

**ANIMAL WELFARE AMENDMENT BILL 2017**

*Introduction and First Reading*

Bill introduced, on motion by **Hon Alannah MacTiernan (Minister for Agriculture and Food)**, and read a first time.

*Second Reading*

**HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Agriculture and Food)** [3.28 pm]:  
I move —

That the bill be now read a second time.

On coming to office the government was advised that the Animal Welfare Act was very limited in its capacity to regulate matters relating to the health, safety and welfare of animals. The act in its current form is still largely based on the old concept of prohibition of cruelty to animals rather than on setting standards for the health and welfare of animals. Importantly, the act in its current form is unable to give full regulatory effect to the Australian Animal Welfare Standards and Guidelines for livestock, which Western Australia along with all other Australian jurisdictions has agreed to implement. More national standards are in train and would meet similar obstacles to their implementation in this state. The changes now proposed will enable the implementation of those standards. Additional changes to the act are also required, principally to provide the capacity for inspectors to monitor compliance. With the implementation of the standards being the primary driver, the broad purpose of the amendment bill is to provide greater capacity to regulate matters relating to animal welfare in Western Australia.

The bill will make changes to the Animal Welfare Act in five areas. The first area of change is the introduction of new regulation-making powers. This is necessary because the act does not currently authorise regulations providing for the health, safety and welfare of animals and related matters, such as livestock-handling facilities. To remedy this, part 3 of the act, which currently deals with offences against animals, has been restructured to include a new division. This will clearly provide for regulations to be made dealing with matters that are, or are likely to be, encompassed by current and future animal welfare standards.

Secondly, there will be a provision to ensure that a person in charge of an animal can be held responsible for acts of cruelty prescribed under regulation. This, together with the existing provision for prescribed acts of cruelty by a person who may or may not be in charge of an animal, will be used to implement and enforce the standards and ensure any person who should be held responsible for the welfare of an animal is covered by the act.

The third change relates to defences to a charge of cruelty. A power is included to modify the application of the existing defences. When the current act was drafted there were no Australian Animal Welfare Standards and Guidelines for livestock to be addressed by the regulatory framework. Offences against animals were based on broad cruelty provisions. There was concern on the part of the farming community that these offence provisions could make certain farming practices unlawful and the defence provisions were introduced to address this concern. I am pleased to say that animal welfare has moved forward considerably since the Animal Welfare Bill was debated over 15 years ago. We now have Australian Animal Welfare Standards and Guidelines for livestock that clearly set out what are and are not acceptable farming practices. These standards and guidelines were agreed nationally following extensive consultation with stakeholders, and in some instances, are a significant improvement on the model codes of practice that they are intended to replace. It is therefore necessary to include a capacity for the existing defences to a charge of cruelty to be modified to allow the new standards to be implemented as intended and to ensure that the defence provisions cannot be used to wind back the clock to permit archaic farming practices. There is also provision in the amendments for additional defences to be prescribed.

The fourth area of change is to simplify the operation of the act in relation to codes of practice. The bill will provide for codes of practice to be prescribed for the purposes of the particular provision to which they are intended to operate; that is, either as a defence to a charge of cruelty, or as a guide to the courts when deciding a cruelty matter. Previously, these two distinct purposes of codes of practice adopted under the act were linked and this caused confusion. The amendment does not change the practical application of the codes of practice.

The final area of change is to introduce a new class of general inspector who will have expanded powers of entry to non-residential properties. The existing powers of entry of general inspectors to non-residential places and vehicles without the owner or occupier's consent are inadequate. Exercise of these powers is currently limited to circumstances in which there is a reasonable suspicion of a cruelty offence or, in limited circumstances, under a warrant. There is no capacity to enter without the owner or occupier's consent to investigate compliance with the act, including welfare direction notices and court orders made under the act. Similar powers of entry already exist for inspectors appointed under the Biosecurity and Agriculture Management Act and other legislation. They do not represent a conferral of powers of an exceptional nature. These powers are consistent with those in South Australia and New South Wales.

Although the changes to the Animal Welfare Act proposed by this bill will significantly improve animal welfare outcomes in this state, our government is in the process of undertaking a more comprehensive review of the Animal Welfare Act to modernise laws in this state. These measures act as a stopgap, addressing critical issues around the enforcement of animal welfare standards while we complete this review, which we expect to take some 18 months.

Pursuant to Standing Order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government or the state is a party. Nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and table an explanatory memorandum.

[See paper 739.]

Debate adjourned, pursuant to standing orders.