

Department of Primary Industries And Regional Development

Via email - [livestock.regulations@dpiird.wa.gov.au](mailto:livestock.regulations@dpiird.wa.gov.au)

## **Submission into the Draft Animal Welfare (Livestock) Regulations 2019**

Thank you for the opportunity to make a submission to the review of the Draft Animal Welfare (Livestock) Regulations 2019 (Livestock Regulations)

As the Animal Welfare portfolio holder for the Greens WA the issues surrounding the treatment and care of animals are part of my day-to-day workload, however the rights and welfare of animals is also close to my heart personally and in line with the Greens policies.

The Greens understand and recognise that animals are sentient beings and are capable of suffering and feeling pain. We respect the intrinsic right of animals to exist, separate to the needs of humans and we acknowledge the duty of care humans have in protecting their rights and welfare.

For as long as Humans permit the use and exploitation of animals for our own needs or wants, we must do everything we can to reduce and ultimately end physical and psychological suffering of animals resulting from this human activity.

The Greens believe humans have a responsibility to minimise any suffering of animals caused by human activities, and to maximise their quality of life.

The Greens' Animal Welfare policies want:

- to raise the status of animals and bring an end to their exploitation through community education and greater protection under the law
- to implement the five basic freedoms for animals, namely:
  - Freedom from hunger and thirst: by ready access to fresh water and a diet to maintain full health and vigour;
  - Freedom from discomfort: by providing an appropriate environment including shelter and a comfortable resting area;
  - Freedom from pain injury and disease: by prevention or rapid diagnosis and treatment;
  - Freedom to express normal behaviour: by providing sufficient space, proper facilities and company of the animal's own kind; and

- Freedom from fear and distress: by ensuring conditions and treatment avoids mental suffering.
- the implementation of legally enforceable national standards to protect the welfare of animals used in agriculture
- adequate resources to be provided for the inspection and prosecution of persons and businesses suspected of animal cruelty
- cruel acts and practices against animals to be treated as serious crimes for corporate and private offenders
- an end to inhumane farming practices such as battery hens and sow stalls
- a ban on mutilation practices and promotion of humane alternatives

Accordingly, I support the implementation of these draft *Animal Welfare (Livestock) Regulations* – a codification of the Standards and Guidelines that are being developed across Australia in consultation with all states and territories with the goal of harmonising animal welfare across all jurisdictions.

These Livestock Regulations comprise two sets of national standards (that are mandatory and enforceable) and guidelines (optional recommendations only) specifically the *Australian Animal Welfare Standards and Guidelines – Land Transport of Livestock* and the *Australian Animal Welfare Standards and Guidelines - Livestock at Saleyards and Depots*.

Although WA's Agriculture Minister first endorsed the standards and guidelines for Land Transport in 2012 and those on Saleyards and Depots in 2018, concerning they still have not been implemented, eight years later. Unfortunately until now, limitations of WA's *Animal Welfare Act 2002* prevented their implementation. Following the amendment of the Act in November 2019 however WA will now *finally* be able to implement them – becoming the last jurisdiction in the country to do so - a move that is long overdue.

These Livestock Standards will benefit animals and provide clear direction about what is required from those responsible for livestock in all stages of their transport and at saleyards and depots on their way to their ultimate fate.

Specifically they will regulate:

- the provision of food and water
- provision of appropriate living conditions
- allowance for the animals to perform innate behaviours
- appropriate treatment for disease and injuries
- correct handling procedures

While the Act prohibits and punishes cruelty to animals it does not promote or provide any minimum animals welfare standards, or a 'duty of care' to animals – legally obliging a person or persons in charge to provide for the animals needs in a manner that is considered 'reasonable'.

I have previously been critical of the *Animal Welfare Act 2002* for failing to act positively to impose a duty of care for those in charge of animals, so this is a much needed reform and would clearly establish benchmarks for what is required for the proper treatment of animals.

I am similarly on the record as supporting the ability for Inspectors to have the power to issue infringement notices for minor offences which will improve overall animal welfare outcomes and compliance with the Act. Making these expiable offences that would be settled with a monetary fine, rather than via prosecution through the court system would result in better outcomes for animals and the enforcement agency (in this case the RSPCA). Additionally it will free up court and financial resources to deal with the more serious offences that would still need to be prosecuted through the court system.

It is important that to take full advantage of these powers, further reform to grant improved powers of entry for Inspectors is also undertaken. There is absolutely no doubt that compliance and enforcement of breaches of the Act would be improved if this were to occur. As it stands presently Inspectors' abilities to enter a property are constrained, limited to when there is a cruelty offence, or with advance notice, or with the consent from the owner/manager of the property.

Indeed, I do not see how, without this part of the Act also being reformed, the public can have confidence that animal welfare standards are being complied with. This is particularly apt given recent publicity nationally about public protest and on-farm occupations by protesters concerned about animal welfare.

Whilst I support the introduction of infringement notices in principle, I am concerned that the modified penalties proposed between \$250 and \$500 remain "subject to review and may be amended" and this may actually further reduce penalties as a result. I would *strongly oppose* any further diminution of the modified penalties that have been proposed. I am further concerned at the discrepancy between maximum penalties for offences prosecuted through the court system and the fines proposed under an infringement notice system.

*The maximum penalties proposed for a regulatory offence are significantly less than the maximum penalty that applies for cruelty offences under the Act.*

*Where a person is prosecuted under the Livestock Regulations, the maximum penalty is either \$7,500 or \$15,000, depending on the offence. In comparison, the maximum penalty for an individual convicted of cruelty*

*under the Act is \$50,000 and five years' imprisonment and a minimum penalty of \$2,000.<sup>1</sup>*

It is essential that a shift to infringement notices (albeit well intentioned) does not become a mechanism for evading the spirit of the regulations, or facilitates the mistreatment of animals as just a "cost of doing business".

It will be essential to monitor compliance with the new regulatory regime particularly closely and that records of infringement notices be kept with sufficient rigour to detect recidivism and chronic offending conduct from specific individuals. Offences committed by companies must be also prosecuted to the full extent of the law, particularly flagrant and systemic breaches that seek to profit from the abuse and/ or exploitation of animals.

Such behaviour is unconscionable and impacts not only on the animals themselves, but also undermines our reputation as a supplier of high quality livestock.

Thank you again for the opportunity to provide feedback on these animal welfare standards and guidelines for the transportation and management of livestock at saleyards and depots. Their implementation is long overdue and I look forward to their ratification and commencement and a concurrent improvement in animal welfare outcomes in WA.

Yours sincerely,



Hon Alison Xamon MLC  
Member for North Metropolitan

28 February 2020

---

1

[https://www.agric.wa.gov.au/sites/gateway/files/Livestock%20Regulations\\_Infringement%20notices%20scheme\\_FINAL\\_1.pdf](https://www.agric.wa.gov.au/sites/gateway/files/Livestock%20Regulations_Infringement%20notices%20scheme_FINAL_1.pdf)