



## **HOW YOU CAN HELP PROTECT ANIMALS BY MAKING A SUBMISSION TO THE REVIEW OF SOUTH AUSTRALIA'S *ANIMAL WELFARE ACT 1985***

RSPCA South Australia is calling on the community to get involved and make their own submissions to the review of the *Animal Welfare Act 1985*.

South Australia's *Animal Welfare Act 1985* is the main legal mechanism to protect animals in this state. The Act was last reviewed in 2008. Since that time our understanding of animals' sentience and their needs has evolved. In response, other jurisdictions across Australia and overseas have significantly improved their legal requirements for how animals are handled and treated.

In a recent RSPCA Australia review of the animal welfare laws around the country, South Australia ranked third last, with only the Northern Territory and Tasmania below us.

The current review invites South Australians to have your say and let the State Government know what improvements you would like to better protect animals in this state. The Review closes on 26<sup>th</sup> March 2023. This is a vital and rare opportunity to highlight the changes you feel most strongly about, so we urge you to make a submission if you want to see changes to better protect animals.

RSPCA SA will be recommending several changes to the Act, some of which have the potential to improve the lives of millions of animals in our state. We encourage anyone making a submission to consider including some of the issues explained below:

### **1. Add Animal Sentience to the Act's Object – this information may help you answer question 2 of the review survey**

A broad range of animal species are sentient (i.e. have capacity to feel positive and negative feelings from pleasure to fear and to perceive and remember). Including sentience in the *Act* helps to highlight the species' intrinsic value and our duty of care to protect their wellbeing.

RECOMMENDATION – That a statement be included in the *Act* to recognise animals as sentient beings.

More information on this topic can be found on the RSPCA Knowledge base [here](#).

### **2. Add fish, crustaceans and cephalopods to the Act's definition of 'animal' - this information may help you answer question 3 of the review survey**

Currently the *Animal Welfare Act* defines an animal as – '*a member of any species of the sub-phylum vertebrata except – a human being, or a fish*'. Unlike most other Australian states, fish, crustaceans (e.g. crabs) and cephalopods (e.g. octopus) are not protected under SA's *Animal Welfare Act*. Research shows the capacity of fish and many crustaceans and cephalopods to feel pain and experience positive and negative states.

RECOMMENDATION – Fish, crustaceans and cephalopods should be protected (defined as animals) under the state's *Animal Welfare Act*.

More information on this topic can be found on the RSPCA Knowledge base [here](#).

**3. Add a new offence - acts or omissions *likely to cause harm* - this information may help you answer question 4 of the review survey**

Inspectors need capacity to intervene *before* harm occurs. In some instances RSPCA has been unable to prosecute a person who has put an animal in danger. For example, RSPCA could not prosecute a person who left their animal in a car on a 40 degree day, because the animal did not suffer harm. In WA and VIC an act or omission likely to cause harm is an offence.

RECOMMENDATION – The RSPCA SA strongly believes we need legislative reform to help *prevent* cruelty before it occurs.

**4. Assign revenue from fines (issued under the Act) to an Animal Welfare Trust Fund – this information may help you answer question 16 of the review survey**

In some Australian states revenue from fines/infringement notices issued under state *Animal Welfare Acts* are paid into an Animal Welfare Trust Fund. Approved animal charities and community groups undertaking animal welfare projects can apply for grants from this fund to help pay for their initiatives.

RECOMMENDATION – Revenue from fines and infringements go into an Animal Welfare Trust Fund to be distributed for worthy animal welfare projects, for e.g. community cat desexing programs.

**5. Add capacity to issue Prohibition Orders and Interim Prohibition Orders in cases where the accused has mental health issues - this information may help you answer question 13 of the review survey**

Prohibition Orders - prevent a person from having or acquiring animals, but currently these can only be issued after a successful prosecution. Consequently, defendants with mental health challenges often have (or acquire more) animals during litigation or whilst they await their court appearance. RSPCA's reason for pursuing criminal convictions is to remove the animals involved and to minimize the risk of future offending. In many cases this could be better achieved if RSPCA could seek a Prohibition Order without having to raise a criminal charge. This would allow animals to be promptly seized and would save Courts from being burdened by unnecessary criminal prosecutions.

RECOMMENDATION – An addition to the *Animal Welfare Act* to enable prohibition orders to be issued by a magistrate without a prosecution being undertaken.

Interim Prohibition Orders - for cases involving defendants impacted by mental health issues and where criminal charges are raised, Magistrates need the capacity to issue these (or equivalent), to prevent defendants from being in charge of/acquiring animals prior to or during litigation. Based on sworn evidence from the regulatory agency, this Order would prevent the defendant owning animals while the matter was before the court.

RECOMMENDATION – An addition to the *Animal Welfare Act* to prevent ownership of further animals while a prosecution is before the courts.

**6. Add cross-border recognition of interstate court orders and inspector powers - this information may help you answer question 14 of the review survey**

SA's *Act* does not currently recognize interstate court orders that prohibit persons from owning (or having custody) of animals. State borders can cause barriers to identification of offenders and consequently, those convicted interstate may relocate to SA to acquire animals and even run animal businesses, including puppy farms.

RECOMMENDATION – Amend the *Act* so that interstate orders, including prohibitions, can be recognized and enforced within South Australia and vice versa.

**7. Add interstate recognition of inspectors during emergency times - this information may help you answer question 16 of the review survey**

The SA *Act* does not recognize interstate inspector powers. As climate change related natural disasters increase, recognition will enable SA inspectors to give and receive assistance across state borders.

RECOMMENDATION – Amend the *Act* to recognize interstate inspector powers and vice versa.

**8. Add whistleblower protection into the Act - this information may help you answer question 16 of the review survey**

Whistleblowers play an important role in identifying and reporting ill treatment and harm to animals. To encourage whistleblowers to come forward in a timely manner with their concerns the *Act* must have a provision to ensure that disclosure of conduct relating to an offence can be 'protected disclosure' in certain circumstances.

RECOMMENDATION – Add a provision into the *Act* to protect whistleblowers.

**Other suggested changes to the Act and related regulation – to include in your response to the Survey's final question:**

**i. Prohibit the use of prong collars – this information may help you to answer question 16 of the survey**

Prong collars are an aversive training tool that causes pain and/or discomfort, and mental suffering (due to the pain/discomfort, stress and fear). These devices rely on causing the animal distress in order to alter behaviour. There is significant evidence supporting the association between the use of aversive training methods and short-term indicators of stress and welfare compromise and also long-term behaviour problems, including anxiety-related and aggressive behaviours. In addition, these collars have been associated with significant physical harm to dogs including acute blindness, severe swelling of the head, and inability to close the jaw, trauma and abrasions to the neck, serious puncture wounds, nerve damage, muscle injury, and laryngeal, oesophageal, thyroidal, and tracheal damage.

RECOMMENDATION – Prohibit prong collars under the *Animal Welfare Regulations 2012*.

More information on this topic can be found on the RSPCA Knowledge base [here](#).

**ii. Prohibit the use of Opera house traps (type of yabby net) – this information may help you to answer question 16 of the survey**

These enclosed traps have only a small opening. When air breathing animals such as native rodents and platypus enter the trap, potentially in response to the bait, many are unable to exit the trap and they drown as a result.

RECOMMENDATION – Prohibit Opera House Traps under the *Animal Welfare Regulations 2012*.

More information on this topic can be found on the RSPCA Knowledge base [here](#).

**iii. Continue the prohibition on e-collars – this information may help you to answer question 16 of the survey**

Electric collars (e-collars) have several applications including fencing collars for dogs and cats. They are based on negative reinforcement principles and research suggests negative welfare impacts associated with their use. The RSPCA is opposed to the use of electronically activated devices that deliver electric shocks to animals, as these are aversive. Electric collars are also being trialled on cattle and sheep (i.e. virtual fencing). The RSPCA is concerned about the long term impacts, behavioural, physiological and mental, that electric collars may have on livestock, especially the slow learning animals. RSPCA supports the use of humane husbandry and management practices that do not cause pain, injury, suffering or distress.

RECOMMENDATION – Prohibit e-collars under the *Animal Welfare Regulations 2012*.

More information on this topic can be found on the RSPCA Knowledge base [here](#).

**iv. Prohibit the use of bows and arrows for killing animals – this information may help you to answer question 16 of the survey**

The RSPCA is opposed to bow hunting because, even when carried out by a competent marksman, it rarely results in a rapid, humane death. Bow hunting is inhumane and unnecessary and research findings showed it is also ineffective for controlling pest animals. More humane methods exist and the public expects that only the most humane methods be used to ‘cull’ animals that are considered ‘pests’.

RECOMMENDATION – Prohibit bows and arrows for the purpose of killing animals under the *Animal Welfare Regulations 2012*.

More information on this topic can be found on the RSPCA Knowledge base [here](#).

**v. Prohibit glue traps/boards – this information may help you to answer question 16 of the survey**

The RSPCA is opposed to the use of glue traps/boards as they cause severe suffering. Glue traps are sold to the general public as a pest control method. Glue traps have strong adhesive and when the animals passes over the trap they become stuck. This causes the animal to die slowly and painfully, with suffering typically lasting several days. Non target species including birds and reptiles are also often found stuck on these inhumane devices.

RECOMMENDATION – Prohibit glue traps and boards under the *Animal Welfare Regulations 2012*.

More information on this topic can be found on the RSPCA Knowledge base [here](#).

- vi. **Require mandatory reporting of number, species, research purpose and outcomes for the animals used in research in SA. In addition, prohibit the use of both the Forced swim test (FST) and the Forced inhalation test (FIT) – this information may help you to answer question 11 of the survey**

Currently SA is one of the few Australian states with no mandatory reporting of animals used in research.

RECOMMENDATION – Add into the *Animal Welfare Act* the requirement for detailed reporting of all animals used in SA research. Also prohibit the use of the FST and FIT tests under Regulation 11 of the *Animal Welfare Regulations 2012*.

More information on this topic can be found on the RSPCA Knowledge base [here](#).

- vii. **Prohibit recreational duck shooting – this information may help you to answer question 16 of the survey**

RSPCA SA has long campaigned to ban this inhumane activity that shatters the peace of our wetlands for 3-4 months each year. It is very difficult to kill flying ducks cleanly or instantly with shotgun pellets, so thousands of native ducks are injured each year and left to die slowly from their wounds. Due to evidence of the extreme suffering it causes, and the community's support for a ban, New South Wales, Queensland and Western Australia all banned recreational duck-shooting decades ago.

RECOMMENDATION – Prohibit recreational duck hunting under the *Animal Welfare Regulations 2012*.

More information on this topic can be found on the RSPCA Knowledge base [here and here](#).

- viii. **Add capped temperatures above which animals cannot be used in entertainment (e.g. rodeos), raced or transported – this information may help you to answer question 16 of the survey**

Every year RSPCA receives complaints from the community about animals being raced, transported or featured in entertainment on days of extreme heat. This places animals at high risk of heat stress and suffering, and should be stopped.

RECOMMENDATION – Add a provision to the *Animal Welfare Regulations 2012* that animals cannot be raced, transported or used in entertainment events if the temperature is predicted to exceed a prescribed capped temperature.

More information on this topic can be found on the RSPCA Knowledge base [here and here and here](#).

**ix. Require that only the most humane, best practice killing methods be used to manage overabundant and pest animal species – this information may help you to answer question 16 of the survey**

Before permitting the lethal control of sentient animals, the law should require evidence that animals are causing serious problems or that they are suffering poor welfare, and that non lethal methods have failed to fix the problem. Where this evidence is received, regulation should mandate that only the most humane method be used within a bona fide, compliance monitored program that is assessed for its effectiveness.

RECOMMENDATION – Require that where justification for lethal control exists, the *Animal Welfare Regulations* only permit the most humane means for killing animals considered overabundant, pests or in very poor welfare - and that this only occur under bonafide independently compliance monitored programs.

More information on this topic can be found on the RSPCA Knowledge base [here](#).

**x. Prohibit the use of wide-net (fruit tree) mesh netting – this information may help you to answer question 16 of the survey**

Every year South Australian bats, birds, lizards and other animals are found caught in wide mesh tree netting. Many sustain horrific injuries and have to be euthanased, including for example, bats with broken legs and wings and animals with mesh wrapped so tightly around them that their circulation has been cut off. Wildlife friendly netting should have a mesh size of less than 5mm.

RECOMMENDATION – Prohibit the use of mesh netting that is above 5mm under the *Animal Welfare Regulations 2012*.

More information on this topic can be found on the RSPCA Knowledge base [here](#).