

Legislative Council—No 78

As introduced and read a first time, 22 February 2023

South Australia

Independent Office of Animal Welfare Bill 2023

A BILL FOR

An Act to establish the Independent Office for Animal Welfare, to make related amendments to the *Animal Welfare Act 1985*, the *Dog and Cat Management Act 1995*, the *Livestock Act 1997* and for other purposes.

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Schedule 1—Related amendments

Part 1—Amendment of *Animal Welfare Act 1985*

1	Repeal of Part 2
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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Independent Office of Animal Welfare Act 2023*.

2—Commencement

5	This Act comes into operation 3 months after the day on which it is assented to by the Governor.
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3—Interpretation

In this Act—

Chief Animal Welfare Officer means the person appointed under section 7;

10	Committee means the Independent Office of Animal Welfare Advisory Committee established under section 11;
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Office means the Independent Office for Animal Welfare established under section 5;

State's animal welfare laws means the following:

- (a) the *Animal Welfare Act 1985*;
- (b) the *Dog and Cat Management Act 1995*;
- (c) the *Livestock Act 1997*;
- 5 (d) any other Act or law relating to the prevention of cruelty to, or the welfare of, animals in the State;

State's animal welfare codes, requirements and standards means codes of conduct, requirements and standards applicable to industries and dealing with matters relating to the prevention of cruelty to, or the welfare of, animals in the State.

10 4—Objects

The objects of this Act are—

- (a) to promote knowledge of animal welfare issues; and
- (b) to improve animal welfare outcomes; and
- 15 (c) to ensure the State's animal welfare codes, requirements and standards are independently reviewed and developed having regard to—
 - (i) contemporary scientific knowledge about animal welfare; and
 - (ii) advances in technology; and
 - (iii) community expectations and values; and
- 20 (d) to ensure the independent review of the administration and enforcement of the State's animal welfare laws.

5—Independent Office of Animal Welfare

- (1) The *Independent Office of Animal Welfare* is established as a body corporate.
- (2) The Office has the following functions:
 - 25 (a) reviewing and monitoring, including conducting inquiries, commissioning research and preparing reports on, the following:
 - (i) the State's animal welfare laws (including compliance with, and the enforcement and effectiveness of, the State's animal welfare laws);
 - (ii) the State's animal welfare codes, requirements and standards;
 - 30 (iii) the treatment of animals in a particular industry or sector, including (without limitation) greyhound racing, horse racing, agriculture and medical and scientific research;
 - (iv) the possible harmonisation of the State's animal welfare laws with similar laws of the Commonwealth, other States and the Territories;
 - (b) liaising with bodies responsible for national policies and guidelines;
 - 35 (c) providing advice to Ministers who are responsible for administering the State's animal welfare laws;
 - (d) any other functions assigned to the Office under another Act.

- (3) Except as provided under this Act or any other Act, the Office is not subject to Ministerial direction in the performance of its functions.

6—Staff

- (1) The Office will consist of—

- 5 (a) the Chief Animal Welfare Officer (who will be the principal officer of the Office); and
- (b) persons engaged by the Office on terms and conditions determined by the Office; and
- 10 (c) persons employed in the Public Service of the State and assigned to assist the Office.

- (2) Persons engaged by the Office are not Public Service employees but are to be taken to be public sector employees, employed by the Office, for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* and section 74 of the *Public Sector Act 2009*.

- 15 (3) While a Public Service employee is assigned to the Office, directions given to the employee by the Chief Animal Welfare Officer prevail over directions given to the employee by the chief executive of the administrative unit of the Public Service in which the employee is employed to the extent of any inconsistency.

7—Chief Animal Welfare Officer

- 20 (1) The Minister must appoint a person as the Chief Animal Welfare Officer on the recommendation of a majority of the Committee.

- (2) The Chief Animal Welfare Officer will be appointed for a term not exceeding 3 years and on conditions determined by the Minister and, at the end of a term of appointment, will be eligible for reappointment.

- 25 (3) The appointment of the Chief Animal Welfare Officer may be terminated by the Minister on the ground that the Chief Animal Welfare Officer—

- (a) has been guilty of misconduct; or
- (b) has been convicted of an offence punishable by imprisonment; or
- 30 (c) has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors; or
- (d) has been disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth; or
- (e) has, because of mental or physical incapacity, failed to carry out duties of the position satisfactorily; or
- 35 (f) is incompetent or has neglected the duties of the position.

- (4) The appointment of the Chief Animal Welfare Officer is terminated if the Chief Animal Welfare Officer—

- (a) becomes a member, or a candidate for election as a member, of the Parliament of a State or the Commonwealth or a Legislative Assembly of a Territory of the Commonwealth; or
- 40 (b) is sentenced to imprisonment for an offence.

- (5) The Chief Animal Welfare Officer may resign by notice in writing to the Minister of not less than 3 months (or such shorter period as is accepted by the Minister).

8—Appointment of acting Chief Animal Welfare Officer

- 5 (1) The Minister may appoint a person to act as the Chief Animal Welfare Officer during any period for which—
- (a) no person is for the time being appointed as the Chief Animal Welfare Officer; or
 - (b) the Chief Animal Welfare Officer is absent from, or unable to discharge, official duties.
- 10 (2) The terms and conditions of appointment of the person appointed to act as the Chief Animal Welfare Officer will be determined by the Minister.

9—Honesty and accountability

15 The Chief Animal Welfare Officer and any other person appointed to act as the Chief Animal Welfare Officer are senior officials for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

10—Delegation

- (1) Subject to this section, the Office and the Chief Animal Welfare Officer may delegate any functions under this or any other Act.
- (2) A delegation under this section—
- 20 (a) must be in writing; and
 - (b) may be conditional or unconditional; and
 - (c) is revocable at will; and
 - (d) does not prevent the delegator from acting in any matter.
- (3) A function delegated under this section may, if the instrument of delegation so provides, be further delegated.
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11—Independent Office of Animal Welfare Advisory Committee

- (1) The Independent Office of Animal Welfare Advisory Committee will consist of—
- 30 (a) the Chief Animal Welfare Officer (if a person has been appointed as such) who will be a member *ex officio*; and
 - (b) the members appointed by the Minister in accordance with subsection (2).
- (2) The Minister must, as soon as practicable after this section commences, appoint the following members to the Committee:
- 35 (a) 3 members representing non-government animal welfare organisations;
 - (b) 2 members representing approved charitable organisations;
 - (c) 2 members who are scientists with expertise in animal welfare;
 - (d) 1 member representing a consumer rights organisation;
 - (e) 1 member representing—

- (i) commercial breeders, sellers or purchasers of animals; or
- (ii) commercial producers or purchasers of animal products;
- (f) 1 member representing the Minister;
- (g) 1 member representing local councils;
- 5 (h) 1 member with expertise in ethics as it relates to animal welfare.

- (3) A member of the Committee will be appointed under this section for a term of 3 years.
- (4) A member of the Committee is eligible, if otherwise qualified, for reappointment.
- (5) The Minister must, as soon as practicable after the appointment of any member to the Committee, ensure that a report is provided to both Houses of Parliament on how the member was selected.
- 10 (6) The Minister may, from time to time, appoint a person to act in the office of a member of the Committee during the member's absence or during a vacancy in the office of the member.
- (7) A member (or acting member) of the Committee is appointed on terms and conditions determined by the Minister.
- 15 (8) The Minister may revoke an appointment under this section at any time.

12—Functions and meetings of Committee

- (1) The functions of the Committee are—
 - 20 (a) to give advice and assistance to the Office in relation to the exercise of the Office's functions; and
 - (b) to make recommendations to the Minister, at the request of the Minister, in relation to the appointment of a person as the Chief Animal Welfare Officer.
- (2) The quorum for a meeting of the Committee is a majority of members of the Committee for the time being.
- 25 (3) Subject to subsection (4), the Chief Animal Welfare Officer must preside at a meeting of the Committee.
- (4) For the duration of the consideration of a matter relating to recommending the appointment of a person as the Chief Animal Welfare Officer—
 - 30 (a) the current Chief Animal Welfare Officer (if any) must leave the meeting; and
 - (b) 1 of the members of the Committee present at the meeting, as elected by the other members present, must preside.
- (5) The person presiding at a meeting has—
 - 35 (a) a deliberative vote, and
 - (b) in the event of an equality of votes—a second or casting vote.
- (6) A decision supported by a majority of the votes cast at a meeting of the Committee at which a quorum is present is the decision of the Committee.

- (7) Except as provided in this section, the procedures of the Committee will be as prescribed by the regulations or (in the absence of such regulations) as determined by the Committee.

13—Annual report

- 5 (1) The Office must, on or before 30 September in each year, prepare and deliver to the Minister a report on the operations of the Office during the previous financial year.
- (2) The Minister must, within 12 sitting days after receiving a report under this section, cause a copy of the report to be laid before both Houses of Parliament.

14—Regulations

- 10 The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

Schedule 1—Related amendments

Part 1—Amendment of *Animal Welfare Act 1985*

1—Repeal of Part 2

- 15 Part 2—delete the Part

Part 2—Amendment of *Dog and Cat Management Act 1995*

2—Amendment of section 4—Interpretation

Section 4—after the definition of *identified cat* insert:

- 20 *Independent Office of Animal Welfare* means the Independent Office of Animal Welfare established under the *Independent Office of Animal Welfare Act 2023*;

3—Amendment of section 21—Functions of Board

- (1) Section 21(1)(d)—delete " the Minister or the LGA" wherever occurring and substitute in each case:
- 25 the Minister, the LGA or the Independent Office of Animal Welfare
- (2) Section 21(1)—after paragraph (d) insert:
- (da) to liaise with the Independent Office of Animal Welfare in relation to the exercise of functions under this Act;

Part 3—Amendment of *Livestock Act 1997*

4—Amendment of section 3—Interpretation—general

30 Section 3(1)—after the definition of *holding* insert:

- Independent Office of Animal Welfare* means the Independent Office of Animal Welfare established under the *Independent Office of Animal Welfare Act 2023*;

5—Amendment of section 7A—Interaction with other Acts

Section 7A(2)—after "*Emergency Management Act 2004*" insert:
or the *Independent Office of Animal Welfare Act 2023*

6—Amendment of section 16—Codes of practice

5 Section 16(3)—after "(if any)" insert:
and with the Independent Office of Animal Welfare

7—Amendment of section 36—Guidelines for taking action under this Division

Section 36(1)(c)—after "Minister" insert:
after consultation with the Independent Office of Animal Welfare