

Passed by both Houses



New South Wales

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

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2022

Clerk of the Parliaments



New South Wales

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

Act No _____, 2022

An Act to amend animal protection legislation to prohibit persons convicted of certain offences from caring for or working with animals; and for related purposes.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Prevention of Cruelty to Animals Amendment (Prohibitions for Convicted Persons) Act 2022*.

2 Commencement

This Act commences as follows—

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

Schedule 1 Amendment of Prevention of Cruelty to Animals Act 1979 No 200

[1] Section 4 Definitions

Insert “or the regulations” after “this Act” in section 4(1), definition of *animal cruelty offence*, paragraph (a).

[2] Section 4(1)

Insert in alphabetical order—

serious interstate animal offence means an offence against the following legislation—

- (a) the *Crimes Act 1900* of the Australian Capital Territory, section 63A,
- (b) the *Criminal Code Act 1983* of the Northern Territory, section 138,
- (c) the *Criminal Code Act 1899* of Queensland, Schedule 1, section 211 or 242,
- (d) the *Criminal Law Consolidation Act 1935* of South Australia, section 69,
- (e) the *Criminal Code Act 1924* of Tasmania, section 122,
- (f) the *Crimes Act 1958* of Victoria, section 54A,
- (g) the *Criminal Code Act Compilation Act 1913* of Western Australia, section 181.

working dog has the same meaning as in the *Companion Animals Act 1998*.

[3] Section 24CB

Insert after section 24CA—

24CB Officers' powers relating to animals kept by convicted persons

- (1) An officer may seize an animal kept—
 - (a) in contravention of an order made under section 30B or 31(1), or
 - (b) in contravention of an interstate prohibition order, within the meaning of section 31AA, or
 - (c) by a person convicted of an offence against the *Crimes Act 1900*, section 79, 80, 530 or 531, or
 - (d) by a person convicted of a serious interstate animal offence.
- (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) Subsection (2) does not permit an officer to seize a stock animal or a working dog being bred for commercial purposes or the offspring of a stock animal or a working dog being bred for commercial purposes.
- (4) Subsection (2)(a) and (b) apply only in relation to a person convicted of an animal cruelty offence on or after the commencement of this section.

- (5) 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.
- (6) Despite subsection (5), 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.
- (7) 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.
- (8) Compensation is not recoverable against a person or charitable organisation in relation to the exercise of a power in accordance with this section.
- (9) 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	Column 2
An officer within the meaning of section 4(1), definition of <i>officer</i> , paragraph (a), (b1) or (c)	(a) The officer
	(b) The Crown
An officer within the meaning of section 4(1), definition of <i>officer</i> , paragraph (b)	(a) The officer
	(b) The officer's approved charitable organisation

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

[4] Section 31 Court may make further orders following conviction

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.

[5] Section 31AA, heading

Insert “prohibition” after “interstate”.

[6] Section 31AA(1) and (1A)

Omit section 31AA(1). Insert instead—

(1) An interstate prohibition order applies in New South Wales in the same way it applies in the State or Territory where it was made.

(1A) A person subject to an interstate prohibition order must comply with the order. Maximum penalty—50 penalty units or imprisonment for 6 months, or both.

[7] Section 31AA(3)–(6)

Omit the subsections.

[8] Sections 31AC and 31AD

Insert after section 31AB—

31AC Prohibitions for persons convicted of serious interstate animal offences

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

- (a) purchase or own an animal, or
- (b) engage in work, whether paid or unpaid, involving direct contact with, or care of, an animal.

Maximum penalty—400 penalty units or imprisonment for 1 year, or both.

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

31AD Certain convicted persons prohibited from breeding animals

(1) If a person is convicted of an animal cruelty offence, the person must not—

- (a) breed animals, or
- (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.

Maximum penalty—

- (a) for an individual—400 penalty units or imprisonment for 1 year, or both, or
- (b) otherwise—2,000 penalty units.

(2) Subsection (1) applies only in relation to a person convicted of an animal cruelty offence on or after the commencement of this section.

(3) Subsection (1) does not apply to the following—

- (a) stock animals or working dogs being bred for commercial purposes,
- (b) businesses relating to breeding stock animals or working dogs for commercial purposes.

[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).

Schedule 2 Amendment of Exhibited Animals Protection Act 1986 No 123

[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.

[6] Section 31A

Insert after section 31—

31A Prohibition on employing persons convicted of, or charged with, certain offences

- (1) The holder of an authority must not knowingly cause or permit a prescribed person to work with, or care for, an animal exhibited under the authority.
Maximum penalty—
 - (a) for an individual—400 penalty units or imprisonment for 1 year, or both, or
 - (b) otherwise—2,000 penalty units.
- (2) In this section—

prescribed person means—

- (a) a person who has been convicted of a relevant offence, or
- (b) a person who is charged with a relevant offence until one of the following events occurs—
 - (i) the charge is heard and determined by a court,
 - (ii) the charge is withdrawn,
 - (iii) a decision is made not to take or continue proceedings against the person.

relevant offence means—

- (a) an offence under this Act or the regulations in relation to an animal, or
- (b) an offence under the *Crimes Act 1900*, section 79, 80, 530 or 531, or
- (c) an offence under the *Prevention of Cruelty to Animals Act 1979*, or regulations made under that Act, in relation to an animal.