

## Chapter 8

# Animal Welfare Law Enforcement: To Punish or Persuade?

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### **Introduction**

Human beings interact with animals in a spectacular diversity of ways. From aesthetic observation, to the deepest levels of companionship, through to ruthless exploitation and cruelty, the contrasts could not be greater. Animal welfare law has emerged over the last 200 years as a means to regulate these diverse interactions: to prohibit the sadistic, to set minimum standards of care, and to curb our exploitation excesses. Taken in both their primary and subordinate form, animal welfare laws in Australia and New Zealand now make up a voluminous collection of prohibitions, duties, standards and guidelines covering all of our interactions with animals to a greater or lesser extent.

The degree to which animals experience the modest benefits afforded to them by these laws largely depends on the manner in which the laws are implemented and enforced. This is the subject of the present chapter. Following a brief introduction to regulatory styles, this chapter provides a regulatory analysis of animal welfare enforcement in Australia and New Zealand.<sup>1</sup> While it is difficult to formulate general principles regarding

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\* The views expressed in this chapter are those of the author and do not represent the views of RSPCA Australia. Thanks are due to Steven White and Celeste Black for constructive comments.

1 There is surprisingly limited scholarship that engages in regulatory analysis of animal law. The primary accounts are Sankoff, P (2005) 'Five Years of the "New" Animal Welfare Regime: Lessons Learned From New Zealand's Decision to Modernize its Animal Welfare Legislation' 11 *Animal Law Review* 7; White, S (2007) 'Regulation of Animal Welfare and the Emergent Commonwealth: Entrenching the Traditional Approach of the States and Territories or Laying the Ground for Reform?' 35 *Federal Law Review* 347; Bloom, G (2008) 'Regulating Animal Welfare to Promote and Protect Improved Animal Welfare Outcomes Under the Australian Animal Welfare Strategy', Paper presented at the AAWS International Animal Welfare Conference, Gold Coast; Ellis, E (2010) 'Making Sausages and the Law: The Failure of Animal Welfare Laws to Protect both Animals and the Fundamental Tenets of Australia's Legal System' 4 *Australian Animal Protection Law Journal* 6;

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