

LEGISLATIVE COUNCIL

Prevention of Cruelty to Animals Amendment (Prohibitions for Convicted Persons) Bill 2022

First print

Proposed amendments

No. 1 Commencement

Page 2, clause 2, line 6. Omit all words on the line. Insert instead—

This Act commences as follows—

- (a) for Schedule 1[6] and [7]—on 1 July 2023,
- (b) otherwise—on 1 January 2023.

No. 2 Officers' powers relating to animals kept by convicted persons

Page 3, Schedule 1[3], proposed section 24CB, heading, line 22. Omit "**Powers to seize animals**". Insert instead "**Officers' powers relating to animals kept by convicted persons**".

No. 3 Officers' powers relating to animals kept by convicted persons

Page 3, Schedule 1[3], proposed section 24CB(2), lines 30–32. Omit all words on the lines. Insert instead—

- (2) An officer may also seize an animal if the officer suspects, on reasonable grounds, that the animal is being bred, or is the offspring of an animal being bred—
 - (a) by a person convicted of an animal cruelty offence, or
 - (b) in the operation of a business relating to breeding animals that is managed or controlled by a person convicted of an animal cruelty offence.
- (3) An officer may do one or more of the following—
 - (a) keep an animal seized under subsection (1) or (2),
 - (b) provide the animal with necessary food, drink, shelter and veterinary treatment,
 - (c) dispose of the animal after 5 business days after seizing the animal.
- (4) Despite subsection (3), the officer may dispose of the animal within 5 business days after seizing the animal but only if—
 - (a) the animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep the animal alive, and
 - (b) the officer disposes of the animal by providing euthanasia, or arranging for euthanasia to be provided, to the animal in a way that causes the animal to die quickly and without unnecessary pain.

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- (5) If the officer disposes of the animal by selling the animal—
 - (a) the purchaser acquires a good title to the animal, and
 - (b) former interests in the animal are extinguished.
 - (6) Compensation is not recoverable against a person or charitable organisation in relation to the exercise of a power in accordance with this section.
 - (7) If a person specified in the table to this subsection, Column 1 incurs reasonable expenses in exercising a power in accordance with this section, or in complying with related duties imposed by this Act or the regulations, a person or body specified opposite in Column 2 may recover the expenses as a debt in a court of competent jurisdiction from—
 - (a) for an animal seized under subsection (1)(a) or (b)—the person subject to the order, or
 - (b) for an animal seized under subsection (1)(c) or (d) or (2)—the person convicted of the offence.

Column 1

An officer within the meaning of section 4(1), definition of *officer*, paragraph (a), (b1) or (c)

An officer within the meaning of section 4(1), definition of *officer*, paragraph (b)

Column 2

(a) The officer

(b) The Crown

(a) The officer

(b) The officer's approved charitable organisation

- (8) In this section—
business day means a day that is not a Saturday, Sunday or public holiday.

No. 4 Court orders following conviction

Page 3, Schedule 1[4], lines 34–42. Omit all words on the lines. Insert instead—

Insert after section 31(1)—

(1AA) However, a court must make an order under subsection (1)(b) if the court—

(a) has found the person guilty of an offence against this Act, section 6, 15, 18 or 21 or the *Crimes Act 1900*, section 79, 80, 530 or 531, or

(b) has made an order, entered a special verdict or made a qualified finding of guilt under the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*, section 14, 19, 20, 31 or 62 in relation to an offence specified in paragraph (a).

(1AB) Subsection (1AA) does not apply if the court is satisfied special circumstances justify not making the order.

No. 5 Effect of certain prohibitions for convicted persons

Page 4, Schedule 1[8], proposed section 31AC, lines 14 and 15. Omit all words on the lines. Insert instead—

A person convicted of a serious interstate animal offence must not—

No. 6 Effect of certain prohibitions for convicted persons

Page 4, Schedule 1[8], proposed section 31AC. Insert after line 19—

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- (2) Subsection (1) extends to a conviction that occurred before the commencement of this section.

No. 7 **Certain convicted persons prohibited from breeding animals**

Page 4, Schedule 1[8], proposed section 31AD(b), line 23. Omit all words on the line. Insert instead—

- (b) manage or control a business relating to breeding animals, or
- (c) work with, or care for, animals in a business relating to breeding animals.

No. 8 **Interaction between proposed section 24CB and section 31A**

Page 4, Schedule 1. Insert after line 27—

[9] Section 31A Sale of certain animals by charitable organisations

Insert “other than an animal seized under section 24CB,” after “Act,” in section 31A(1)(a).

No. 9 **Cancellation of, and disqualification from holding, authorities under *Exhibited Animals Protection Act 1986***

Page 5, Schedule 2. Insert after line 2—

[1] Section 30 Suspension and cancellation

Insert before section 30(1)—

- (1A) The Secretary must, by written notice served on the holder of an authority, cancel the authority if the holder is, after the commencement of this subsection, convicted of—
 - (a) an offence, in relation to an animal, against one of the following Acts—
 - (i) this Act,
 - (ii) the *Animal Research Act 1985*,
 - (iii) the *Biodiversity Conservation Act 2016*,
 - (iv) the *National Parks and Wildlife Act 1974*,
 - (v) the *Prevention of Cruelty to Animals Act 1979*, or
 - (b) an offence, in relation to an animal, against an instrument made under an Act specified in paragraph (a), or
 - (c) an offence against the *Crimes Act 1900*, section 79, 80, 530 or 531.

[2] Section 30(1)(a)

Insert “, other than an offence in relation to an animal,” after “offence”.

[3] Section 30A Disqualification

Omit section 30A(1) and (2). Insert instead—

- (1) If the Secretary cancels a person’s authority under section 30(1A), the Secretary must, by written order served on the person, declare the person to be disqualified from holding an authority.
- (2) If the Secretary cancels a person’s authority under section 30(1)(a)–(e), the Secretary may, by written order served on the person, declare the person to be disqualified from holding an authority.

[4] Section 30A(4) and (7)

Omit “on misconduct grounds” wherever occurring.

[5] Section 30A(8)

Omit the subsection.