



Prevention of Cruelty to Animals Amendment Bill 2012

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Second Reading

The Hon. JOHN AJAKA (Parliamentary Secretary) [5.45 p.m.], on behalf of the Hon. Duncan Gay: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Prevention of Cruelty to Animals Amendment Bill makes important amendments to the Prevention of Cruelty to Animals Act 1979 that will significantly benefit the welfare of stock animals and regional communities.

The bill achieves this by introducing a new mechanism to assist both animal welfare agencies and those in charge of stock animals to achieve better outcomes in cases where stock are not receiving adequate care.

The amendments will provide for practical and cost-effective intervention in stock welfare cases so that the stock are either restored to good health, or sold, with the net proceeds of sale going to the stock owner.

The amendments are designed to prevent situations developing where the condition of the stock deteriorates to such an extent that it is considered cruel to keep them alive. In such a case, the stock are destroyed.

The amendments will also provide an opportunity to educate and assist the person in charge of stock animals to implement measures to restore the health of the stock—without the need for direct prosecution action.

The objects of the Act are to prevent cruelty to animals and to promote the welfare of animals.

It does this by requiring those in charge of animals to care for them appropriately and treat them in a humane manner.

The Act prescribes offences which constitute cruelty to animals. These include offences for failure to provide animals with food, drink or shelter where it is reasonably practicable to do so. These are known as 'failure to provide' cases.

Animal welfare agencies are charged with the responsibility of investigating the condition of animals where the welfare of the animal is alleged to be at risk.

As the enforcement agencies under the Prevention of Cruelty to Animals Act 1979, the Royal Society for the Prevention of Cruelty to Animals, universally known as the RSPCA, the Animal Welfare League, and the police, are the front-line troops enforcing the standard of care we expect for animals.

In 'failure to provide' cases involving certain stock animals, inspectors from the enforcement agency must seek advice from the Department of Primary Industries as well as a Livestock Health and Pest Authority before commencing prosecution action.

The advice can include an assessment of the state of the stock, the adequacy of the feed and water available and options to improve the condition of the stock.

This bill relates specifically to the welfare of stock animals. It makes further provision for inspectors and those with expertise in animal welfare and livestock management to work with the person in charge of stock that have been assessed as being at risk, to return the stock to good health.

Significantly, it contains a new power for the director general of the department to authorise the seizure and disposal of distressed stock following the failure of the owner or person in charge of the animals to take notified remedial action in relation to the stock.

There are currently two provisions in the Act that provide for the seizure and sale of animals. However, both require court intervention.

The first is an interim disposal order that may be granted by the local court in circumstances where an inspector has taken possession of an animal in relation to an alleged offence.

The second is where a person has been convicted of an animal cruelty offence and the court orders the disposal of the animal. Such an order is on the basis the court considers the convicted person would be likely to commit another cruelty offence if that person were to be in charge of an animal.

These existing provisions respond well to a case involving a single companion animal such as a dog or a cat. However, they do not address the challenges of a stock welfare case that may involve large numbers of cattle or sheep.

The process under the existing provisions can also be costly and time consuming. Taking possession of stock animals can be expensive.

The animals must be cared for by the welfare agency until court action is finalised. Or the animals must be nursed back to health by the agency and returned to the owner.

Whilst costs are recoverable, quite often the stock owner will not be able to meet these costs.

Further, there is no guarantee that if the stock are returned to the owner they will be adequately cared for. This could potentially result in a cycle during which the health of the stock continues to deteriorate until they are in such a poor condition that it is deemed cruel to keep the stock alive and the welfare agency is left with no choice but to humanely destroy the stock.

The bill seeks to address this limitation in the Act.

The new mechanism in the bill provides the director general of the department with the power to authorise the seizure and sale or other disposal of stock animals in certain circumstances, without the inevitable expense and delay involved in court proceedings.

Firstly, the seizure and sale powers may only be used in relation to stock animals that are kept on land that is rateable by a Livestock Health and Pest Authority.

'Stock animals' are defined in the Act to mean cattle, sheep, pigs, poultry, horses, goats, deer and any other animal species that may be prescribed in the regulations.

Further, the seizure and sale powers may only be used in cases where the director general reasonably suspects that stock animals are distressed or likely to become distressed, because they have not been provided with necessary veterinary treatment or proper and sufficient food, drink or shelter.

In this context, the bill defines a stock animal as being in distress if it is suffering from exposure to the elements, debility, exhaustion or significant physical injury.

In determining whether to exercise the power to seize and dispose of stock animals, the bill requires the director general to establish a Stock Welfare Panel and to consider the reports of that panel.

The role of the Stock Welfare Panel will be to investigate and assess the situation and report to the director general on the state of, and appropriate care for, the stock animals and other relevant matters concerning the welfare of the stock. This may include such matters as feed and pasture availability and the seasonal outlook for the animals.

The panel will consist of an inspector authorised under the Act, an officer of the department and at least one representative of a Livestock Health and Pest Authority with expertise in animal welfare or livestock management.

The panel may also include other persons as prescribed in the regulations such as a person with skills in animal nutrition or a representative of New South Wales Farmers.

The expert panel will also work with the stock owner or person in charge of the stock to develop a plan to manage the welfare of the stock—known as a management plan. The goal of the management plan will be to restore the stock to good health.

However, if the stock owner or person in charge is unable or unwilling to comply with the management plan, the amendments will allow the director general to issue a written notice—known as an official warning—to that person.

The official warning will inform the person that the director general intends to authorise the seizure and disposal of the stock if the remedial action set out in the official warning is not complied with in the specified time period.

The action set out in the official warning will be consistent with the management plan developed by the panel, in consultation with the stock owner or person in charge.

If an official warning is issued, the panel must monitor compliance with it. At the expiry of the period of time specified in the official warning, the panel will reassess the situation and provide a further report to the director general with recommended action.

If the stock owner has complied with the official warning, the panel's recommendation may be that no further action is required. However, if there has been a continued failure to comply and the condition of the stock is deteriorating, the

panel may recommend that the director general seize and dispose of the stock.

A recommendation to seize and dispose of the stock would generally only occur after the panel has worked with the stock owner or person in charge under a management plan and it has become evident that the person is unwilling or incapable of rehabilitating the stock.

If, after considering the panel's further report, the director general is satisfied the required remedial action has not been taken and the stock remain in distress or are likely to become distressed, the director general can authorise an inspector to seize and dispose of the stock.

In those unfortunate instances where stock are seized and sold, the proceeds of the sale, less the costs associated with the care, seizure and sale of the stock, will be paid to the stock owner. No compensation will be recoverable by the owner.

Where the sale proceeds do not meet the costs associated with the care, seizure and sale of the stock, those costs may be recovered from the owner.

These amendments are a significant addition to the Act and will provide more options and flexibility when confronted with stock animal welfare cases. These amendments do not remove an inspector's power to destroy stock in a humane manner if it has been determined that the animal is in such a condition that it would be cruel to keep it alive.

Inspectors do not make such decisions lightly. Where possible, advice is sought from a vet and other experts on the condition of the stock. Sometimes, however, immediate action is required to prevent the ongoing suffering of the animal.

We all know that the farming community does an excellent job of caring for their stock, even when conditions are very challenging. You will recall the prolonged and devastating drought that we suffered between 2002 and 2010. During that period animal welfare agencies sought advice from the Department and Livestock Health and Pest Authorities in a number of "failure to provide" cases involving stock animals.

In most instances those responsible for the stock complied with directions aimed at rehabilitating the stock—a good outcome was achieved for the welfare of the animals and the stock owner.

Cases did occur however where the condition of the stock deteriorated to such an extent that it was cruel for them to be kept alive.

When this unfortunate situation occurs, the stock are destroyed, and the owner is usually prosecuted for failure to provide and aggravated cruelty. This is the worst outcome for all involved.

Valuable stock will have suffered and their value will be completely lost. The stock owner, and often the nearby farming community, endures the emotional stress of seeing the stock destroyed.

The owner also endures the stress and expense of prosecution action.

This sequence of events can be traumatic for all involved. In extreme cases, police officers have had to be called to ensure the safety of those destroying the animals.

The process is not just traumatic, it is expensive, time consuming and, at the end of the day, fails to protect the welfare of the animals.

Frankly, this is a scenario we do not want to recur.

Situations such as this are the reason for making the amendments in the bill—so that the relevant authorities can work with the stock owner or person in charge to achieve a better welfare outcome without the need for prosecution action.

I believe we can provide for better outcomes for our farming communities and the welfare of their animals. These amendments will empower the director general of the Department to authorise animal welfare agencies to sell seized stock under certain circumstances without needing to obtain a court order. This is a simpler, more straightforward, and more effective process.

The New South Wales Government is committed to working with animal welfare experts, the community and industry to continually improve animal welfare standards in our State. Most farmers in New South Wales take the welfare of their animals very seriously. Where this has not been the case, it is timely that the Government makes the proposed amendments to safeguard against the unnecessary destruction of these animals. The amendments in the bill are supported by both the RSPCA and the New South Wales Farmers Association. This bill aligns animal welfare interests with the interests of the livestock industry.

I commend the bill to the House.