

LEGISLATIVE COUNCIL

Crimes Legislation Amendment (Coercive Control) Bill 2022

Second print

Proposed amendment

No. 1 **Animal custody orders**
Page 9, Schedule 2. Insert after line 29—

[5A] Section 37A

Insert after section 37—

37A Animal custody orders may be made

- (1) An animal custody order may be made by a court or authorised officer when making—
 - (a) an apprehended domestic violence order, or
 - (b) an interim apprehended domestic violence order.
- (2) An animal custody order may be made under this section in favour of the protected person—
 - (a) on the motion of a court or authorised officer when making an apprehended domestic violence order or interim apprehended domestic violence order, or
 - (b) on the application of a police officer or the protected person.
- (3) Before making an animal custody order, a court or authorised officer must—
 - (a) make any inquiries of the parties about relevant family law property orders the court or officer considers appropriate, and
 - (b) if an order mentioned in paragraph (a) is brought to the attention of the court or authorised officer, take the order into consideration.
- (4) The regulations may specify factors a court or authorised officer may or must consider when deciding whether to grant an animal custody order.
- (5) An animal custody order may do any or all of the following—
 - (a) grant the protected person exclusive possession, custody, care and control of an animal that is presently in the possession, custody, care and control of the protected person or the defendant,
 - (b) direct a person who occupies premises to allow the person collecting the animal, and any police officer or person who is authorised by the order to accompany the person, to access the premises to enable the removal of the animal,

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- (c) provide that the access to the premises must be at a time or times arranged between the occupier of the premises and a police officer, whether or not the order requires the person collecting the animal to be accompanied by a police officer,
 - (d) direct the person who has possession, custody, care and control of the animal to make the animal available for collection by the person collecting the animal,
 - (e) require the person collecting the animal to be accompanied by a police officer when collecting the animal,
 - (f) provide that the person collecting the animal may be accompanied by another specified person or that the protected person may nominate a specified person to collect the animal on the protected person's behalf.
- (6) An animal custody order may be made in favour of the protected person regardless of who is the owner of the animal.
- (7) A person must not, without reasonable excuse, contravene an animal custody order or obstruct a person who is attempting to comply with an animal custody order.
- Maximum penalty—100 penalty units.
- (8) The onus of proof of reasonable excuse in proceedings for an offence against subsection (7) lies on the person accused of the offence.
- (9) An animal custody order continues in force—
- (a) while the apprehended domestic violence order or interim apprehended domestic violence order is in force, or
 - (b) for another period determined by the court.
- (10) While an animal custody order is in force in relation to an animal, civil proceedings may not be commenced by any person to—
- (a) otherwise take possession, custody or control of the animal, or
 - (b) recover a monetary amount from the protected person in relation to the animal.