

Crimes Amendment (Animal Cruelty) Bill 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend:

- (a) the *Crimes Act 1900* to create a new serious animal cruelty offence, with a maximum penalty of 5 years imprisonment, where the offender intends to inflict severe pain on an animal and kills or causes serious injury or prolonged suffering to the animal, and
- (b) the *Crimes Act 1900* to create a new animal cruelty offence, with a maximum penalty of 5 years imprisonment, where the offender intentionally kills or seriously injures an animal knowing that it is being used for law enforcement purposes or in retaliation for such a use, and
- (c) the *Criminal Procedure Act 1986* to enable the new offences to be dealt with summarily unless the prosecutor otherwise elects, and
- (d) the *Law Enforcement (Powers and Responsibilities) Act 2002* to enable a court that finds certain animal cruelty offences under the *Prevention of Cruelty to Animals Act 1979* to be proven to order that the offender submit to the taking of identification particulars (such as finger-prints) by police.

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Crimes Act 1900* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the Acts specified in Schedule 2.

Schedule 1 Amendment of Crimes Act 1900

The Schedule inserts proposed sections 530 and 531 into the *Crimes Act 1900*.

Currently, animal cruelty offences are contained in the *Prevention of Cruelty to Animals Act 1979*. The new provisions create new indictable animal cruelty offences with a maximum penalty of 5 years imprisonment.

The new serious animal cruelty offence contained in proposed section 530 is directed at acts of cruelty where the offender intends to inflict severe pain. It is not directed at authorised animal research or other lawful activities, routine agricultural or animal husbandry practices, recognised religious practices, pest extermination or veterinary practice (for which defences are provided) or other circumstances without the overriding intention to inflict severe pain. Such circumstances may be covered by the offences in the *Prevention of Cruelty to Animals Act 1979*. The proposed offence relates to mammals (other than human beings), birds and reptiles. Proposed section 530 makes it an offence, with the intention of inflicting severe pain on an animal:

- (a) to torture, beat or commit any other act of serious cruelty on the animal, and
- (b) to kill, seriously injure or cause prolonged suffering to the animal.

The new offence of harming an animal used by a law enforcement officer in the execution of the officer's duty will relate to dogs, horses and other mammals (other than human beings). Proposed section 531 makes it an offence to intentionally kill or seriously injure an animal knowing that the animal is being used in the execution of the officer's duty or to do so as a consequence of, or in retaliation for, such a use of the animal.

The offences do not prevent the application of the defence of self-defence under the *Crimes Act 1900* (the defence is contained in section 418 of that Act).

Schedule 2 Amendment of other Acts

Schedule 2.1 amends section 268 of, and Table 2 in Schedule 1 to, the *Criminal Procedure Act 1986* to provide that the new indictable animal cruelty offences are to be dealt with summarily by a Local Court unless the prosecutor elects otherwise and that the maximum term of imprisonment that may be imposed for such an offence if dealt with summarily is 2 years.

Schedule 2.2 amends section 134 of the *Law Enforcement (Powers and Responsibilities) Act 2002* to enable a court which finds an offence proven against a person under section 5 (Cruelty to animals) or section 6 (Aggravated cruelty to animals) of the *Prevention of Cruelty to Animals Act 1979* to order the person to attend a police station and submit to the taking of identification particulars. Such particulars may include the person's photograph, finger-prints and palm-prints.