

# Prevention of Cruelty to Animals Bill

## EXPLANATORY MEMORANDUM

### PART 1—PRELIMINARY

*Clause 1:* Sets out the purposes of the Bill which are to prevent cruelty to animals, to encourage the considerate treatment of animals, and to improve the level of community awareness about the prevention of cruelty to animals.

*Clause 2:* Provides for the legislation to come into operation on a day or days to be proclaimed.

*Clause 3:* Contains the definitions.

*Clause 4:* Provides that the Act is to bind the Crown.

*Clause 5:* Repeals the existing legislation and includes transitional provisions relating to the continued operation of Codes of Practice, permits to conduct rodeos and the registration of persons to conduct animal experimentation.

*Clause 6:* Sets out certain exemptions. The legislation does not apply to the slaughter of animals in accordance with the *Abattoir and Meat Inspection Act 1973* or any Commonwealth Act or handling animals in accordance with a Code of Practice or the treatment of an animal in accordance with veterinary advice.

*Clause 7:* Authorizes the Minister to have Codes of Practice prepared about a range of matters including the handling, transport, killing, hunting, netting or husbandry of any class of animals. Codes of Practice may adopt material contained in other documents, must be approved by the Governor in Council and must be published in the *Government Gazette*. Where a Code of Practice adopts material in another document the Code is to specify a place where that material can be obtained and a copy of the material is to be laid before the Legislative Council and the Legislative Assembly.

### PART 2—PROTECTION OF ANIMALS

#### Division 1—Cruelty

*Clause 8:* Sets out definitions for the purposes of this Part.

*Clause 9:* Specifies the circumstances that constitute cruelty to warm-blooded animals and sets out the penalties (which are the same as in the *Protection of Animals Act 1966*).

*Clause 10:* Specifies the circumstances that constitute cruelty in the case of cold-blooded animals and sets out the penalties (which are set at the same levels as the penalties for warm-blooded animals).

*Clause 11:* Specifies the circumstances that constitute aggravated cruelty and sets out the penalty which is the same as in the *Protection of Animals Act 1966*.

*Clause 12:* Relates to persistent offenders and provides that if a person has been convicted of two or more offences which the Court considers are similar in nature the Court may disqualify the person from having custody of a particular animal or any class of animals for a period of up to five years. This (and the other provisions relating to persistent offenders) are similar to the existing provisions in the *Protection of Animals Act 1966*.

*Clause 13:* Relates to baiting and luring and specifies the circumstances under which it is an offence to use animals for baiting, luring, bleeding greyhounds etc. The penalties are the same as in the *Protection of Animals Act 1966*.

*Clause 14:* Relates to trap-shooting and makes it an offence to use birds for trap-shooting. The penalties are the same as those set out in the *Protection of Animals Act 1966*.

*Clause 15:* Relates to leghold traps and makes it an offence to use large leghold traps on any land. Provision is made to define large and small leghold traps in the Regulations. It is also an offence to be in possession of a large leghold trap for the purpose of trapping animals.

*Sub-clause (4)* makes it an offence to set a small leghold trap on Crown land. (Crown land is defined in such a way as to exclude Crown land that is leased or licensed for agricultural or grazing purposes. The aim of this provision is to allow the use of small traps for the control of rabbits in places such as river frontages where the licensee of Crown land is required to control rabbits on that land.) Where a small trap is used on private land (or Crown land that is leased or licensed) the traps are to be used in accordance with a Code of Practice that will be developed for this purpose.

### **Division 2—Rodeos**

*Clause 16:* Relates to the conduct of rodeos (which normally last for about one to three days) or rodeo schools (which may last for several months). Permits for rodeos are required for each separate rodeo and permits for rodeo schools are limited to a maximum period of 12 months (although a new permit can be obtained if the school is to operate for a longer period).

*Sub-clause (3)* sets out the conditions under which the Director-General may refuse to issue a permit.

*Sub-clause (4)* authorizes the Minister to vary or cancel a permit.

*Clause 17:* Makes it an offence to conduct a rodeo or to operate a rodeo school without holding a permit or to operate in a manner which is in contravention of any provisions of the Act or the Regulations. The penalty for a first offence is 10 penalty units. Under the *Protection of Animals Act 1966* the penalty was 5 penalty units or imprisonment for three months or both.

### **Division 3—Enforcement**

*Clause 18:* Provides that the following persons may be appointed as Inspectors:

- (a) Any member of the Police Force.
- (b) Any person who is approved in writing by the Minister and who is an Inspector of Stock or a full time officer of the RSPCA.
- (c) Any person who is approved in writing by the Minister and who is a proper officer appointed under the *Dog Act 1970* (but only in respect of an alleged offence committed in the municipality for which that person is the proper officer).

*Clause 19:* Provides that the Minister must issue every Inspector (except members of the Police Force) with a certificate of identification.

*Clause 20:* Provides that anybody who impersonates an Inspector is guilty of an offence.

*Clause 21:* Sets out the powers of Inspectors.

*Clause 22:* Provides that veterinary surgeons and superintendents of saleyards have the same power as an Inspector to destroy an animal.

*Clause 23:* Makes it an offence to obstruct an Inspector in the discharge of his duties.

*Clause 24:* Relates to the power to lay informations and provides that an information for the prosecution of an offence under Part 2 may only be laid by certain persons who are specified in the Bill as follows:

- (a) A member of the Police Force; or
- (b) A person who is authorized by the Minister and who is—
  - (i) an officer of the Department of Agriculture and Rural Affairs;
  - (ii) an officer of a municipality (but only in respect of an alleged offence committed in that municipality); or
  - (iii) a full time officer of the RSPCA.

### **PART 3—SCIENTIFIC PROCEDURES**

*Clause 25:* Sets out definitions for the purposes of this Part.

*Clause 26:* Relates to the licensing of scientific establishments i.e., places where scientific procedures are intended to be carried out on animals. (The term “scientific procedure” has been defined in some detail to include various procedures to which experimental animals are subjected but at the same time to exclude ordinary veterinary and animal husbandry activities.)

*Sub-clause (2)* provides that a licence is to last for not more than three years and sets out the conditions that will apply to each licence. These conditions are:

- (a) The establishment must have an Animal Experimentation Ethics Committee (A.E.E.C.).
- (b) All scientific procedures must be carried out in accordance with the Act, the Regulations and any relevant Code of Practice and under the direction or supervision of a registered experimenter.
- (c) The carrying out of scientific procedures must be done by a person approved by the A.E.E.C. and under the direction or supervision of a registered experimenter.
- (d) Each project involving scientific procedures must be approved by the A.E.E.C. before commencement.
- (e) All scientific procedures are to be carried out at the premises or part of the premises specified in the licence (except approved field work).
- (f) Field work must not be commenced until approved by the A.E.E.C.
- (g) The facilities and equipment at the premises must comply with prescribed minimum standards.
- (h) Animals used in scientific procedures are to be—
  - (i) bred at the establishment or obtained from a licensed breeding establishment in the case of specified animals; or
  - (ii) obtained from a prescribed source in the case of a prescribed animal (“Specified animals” are the conventional laboratory animals i.e., guinea pigs, rats, mice and rabbits. “Prescribed animals” will include any other animals that may be prescribed as animals that may be used in scientific procedures subject to prescribed conditions about the source of supply and the conditions under which they must be used.)
- (i) Any conditions prescribed in Regulations.
- (j) Any additional conditions which the Director-General thinks fit in any particular case.

*Sub-clause (3)* sets out the conditions under which the Director-General may refuse to raise or renew a licence or the conditions under which he may suspend or cancel a licence.

*Clause 27:* Makes it an offence to carry out scientific procedures at unlicensed premises. The penalty in the case of a corporation is 50 penalty units for a first offence and 100 penalty units for a second or subsequent offence. The penalty for a person other than a corporation is 10 penalty units or imprisonment for three months for a first offence and 25 penalty units or imprisonment for six months for a second or subsequent offence.

*Clause 28:* Provides that an Animal Experimentation Ethics Committee is to approve of scientific procedures and field work and may approve of the premises where the field work is to be carried out. ("Premises" is defined as including open land as well as buildings). The A.E.E.C. is required to notify the Director-General of all approvals relating to field work including the nature of the scientific procedures and the number and species of animals involved.

*Clause 29:* Provides that places that are breeding specified animals are to be licensed as breeding establishments. The licences are to last for not more than three years and are subject to the following conditions:

- (a) The facilities are to comply with prescribed standards and any relevant Code of Practice.
- (b) Any prescribed conditions.
- (c) Any additional conditions that the Director-General thinks fit in any particular case.

*Sub-clause (3)* sets out the circumstances under which the Director-General may refuse to issue or renew a licence or may suspend or cancel a licence.

*Clause 30:* Makes it an offence to operate a breeding establishment without a licence. The penalty is 25 penalty units for a corporation or 5 penalty units for a person other than a corporation.

*Clause 31:* Relates to the registration of experimenters. ("Experimenter" is a person who carries out scientific procedures on animals.) These persons are to be registered by the Director-General. Registration may last for not more than three years and is to be subject to the following conditions:

- (a) The experimenter is not to carry out scientific procedures without the approval of the Animal Experimentation Ethics Committee.
- (b) Scientific procedures are to be carried out in accordance with the Act, the Regulations and any relevant Code of Practice.
- (c) The experimenter is to maintain adequate supervision or direction over his assistants who carry out scientific procedures or care for the animals.
- (d) The experimenter is to use only animals or classes of animals approved by the A.E.E.C. when it approves the relevant scientific procedure.
- (e) Any prescribed conditions.

*Sub-clause (3)* sets out the circumstances under which the Director-General may refuse to register or renew a registration or may suspend or cancel a registration, as follows:

- (a) If the experimenter has been convicted of two or more offences under this Part of the legislation.
- (b) If the experimenter has failed on two or more occasions to submit prescribed returns.
- (c) If the Director-General is satisfied (having regard to information supplied by the person in charge of the relevant scientific establishment) that there are reasonable grounds for doing so.

*Sub-clause (4)* provides that the Director-General may only register as experimenters persons who are—

- (a) legally qualified medical or dental practitioners or veterinary surgeons;
- (b) persons who hold a Masters Degree or Doctorate in Animal Biology.

*Clause 32:* Makes it an offence to carry out scientific procedures on animals under the following circumstances:

- (a) If the person is not registered as an experimenter (or acting under the direction or supervision of a registered experimenter).
- (b) If the program is not approved by the A.E.E.C.
- (c) If the scientific procedure is carried out on a specified animal that was not bred or obtained in accordance with section 26 (2) (h) (i) or on a prescribed animal that was not obtained or used in accordance with section 26 (2) (h) (ii) or the Regulations.
- (d) If the scientific procedure is not carried out in accordance with the Act, the Regulations and any relevant Code of Practice.

The penalty is 10 penalty units or imprisonment for three months for a first offence and 25 penalty units or imprisonment for six months for a second or subsequent offence.

*Clause 33:* Provides for appeals to the Administrative Appeals Tribunal for a review of a decision made by the Director-General for refusing to issue or renew or cancelling or suspending—

- (a) a scientific establishment licence;
- (b) a breeding establishment licence;
- (c) the registration of an experimenter.

*Clause 34:* Authorizes the Minister to establish Peer Review Committees and determine terms of reference in relation to any scientific procedure or scientific research at any licensed scientific establishment. Peer Review Committees are to consist of not less than five persons and must include one member with experience in animal welfare with the remaining members each having expert skill or knowledge in an area relevant to scientific procedures or research.

*Clause 35:* Empowers the Minister to appoint any person whom the Minister considers to have appropriate qualifications to be an authorized officer for the purposes of this Part of the legislation.

*Sub-clause (2)* sets out the powers of authorized officers which are—

- (a) power to enter any licensed scientific or breeding establishment or any other premises if the officer suspects on reasonable grounds that the premises are used for carrying out scientific procedures or the breeding of specified animals;
- (b) power to make an order regarding the destruction, treatment, feeding or housing of any animal found on the premises;
- (c) power to lay an information for an offence under this Part;
- (d) power to require a person at the establishment to provide information.

*Sub-clause (3)* provides that only an authorized officer may lay an information for an offence under this Part of the legislation.

*Clause 36:* Provides that a person who knowingly does any act or omits to do any act with the result that unnecessary pain is caused to an animal kept at a scientific or breeding establishment is guilty of an offence. The penalty is 100 penalty units in the case of a corporation or 10 penalty units or imprisonment for three months in the case of a person other than a corporation for a first offence and 25 penalty units or imprisonment for six months for a second or subsequent offence.

*Sub-clause (2)* makes it an offence to carry out any surgical operation on an animal unless the animal is appropriately anaesthetized and the operation is carried out in accordance with any relevant Code of Practice. The penalty is 100 penalty units in the case of a corporation or 10 penalty units or imprisonment for three months in the case of a person other than a corporation for the first offence and 25 penalty units or imprisonment for six months for a second or subsequent offence.

*Sub-clause (3)* makes it an offence if a person fails to destroy an animal painlessly when the animal is so injured in the course of a scientific procedure that it would suffer seriously if it remained alive. The penalty is the same as that set out under sub-clause (2).

*Clause 37:* Provides that proceedings for any offence under this Part of the legislation may be commenced within three years from the date of the alleged offence.

#### **PART 4—MISCELLANEOUS**

*Clause 38:* Provides for the delegation of power by the Minister and the Director-General.

*Clause 39:* Sets out the evidentiary provisions.

*Clause 40:* Empowers a Court to authorize a person to commence or continue proceedings if the person who laid the information does not appear at the hearing or fails to proceed with the prosecution.

*Clause 41:* Sets out procedural matters relating to liability for offences.

*Clause 42:* Sets out the regulation-making powers.