

## Animal Welfare Amendment Bill 2017

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Western Australia

LEGISLATIVE COUNCIL

## **Animal Welfare Amendment Bill 2017**

**A Bill for**

**An Act to amend the *Animal Welfare Act 2002*.**

The Parliament of Western Australia enacts as follows:

**s. 1**

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1   **1.     Short title**

2           This is the *Animal Welfare Amendment Act 2017*.

3   **2.     Commencement**

4           This Act comes into operation as follows —

- 5           (a)   sections 1 and 2 — on the day on which this Act  
6                receives the Royal Assent;
- 7           (b)   the rest of the Act — on a day fixed by proclamation,  
8                and different days may be fixed for different provisions.

9   **3.     Act amended**

10          This Act amends the *Animal Welfare Act 2002*.

11   **4.     Section 3 amended**

12          Before section 3(1)(a) insert:

13

- 14               (aa)   regulating the conduct of people in relation to  
15                    animals, including the manner in which animals  
16                    are treated, cared for and managed; and  
17

18   **5.     Section 5 amended**

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

20

21                    *designated general inspector* means a general  
22                    inspector designated under section 35A(1) as a  
23                    designated general inspector;

24                    *prescribed code of practice* means a code of practice  
25                    prescribed for the purposes of the section in which the  
26                    term is used;  
27

1 (2) In section 5(1) in the definition of *code of practice* delete  
2 “practice adopted” and insert:

3

4 practice (however described) adopted

5

6 **6. Part 3 heading replaced**

7 Delete the heading to Part 3 and insert:

8

9 **Part 3 — Welfare, safety and health of animals**

10

11 **7. Part 3 Divisions 1 and 2 inserted**

12 At the beginning of Part 3 insert:

13

14 **Division 1 — Objects of this Part**

15 **18A. Objects of Part**

16 The objects of this Part are —

17 (a) to promote and protect the welfare, safety and  
18 health of animals; and

19 (b) to ensure animals are properly and humanely  
20 treated, cared for and managed.

21 **Division 2 — Regulations about animal welfare, safety  
22 and health**

23 **18B. Regulations — animal welfare, safety and health**

24 (1) Without limiting section 94(1), regulations may be  
25 made under that subsection for the purpose of  
26 achieving the objects of this Part.

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- 1           (2) Without limiting subsection (1), the regulations may  
2           provide for, authorise, prescribe, require, prohibit,  
3           restrict or otherwise regulate the following —
- 4           (a) the treatment, care and handling of animals;
  - 5           (b) animal accommodation;
  - 6           (c) the transportation of animals;
  - 7           (d) the keeping of animals;
  - 8           (e) the husbandry of animals;
  - 9           (f) the identification of animals;
  - 10          (g) the medical or surgical treatment of animals;
  - 11          (h) facilities and equipment used in relation to  
12          animals;
  - 13          (i) the destruction and slaughtering of animals;
  - 14          (j) the control of animals, including pest animals;
  - 15          (k) farming or grazing activities;
  - 16          (l) the management of zoos, wildlife parks or  
17          similar establishments;
  - 18          (m) the management of animal breeding  
19          establishments;
  - 20          (n) the training of animals;
  - 21          (o) the sale of animals;
  - 22          (p) the use of animals for commercial, recreational  
23          or other purposes;
  - 24          (q) the qualifications and experience of persons  
25          dealing with animals.
  - 26

1 **8. Part 3 Division 3 heading inserted**

2 Before section 19 insert:

3

4 **Division 3 — Cruelty and other inhumane and**  
5 **improper treatment of animals**

6

7 **9. Section 19 amended**

8 (1) After section 19(3)(f) insert:

9

10 (fa) has a prescribed act carried out on, or in  
11 relation to, it; or

12

13 (2) After section 19(3) insert:

14

15 (4) Sections 20 to 30 provide for defences to a charge  
16 under this section, however, where the regulations so  
17 provide, a defence provided under section 21, 22, 23,  
18 24 or 25 does not apply to a charge under  
19 subsection (1) committed in a prescribed manner or in  
20 prescribed circumstances.

21

22 (3) In section 19(3) after each of paragraphs (a) to (h) insert:

23

24 or

25

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1    **10.    Section 25 amended**

2            In section 25 delete “relevant” and insert:

3

4            prescribed

5

6            Note: The heading to amended section 25 is to read:

7

**Defence — prescribed code of practice**

8    **11.    Section 25A inserted**

9            After section 25 insert:

10

11           **25A.    Defence — prescribed in regulations**

12                    It is a defence to a charge under section 19(1) for a  
13                    person to prove that the person was acting in  
14                    accordance with a prescribed defence.

15

16    **12.    Section 29 amended**

17            In section 29 delete “manner.” and insert:

18

19            manner or in prescribed circumstances.

20

21    **13.    Section 30 amended**

22            In section 30 delete “manner.” and insert:

23

24            manner or in prescribed circumstances.

25



1 **14. Section 35A inserted**

2 After section 35 insert:

3

4 **35A. Designated general inspectors**

- 5 (1) The Minister may, by written notice, designate a  
6 general inspector, other than a police officer, as a  
7 designated general inspector.
- 8 (2) A designation under subsection (1) remains in force for  
9 the period specified in the notice of designation unless  
10 before then —  
11 (a) the designation is cancelled; or  
12 (b) the inspector ceases to be a general inspector.
- 13 (3) The Minister may, by written notice, restrict the  
14 authority of a designated general inspector to exercise a  
15 power under section 38(1A) or 39(1A) by limiting all  
16 or any of the following —  
17 (a) the places where a power may be exercised;  
18 (b) the times when a power may be exercised;  
19 (c) the circumstances in which a power may be  
20 exercised.
- 21 (4) When the authority of a designated general inspector is  
22 restricted under subsection (3) the powers conferred on  
23 the inspector under sections 38(1A) and 39(1A) are  
24 limited to the extent set out in the notice.
- 25 (5) A restriction under subsection (3) —  
26 (a) may be imposed when the inspector is  
27 designated under subsection (1) or at a later  
28 time; and  
29 (b) may be varied or cancelled by the Minister by  
30 written notice to the inspector.
- 31

**s. 15**

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1 **15. Section 37 amended**

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

3

4 (aa) if the inspector is a designated general  
5 inspector, to monitor compliance with Part 3,  
6 court orders under section 55(1) and directions  
7 given under section 40(1) or 47(1); and  
8

9 (2) In section 37(1) after each of paragraphs (a) and (b) insert:

10

11 and  
12

13 **16. Section 38 amended**

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

15

16 (1A) An inspector who is a designated general inspector  
17 may also enter a non-residential place at any time to  
18 carry out a function under section 37(1)(aa).  
19

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

21

22 or (1A)  
23

24 **17. Section 39 amended**

25 (1) After section 39(1) insert:

26

27 (1A) An inspector who is a designated general inspector  
28 may also enter a vehicle that is not a residence at any  
29 time to carry out a function under section 37(1)(aa).  
30

1 (2) In section 39(2) after “or (c)” insert:

2

3 or (1A)

4

5 **18. Section 84 amended**

6 In section 84:

7 (a) after “Part 3” insert:

8

9 Division 3

10

11 (b) delete “relevant” and insert:

12

13 prescribed

14

15 Note: The heading to amended section 84 is to read:

16 **Breach of prescribed code of practice not sufficient to prove**  
17 **cruelty**

18 **19. Section 94 amended**

19 In section 94(2):

20 (a) delete “subsection (1) regulations made under this  
21 section may —” and insert:

22

23 subsection (1), the regulations may do any of the  
24 following —

25

**s. 19**

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1 (b) in paragraph (d) after “practice” insert:

2

3 (however described)

4

5 Note: The heading to amended section 94 is to read:

6

**Regulations — general power**

7

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