

30th May 2022

Standing Committee on State Development

RE: Inquiry into QLD Animal Care & Protection Act Amendment Bill 2022

Animal Care Australia (ACA) is a national incorporated association established to lobby for real animal welfare by those who keep, breed and care for animals. Our goal is to promote and encourage high standards in all interactions with the animals in our care.

In May 2021, ACA provided a submission to the **QLD Review of Animal Care & Protection Act (ACPA) 2001** and we welcome the opportunity to provide further feedback on the proposed Amendment Bill.

ACA has concerns on the inclusion of clauses within this Amendment that were not part of the May 2021 review, particularly prong collars.

Attempts to insert clauses without proper public consultation are not supported by ACA and are not aligned with The Queensland Governments Guide to Better Regulation May 2019.

Therefore, ACA strongly:

- 1. Recommends the release of draft Regulations are required to accompany this amendment to the Act to ensure and confirm the intent and direction of the Act. Currently the detail that matters is largely unknown.**
- 2. Recommends comprehensive stakeholder and public consultation is required prior to the implementation of any amendments NOT originally included in the Discussion Paper.**
- 3. Recommends the addition of a new clause to the Bill which allows for the consultation and development of Codes of Practice**
- 4. Recommends the deletion of Clause 14 (and subsequently Section 37A) as there is provision provided by and is better enforced using the existing offence under Section 18(2)(a)**
- 5. Supports these enhanced accountability provisions of the inspectorate, in particular oversight of the RSPCA QLD.**
- 6. Reinforces its support for restrictions of entry by the inspectorate, particularly with regard to any land used for residential purposes, whether or not such land is also used for commercial purposes.**
- 7. Recommends an appeal process to the chief executive (or delegate) is implemented to provide oversight and a reasonableness mechanism for persons who disagree with compliance decisions made against them.**
- 8. Recommends all prosecutions are under the direct control of the chief executive and performed by a government employed delegate.**

Animal Care Australia supports the submission from Professional Dog Trainers Australia Inc, and respect their expertise in the use of restraint devices on dogs.

Animal Care Australia would like to thank the QLD State Development & Regional Industries Committee for providing us with the opportunity to provide feedback for this Inquiry, and the Department of Agriculture and Fisheries QLD for providing us with the opportunity to consult as a stakeholder throughout the process of the QLD Animal Care & Protection Act Review 2020.

We respectfully request and look forward to the opportunity of providing testimony at this Inquiry.

Kind regards,



Michael Donnelly
President, Animal Care Australia.
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QLD Animal Care & Protection Act Amendment Bill 2022



MAY 30 2022

**ANIMAL CARE AUSTRALIA
STAKEHOLDER SUBMISSION**

QLD Animal Care & Protection Act – Amendment Bill 2022

Introduction:

Animal Care Australia Inc. (ACA) represents the interests of all hobbyist and pet animal keepers nationally. Our members are comprised of most major animal keeping representative bodies including those representing dogs, cats, birds, horses, small mammals, reptiles, fish and exhibited animals.

Animal Care Australia would like to thank the QLD State Development and Regional Industries Committee for providing us with the opportunity to provide feedback for this Inquiry, and the Department of Agriculture and Fisheries QLD for providing us with the opportunity to consult as a stakeholder throughout the process of the QLD Animal Care & Protection Act Review 2020.

We look forward to the opportunity of providing testimony at this Inquiry.

Opening Comments:

Where are the Regulations?

As a stakeholder responding to request for consultation on a draft Act without the associated Regulations is difficult. Not having the proposed draft Regulations provided in conjunction with a proposed Amendment is perhaps of a political nature BUT it is not in the best interests of those being consulted and therefore requires the use of a 'crystal ball' to imagine and provide an opinion on details that are important but as yet are unknown.

As you would be aware the Act or changes to the Act requires approval of parliament, whereas the Minister can update or implement Regulations without any need for consultation or approval.

Therefore, ACA strongly recommends:

The release of draft Regulations are required to accompany the draft Act to ensure and confirm the intent and direction of the Act. Currently the detail that matters is largely unknown

No stakeholder consultation

ACA has concerns on the inclusion of clauses within this Amendment that were not part of the May 2021 **QLD Review of Animal Care & Protection Act (ACPA) 2001 Review**, including the sudden inclusion of prohibiting restraint devices, such as prong collars.

ACA is aware attempts to insert clauses without proper public consultation do not align with The Queensland Governments Guide to Better Regulation May 2019, which clearly states:

“The COAG Best Practice Principles For Regulation making include:

- a) Consulting effectively with affected stakeholders at all stages of the regulatory cycle*
- b) Ensuring that government action is effective and proportional to the issue being addressed*
- c) Considering a range of feasible policy options including self-regulatory, co-regulatory and non-regulatory approach*
- d) Adopting the option that generates the greatest net benefit for the community”*

ACA notes the only form of announcement from the May 2021 Review was the **“Review of the Animal Care and Protection Act 2001 Consultation Outcomes Report”**, published and released by the Department of Agriculture & Fisheries (DAF) QLD in October 2021.

Within that report, the section titled “Relevant E-Petitions” acknowledges that “there were six animal welfare related e-petitions that were tabled in the Legislative Assembly during the consultation period that were to be considered as part of the ACPA review process.

Of the six petitions, the relevant subject matter of three of the petitions was included as part of the initial discussion paper seeking stakeholder and community feedback while the remaining three have NOT sought stakeholder feedback.

Petitions included in Discussion Paper – with Stakeholder feedback

- Make suitable shelter mandatory for all farmed animals (Petition no. 3499-21) Received 1300 signatures.
- Tethering of dogs must be prohibited (Petition no. 3501-21) Received 2178 signatures.
- Continue the use of all methods, including dogs, to control feral pigs (Petition no. 3515-21) Received 5650 signatures

Petitions NOT included in Discussion Paper

- Ban the use of shock collars on dogs (Petition no. 3526-21) Received 728 signatures.
- Illegal to import - Prohibit the use of prong collars in Queensland (Petition no. 3530- 21) Received 637 signatures.
- Prohibit the use of choke collars in Queensland (Petition no. 3531-21) Received 484 signatures.

Why was no feedback/consultation with stakeholders and community sought?

ACA notes page 18 of the Amendment Bill’s Explanatory Notes states:

“New section 37A allows for the possession of additional types of collars or devices to be prescribed. The amendment is required because continuous developments in collars and devices for animals means that some existing and new collars and devices become unacceptable to the community. In response, other collars and devices may need to be prohibited on the basis of scientific evidence if they are found to cause harm, injury, or fear to an animal”

The absence of genuine community consultation means the ‘impacts on the community’ HAVE NOT been adequately consulted. ACA also questions the validity of the claim that scientific evidence has been found to show such devices cause harm or injury. Without the appropriate community and stakeholder consultation, where has the scientific evidence been provided from and why hasn’t the department shared this evidence with this proposal?

ACA therefore requests the three non-consulted amendments be deferred until proper public and stakeholder consultation can be completed, and this excludes the current E-petitions tabled to close August 2022. Adequate consultation with key stakeholders includes but is not limited to:

- Members of the Queensland Government currently utilising these training tools, including
- Police and Military units
- Certified Animal Training Professionals, working to improve standards of pet ownership and care, community safety and education around responsible pet training and ownership
- Animal Welfare Organisations, such as Animal Care Australia
- Members of the public who own pets or have pet dogs living in their community

ACA recommends Section 37A be removed from the Amendment Bill until proper stakeholder and community consultation is completed.

Codes of Practice

Codes of practice, in particular the collaborative involvement of stakeholders is required to create, consult, update and approve codes of practice. This is a striking omission within the current Act given that “compulsory codes of practice” are enforceable via s15 of the Act.

ACA has responded to a range of recent issues with regard to RSPCA NSW inappropriately enforcing codes in NSW. Both the standards within the code are inappropriate and the manner of enforcement were of significant concern and continue to be a substantial focus to those drafting the new Animal Welfare Bill in NSW and to current NSW Parliamentary inquiries. **ACA offers our expertise to consult on the details of these issues and the avoidance of such risks for Queensland.**

ACA recommends the addition of a new clause to the Bill which adds s13(3) as follows:

The referenced IAP2 Spectrum of Public Participation is here https://iap2.org.au/wp-content/uploads/2020/01/2018_IAP2_Spectrum.pdf

- (3) *Development and maintenance of **compulsory codes of practice***
 - (a) *A list of industry representative organisations for each compulsory code of practice must be maintained.*
 - (b) *Development and maintenance of each compulsory code of practice to include collaboration with the list of industry representative organisations as described in the “IAP2 Spectrum of Public Participation” under “collaborate”.*

*(c) In (3)(a) and (3)(b) above **industry representative organisation** means an organisation demonstrated to represent the interests of a significant proportion of the participants in that industry*

Response to proposed Amendments:

ACA comment and recommendations with regard to the Animal Care and Protection Amendment Bill 2022 (the Bill)

The Bill is here...

<https://www.legislation.qld.gov.au/view/whole/html/bill.first/bill-2021-052>

The Act is here...

http://www7.austlii.edu.au/cgi-bin/viewdb/au/legis/qld/consol_act/acapa2001229/

Clause 3 (p8)

This clause includes all Cephalopods as animals in the Act, not just those prescribed in the regulations. They were previously all prescribed in the regulations.

ACA sees no effective change to this clause. We question the need to separate Cephalopods from Malacostraca?

IMPORTANT NOTE:

There are circumstances such as fishing and for food where some aspects of the Act may be in conflict with current commercial and recreational fishing and food preparation practices.

It is unclear to ACA how such conflicts are resolved within the current Act.

Clause 12 (12)

This clause relates to the supply of debarked dogs.

Debarking in a lot of cases has been a last resort for animals that otherwise would have been euthanised.

ACA supports the inclusion of veterinary certification that the animal required debarking, however Clause 12 is way too complex and bureaucratic.

ACA has concerns that there is no definition of a shelter/pound within the Act, and additionally any person who has an animal requiring rehoming should be able to do so without needing the services of a shelter/pound and should be freely able to provide the new owner with a reasonable excuse as to why the animal has undergone any of the procedures in Sections 28 & 29 of the Act

ACA recommends replacing Clause 12 in its entirety with a simple addition to Sections 28 and 29: “requiring any person or facility rehoming an animal that has undergone one of the above procedures to provide a documented reasonable excuse should they be unable to supply a signed veterinary surgeon’s certificate.”

Clause 13 (p16)

This clause removes the previous Section 33 which was a general obligation to exercise confined dogs for 2 hours in every 24 hours.

ACA questions why this obligation has been removed? The new s33, which ACA supports, is a totally different matter about restraining dogs during transport in or on vehicles.

Clause 14 (p17-18)

- a. **Clause 14 (p17)** adds Section 37A which makes it illegal to possess or use a prong collar “unless the person has a reasonable excuse.”

What is a “reasonable excuse”. ACA’s dog training member experts advise there are sound animal welfare reasons to utilise prong collars as part of legitimate training procedures.

- b. **Clause 14 (p17)** adds Section 37A which also allows other restraint devices to be prohibited via regulation. The examples, namely collars, leads, harnesses, muzzles and halters, listed under s37A(3) are all totally acceptable devices for the routine control and restraint of animals.

Under no circumstance should any of these devices be prohibited in terms of possession or use.

The intent of Section 37A is better enforced using the existing offence under Section 18(2)(a) namely, “a person is taken to be cruel to an animal if the person does any of the following to the animal—(a) causes it pain that, in the circumstances, is unjustifiable, unnecessary, or unreasonable;”

For all of the reasons, including the ‘deliberate’ act of not consulting stakeholders during the Review process and prior to the introduction of this Amendment ACA strongly implores the Standing Committee to endorse and support our following recommendation:

ACA recommends deleting Clause 14 in its entirety - do NOT add s37A to the Act at all.

- c. **Clause 14 (p18)** adds Section 37B which makes it illegal to possess or use a prescribed prohibited net, however there are no prescribed prohibited nets in the regulations or added to the regulations by this Bill.

What type of nets are envisaged? For fishing, for bird banding, bird/animal trapping, for what? There are numerous legitimate uses for nets that must have clear exemptions.

ACA is unable to support the addition of s37B without further information.

Clause 16 (p19)

This clause makes it illegal to use carbon disulphide and phosphorus poisons such as CSSP Pig Poison. These family of poisons has been shown to be inhumane with suffering extended periods before death.

ACA recommends the distribution and possession should also be prohibited in this and other Acts.

Inspectorate & Compliance

Current **Section 108(1)(c)** of the Act enables authorised officers (distinct from inspectors) right of entry to a place with 48 hours' notice. "place" does not include a part of the place where a person resides.

This section requires amendment to only permit such entry with a warrant to any and all land used for residential purposes, whether or not such land is also used for commercial purposes.

Clauses 24 & 25 (p35-37)

Specify new inspector cancellation or suspense provisions open to the chief executive. These provisions improve accountability and enshrine in law the powers of the department to monitor and ultimately suspend or fire inspectors who are not performing, including inspectors in the employ of RSPCA Queensland.

ACA supports these enhanced accountability provisions and looks forward to assisting with policy recommendations for effective implementation.

Clause 26 (p37-38)

- a. This inserts Section 121A which requires inspectors to complete prescribed training.

ACA looks forward to assisting with animal welfare focussed training recommendations for inspectors.

- b. inserts Section 121B which ensures inspectors do not have pecuniary interests.

ACA recommends an additional sentence is added, namely:

“Pecuniary interests include beliefs, actions and philosophies held by an inspector that conflict with any Section of this Act.”

Clauses 27 & 28 (p38-39)

These amend Sections 122 and 123 which deal with right of entry for inspectors. The current Act restricts entry to when permission has been granted, emergency situations or when a warrant has been obtained.

ACA reinforces its support for such restrictions, particularly with regard to any land used for residential purposes, whether or not such land is also used for commercial purposes.

Clauses 29, 30 and 31 (p40-41)

Enable animal welfare directions to be given as a result of non-compliance with a compulsory code requirement (similar to a standard in other jurisdictions). ACA is aware of circumstances where such directions in other jurisdictions have been unreasonable under the specific circumstance or unreasonable in terms of the time given to comply.

ACA recommends an appeal process to the chief executive (or delegate) is implemented to provide oversight and a reasonableness mechanism.

Clause 32

This clause inserts new Chapter 6A which enables the chief executive to direct and make directions that a person cannot possess or must forfeit animals due to prohibition decision made in another state.

ACA supports these additions to the Act with the proviso that appeal is available to affected persons to apply for exemption through the chief executive and then via the court system.

Clause 33 (p45)

This clause inserts Section 178(3) which ensures prosecutors must be authorised by the chief executive.

ACA recommends all prosecutions are under the direct control of the chief executive and performed by a government employed delegate.

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- a. **To be clear, the current RSPCA led panel is not supported by ACA - prosecutions should NOT be undertaken by RSPCA Queensland or any other charitable organisation.**
 - b. **ACA recommends the following replacement to be inserted as s178(3) “A prosecution may only be started by a government officer authorised by the chief executive to bring the prosecution.”**

Clause 35 (p45-46)

This clause inserts Section 215DA which requires all inspectors, including RSPCA Queensland inspectors, to provide upon request, all documents pertaining to any investigation within 14 days.

ACA supports the addition of this section and proposes consideration is given to routine supply of copies of all investigation documentation to the chief executive department delegate as a matter of course.

Animal Care Australia supports the submission from Professional Dog Trainers Australia Inc, and respect their expertise in the use of restraint devices on dogs.

Should you have any questions or require further clarification please do not hesitate to contact us.

We welcome further consultation as this Amendment and the Animal Care & Protection Act reforms progress.