.	1 2
<b>[14]</b>	<b>Section 34 Proceedings for offences</b>	3
	Omit section 34(2).	4
<b>[15]</b>	<b>Schedule 2 Savings and transitional provisions</b>	5
	Insert at the end of the Schedule, with appropriate Part and clause numbering—	6
<b>Part</b>	<b>Provisions consequent on enactment of Prevention of Cruelty to Animals Amendment Act 2021</b>	7 8
	<b>Meaning of “amending Act”</b>	9
	In this Part—	10
	<i>amending Act</i> means the <i>Prevention of Cruelty to Animals Amendment Act 2021</i> .	11 12
	<b>Orders available to the court and alternative summons</b>	13
	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.	14 15 16
	<b>Interim disqualification orders</b>	17
	Section 30B, as inserted by the amending Act, extends to proceedings commenced, but not finally determined, before the commencement of the amending Act.	18 19 20



**Schedule 2      Amendment of Prevention of Cruelty to Animals  
                                 Regulation 2012**

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**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