

Animal Welfare and Trespass Legislation Amendment Bill 2021

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Western Australia

LEGISLATIVE ASSEMBLY

Animal Welfare and Trespass Legislation Amendment Bill 2021

A Bill for

An Act —

- **to amend the *Animal Welfare Act 2002* to make provision for designated inspectors; and**
- **to amend *The Criminal Code* and the *Restraining Orders Act 1997* to make provisions relating to trespass on a place where animal source food production is carried out.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Animal Welfare and Trespass Legislation Amendment Act 2021*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the 14th day after that day.

1 **Part 2 — *Animal Welfare Act 2002* amended**

2 **3. Act amended**

3 This Part amends the *Animal Welfare Act 2002*.

4 **4. Section 5 amended**

5 In section 5(1) insert in alphabetical order:

6

7 *designated inspector* means a general inspector
8 designated under section 35A(1) as a designated
9 inspector;

10

11 **5. Section 35A inserted**

12 After section 35 insert:

13

14 **35A. Designated inspectors**

15 (1) The CEO may, by written notice, designate as a
16 designated inspector a general inspector who is a
17 member of the staff of the Department.

18 (2) A designation under subsection (1) remains in force for
19 the period specified in the notice of designation unless
20 before the end of that period —

21 (a) the designation is cancelled by the CEO by
22 written notice to the inspector; or

23 (b) the inspector ceases to be a general inspector.

24 (3) The CEO may, by written notice, restrict the authority
25 of a designated inspector to exercise a power under
26 section 38(1A) by limiting all or any of the
27 following —

28 (a) the places where the power may be exercised;

s. 6

- 1 (b) the times when the power may be exercised;
2 (c) the circumstances in which the power may be
3 exercised.
- 4 (4) When the authority of a designated inspector is
5 restricted under subsection (3), the power conferred on
6 the inspector under section 38(1A) is limited to the
7 extent set out in the notice.
- 8 (5) A restriction under subsection (3) —
9 (a) may be imposed when the inspector is
10 designated under subsection (1) or at a later
11 time; and
12 (b) may be varied or cancelled by the CEO by
13 written notice to the inspector.
14

15 **6. Section 36A inserted**

16 At the beginning of Part 4 Division 2 insert:
17

18 **36A. Terms used**

19 In this Division —

20 ***abattoir*** —

- 21 (a) means any place used for or in connection with
22 the slaughtering of animals for sale for human
23 consumption; and
24 (b) includes a holding yard or other place used for
25 or in connection with the slaughtering of those
26 animals;

27 ***animal source food production*** has the meaning given
28 in *The Criminal Code* section 70A(1);

- 1 **animal source food production facility** has the
2 meaning given in *The Criminal Code* section 70A(1);
3 **intensive production** means an activity that is carried
4 out at an animal source food production facility during
5 which, in the ordinary course of animal source food
6 production, any animals involved in the production do
7 not have an opportunity to graze or forage outside;
8 **intensive production place** means a non-residential
9 place where intensive production is carried out;
10 **knackery** —
11 (a) means any place used for or in connection with
12 the slaughtering and processing of animals for
13 sale for animal consumption; and
14 (b) includes a holding yard or other place used for
15 or in connection with the slaughtering and
16 processing of those animals.
17

18 **7. Section 37 amended**

19 After section 37(1)(a) insert:

- 20
21 (aa) if the inspector is a designated inspector — to
22 monitor compliance with Part 3, directions
23 given under section 40(1) or 47(1) and orders
24 made under section 55(1), in relation to any of
25 the following —
26 (i) intensive production;
27 (ii) an activity carried out at an abattoir;
28 (iii) an activity carried out at a knackery;
29 and
30

s. 8

1 **8. Section 38 amended**

2 (1) After section 38(1) insert:

3

4 (1A) In addition, a designated inspector may, for the purpose
5 of carrying out the function referred to in
6 section 37(1)(aa), enter at any time any of the
7 following places —

- 8 (a) if the inspector believes, on reasonable
9 grounds, that a place is an intensive production
10 place — the place;
- 11 (b) an abattoir;
- 12 (c) a knackery.

13

14 (2) In section 38(2) after “or (e)” insert:

15

16 or (1A)

17

Part 3 — *The Criminal Code* amended

9. Act amended

This Part amends *The Criminal Code*.

10. Section 70A amended

(1) In section 70A(1) insert in alphabetical order:

abattoir has the meaning given in the *Animal Welfare Act 2002* section 36A;

animal source food production means an activity carried out —

- (a) at an animal source food production place; and
- (b) for the purpose of, or in connection with, commercial food production;

animal source food production facility means any of the following places, operated for the purpose of commercial food production —

- (a) a farm or other place where an animal is reared or fattened;
- (b) a dairy farm;
- (c) an egg farm or other place where poultry are kept to produce eggs;

animal source food production place means any of the following places —

- (a) an animal source food production facility;
- (b) an abattoir;
- (c) a knackery;

circumstances of aggravation, in relation to a trespass on an animal source food production place, means

s. 10

- 1 circumstances in which a person, in the course of, or as
2 a result of committing the trespass —
- 3 (a) interferes with, or intends to interfere with,
4 animal source food production; or
- 5 (b) in the context of another person’s engagement
6 in animal source food production — assaults,
7 intimidates or harasses, or intends to assault,
8 intimidate or harass —
- 9 (i) the other person; or
10 (ii) a family member of the other person;
- 11 ***family member***, in relation to a person, means —
- 12 (a) the spouse or de facto partner of the person; or
13 (b) a parent, child, brother, sister, uncle, aunt or
14 cousin of the person or of the person’s spouse
15 or de facto partner; or
- 16 (c) the spouse or de facto partner of a person
17 referred to in paragraph (b); or
- 18 (d) a grandchild or grandparent of the person or of
19 the person’s spouse or de facto partner;
- 20 (e) a guardian or ward of the person;
- 21 (f) if the person is an Aboriginal person or a Torres
22 Strait Islander (***indigenous person***) — a person
23 regarded under the customary law or tradition
24 of the indigenous person’s community as a
25 member of the extended family or kinship
26 group of the indigenous person;
- 27 ***interfere with***, in relation to animal source food
28 production, includes any of the following —
- 29 (a) negatively impact biosecurity, as defined in the
30 *Biosecurity and Agriculture Management*
31 *Act 2007* section 6, in relation to the animal
32 source food production;

- 1 (b) create a risk to the welfare, safety or health of
2 an animal involved in the animal source food
3 production;
- 4 (c) in the course of the animal source food
5 production — create a risk to the integrity or
6 safety of meat, eggs or dairy products;
- 7 (d) release an animal involved in the animal source
8 food production, or cause it to escape, from an
9 animal source food production place or an
10 enclosure at that place;
- 11 (e) destroy, damage, steal or otherwise interfere
12 with property used in the animal source food
13 production;
- 14 (f) give a person engaged in animal source food
15 production reasonable grounds to believe that
16 something referred to in paragraphs (a) to (e)
17 has occurred or is likely to occur;

18 ***knackery*** has the meaning given in the *Animal Welfare*
19 *Act 2002* section 36A;

20
21 (2) Delete section 70A(2) and insert:

22
23 (2) A person who, without lawful excuse, trespasses on a
24 place commits an offence.

25 Penalty for this subsection: imprisonment for
26 12 months and a fine of \$12 000.

27 (2A) A person who, without lawful excuse, trespasses on an
28 animal source food production place, in circumstances
29 of aggravation, commits an offence.

30 Penalty for this subsection: imprisonment for 2 years
31 and a fine of \$24 000.

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- 1 (2B) If a court sentencing an adult offender for an offence
2 under subsection (2A) does not impose a term of
3 imprisonment then, except as provided in
4 subsection (2C) and despite the *Sentencing Act 1995*,
5 the court must impose —
- 6 (a) a community order under the *Sentencing*
7 *Act 1995* that includes —
- 8 (i) a supervision requirement with a
9 direction that the offender must not
10 enter or remain on an animal source
11 food production place specified, or of a
12 kind specified, in the order; and
- 13 (ii) a community service requirement;
- 14 and
- 15 (b) a fine of at least \$2 400.
- 16 (2C) Subsection (2B) does not apply in a particular case if
17 the court is satisfied that exceptional circumstances
18 exist in that case.
- 19
- 20 (3) In section 70A(3) delete “subsection (2),” and insert:
21
- 22 subsection (2) or (2A),
23

Part 4 — Restraining Orders Act 1997 amended

11. Act amended

This Part amends the *Restraining Orders Act 1997*.

12. Section 5 amended

In section 5(1)(d)(i) delete “paragraph (a), (b) or (c)” and insert:

paragraph (a) or (c)

13. Section 34 amended

In section 34(a):

(a) in subparagraph (iii) delete “peace;” and insert:

peace; or

(b) after subparagraph (iii) insert:

(iv) commit an offence under *The Criminal Code* section 70A(2A);

14. Section 35 amended

(1) After section 35(2) insert:

(2A) When considering whether to make an MRO for reasons referred to in section 34(a)(iv) and the terms of the order, a court is to have regard to —

(a) the need to ensure that the following persons are protected from the effects of an offence under *The Criminal Code* section 70A(2A) —

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- 1 (i) a person engaged in animal source food
2 production, as defined in *The Criminal*
3 *Code* section 70A(1);
- 4 (ii) a family member, as defined in *The*
5 *Criminal Code* section 70A(1), of a
6 person referred to in subparagraph (i);
- 7 and
- 8 (b) the wellbeing of children who are likely to be
9 affected by the respondent's behaviour or the
10 operation of the proposed order; and
- 11 (c) the accommodation needs of the respondent;
12 and
- 13 (d) hardship that may be caused to the respondent
14 if the order is made; and
- 15 (e) any criminal convictions of the respondent; and
- 16 (f) other current legal proceedings involving the
17 respondent; and
- 18 (g) other matters the court considers relevant.

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20 (2) In section 35(3) delete “subsection (1)(a) and (b) or (2)(a)
21 and (b)” and insert:

22

23 subsections (1)(a) and (b), (2)(a) and (b) and (2A)(a) and (b)

24

25 **15. Section 36 amended**

- 26 (1) In section 36(1):
- 27 (a) in paragraph (c) delete “peace.” and insert:
- 28
- 29 peace; or
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(b) after paragraph (c) insert:

(d) committing an offence under *The Criminal Code* section 70A(2A).

(2) In section 36(3) delete “subsection (1)(c),” and insert:

subsection (1)(c) or (d),

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