



New South Wales

# Prevention of Cruelty to Animals Amendment Act 2012 No 69

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New South Wales

# **Prevention of Cruelty to Animals Amendment Act 2012 No 69**

Act No 69, 2012

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An Act to amend the *Prevention of Cruelty to Animals Act 1979* to make provision with respect to the seizure and disposal of certain stock animals; and for other purposes. [Assented to 24 September 2012]

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**The Legislature of New South Wales enacts:**

**1    Name of Act**

This Act is the *Prevention of Cruelty to Animals Amendment Act 2012*.

**2    Commencement**

This Act commences on the date of assent to this Act.

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## Schedule 1      Amendment of Prevention of Cruelty to Animals Act 1979 No 200

### [1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

*function* includes a power, authority or duty, and *exercise* a function includes perform a duty.

### [2] Part 2B

Insert after Part 2A:

## Part 2B Power of Director-General to authorise seizure and disposal of stock animals

### 24O Application and interpretation

- (1) This Part applies only in relation to a stock animal depastured on rateable land (within the meaning of the *Rural Lands Protection Act 1998*).
- (2) In this Part, a reference to an animal is taken to be a reference only to a stock animal referred to in subsection (1).
- (3) For the purposes of this Part, an animal is in distress if it is suffering from exposure to the elements, debility, exhaustion or significant physical injury.
- (4) In this Part:  
*inspector* means an inspector within the meaning of Division 2 of Part 2A.  
*official warning*—see section 24P.  
*Stock Welfare Panel* or *Panel* means a Stock Welfare Panel constituted in accordance with section 24T.

### 24P Official warning of intention to authorise seizure and disposal of stock animals

- (1) The Director-General may issue an official warning in respect of an animal if the Director-General suspects, on reasonable grounds, that the animal is in distress, or is likely to become distressed, because it has not been provided with necessary veterinary treatment, or proper and sufficient food, drink or shelter.

- (2) An *official warning* is a written notice, to the owner or person in charge of the animal, that the Director-General intends to authorise the seizure and disposal of the animal if the action required to be taken by the notice in relation to the animal's welfare is not taken within the period required by the notice.
- (3) Before issuing an official warning, the Director-General must:
  - (a) constitute a Stock Welfare Panel to assess, and report to the Director-General on, the state of and appropriate care for the animal and any other matter concerning its welfare that the Director-General considers appropriate, and
  - (b) consider the Panel's report.
- (4) If the Director-General issues an official warning, the Panel is to:
  - (a) monitor compliance with the official warning, and
  - (b) on the expiry of the period for compliance required by the official warning, assess, and report to the Director-General on, compliance with the official warning, and appropriate action to be taken in relation to the animal.
- (5) An inspector may, for the purpose of assisting the Panel in the exercise of its functions under this section:
  - (a) enter any land on which the animal is kept, and
  - (b) examine the animal.
- (6) The Director-General may, by further written notice to the owner or person in charge of an animal:
  - (a) revoke an official warning, or
  - (b) extend the period for compliance with an official warning.
- (7) A single official warning may be issued in respect of more than one animal.

**24Q Seizure and disposal of stock animals**

- (1) The Director-General may, by order in writing, authorise an inspector to seize and dispose of an animal (by way of sale or otherwise) if, after considering the Panel's report on compliance with an official warning, the Director-General is satisfied:
  - (a) that the action required to be taken by the official warning in relation to the animal's welfare has not been taken, and
  - (b) that the animal remains in distress or likely to become distressed.

- (2) An inspector authorised to seize and dispose of an animal under this section may:
  - (a) enter any land on which the animal is kept, and
  - (b) seize and dispose of the animal in accordance with the authorisation.
- (3) The inspector must:
  - (a) produce to the owner or person in charge of the animal a copy of the order authorising the seizure and disposal, if requested to do so, and
  - (b) provide the owner or person in charge of the animal with a receipt acknowledging seizure of the animal, if the owner or person is present and it is reasonably practical to do so.
- (4) Compensation is not recoverable against any person in respect of the seizure or disposal of an animal in accordance with this section.
- (5) An animal may not be sold or otherwise disposed of under this section if:
  - (a) any proceedings in respect of the animal for an offence against this Act or the regulations have been commenced but have not been finally determined, or
  - (b) an order has been made by a court under section 30 or 31 in respect of the destruction or other disposal of the animal.
- (6) A single order may be made under this section in respect of more than one animal.
- (7) Section 31A does not apply to a sale of an animal under this section.

**24R Recovery of costs of seizure and disposal**

- (1) An inspector may certify the costs and expenses incurred by an enforcement authority in connection with the seizure, keeping and sale or other disposal of an animal under section 24Q (the *certified disposal costs*).
- (2) A single certificate may be issued in respect of more than one animal.
- (3) The proceeds of any sale of an animal under section 24Q are to be applied towards the certified disposal costs.
- (4) The balance (if any) of the proceeds of sale is to be paid to the former owner of the animal.

- (5) The certified disposal costs or the balance of the certified disposal costs after applying the proceeds of sale are recoverable in a court of competent jurisdiction by a person acting on behalf of the enforcement authority as a debt payable to the enforcement authority.
- (6) The Director-General may authorise a person or class of persons to act on behalf of the Crown under this section.
- (7) In this section, *enforcement authority* means:
  - (a) in the case of an animal seized by an officer of an approved charitable organisation, the charitable organisation, or
  - (b) in any other case, the Crown.

**24S Purchaser acquires good title**

If an animal is sold under section 24Q:

- (a) the purchaser acquires a good title to the animal, and
- (b) the interest of the former owner or any other person who had an interest in the animal is extinguished.

**24T Stock Welfare Panels**

- (1) A Stock Welfare Panel is to consist of the following members:
  - (a) an inspector,
  - (b) at least one officer of the Department with expertise in animal welfare or livestock management,
  - (c) at least one representative of a livestock health and pest authority, with expertise in animal welfare or livestock management,
  - (d) such other person or persons as the regulations may prescribe.
- (2) The procedure of a Panel is to be as determined by the Director-General.

**24U Exclusion of personal liability**

Anything done or omitted to be done by the Director-General, a member of a Stock Welfare Panel or an inspector in exercising the functions conferred or imposed under this Part does not, if the thing was done or omitted to be done in good faith, subject the Director-General, member or inspector personally to any action, liability, claim or demand.

**24V Powers conferred on inspectors**

- (1) Sections 24C, 24E (2), 24L and 24M apply in relation to the powers conferred on inspectors by this Part in the same way as they apply in relation to powers conferred by Part 2A.
- (2) An inspector who has entered land under a power conferred by this Part may exercise a power conferred by Part 2A.

**[3] Section 34C**

Insert after section 34B:

**34C Delegation by Director-General**

The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to any member of staff of the Department.

**[4] Schedule 2 Savings and transitional provisions**

Insert at the end of clause 1 (1):

any other Act that amends this Act

[Second reading speech made in—

Legislative Assembly on 5 September 2012

Legislative Council on 12 September 2012]