



New South Wales

# Crimes Amendment (Animal Sexual Abuse) 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 make amendments to the *Crimes Act 1900* and other legislation to replace the offence of bestiality with the offence of animal sexual abuse.

## 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 on the date of assent to the proposed Act.

## Schedule 1 Amendment of Crimes Act 1900 No 40

**Schedule 1[3]** omits the offences of bestiality and attempt to commit bestiality, and instead makes it an offence to do the following—

- (a) commit an act of animal sexual abuse,
- (b) authorise the commission of an act of animal sexual abuse,
- (c) commit an act of animal sexual abuse in the company of another person or persons,
- (d) attempt to commit an act of animal sexual abuse,
- (e) advertise or offer an animal for animal sexual abuse,
- (f) sell, transfer the ownership of or supply an animal with the intention the animal will be used for animal sexual abuse,

(g) purchase or obtain an animal for the purpose of animal sexual abuse.

Proposed section 79AA defines animal sexual abuse.

**Schedule 1[1], [2], [4] and [5]** make consequential amendments.

**Schedule 1[6]** provides that the offences created by the proposed amendments apply to acts done after the commencement of the proposed amendments.

## **Schedule 2      Consequential amendments to other Acts and regulations**

**Schedule 2** amends various Acts and regulations consequent on the amendments in Schedule 1.



New South Wales

# Crimes Amendment (Animal Sexual Abuse) Bill 2024

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*This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council*

*Clerk of the Parliaments*



New South Wales

## **Crimes Amendment (Animal Sexual Abuse) Bill 2024**

No. \_\_\_\_\_, 2024

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### **A Bill for**

An Act to amend the *Crimes Act 1900* to replace the offence of bestiality with the offence of animal sexual abuse; and for related purposes.

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*The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with/without amendment.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*

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**Tabling copy**

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

1

**1 Name of Act**

2

This Act is the *Crimes Amendment (Animal Sexual Abuse) Act 2024*.

3

**2 Commencement**

4

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

5

## Schedule 1 Amendment of Crimes Act 1900 No 40

### [1] Section 4 Definitions

Insert in alphabetical order in section 4(1)—

*animal sexual abuse* has the same meaning as in Part 3, Division 10, Subdivision 13.

### [2] Part 3, Division 10, heading

Omit “and children”. Insert instead “, children and animals”.

### [3] Part 3, Division 10, Subdivision 13

Omit the subdivision. Insert instead—

## Subdivision 13 Animal sexual abuse

### 79AA Definitions

In this subdivision—

*animal sexual abuse*—

(a) includes the following—

(i) the penetration to any extent of the genitalia or anus of an animal by—

(A) a part of the body of a person, or

(B) an object manipulated by a person,

(ii) the penetration to any extent of the genitalia or anus of a person by a part of the body of an animal,

(iii) the introduction of a part of the genitalia of an animal into the mouth of a person,

(iv) the introduction of a part of the genitalia of a person into the mouth of an animal,

(v) the application of a person’s mouth or tongue to the genitalia or anus of an animal,

(vi) the application of an animal’s mouth or tongue to the genitalia or anus of a person,

(vii) other touching of an animal in circumstances where a reasonable person would consider the touching to be sexual, and the touching is done—

(A) with a part of the body of a person, or

(B) with an object manipulated by a person, or

(C) through a thing, including a thing worn by a person,

(viii) other acts carried out by a person with or on an animal that a reasonable person would consider as being intended or apparently intended to excite or gratify a sexual interest, but

(b) does not include the following—

(i) an act of veterinary science, within the meaning of the *Veterinary Practice Act 2003*,

(ii) an act carried out solely for hygienic purposes,

(iii) an act carried out to research veterinary care and treatment in accordance with an authority conferred by or under the *Animal Research Act 1985*,

	(iv) an act carried out to assist a female animal at parturition,	1
	(v) an act carried out in the best interests of an animal for the physical health and care of the animal,	2 3
	(vi) an act prescribed by the regulations.	4
	<i>authorise</i> includes direct or permit.	5
<b>79</b>	<b>Animal sexual abuse</b>	6
(1)	A person must not commit an act of animal sexual abuse. Maximum penalty—imprisonment for 14 years.	7 8
(2)	A person must not authorise the commission of an act of animal sexual abuse. Maximum penalty—imprisonment for 14 years.	9 10
<b>79A</b>	<b>Animal sexual abuse in company</b>	11
	A person must not commit an act of animal sexual abuse in the company of another person or persons. Maximum penalty—imprisonment for 20 years.	12 13 14
<b>79B</b>	<b>Advertisement, sale or transfer of animals for animal sexual abuse</b>	15
	A person must not do the following—	16
(a)	advertise or offer an animal for use in acts of animal sexual abuse,	17
(b)	sell, transfer ownership of or supply an animal with the intention that the animal will be used in an act of animal sexual abuse,	18 19
(c)	purchase or otherwise obtain an animal for the purpose of committing an act of animal sexual abuse.	20 21
	Maximum penalty—2,500 penalty units or imprisonment for 5 years, or both.	22
<b>80</b>	<b>Animal sexual abuse attempts</b>	23
	A person must not attempt to commit an act of animal sexual abuse. Maximum penalty—imprisonment for 5 years.	24 25
<b>[4]</b>	<b>Section 80AB Alternative verdicts</b>	26
	Insert after section 80AB(1A)—	27
(1B)	<b>Question of animal sexual abuse in company</b> If on the trial of a person for an offence under section 79A the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied on the evidence that the accused is guilty of an offence under section 79, it may find the person not guilty of the offence charged but guilty of an offence under section 79. The accused is liable to punishment accordingly.	28 29 30 31 32 33
<b>[5]</b>	<b>Section 547E</b>	34
	Omit “bestiality” wherever occurring. Insert instead “animal sexual abuse”.	35
<b>[6]</b>	<b>Schedule 11 Savings, transitional and other provisions</b>	36
	Insert at the end of the schedule, with appropriate part and clause numbering—	37

<b>Part</b>	<b>Provisions consequent on enactment of Crimes Amendment (Animal Sexual Abuse) Act 2024</b>	1
		2
	<b>Application of amendments</b>	3
	An amendment made to this Act by the <i>Crimes Amendment (Animal Sexual Abuse) Act 2024</i> applies only in relation to an offence committed, or alleged to have been committed, on or after the commencement of the amendment.	4
		5
		6



<b>Schedule 2</b>	<b>Consequential amendments to other Acts and regulations</b>	1
		2
<b>2.1</b>	<b>Bail Regulation 2021</b>	3
	<b>Section 15 Police to give notice of bail decisions for sexual assault and personal violence offences</b>	4
		5
	Insert “, 79A, 79B” after “section 79” in section 15(4), definition of <i>sexual assault offence</i> , paragraph (a).	6
		7
<b>2.2</b>	<b>Child Protection (Working with Children) Act 2012 No 51</b>	8
<b>[1]</b>	<b>Section 26 Persons not entitled to apply for review or enabling order</b>	9
	Insert “, 79A, 79B, 80” after “section 79” in section 26(1)(a)(viii).	10
<b>[2]</b>	<b>Section 33A Notification of animal cruelty offences</b>	11
	Insert “, 79A, 79B” after “section 79” in section 33A(2), definition of <i>animal cruelty offence</i> , paragraph (b).	12
		13
<b>[3]</b>	<b>Schedule 2 Disqualifying offences</b>	14
	Omit “or 79” from clause 1(1)(j). Insert instead “, 79, 79A, 79B or 80”.	15
<b>2.3</b>	<b>Criminal Procedure Act 1986 No 209</b>	16
	<b>Section 348 Offences in respect of which an intervention program may be conducted</b>	17
	Omit “against adults and children” from section 348(2)(b).	18
	Insert instead “against adults, children and animals”.	19
<b>2.4</b>	<b>Criminal Records Act 1991 No 8</b>	20
	<b>Section 7 Which convictions are capable of becoming spent?</b>	21
	Insert “, 79A, 79B” after “79” in section 7(4), definition of <i>sexual offences</i> , paragraph (a).	22
<b>2.5</b>	<b>Exhibited Animals Protection Act 1986 No 123</b>	23
<b>[1]</b>	<b>Section 30 Suspension and cancellation</b>	24
	Insert “, 79A, 79B” after “section 79” in section 30(1A)(c).	25
<b>[2]</b>	<b>Section 31A Prohibition on employing persons convicted of, or charged with, certain offences</b>	26
		27
	Insert “, 79A, 79B” after “section 79” in section 31A(2), definition of <i>relevant offence</i> , paragraph (b).	28
		29
<b>2.6</b>	<b>Law Enforcement (Powers and Responsibilities) Act 2002 No 103</b>	30
	<b>Section 46A Searchable offences</b>	31
	Omit “against adults and children” from section 46A(2), definition of <i>serious offence</i> , paragraph (b).	32
		33
	Insert instead “against adults, children and animals”.	34

<b>2.7 National Disability Insurance Scheme (Worker Checks) Regulation 2020</b>	1	
	2	
<b>Schedule 1 Disqualifying offences</b>	3	
Omit item 5 from Part 1, table. Insert instead—	4	
5 Animal sexual abuse	<i>Crimes Act 1900</i>	ss 79 and 80, as in force before the commencement of the <i>Crimes Amendment (Animal Sexual Abuse) Act 2024</i> , if the offence relates to bestiality
		ss 79, 79A, 79B and 80, as in force on and from the day the <i>Crimes Amendment (Animal Sexual Abuse) Act 2024</i> commenced, if the offence relates to animal sexual abuse
<b>2.8 Prevention of Cruelty to Animals Act 1979 No 200</b>	5	
<b>[1] Section 4 Definitions</b>	6	
Insert “, 79A, 79B” after “section 79” in section 4(1), definition of <i>animal cruelty offence</i> , paragraph (b).	7	
	8	
<b>[2] Section 24CB Officers’ powers relating to animals kept by convicted persons</b>	9	
Insert “, 79A, 79B” after “section 79” in section 24CB(1)(c).	10	
<b>[3] Section 30B Court may make interim disqualification order during proceedings</b>	11	
Insert “, 79A, 79B” after “section 79” in section 30B(2)(a).	12	
<b>[4] Section 31 Court may make further orders following findings of guilt etc</b>	13	
Insert “, 79A, 79B” after “section 79” in section 31(1AA)(a).	14	
<b>[5] Section 31AB Prohibitions for persons convicted of certain offences</b>	15	
Insert “, 79A, 79B” after “section 79”.	16	