



New South Wales

Prevention of Cruelty to Animals Amendment (Transparency and Fit and Proper Persons) Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to —

- (a) amend the *Prevention of Cruelty to Animals Act 1979* (the **POCTA Act**) and the *Prevention of Cruelty to Animals Regulation 2012* to expand and improve the transparency of animal welfare enforcement, and
- (b) amend the *Government Information (Public Access) Regulation 2018* to declare a charitable organisation approved by the Minister (an **approved charitable organisation**) as a public authority under the *Government Information (Public Access) Act 2009* (the **GIPA Act**), and
- (c) amend the *Ombudsman Regulation 2016* to declare an approved charitable organisation as a public authority under the *Ombudsman Act 1974* (the **OA**), and
- (d) make consequential amendments to certain Acts and a regulation.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

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

Schedule 1[3] inserts proposed Division 1AA into Part 2A, which provides that the Minister may, by written instrument, appoint—

- (a) an employee of an approved charitable organisation or a Public Service employee as an officer for the POCTA Act (an *appointed officer*), and
- (b) an officer as an inspector for the purposes of the POCTA Act, Part 2A, Division 2 (an *appointed inspector*).

The proposed division sets out the following in relation to an appointed officer or appointed inspector—

- (a) the terms and period of an appointment,
- (b) that the powers are subject to the instrument of appointment,
- (c) the identification requirements.

The proposed division provides that the Minister may direct a person who ceases to be an appointed officer or appointed inspector to return to the Minister the evidence of the person's authority as an appointed officer or appointed inspector. Proposed section 24AE provides that a person is guilty of an offence for failing to comply with a direction from the Minister, with a maximum penalty of 25 penalty units. **Schedule 1[1] and [2], [4]–[7] and [10]** make consequential amendments.

Schedule 1[8] amends the definition of *disqualification order*.

Schedule 1[9] provides that a court must make an order that a person must not, for the period specified in the order, do certain actions (a *disqualification order*) when a person has been found guilty of—

- (a) an act of cruelty on an animal and the person has been previously convicted of an act of cruelty on an animal, or
- (b) more than one offence of an act of cruelty on an animal and the offences arose out of separate acts or omissions.

Schedule 1[13] provides that the Minister must give the annual report of an approved charitable organisation to the Presiding Officer of each House of Parliament, and may redact any information in the annual report the Minister considers should not be made public before giving the annual report to the Presiding Officers. A copy of the annual report must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer. **Schedule 1[11] and [12]** make consequential amendments.

Schedule 1[14] sets out the circumstances when relevant agencies may collect, use or disclose information, including *personal information* under the *Privacy and Personal Information Protection Act 1998*, if reasonably necessary for the purposes of administering or enforcing the POCTA Act.

Schedule 1[15] sets out the circumstances when the Minister may delegate certain functions of the Minister to certain persons.

Schedule 1[16] contains a proposed transitional provision consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Prevention of Cruelty to Animals Regulation 2012

Schedule 2[4] provides that an annual report of an approved charitable organisation must include the following—

- (a) certain information about access applications made to the organisation under the GIPA Act,
- (b) details of the number of complaints made under the OA about the organisation and the outcome of the complaints,
- (c) a list of certain agreements the organisation has with the State or other organisations.

Schedule 2[5] omits the definition of *officer*, which is made redundant by amendments to the POCTA Act.

Schedule 2[6] provides that POCTA Act, proposed section 24AE is a penalty notice offence with a maximum penalty of \$500.

Schedule 2[1]–[3] make amendments consequential on amendments made by Schedule 1[3].

Schedule 3 Amendment of Government Information (Public Access) Regulation 2018

Schedule 3 provides that an approved charitable organisation is declared to be a public authority under the GIPA Act—

- (a) for the purposes of the GIPA Act, except section 6 and Part 3, and
- (b) to the extent the organisation's conduct relates to the exercise of functions under the POCTA Act.

Schedule 4 Amendment of Ombudsman Regulation 2016

Schedule 4 provides that an approved charitable organisation is declared to be a public authority for the purposes of the OA to the extent the conduct relates to the exercise of functions under the POCTA Act.

Schedule 5 Consequential amendments of other legislation

Schedule 5 makes amendments to certain Acts and a regulation consequential on amendments made by Schedule 1[3].