



Your strong and independent
voice for livestock producers

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SUBMISSION

26 March 2023

Animal Welfare Team
Conservation and Wildlife Branch
Department for Environment and Water
Via email: animalwelfareactreview@sa.gov.au

Dear Sir / Madam

Re: Submission to Review of the *Animal Welfare Act 1985*

Livestock SA is the peak industry organisation for South Australia's red meat and wool industries. There are over 5,200 sheep producers and more than 2,700 beef cattle producers in the state. With a membership of over 3,500 sheep, beef cattle and goat production businesses, we work to secure a strong and sustainable livestock sector in South Australia.

The red meat and wool industries are the backbone of South Australia's livestock and meat processing sectors, which contribute \$5.4 billion annually to the state.

Livestock SA is a member of Primary Producers SA (PPSA) and is the South Australian representative member of four national peak industry councils: Sheep Producers Australia, WoolProducers Australia, Cattle Australia and Goat Industry Council of Australia. Through PPSA and the Peak Councils, Livestock SA is also a member of the National Farmers' Federation.

Livestock SA welcomes the opportunity to provide a submission to the 2023 Review of the *Animal Welfare Act 1985* (the Act), which is vitally important to our members.

Background

Livestock SA understands the Act was last updated in 2008 and that the South Australian Government committed to reviewing the Act to ensure the laws governing animal treatment stay up to date with community expectations.

Livestock SA is committed to the development of contemporary animal welfare policies and legislation for our industry which are supported by current scientific evidence. Our commitment is demonstrated by the establishment of Livestock SA's Biosecurity, Animal Health and Welfare Advisory Committee (BAHWAC). This committee brings together a range of expertise from across animal production to consider current practices in line with the most recent evidence and advises the Livestock SA Board on the development of biosecurity, animal health and welfare policies and guidelines. Examples include Livestock SA's support for mandating pain relief for mulesing and

recommending pain relief for other invasive procedures such as tail docking, dehorning and castration.

The *South Australian Sheep Industry Blueprint (2030)* and *Beef Industry Blueprint (2028)* are shared industry initiatives that identify industry targets for sheep and beef production along the whole value chain. These strategies guide our sector's investment in research, development and extension priorities. Both Blueprints have highlighted animal health and welfare as strategic areas of vital importance, with initiative areas and targets referring to "*improving animal health and wellbeing*"¹ and "*maintaining beef production with outstanding credentials in animal welfare and the continuous improvement of animal welfare of beef cattle*"². Furthermore, evidence supports that healthy and content animals underpin the achievement of broader Blueprint targets relating to biosecurity, productivity, profit, environmental stewardship, carbon neutrality and market access.

Because of this strategic importance (and recognising that farming animals for food and a livelihood requires a careful balancing act between perceived animal welfare and the daily practicalities of implementing profitable production systems), the Blueprints have acted as a catalyst for ground-breaking research in South Australia which has secured objective measures of pain in lambs, providing evidence for the evolution of husbandry practice guidelines. This work is being expanded into cattle shortly.

When considering how effective animal welfare legislation applies to livestock, it is essential to observe that our nation's climate, environment and productive capacity dictate that livestock production is the most widespread and geographically diverse agricultural activity in Australia. Cattle, sheep and goats are farmed across jurisdictional boundaries, and they are constantly being moved throughout the continent, making a nationally consistent approach to animal welfare regulation essential for effective implementation.

Consequently, Livestock SA endorses the alignment with and adoption of the *Australian Animal Welfare Standards and Guidelines (S&Gs)* in all states and territories. The S&Gs underpin access to domestic and overseas markets and reinforce Australia's commitment to advancing meaningful and effective animal welfare outcomes. The S&Gs for cattle and sheep were agreed by state and territory governments in 2016 and came into operation through South Australian legislation on 15 April 2017.

We support the regular review and updating of the S&Gs in line with contemporary animal production practice and emerging scientific evidence. Subsequent readoption by all states and territories after a review of the S&Gs facilitates continuous improvement to animal welfare standards which is important to our sector's continued support by Australian and overseas consumers. We note that the Australian Government recently committed to renew the Australian Animal Welfare Strategy (AAWS).

Response to the Review of the *Animal Welfare Act 1985*

Note: Where a specific reference to a question in the consultation paper is not included in this submission, it should be taken that Livestock SA supports the proposal and has no further comment to make, or it is outside of Livestock SA's area of expertise.

¹ SA Sheep Industry Blueprint 2030 - <https://livestocksa.org.au/industry-development/industry-blueprints/sa-sheep-industry-blueprint>

² SA Beef Industry Blueprint 2018 - <https://livestocksa.org.au/industry-development/industry-blueprints/sa-beef-industry-blueprint>

Part 1 - Preliminary

Do you agree that the current purpose of the Act provides a good understanding of the general aims and principles of the legislation?

Livestock SA notes that (unlike some other Australian jurisdictions), the Act includes just one Purpose - "for the promotion of animal welfare; and for other purposes".

The Queensland *Animal Care and Protection Act (2001)* lists several Purposes, including: "provide standards for the care and use of animals that achieve responsible balance between welfare for animals and the interests of the persons whose livelihood is dependent on animals."

Livestock SA believes that the addition of another Purpose (or Object) similar to this would better reflect the challenges faced by producers on a daily basis of ensuring optimum animal welfare in diverse and changing climatic conditions and geography.

Recommendation

Add a new Purpose or Object in the Act to include wording along the lines of "provide standards for the care of animals that achieve responsible balance between welfare for animals and the interests of the persons whose livelihood is dependent on animals".

Should the Act include specific Objects? If so, what might they be or what themes should the objects reflect?

The Act is one of the few state/territory animal welfare Acts that does not list Purposes or Objects beyond the promotion of animal welfare and other purposes. Their inclusion could support better alignment of our legislation with other jurisdictions, and also create better clarity around the breadth of issues covered by the Act.

Possible additions (from the Northern Territory *Animal Protection Act 2018*) include: "to ensure animals are treated humanely," "to prevent cruelty to animals," and "to promote community awareness about responsibilities and legal obligations associated with the care and protection of animals."

Recommendation

Expand the Purpose and/or Objects of the Act to better reflect the breadth of issues included, for example: "to ensure animals are treated humanely," "to prevent cruelty to animals," and "to promote community awareness about responsibilities and legal obligations associated with the care and protection of animals."

Are there any other terms that should be included or amended in the 'interpretation' section of the Act to provide greater clarity in understanding or applying the Act? If so, what are they and how should they be defined?

The current definition of 'electrical device' includes "a collar designed to impart an electrical shock". This needs to be broadened in line with recent technological developments to encompass a device worn anywhere on the body, such as ear tags.

This definition amendment also needs to be supported by changes to the Animal Welfare Regulations (2012), Section 8 (1) to allow the use of these devices for virtual fencing in commercial production systems.

Section 15 of the Act states "*A person must not, for the purposes of the confining or controlling an animal, use an electrical device in contravention of the regulations.*"

Currently, the Animal Welfare Regulations 2012 Section 8 (1) (a) allows for the use of such a collar if the purpose is to carry out research into their effectiveness as part of a research program approved by an Animal Ethics Committee. This technology has now progressed successfully through field trials and is ready for practical implementation on farm. Consequently, the legislation needs to be amended to reflect this.

When trained through the audio cues, the livestock learn they can avoid the mild shock if they want to, through free will. Recently, a commercial trial in South Australia was run to assess whether virtual fencing technology could exclude 20 cattle from an environmentally sensitive area of regenerating saplings, across 44 days using a contoured virtual fence line³.

The results demonstrated:

- That the cattle were able to rapidly learn the virtual fencing cues, responding primarily to audio cue alone 74.5% of the time, with an electrical pulse administered if the animal continued moving forward following the audio cue.
- The cattle were excluded from the regenerating area for 99.8% of the trial period, which delivered various Natural Resource Management outcomes for graziers included reduced overgrazing and erosion, and improved maintenance of ground cover and weed control.
- At the conclusion of the trial, the feed available in the protected zone was double the quantity and quality of the grazed zone thus showing that the prototype protected an environmental asset within the paddock from cattle grazing.

'Virtual Fencing' uses a lower level of shock than that of a conventional electric fence and studies comparing conventional electric tape fencing with that of virtual fencing demonstrated no significant differences between fence types with regards to cattle behaviour and welfare⁴. Furthermore, virtual fencing can enable the following animal welfare and broader benefits:

- The lack of movement of a device can alert the producer to a sick or trapped animal.
- Stock deaths and suffering can be reduced in flood or bushfire events because virtual fences can be turned off, allowing the cattle to seek safety and continue to graze and access water in unaffected areas.
- Virtual fencing technology is species specific, allowing native animals to move through the landscape unhindered.
- Virtual fencing is flexible and adaptable to varying levels of pasture growth depending on soil topography and fertility along with seasonal conditions.
- Virtual fencing can be set up to temporarily protect sensitive areas such as revegetation and riparian areas, or patches in a paddock subject to waterlogging or overgrazing, without the need for expensive and permanent fencing.
- Virtual fencing can also be used to utilise existing livestock water points without the need to provide additional stock water tanks and troughs, which are also expensive.

The building and maintenance of fences is a significant cost for farmers. Recent advances in pasture management for drought resilience and environmental stewardships and improved productivity are

³ Virtual Fencing Technology Excludes Beef Cattle from An Environmentally Sensitive Area <https://biggroup.org.au/project/virtual-fencing/>

⁴ [Virtual fencing is comparable to electric tape fencing for cattle behaviour and welfare](#), Cambell et al, (2019)

also better supported by the flexibility of virtual fencing. The SA Government has been a great supporter of AgTech through PIRSA's Red Meat & Wool Program, where the industry has coinvested and virtual fencing is just one example of where great technology can improve sustainability.

The Northern Territory *Animal Protection Regulations (2022)* include an exclusion under Regulation 9, Schedule 2 (Excluded electrical devices) for “*virtual fencing systems using collars and GPS systems for containment of livestock, providing they are used in accordance with the manufacturer's instructions*”. A similar exclusion under the South Australian *Animal Welfare Regulations 2012* would allow the use of virtual fencing technology beyond a research setting and facilitate harmonisation for producers grazing animals across borders.

Recommendation

Include an exclusion in the *Animal Welfare Regulations (2012)* for the use of an ‘electrical device’ as part of a virtual fencing system for the containment of livestock, providing they are used in accordance with the manufacturer’s instructions.

We further recommend that any wording ensures that exemption for virtual fencing extends to the use of electrical devices broader than collars, such as ear tags, to allow the inclusion of more comfortable solutions as they are developed.

Part 2 - The Animal Welfare Advisory Committee

Do you agree that the administrative arrangements and functions of the Animal Welfare Advisory Committee, established by the Act, support the promotion of animal welfare?

The careful balancing of perceived animal welfare and evidence-based contemporary livestock systems could potentially be misunderstood during an investigation. Consequently, Livestock SA believes the Animal Welfare Advisory Committee should include expertise from commercial, large animal production to ensure a fair and appropriately informed assessment. Our sector is huge and diverse and representation on the Committee should reflect this. By way of example, in 2021-22, the total value of livestock production only in South Australia was \$2.96 billion, with red meat and wool (i.e. sheep, cattle and goats) accounting for 90 per cent of this value (\$2.65 billion)⁵.

The current membership of the Committee includes three representatives from animal welfare organisations (including the RSPCA) and just two nominated by Primary Producers SA Inc. which would normally be one intensive producer (such as poultry) and one extensive producer (such as sheep or cattle). There is also one veterinarian, who may have no livestock production experience. Broader industry engagement with the Act and what it aims to achieve could be secured if this balance is improved by adding one more commercial livestock producer with experience in cattle and or sheep.

Currently, a representative from livestock production on the Committee is required for the administration of the *Livestock Act 1997*. However, on the development of the incoming *Biosecurity Act* for South Australia, there has been a proposal that the *Livestock Act* is moved and included in the new *Biosecurity Act*. If this is the case, the function to have a livestock representative on the Animal Welfare Advisory Committee should remain.

⁵ Primary Industries Scorecard 2021-22, https://www.pir.sa.gov.au/_data/assets/pdf_file/0006/431367/pirsa-score-card-2021-22.pdf

Recommendation

Expand the Animal Welfare Advisory Committee to include an additional commercial large animal livestock producer.

Part 3 – Animal Welfare Offences**Do you agree that the Act sets out appropriate requirements for owners' care of their animals?**

Livestock SA agrees that broadly speaking, Section 13 of the Act adequately sets out appropriate requirements for an owner's care of their animals. However, adequate consideration is not given to how external events (outside of their control) may sometimes detrimentally impact animal care, such as during natural disasters and Emergency Animal Disease outbreaks.

Recognition of such circumstances is included in the Queensland *Animal Care and Protection Act (2001)* which specifies that "*appropriate regard must be had to the species, environment and circumstances of the animal and the steps a reasonable person in the circumstances of the person would reasonably be expected to have taken*" and examples for this include bushfire, natural disaster, flood or other climatic condition.

The Act should also ensure the consideration that there are some South Australian livestock producers with extensive properties in remote areas where access to veterinary support is often limited. As a result, the steps taken for 'reasonable care' of animals may differ in these locations when compared to areas with easier access to support services.

Furthermore, feral deer and pigs, wild dogs, foxes and rabbits can have a huge detrimental impact on production areas, native wildlife and the environment. The continued access to responsible and humane management practices to reduce populations of invasive and pest animals is also critical for land owners. These animals can also pose significant biosecurity risks, potentially contributing to the spread of livestock diseases such as Foot and Mouth Disease and African Swine Fever.

Circumstances must also be considered when determining the use of control methods for exploding populations or smaller invertebrates, such as mouse plagues, which can have devastating impacts on properties and communities. In these circumstances access to control methods that are effective should continue to be allowed through appropriate compliance and regulation by the relevant government department.

Recommendations

Include a provision in the Regulations that considers the circumstances of the possible offence, such as natural disasters, Emergency Animal Disease outbreaks and access to limited services, such as veterinarians.

Continue access to the use of glue traps in prescribed circumstances (such as mouse plagues) where alternative and effective methods are not available.

Part 4 – Teaching and Research Involving Animals**Do you agree that the structures and functions of Animal Ethics Committees provide appropriate arrangements and oversight for the use of animals for teaching and research?**

The membership of the Animal Ethics Committee does not fully represent all areas of animal research and teaching that would be discussed by the committee. Animal teaching and research includes many different animal species, including production animal species. We therefore recommend that membership of this committee should be expanded to include expertise from the large animal livestock industry.

Recommendation

Membership of the Animal Ethics Committee should be expanded to include a person familiar with livestock production species.

Part 5 – Enforcement

Do you agree that the compliance powers set out in Part 5 of the Act are appropriate for the administration and enforcement of the Act, regulations and codes of practice?

The compliance powers for inspectors set out in Part 5 are appropriate. Livestock SA supports the training requirements outlined in the Regulations, with the proviso that inspectors must complete specialised training in the animal species and production systems they are investigating.

A 2018 study found investigations of animal welfare offences for farm animals under Section 13 of the Act resulted in higher fines and prison sentences compared to companion animals⁶. Although Livestock SA recognises that there may be increased animal numbers involved in animal welfare offences on farm, an informed and equitable approach must be taken across animal welfare investigations, regardless of the species under consideration. This requires appropriate education, training and ongoing professional development of investigating officers.

South Australia is a central state with significant livestock movement across state borders. Animal welfare breaches may occur in another state, but the breach identified in South Australia when the animals are transported. We therefore support the ability of animal welfare inspectors to exercise their powers under the Act if the person is not in South Australia or there is relevant documentation outside South Australia. This is similar to the Tasmanian *Animal Welfare Act 1993* and will allow effective investigation of cross border animal welfare issues such as livestock transport.

Support from other jurisdictions will be important to help manage animal welfare requirements during emergency events such as floods, fires and Emergency Animal Disease outbreaks. Livestock SA supports the ability to recognise officers authorised under equivalent animal welfare acts in other states and territories to be recognised under the Act during emergency times.

Recommendations

Animal welfare inspectors should complete education and training in the care and production system) of the animal species they are investigating.

Animal welfare inspectors should be able to exercise their powers against an individual who has left the state.

The powers of animal welfare inspectors authorised under other Australian jurisdictional legislation should be recognised under the Act in South Australia in prescribed circumstances.

⁶ Morton, R., Hebart, M.L. & Whittaker, A.L. (2018) Increasing Maximum Penalties for Animal Welfare Offences in South Australia – Has it caused Penal Change?

Do you agree that the penalties and expiations for contraventions are appropriate to discourage offending under the Act?

The wording of the Act and Regulations, supported by appropriate membership of the Animal Welfare Committee and adequate resourcing of agencies should aim to ensure appropriate and successful prosecutions. Consequently, the penalties and expiations for contraventions of the Act must be appropriate for seriousness of the offence and act as an absolute deterrent to reoffending and serve as a warning to others in the community.

Fines should also be indexed to CPI with appropriate penalties for corporations and individuals. During enforcement of the Act and determining penalties for contraventions of the Act, consideration of the value of enterprise should be undertaken and fines sufficiently flexible to allow them to reflect current market prices of the animal involved.

Whilst maximum penalties doubled from 2008 to 2018 and (relative to other state and territory animal welfare legislation) penalties in the Act could be viewed as appropriate, Livestock SA believes they need to be significantly higher if real and consistent change is the goal and the prosecuting agencies are to be adequately resourced to implement the Act consistently and effectively.

Furthermore, education and training could be used more actively as a requirement for offenders to continue to keep animals e.g. Certificate 1-3 in Animal Care, animal husbandry competencies for production animals, although for this to be effective, sufficient resourcing capability will be required.

Recommendations

Penalties should be significantly increased for individuals and corporate bodies to create an absolute barrier to re-offending and to alert the community to the need to better understand the responsibilities of caring for animals.

Financial penalties should be indexed to CPI and provide the flexibility to reflect current markets.

Compulsory education should be used for offenders.

Do you agree that the provisions in the Act that enable a model of shared enforcement are appropriate?

Livestock SA supports the ability to appoint people external to the State Government as inspectors under the Act to allow effective administration across all animal sectors.

However, it is imperative that differences in animal species, their use and associated care issues are recognised. Inspectors appointed under the Act must be suitably trained and experienced to carry out animal welfare compliance in the sector / species they work in.

Livestock SA believes that welfare compliance for farmed livestock animals should be undertaken by people with an understanding of the industry to inform the most appropriate outcome. Options could include enabling Biosecurity SA staff to undertake animal welfare investigations for commercially farmed animals. Department staff already undertake animal health investigations and by default have expertise in commercial animal farming. However, the Department must be adequately resourced and funded to allow inspectors to carry out broader investigations.

Alternatively, investigation responsibilities could be spilt to simplify the need for appropriate and current species expertise. In this model, the RSPCA could investigate companion animals such as dogs, cats, rabbits and rodents as well as pet/hobby farm livestock (up to 5 animals) for horses, cattle, sheep, goats, pigs and poultry. Commercially farmed animals including livestock and intensively farmed animals (5 or more) could then fall under the remit of Departmental animal welfare inspectors, who are suitably trained, qualified and experienced in commercial animal welfare legislation and requirements.

Recommendation

Utilise Biosecurity SA personnel with relevant expertise to inspect livestock enterprises of 5 or more livestock, freeing up RSPCA inspectors to focus on companion animals and livestock pets.

Livestock SA recognises that whistle-blowers are a key part of effective animal welfare detection and prosecution.

Recommendation

Include the protection of whistle-blowers to ensure continuing reporting of animal welfare offences.

Additional Comments – Animal Welfare Regulations 2012

Section 80 - Artificial Breeding Procedures

The ability to carry out the procedure of laparoscopic Artificial Insemination (AI) is currently limited by the Regulations to *'a veterinary surgeon or person acting under the supervision of a veterinary surgeon'*.

In our recent submission to the review of the Veterinary Services Bill, Livestock SA welcomed the inclusion of a provision to expand the ability for appropriately trained individuals or classes of individuals (including Veterinary Nurses and Technicians) to provide named veterinary services under an exemption to existing prohibitions, including (potentially) Laparoscopic AI and other services currently limited by workforce shortages.

Livestock SA again highlights the urgent need to allow appropriately trained non-veterinarians to also be permitted to perform Laparoscopic AI via a supporting change in the Animal Welfare Regulations. The SA Beef and Sheep Industry Blueprints both identify the need to enhance our sector's ability to respond more quickly to market specifications, disease resistance, climate change and carbon-neutrality via improved genetic gain achieved through using genetic technologies. Laparoscopic AI allows cattle and sheep studs to introduce proven genetic traits more quickly into their herds and flocks. Livestock SA anticipates that the acute shortage of large animal veterinarians in regional South Australia will require this procedure to be more freely available.

Recommendation

Change to Section 80 of the Animal Welfare Regulations 2012 to allow other suitably trained professionals to carry out Laparoscopic AI procedures, not just veterinarians or people under the supervision of a veterinarian.

Parts 8 (cattle) and 9 (sheep) - Standards of Care

Livestock SA reiterates the importance of alignment with the *Australian Animal Welfare Standards and Guidelines* (S&Gs), as nationally agreed S&Gs must underpin South Australia's legislative

framework for animal welfare. We support the inclusion of minimum standards of care for appropriate food, water and husbandry requirements, provided they are aligned with the National Standards. They should also take into account the animal species in question and extenuating circumstances such as remote locations where animal monitoring abilities differ, and natural disasters or other serious mitigating circumstances such as an emergency animal disease outbreak.

The Regulations also need to be sufficiently flexible to support the continuous and evidence-based evolution, improvement and subsequent readoption of the S&Gs. For example, it may be more appropriate to refer directly to the S&Gs rather than repeating them in the text. This way, as the National Standards and Guidelines change, the SA legislation remains current.

Recommendation

Any inclusion of Minimum Standards of Care under the Act and Regulations must be aligned with the National Animal Welfare Standards and allow for consideration of different circumstances of animal husbandry.

Closing Comments

South Australian livestock producers have demonstrated an ongoing commitment to animal welfare through the identification of enhanced animal health and welfare as key strategies in the South Australian Sheep and Beef Blueprints and subsequent investment of industry funds.

Livestock SA supports the ongoing review of animal welfare legislation to ensure it is fit for purpose and is appreciative of the opportunity to make comment on the review of the Act. We stress the need to ensure that the legislation (and its enforcement) is supported by contemporary science and evidence. We look forward to reviewing the supporting regulations in due course.

Please contact the Livestock SA office on (08) 8297 2299 or via admin@livestocksa.org.au if you would like to discuss this submission further.

Yours sincerely

Travis Tobin
Chief Executive Officer