

19<sup>th</sup> December 2024

Prevention of Cruelty to Animals Regulation 2025  
Regulatory Policy & Economics - NSW Department of Primary Industries and Regional Development  
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### Draft Prevention of Cruelty to Animals Regulation 2025

Animal Care Australia thanks the department for this opportunity to provide feedback on the draft Regulations.

#### **Background:**

Animal Care Australia Inc is a national incorporated association established to consult with government in advocating for real animal welfare by those who keep, breed and care for animals. Our goal is to promote and encourage high standards in all interactions with the animals in our care.

Animal Care Australia represents the interests of all hobbyist and pet animal keepers nationally. Our members are comprised of most major animal keeping representative bodies as well as individual species keepers, including those representing dogs, cats, birds, horses, insects & arachnids, small mammals, reptiles, fish and exhibited animals. Some individual members also work in the rescue, care, and rehabilitation sectors.

#### **Points of note:**

In reviewing the four options provided as approaches for the renewal of the Regulations, Animal Care Australia supports making the draft POCTA Regulation (Option 2) under POCTAA as the preferred option.

Animal Care Australia is disappointed that the NSW Department of Primary Industries and Regional Development (DPIRD) did not recognise our organisation as an important stakeholder for consultation within the list of stakeholders provided in the Regulatory Impact Statement (RIS) Section 1.7. This is of particular importance given the key amendments in the draft Prevention of Cruelty to Animals Regulation 2025 directly affect our members and people who keep and breed the associated species in question.

#### **Responses to specific Draft Regulations:**

##### **Part 4 Animal trades**

The Regulations continue to identify the *Animal Welfare Code of Practice - Breeding Dogs and Cats* as an **Animal Trades Codes of Practice and Standards**. This MUST be changed as the vast proportion of dogs and cats bred within NSW are not done as part of any commercial business and instead are bred as part of a hobby, or for preservation breeding purposes.

Animal Care Australia supports the need for this Code of Practice but not as an animal trade. This is particularly important as the definition of this Code outlined in Schedule (1) Column (1) no longer applies following the recent POCTAA (Puppy Farm) Bill:

*Animal breeding establishment, being a business in the course of which dogs or cats are bred **for fee or reward***

The intent of the Bill and the Minister removed the application of ‘for fee or reward’ to now apply to ALL persons who breed a dog. The continuing inclusion as an animal trade implies ALL persons who breed dogs and cats are doing so as an animal trade.

This is particularly relevant when considering Section 24 G of POCTAA which provides inspectors unlimited access to land/property used as a saleyard or animal trade. Dog and cat owners are people carrying out a hobby activity and not an animal trade. Such access should be restricted to businesses (animal trades) only and not individuals.

In order to correct this Animal Care Australia recommends adding a definition of a ‘**business**’ to Regulation 32. The purpose is to accurately distinguish business activity from hobby activity when determining what is and what is not an animal trade in Schedule 1 and Regulation 32.

Insert the following definition as Regulation 32 (6) as follows.

(6) *In this section and in Schedule 1*

**Business** means an organised activity aimed at producing, selling, or distributing goods (including animals) or services to generate a profit. It differs from a hobby, which is pursued for personal enjoyment without consistent operations, formal organisation, or a profit motive. The Australian Taxation Office to serve as the final arbiter when determining if an activity is a business or a hobby.

Amend Schedule 1 Column 1 to read:

Animal breeding establishment—being a business in the course of which dogs or cats are bred.

It is our preference that this line item be separated under a different heading other than Animal Trade, at the bottom of column 1.

Additionally our definition of business provides for the removal of ‘for fee and reward’ from the animal trades listed in Schedule (1) Column (1) as these activities can be carried out by persons not in the capacity of a business or trade.

Animal Care Australia notes all clauses relating to the amendment of POCTAA regulations within the newly assented POCTAA (Puppy Farm) amendments are not included in this draft and presume this will be corrected moving forward, as the newly assented Act supersedes this draft.

### **Regulation 41 Matters to be included in reports of approved charitable organisations**

Animal Care Australia recommends the following subclauses are added or amended in Regulation 41 to enable the state to monitor the detail and total cost to perform compliance and enforcement of the Act. A range of Parliamentary Inquiries have expressed concern distinguishing between inspectorate and charitable costs, and identifying specific costs associated with particular inspectorate functions.

**Insert (1)(h) into regulation 41 as follows:**

*detailed itemised externally audited accounting of the costs to exercise all law enforcement powers required under Part 2A of the Act, including each of (a) to (g) above.*

**Amend Regulation 41 (2) (f) to read as follows:**

(f) a statement of the number of each species seized or taken possession of under the Act and the number of days for which the animals remained in the organisation’s possession or care,

This aligns with the outcomes of the Parliamentary Inquiries requiring detailed reporting on the outcomes of the animals within the ACO’s care.

**Amend Regulation 41 (2) (k) as follows:**

*a list, current as at the date of the report, of the organisation’s officers, together with any changes, including officers departures and newly employed, to the list since the immediately previous report*

The purpose of this amendment is to record the level of turnover of staff, so that it is possible to tell how experienced the overall inspectorate are.

**Insert additional sub-clause to Regulation 41 (2) to read as follows:**

*(?) a statement of the number of species seized or taken possession of under the Act where the animals were euthanised, and the reason for euthanising the animal*

This aligns with the outcomes of the Parliamentary Inquiries requiring detailed reporting on the outcomes of the animals within the ACO’s care.

This submission can be publicly listed.

On behalf of the Animal Care Australia Committee.



Michael Donnelly  
President

*This submission has been developed in consultation with members of Animal Care Australia, in particular, representatives from the various Animal Care Australia Species Advisory Groups.*