

Parliamentary Committee 4

QUESTION ON NOTICE: 2023 Inquiry into the operation of the approved charitable organisations under the *Prevention of Cruelty to Animals Act 1979*

Date asked: 26/04/2024

QUESTION 1.

The Hon. EMMA HURST: A witness that came to the inquiry today said that they got advice from the DPI that someone who goes to court and challenges a PIN could end up with one of the automatic lifetime animal bans that exist for aggravated animal cruelty or serious animal cruelty. My understanding is that this would not be correct.

- a) Are you aware of any advice that people challenging a PIN could end up with an automatic lifetime animal ban?
- b) Is it your understanding that it does not exist for the majority of offences that are able to have a PIN imposed?

ANSWER 1.

1.

- a) At the time of the hearing, neither Dr Tracey nor Dr Filmer were aware of NSW Department of Primary Industries providing information/advice on this matter. It has subsequently become known that another area within the Department of Primary Industries had provided accurate non-legal information/advice to a stakeholder on this matter.
- b) The Private Members Bill, the Prevention of Cruelty to Animals Amendment (Prohibitions for Convicted Persons) Bill 2022 <https://www.parliament.nsw.gov.au/bill/files/4001/Passed%20by%20both%20Houses.pdf> (the Private Member's Bill) introduced section 31AD of the *Prevention of Cruelty to Animals Act 1979* (POCTAA):

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

The Private Member's Bill also amended and expanded the definition of **animal cruelty offence** under POCTAA to include an offence under the Regulations in relation to an animal.

The Private Member's Bill also amended the *Exhibited Animals Protection Act 1986* (EAPA) to introduce restrictions in relation to persons convicted of **relevant offences**. The Private Member's Bill defined **relevant offences** to include:

- a) an offence under this Act (EAPA) 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.

There are numerous offences in relation to an animal under POCTAA, EAPA and their respective Regulations that are penalty notice offences.

Concerns have been raised by stakeholders with the Department of Primary Industries regarding the wording of the above provisions of the Private Member's Bill. General information/advice that is consistent with the Department website content (<https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/animal-welfare-reform/prevention-of-cruelty-to-animals-amendment-prohibitions-for-convicted-persons-act-2022>) regarding the Private Member's Bill has been provided to stakeholders. The Department has not provided legal advice to stakeholders regarding the operation of the Private Member's Bill provisions.

It is noted that the NSW Government has committed to reviewing POCTAA and if necessary, there is an opportunity to clarify the intent of these provisions as part of that process.

QUESTION 2.

The Hon. EMMA HURST: Did a review occur for the Animal Welfare League as well as the RSPCA? And so that was included in that review – that they would like to double their inspectorate to 14, as they said at this inquiry, so that they can ensure that they are sending out two for the safety of their workers? Can you take that on notice, then?

ANSWER 2.

2. Information in relation to the Animal Welfare League NSW inspectorate numbers was considered as part of the review. The number of Animal Welfare League NSW Inspectors has increased since the review.

QUESTION 3.

The Hon. EMMA HURST: If somebody actually had a complaint or concern now, there's still nowhere they can go until we pass this animal welfare bill at the end of the year?

ANSWER 3.

3. Complaints about inspectors can be escalated/made to:

- NSW Police - NSW Police Customer Assistance Unit (1800 622 571), or in person (local police station)
- RSPCA NSW or Animal Welfare League NSW – in writing to the respective Chief Inspectors.
 - The Chief Inspectors aim to respond to complaints within 28 days.
 - All complaints to the Chief Inspector should include:
 - Name, address and contact details
 - A simple and clear description of your problem with the Inspector
 - The name (if known) of the Inspector.
 - A realistic explanation of what you would like to happen as a result of your complaint.
 - Any other relevant information

Enforcement officers are expected to conduct themselves in a professional manner while meeting the objectives of the Act in a way which is an appropriate exercise of their powers.

As 'approved charitable organisations' under the Prevention of Cruelty to Animals Act 1979, the RSPCA NSW and the Animal Welfare League NSW report annually details of any complaints received by the organisation in relation to its activities under the Act the Minister for Agriculture. This includes details of complaint resolution and any disciplinary action taken.

Complaints about matters which are or have been prosecuted may not receive a response if the nature of the complaint has or will be raised during the court process.

Information on the complaint process is available on the DPI website here:

<https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/reporting-animal-welfare-concerns/animal-welfare-enforcement/complaints-about-enforcement>