

# Prevention of Cruelty to Animals (Amendment) Bill

## EXPLANATORY MEMORANDUM

### PART 1—PRELIMINARY

*Clause 1* sets out the purpose of the Act.

*Clause 2* contains the commencement provisions.

*Clause 3* identifies the **Prevention of Cruelty to Animals Act 1986** as the Principal Act.

*Clause 4* makes amendments to several definitions in section 3 of the Principal Act. Of particular significance are the following changes—

the meaning of “animal” is extended to include both fish and live crustaceans;

the meaning of “premises” is extended to include a vehicle, vessel or aircraft.

*Clause 5* makes several amendments to section 6 of the Principal Act in relation to the application of the Act. In particular it—

removes a provision which excludes from the scope of the Act the slaughter of poultry for human consumption in accordance with the requirements of an established religion;

provides that the Act is not to apply to the humane slaughter of a farm animal on a farm for consumption on that farm;

provides that the Act is not to apply to recreational fishing or angling or to commercial fishing or fish processing conducted in a usual and reasonable manner and in accordance with the law in force relating to fisheries.

*Clause 6* inserts a new definition into section 8 of the Principal Act as a consequence of the amendment made by clause 17.

*Clause 7* amends the cruelty provisions in section 9 of the Principal Act. In particular it—

restructures the penalty provision with resultant increases in certain penalties;

deals with the liability of the owner of an animal, and provides a defence to a charge of cruelty against an owner where there is an agreement by which another person agreed to care for the animal.

*Clause 8* increases the monetary penalty for the offence of aggravated cruelty.

*Clause 9* makes two changes to the serious offence provisions in section 12 of the Principal Act:

it provides that if a person is disqualified from having custody of an animal and a court makes a further disqualification order, the further order takes effect immediately after the expiry of the initial order;

it increases the levels of penalties for contravention of a disqualification order.

*Clause 10* restructures the penalty provision in section 13 of the Principal Act with resultant increases in certain penalties for baiting and luring.

*Clause 11* restructures the penalty provision in section 14 of the Principal Act with resultant increases in certain penalties for trap-shooting.

*Clause 12* restructures the penalty provisions in section 15 of the Principal Act with resultant increases in certain penalties for offences in respect of leghold traps.

*Clause 13* inserts into the Principal Act a new section which provides that a person must not drive on a highway an open tray truck or a vehicle with an attached trailer if there is an unsecured dog on the tray or trailer. This provision does not apply if a dog is being used to assist in the movement of livestock.

*Clause 14* makes a consequential amendment to section 16 of the Act.

*Clause 15* restructures the penalty provision in section 17 of the Principal Act with a resultant increase in penalties for rodeo offences.

*Clause 16* makes a technical amendment to section 18 of the Principal Act.

*Clause 17* inserts into the Principal Act a new section which enables the Minister to appoint any person whom the Minister considers to have appropriate qualifications as a specialist inspector for the purposes of Part 2 of the Act. An appointment remains in force for not more than 3 years and may be cancelled by the Minister.

*Clause 18* amends section 19 of the Principal Act so as to apply to specialist inspectors the provisions relating to identification certificates of inspectors.

*Clause 19* extends the offence provision in section 20 of the Principal Act to cover specialist inspectors, and increases the penalty for the offence.

*Clause 20* make several amendments to section 21 of the Principal Act in relation to the powers of inspectors. In particular it—

- gives an inspector power to enter premises to free an animal from an entanglement, tether or bog if it is showing signs of pain or suffering, or to inspect an animal showing signs of pain or suffering arising from injury or disease in order to determine whether it requires treatment by a veterinary surgeon;
- gives an inspector power to arrange treatment by a veterinary surgeon if the inspector believes the treatment is necessary for the welfare of the animal and the person responsible for the animal has not arranged for the treatment or cannot be contacted;
- requires the inspector to give a person who has been contacted the opportunity to arrange for the veterinary treatment;
- enables an inspector to recover the costs of any veterinary treatment arranged by the inspector;
- enables an inspector to enter premises in connection with the exercise of the power of destruction under section 21 (1) (c), and enables action to be taken where there is a likelihood of an animal causing death or serious injury not only to a person (as at present) but also to another animal;

enables an inspector to inspect and take photographs on premises entered by an inspector, and to take samples from animals or things on those premises;

sets out requirements in relation to the handling of samples.

*Clause 21* makes a technical amendment to section 22 of the Principal Act.

*Clause 22* inserts into the Principal Act a new section which sets out the powers of a specialist inspector.

A specialist inspector has all the powers of an inspector under section 21 and, with the prior written authority of the Minister, the power to enter premises where animals are housed or grouped for primary production, exhibition, competition or amusement, and to carry out inspections on those premises and to observe any practice being conducted in connection with the management of animals on the premises.

*Clause 23* makes several consequential amendments to the offence provision in section 23 of the Principal Act, and restructures the penalty provision with a resultant increase in penalties.

*Clause 24* makes several technical amendments to section 24 of the Act in relation to the filing of charges.

*Clause 25* inserts four new sections into the Principal Act:

*Proposed section 24A* provides that if the Minister is satisfied that more than once within the previous period of 12 months, animals under the control of a person have been destroyed under the Act, and the Minister believes on reasonable grounds that any other animal under the control of the same person is in such a condition or circumstances that it is likely to become distressed or disabled, the Minister may give written notice to the owner or person in control of the animal that the Minister intends to authorise the seizure and disposal of the animal.

*Proposed section 24B* provides for the sale of an animal seized in accordance with section 24A.

*Proposed section 24C* provides for the application of the proceeds of sale of a seized animal.

*Proposed section 24D* provides for the destruction of a seized animal.

*Clause 26* makes a technical amendment to section 26 of the Principal Act.

*Clause 27* restructures the penalty provision in section 27 of the Principal Act with resultant increases in certain penalties in respect of unauthorised scientific procedures.

*Clause 28* makes a technical amendment to section 28 of the Principal Act.

*Clause 29* makes a technical amendment to section 29 of the Principal Act.

*Clause 30* restructures the penalty provision in sections 30, 32 and 36 of the Principal Act with resultant increases in penalties.

*Clause 31* makes a technical amendment to section 33 of the Principal Act.

*Clause 32* makes a technical amendment to section 38 of the Principal Act.

*Clause 33* makes a technical amendment to section 39 of the Principal Act.

*Clause 34* makes several technical amendments to section 42 of the Principal Act.