

**Legislative Council—No 67**

As introduced and read a first time, 30 November 2022

South Australia

**Statutes Amendment (Animal Welfare Reforms)  
Bill 2022**

A BILL FOR

An Act to amend the *Animal Welfare Act 1985* and the *Dog and Cat Management Act 1995*.

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Statutes Amendment (Animal Welfare Reforms) Act 2022*.

#### 5 2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

### Part 2—Amendment of *Animal Welfare Act 1985*

#### 3—Amendment of section 3—Interpretation

Section 3, definition of *owner*—delete the definition and substitute:

10 *owner*—see section 4;

#### 4—Insertion of section 4

After section 3 insert:

#### 4—Ownership of animals and property

- 15 (1) For the purposes of this Act, a reference to the *owner* of an animal will be taken to include a reference to—
- (a) a person who has the custody and control of the animal, including a person who shares the custody and control of the animal with another person; and

(b) in the case of a dog or cat registered under the *Dog and Cat Management Act 1995* or any other Act or law—the person in whose name the dog or cat was registered at the relevant time;

5 (2) In proceedings for an offence against this Act, if an animal is shown to have been habitually in the apparent ownership of a person, that person will, in the absence of proof to the contrary, be taken to have owned and to continue to own the animal.

10 (3) For the purposes of this Act, a reference to the *owner* of real or personal property will be taken to include a reference to a person entitled to possession of the property.

## 5—Insertion of Part 3A

After section 15A insert:

### 15 Part 3A—Dog and cat rescue organisation and rehousing facilities

#### Division 1—Preliminary

#### 15B—Interpretation

(1) In this Part, unless the contrary intention appears—

*cat* means an animal of the species *felis catus*;

20 *code of practice* means the code of practice established under section 15F, as in force from time to time;

*dog* means an animal of the species *canis familiaris*;

*holding period*, for a dog or cat held in a rehousing facility by or on behalf of a prescribed organisation, means—

25 (a) in the case of a dog or cat that is registered, microchipped or otherwise carries identification—the period of 7 days commencing on the day after the dog or cat came into the possession of the organisation; or

30 (b) in any other case—the period of 3 days commencing on the day after the dog or cat came into the possession of the organisation;

*licence*, in relation to a prescribed organisation, means a licence under this Part;

*prescribed organisation*—see subsection (2);

35 *registered*, in relation to a dog or cat, means a dog or cat registered under the *Dog and Cat Management Act 1995*;

*rehousing facility* means a facility operated by or on behalf of a prescribed organisation at which stray, abandoned, ill-treated, injured, sick or surrendered dogs or cats (or both)—

40 (a) are temporarily sheltered while awaiting rehousing; or

- (b) are permanently sheltered if rehousing is not reasonably practicable,

but does not include a facility of a kind declared by the regulations not to be included in the ambit of this definition;

*rescue and rehousing service* means a service consisting of or including the rehousing of stray, abandoned, ill-treated, injured, sick or surrendered dogs or cats or both (however described).

- (2) For the purposes of this Part, a reference to a *prescribed organisation* will be taken to be a reference to the following persons and bodies:

- (a) the Society;  
(b) the Animal Welfare League of South Australia Incorporated;  
(c) a person or body who—

(i) holds, or is acting for or on behalf of the holder of, a section 6 licence (within the meaning of the *Collections for Charitable Purposes Act 1939*); and

(ii) collects money or other property, or obtains bequests, for the provision of charitable services (within the meaning of the *Collections for Charitable Purposes Act 1939*) consisting of or including provision of welfare services for animals,

(other than a person or body, or person or body of a class, declared by the regulations not to be included in the ambit of this paragraph);

- (d) any other person or body, or person or body of a class, prescribed by the regulations.

### **15C—Application of Part**

- (1) This Part applies to dogs and cats.  
(2) This Part does not apply in relation to—

- (a) dingos; or  
(b) dogs or cats living in an undomesticated state (commonly known as feral dogs and cats); or  
(c) dogs or cats of a kind declared by the regulations to be excluded from the operation of this Part; or  
(d) any other animal.

### **15D—Interaction with *Dog and Cat Management Act 1995***

This Part is in addition to, and does not derogate from, the *Dog and Cat Management Act 1995*.

## 15E—Objects and principles

- (1) The objects of this Part include—
- (a) preventing, as far as is reasonably practicable, the killing of stray, abandoned, ill-treated, injured, sick or surrendered dogs and cats that are suitable for rehousing; and
  - (b) encouraging the rehousing of stray, abandoned, ill-treated, injured, sick or surrendered dogs and cats; and
  - (c) ensuring that, in the cases where dogs or cats must be killed, it is done in a way that is humane and compassionate; and
  - (d) developing a code of practice that furthers these objects.
- (2) The following principles apply in relation to the operation of this Part:
- (a) no dog or cat should be killed if it can be safely rehoused;
  - (b) dogs and cats in rehousing facilities require proper shelter, care, nutrition and exercise;
  - (c) dogs and cats in rehousing facilities require enrichment and interaction;
  - (d) dogs and cats in rehousing facilities require proper veterinary care;
  - (e) prescribed organisations should make every effort, and be supported, to provide every dog and cat in their custody with individual consideration and care.

## Division 2—Code of practice

### 15F—Code of practice

- (1) For the purposes of this Part, the Minister must, by notice in the Gazette, publish a code of practice.
- (2) Without limiting any other matters that may be included in the code of practice, the code of practice must contain the following provisions:
- (a) a provision requiring that dogs and cats not be euthanased by a prescribed organisation if they can reasonably and safely be taken to another organisation that can take possession of them;
  - (b) a provision prohibiting the permanent sheltering of dogs and cats by prescribed organisations, other than in exceptional circumstances set out in the code;
  - (c) provisions setting out criteria for determining the suitability of a dog or cat for rehousing;

- (d) provisions setting out the minimum standard of care to be provided by prescribed organisations (including at rehousing facilities).
- 5 (3) The Minister may, by subsequent notice in the Gazette, vary, substitute or revoke a code of practice.
- (4) Before publishing a code of practice under subsection (1) or publishing a notice to vary or substitute a code of practice under subsection (3), the Minister—
- 10 (a) must consult with the prescribed organisations; and  
(b) must call for public submissions in accordance with a scheme determined by the regulations.
- (5) The Minister must cause the code of practice to be reviewed at least once in each 5 year period.
- 15 (6) A notice published in the Gazette under this section may come into operation on the day on which it is published or on a later day or days specified in the notice.
- 20 (7) Sections 10 (other than subsection (1)) and 10A of the *Legislative Instruments Act 1978* apply to the publication, variation or substitution of a code of practice under this section (and a reference in section 10 or 10A to a regulation will be taken to be a reference to the code of practice, the variation or the substitution (as the case requires)).

### **15G—Offence to contravene code of practice**

25 A person who, without reasonable excuse, contravenes a provision of the code of practice in relation to the operation of a prescribed organisation is guilty of an offence.

Maximum penalty: \$10 000.

### **Division 3—Licence required to operate certain rescue organisations**

#### **30 15H—Offence for prescribed organisation to provide rescue and rehousing services without licence etc**

- (1) A prescribed organisation must not provide, or offer to provide, a rescue and rehousing service unless the organisation holds a licence under this Part.

35 Maximum penalty: \$50 000.

- (2) A prescribed organisation must not operate a rehousing facility for dogs or cats in the ownership, or under the custody or control, of the organisation unless the organisation's licence is appropriately endorsed under section 15J.

40 Maximum penalty: \$50 000.

### **15I—Minister may grant licence**

- 5
- (1) The Minister may, on application, grant a licence to a prescribed organisation authorising the prescribed organisation to provide a rescue and rehousing service.
- (2) Each licence is subject to a condition requiring the holder of the licence to comply with the code of practice.
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- (3) Without limiting this section, a licence may be granted subject to such conditions as the Minister thinks fit and specifies in the licence (including, without limiting the generality of this subsection, a condition limiting the kinds of animal that can be rescued or rehoused pursuant to the licence).
- (4) An application for a licence—
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- (a) must be made in a manner and form approved by the Minister; and
- (b) must include such information as the Minister may reasonably require; and
- (c) must be accompanied by the prescribed fee.
- (5) In determining whether or not to grant a licence, the Minister must have regard to—
- 20
- (a) the suitability of the applicant to be granted the licence, including by having regard to any offences committed by the prescribed organisation, or a person associated with the prescribed organisation (whether an offence under the law of South Australia or elsewhere); and
- 25
- (b) the adequacy of the applicant's premises and facilities (if any) in respect of the provision of rescue and rehousing services; and
- (c) such other matters as may be prescribed by the regulations, and may have regard to any other matter that the Minister thinks
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- relevant.
- (6) The Minister may, by notice in writing, vary or revoke a condition of, or impose further conditions on, a licence for any reason the Minister thinks fit.
- (7) A licence remains in force until it is—
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- (a) revoked by the Minister; or
- (b) surrendered by the holder of the licence.

### **15J—Endorsement of licence to operate rehousing facility**

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- (1) The Minister may, at the time of granting the licence or on subsequent application, include or add an endorsement to a licence granted under section 15I authorising the licence holder to operate a rehousing facility in the course of providing rescue and rehousing services.



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- (2) An endorsement may be subject to such conditions as the Minister thinks fit and specifies in the licence (including, without limiting the generality of this subsection, a condition limiting the number or kinds of dogs and cats that can be accommodated at the facility at any time).
- (3) An application for an endorsement—
- 10
- (a) must be made in a manner and form approved by the Minister; and
- (b) must include such information as the Minister may reasonably require; and
- (c) must be accompanied by the prescribed fee.
- (4) In determining whether or not to endorse a licence, the Minister must have regard to—
- 15
- (a) the adequacy of the applicant's facilities, or proposed facilities, in respect of providing accommodation for dogs or cats (as the case requires); and
- (b) such other matters as may be prescribed by the regulations, and may have regard to any other matter that the Minister thinks relevant.
- 20
- (5) The Minister may, by notice in writing, vary or revoke an endorsement for any reason the Minister thinks fit.

### **15K—Revocation and suspension of licence**

- (1) If the Minister is satisfied that the holder of a licence—
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- (a) has been found guilty of an offence against this Act; or
- (b) has contravened the code of practice (whether or not the licence holder or any other person has been convicted of an offence relating to the contravention); or
- (c) has failed to comply with a condition of the licence; or
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- (d) has failed to comply with a compliance notice issued under section 15L; or
- (e) has failed to provide a report required under section 15N; or
- (f) has obtained the licence improperly,
- the Minister may, by notice in writing—
- (g) suspend the licence—
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- (i) for a period specified in the notice; or
- (ii) until the holder of the licence causes such action as may be specified in the notice to be taken to the satisfaction of the Minister; or

(h) allow the holder of the licence to continue to provide rescue and rehoming services subject to specified conditions (including conditions preventing further dogs or cats being received by the prescribed organisation, or requiring supervision of the operation of the prescribed organisation by a specified person or body); or

(i) revoke the licence.

(2) The Minister may, by notice in writing, vary or revoke a condition imposed under subsection (1)(h) for any reason the Minister thinks fit.

(3) A person who contravenes a condition imposed under subsection (1)(h) is guilty of an offence.

Maximum penalty: \$10 000.

(4) Before the Minister revokes a licence under subsection (1)(i), the Minister must—

(a) give the licence holder written notice of the proposed revocation specifying the reasons for the revocation; and

(b) allow the licence holder at least 14 days within which to make submissions to the Minister in relation to the proposed revocation.

(5) The Minister may, if the Minister considers it appropriate to do so, by notice in writing, disqualify (either permanently or for a specified period) a specified prescribed organisation from holding or obtaining a licence under this Part.

## **Division 4—Inspections**

### **15L—Inspections**

(1) It is a condition of every licence that the licence holder must—

(a) allow an inspector to inspect the activities of the licence holder authorised by the licence; and

(b) adequately address any matter identified by an inspector during the course of an inspection under this section.

(2) An inspection may be conducted by the inspector doing any 1 or more of the following:

(a) analysing activities, processes and procedures that have been employed by a licence holder to ensure compliance with the requirements under this Act, a code of practice and the conditions of their licence;

(b) inspecting or examining any premises, vehicle, equipment or other device used by the licence holder under the licence;

(c) examining random or selective samples of documents or other records to check on processes and procedures or to ascertain any other relevant matter;

- (d) conducting interviews of persons who may be able to provide information relevant to the inspection;
- (e) taking such other steps or making such other inquiries as the inspector thinks fit.
- 5 (3) If an inspector reasonably believes that—
- (a) a breach of a code of practice established under section 15F has occurred or is likely to occur; or
- (b) a breach of a condition of a licence granted under section 15I has occurred or is likely to occur; or
- 10 (c) a breach of a provision of this Act or any other Act in relation to animal welfare has occurred or is likely to occur, the authorised officer may, by written notice in a form approved by the Minister, issue a notice (a **compliance notice**) in accordance with this section.
- 15 (4) A compliance notice may require the licence holder or any other person—
- (a) to discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice; or
- 20 (b) to not carry on a specified activity except subject to specified conditions; or
- (c) to take specified action within a specified period or until the happening of a specified event or until further notice.
- 25 (5) A compliance notice may be issued orally if the inspector is of the opinion that urgent action is required, but in that event, the notice will cease to have effect on the expiration of 72 hours from the time of its issuing unless confirmed by a written compliance notice served on the person.
- 30 (6) A written compliance notice under this section must include a statement advising the recipient of their right to apply to the Tribunal for a review under Division 7.
- (7) An inspector may, by written notice given to a licence holder to whom a compliance notice has been issued, vary or revoke the notice.

## **Division 5—Euthanasia of dogs and cats held by prescribed organisations**

### **15M—Euthanasia of dogs and cats held by prescribed organisations**

- 5 (1) A dog or cat held by or on behalf of a prescribed organisation may be euthanased at any time if the dog or cat has been assessed (in accordance with any requirements set out in the code of practice) as—
- 10 (a) being unsuitable for rehousing; or
- (b) experiencing irremediable physical or mental suffering.
- (2) Except as may be authorised under subsection (1), the following provisions apply in relation to the euthanasia of a dog or cat held by or on behalf of a prescribed organisation:
- 15 (a) the dog or cat must not be euthanased during the holding period for the dog or cat;
- (b) the dog or cat must not be euthanased unless—
- 20 (i) the prescribed organisation has, in accordance with the code of practice, offered the dog or cat to other animal rescue organisations (whether or not the other animal rescue organisation is willing to take possession of the dog or cat in the circumstances); and
- (ii) the prescribed organisation has complied with any other requirement set out in the regulations or the code of practice; and
- 25 (iii) the prescribed organisation has certified, in accordance with the regulations, that there was no reasonable alternative to euthanasing the animal in the circumstances;
- 30 (c) the dog or cat may only be euthanased if—
- (i) a foster home cannot be found within the period specified in the code of practice; and
- (ii) it is not reasonably practicable (having regard to the operational needs of the prescribed organisation) for the dog or cat to be permanently rehoused with the prescribed organisation.
- 35 (3) However, subsection (2)(a) and (b) do not apply in the following circumstances:
- 40 (a) the euthanasia of a dog or cat that has been certified by a veterinary surgeon as experiencing irremediable physical or mental suffering;

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- (b) the euthanasia of a dog or cat where a veterinarian surgeon has certified that it would not be appropriate to rehouse the dog or cat because of the extent of the injuries or the general condition of the animal;
- (c) the euthanasia of a dog pursuant to a destruction order under Part 5 of the *Dog and Cat Management Act 1995*;
- (d) the euthanasia of a dog or cat pursuant to an order of a court.
- 10 (4) Euthanasia may only be administered to a dog or cat as follows (including, to avoid doubt, to a dog or cat euthanased pursuant to subsection (1)):
- (a) the dog or cat may only be euthanased by a veterinarian surgeon or, if the circumstances set out in subsection (5) apply, an inspector;
- 15 (b) the method used to euthanase the animal must be humane and appropriate in the circumstances (and in any case must not be a proscribed method);
- (c) the dog or cat must be sedated before being euthanased so as to minimise stress or discomfort, or to ensure staff safety (however, neuromuscular blocking agents must not be used);
- 20 (d) following the administration of an injection, the dog or cat must be lowered to the surface on which they are being held and must not be permitted to drop or otherwise collapse without support;
- (e) the dog or cat must not be left unattended between the time procedures to euthanase the dog or cat are commenced and the time death occurs;
- 25 (f) the dog's or cat's body must not be disposed of before death is verified in accordance with this section;
- (g) the euthanasia of the dog or cat must comply with any other requirements set out in the code of practice.
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- (5) A dog or cat may be euthanased by an inspector if a veterinarian surgeon is not available because the dog or cat is in a remote geographical location.
- (6) A person who, without reasonable excuse, contravenes subsection (2) or (4) is guilty of an offence.
- 35 Maximum penalty: \$20 000 or imprisonment for 2 years.
- (7) For the purposes of this section, the death of a dog or cat must be verified by—
- 40 (a) a veterinarian surgeon in accordance with appropriate standards of veterinary practice; or
- (b) if the dog or cat is euthanased by an inspector pursuant to subsection (5), an inspector in accordance with any guidelines determined by the Minister.

- (8) To avoid doubt, nothing in this section authorises the euthanasia of a dog or cat merely because the holding period for the dog or cat has elapsed.
- (9) Nothing in this section limits the operation of section 34B.
- 5 (10) No civil liability attaches to a prescribed organisation, inspector or any other person in relation to the euthanasia of an animal carried out in good faith, without negligence and in accordance with this section.
- (11) In this section—
- irremediable physical or mental suffering* means a dog or cat that—
- 10 (a) has a poor or grave prognosis for being able to live without severe, unremitting pain even with comprehensive, prompt, and necessary veterinary care; or
- (b) has unmanageable fear or behavioural abnormalities that prevent the dog or cat from enjoying a normal quality of life.

## 15 **Division 6—Reporting**

### **15N—Licence holders to report to Minister**

- (1) The holder of a licence under this Part must, on or before 30 September in each year, prepare and submit a written report to the Minister setting out the following information relating to the preceding financial year:
- 20 (a) the total number of dogs and cats surrendered to or otherwise rescued by the licence holder;
- (b) the number of dogs and cats returned to their owners by the licence holder;
- 25 (c) the number of dogs and cats rehoused by the licence holder;
- (d) the number of dogs or cats euthanased by or on behalf of the licence holder (including the reason for the administration of euthanasia);
- 30 (e) the number of dogs or cats in the care of the licence holder on 31 July of that year;
- (f) any other information required by the regulations or under the code of practice.
- (2) The holder of a licence must allow inspection (without charge) of a report under subsection (1) by members of the public.
- 35 (3) The Minister must, as soon as is reasonably practicable after receiving a report under subsection (1), cause a copy of the report to be published on a website determined by the Minister.

## Division 7—Review of decisions

### 15O—Review of decisions by South Australian Civil and Administrative Tribunal

- 5 (1) The South Australian Civil and Administrative Tribunal is, by force of this section, conferred with jurisdiction to deal with matters consisting of the review of a decision of the Minister under this Part or a decision by an inspector to issue a notice under section 15L (a *reviewable decision*).
- 10 (2) An application for review of a reviewable decision may be made to the South Australian Civil and Administrative Tribunal by a person aggrieved by the decision within 1 month after the applicant receives notice of the relevant decision (or such longer period as the Tribunal may allow).
- 15 (3) However, the South Australian Civil and Administrative Tribunal may only allow an extension of time under subsection (2) if satisfied that—
- (a) special circumstances exist; and
  - (b) another party will not be unreasonably disadvantaged because of the delay in commencing the proceedings.

## Division 8—Miscellaneous

### 15P—Offence to hold out as being licensed

A person must not hold themselves out as holding a licence under this Part unless the person is in fact so licensed.

Maximum penalty: \$10 000.

### 15Q—Exemptions

- 25 (1) The Minister may, on application or on the Minister's own motion, exempt a specified person or body from this Part, or specified provisions of this Part.
- 30 (2) Subject to this section, an exemption—
- (a) must be in writing; and
  - (b) may be conditional or unconditional; and
  - (c) has effect for the period specified in the exemption.
- (3) The Minister—
- (a) must, unless the Minister is satisfied that good reasons exist for not doing so, by notice in writing, revoke an exemption of a person or body if the person or body—
    - (i) is found guilty of an offence against this Act; or
    - (ii) has obtained the exemption improperly; or
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(iii) fails to comply with a condition of the exemption;  
and

(b) may, by notice in writing, vary or revoke an exemption for  
any other reason the Minister thinks fit.

5 (4) An application for an exemption, or for the variation of an  
exemption—

(a) must be made in a manner and form determined by the  
Minister; and

10 (b) must include such information as the Minister may  
reasonably require; and

(c) must be accompanied by the prescribed fee.

### 15R—General defence

15 It is a defence to a charge of an offence against this Part if the  
defendant proves that the alleged offence was not committed  
intentionally and did not result from any failure on the part of the  
defendant to take reasonable care to avoid the commission of the  
offence.

### 6—Amendment of section 30—General powers

Section 30(5)—delete paragraph (f) and substitute:

20 (f) premises or a vehicle in which an inspector reasonably suspects there  
may be records relating to a business or organised event or activity  
involving animals;

25 (g) premises or a vehicle in which an inspector reasonably suspects there  
may be an animal or other thing that has been used in, or may  
constitute evidence of, a contravention of this Act.

### 7—Amendment of section 31A—Special powers relating to animals

Section 31A(1)—delete "may if urgent action is not taken suffer unnecessary harm"  
insert:

is at risk of suffering

### 30 8—Insertion of Part 5 Division 2A

After section 31B insert:

#### Division 2A—Animal cruelty intervention orders

##### 31BA—Animal cruelty intervention orders

35 (1) An inspector or a veterinary surgeon may apply to the Magistrates  
Court for an order under this section (an *animal cruelty intervention  
order*) if the inspector or veterinary surgeon (as the case requires)  
believes on reasonable grounds that the person against whom the  
order is sought (the *defendant*) will, without intervention, cause the  
death of, or serious harm to, an animal.



- (2) To avoid doubt, an application may be made under this section whether or not—
- (a) death or harm has, in fact, been caused to an animal; or
  - (b) the defendant has been charged with an offence.
- 5 (3) The Magistrates Court may, on application and if satisfied that the defendant will, without intervention, cause the death of, or serious harm to, an animal, make an animal cruelty intervention order against the defendant.
- 10 (4) An animal cruelty intervention order may be made in the absence of the defendant if the defendant was required by summons to appear at the hearing of the application and failed to appear in obedience to the summons (however in such a case the order will not be taken to be binding on the defendant until served personally on the defendant).
- 15 (5) An animal cruelty intervention order may do 1 or more of the following:
- (a) prohibit the defendant from having the custody or control of a specified animal, a specified class of animals, a specified number of animals or number of animals of a class, or any animals;
  - 20 (b) require the defendant to surrender specified animals, or all animals, in the custody or control of the defendant to a specified person within a specified period;
  - (c) prohibit the defendant from attending at, or being in, a specified locality (not being residential premises occupied by the defendant);
  - 25 (d) prohibit the defendant from contacting, harassing, threatening or intimidating a specified person or persons at a specified place at which animals owned by the defendant are being cared for;
  - 30 (e) prohibit the defendant from destroying or damaging specified property;
  - (f) prohibit the defendant from taking possession of specified personal property reasonably needed in relation to the care of animals owned by the defendant;
  - 35 (g) prohibit the defendant from causing or allowing another person to engage in the conduct referred to in a preceding paragraph;
  - (h) require the defendant to produce specified personal property reasonably needed in relation to the care of animals owned by the defendant to a specified person;
  - 40 (i) impose any other requirement on the defendant to take, or to refrain from taking, specified action in relation to animals.

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- (6) An animal cruelty intervention order may specify—
- (a) conditions under which a prohibition imposed by the order does not apply; and
  - (b) conditions that must be complied with in relation to a requirement imposed by the order.
- (7) A person who contravenes or fails to comply with an animal cruelty intervention order is guilty of an offence.  
Maximum penalty: Imprisonment for 2 years.
- 10 (8) An animal cruelty intervention order is ongoing and continues in force (subject to any variation or substitution of the order under this Act) until it is revoked.
- 15 (9) The Magistrates Court may, when issuing or varying an animal cruelty intervention order fix a date (being not less than 12 months after issue or variation of the order) after which the defendant may apply for variation or revocation, or further variation, of the order.

**31BB—Disclosure to police of information relevant to locating defendant**

- 20 (1) A public sector agency that is bound by the State's Information Privacy Principles, or an entity providing services to a public sector agency under a contract that provides that the entity is bound by the State's Information Privacy Principles, must, on request, make available to a police officer information under the control of the agency or entity that could reasonably be expected to assist in locating the defendant (within the meaning of section 31BA(1)).
- 25 (2) In this section—
- State's Information Privacy Principles* means the principles applying in relation to the collection, storage, use and disclosure of personal information by public sector agencies and entities that enter into contracts to provide goods and services to or for public sector agencies.
- 30

**9—Amendment of section 31C—Dealing with seized animals and objects**

- (1) Section 31C—after subsection (2) insert:
- 35 (2a) A magistrate may make such ancillary orders in relation to an order under subsection (2) as the magistrate considers appropriate (including, for example, an order that the owner of the animal or other party to the application is to pay to a specified person or body the reasonable costs of caring for the animal until the application is determined).
- (2) Section 31C—after subsection (3) insert:
- 40 (3a) To avoid doubt, section 15M (other than subsection (2)) applies in relation to the destruction of a dog or cat under subsection (1) or (2).

## 10—Insertion of section 31EA

After section 31E insert:

### 31EA—Interim court orders

- 5
- (1) A court hearing an application under this Act, or proceedings on a charge of an offence against this Act, may make such interim orders as the court considers appropriate.
- (2) Without limiting the generality of subsection (1), a court may make 1 or more of the following orders:
- 10
- (a) an order requiring a specified person to care for an animal or animals owned by the person (whether or not the subject of the offence) in accordance with the terms of the order;
- (b) an order directing a specified person to surrender a specified animal owned by the person (being an animal that is the subject of a charge of an offence against this Act) to a specified person;
- 15
- (c) an order directing a specified person to surrender a specified animal or animals owned by the person to a specified person;
- (d) an order prohibiting a specified person from owning or possessing an animal, or an animal of a specified class, until further order or for a period specified in the order.
- 20
- (3) A court may make such ancillary orders in relation to an order under subsection (1) as the court considers appropriate (including, for example, an order that the owner of the animal is to pay to a specified person ordered to care for the animal pursuant to this section the reasonable costs of caring for the animal).
- 25

## 11—Amendment of section 32A—Court orders on finding of guilt etc

- (1) Section 32A(2), penalty provision—delete the penalty provision and substitute:  
Maximum penalty: Imprisonment for 2 years.
- 30
- (2) Section 32A—after subsection (3) insert:
- (4) To avoid doubt, section 15M (other than subsection (2)) applies in relation to the destruction of an animal under subsection (3).

## 12—Insertion of section 42AA

After section 42 insert:

### 42AA—Animals that are evidence

35

Despite any other Act or law, the admissibility of, or weight to be given to, evidence of an offence against this Act consisting of a live animal is not affected by the fact that the animal is sold, rehoused or otherwise disposed of under this or any other Act.

### 13—Substitution of section 43

Section 43—delete the section and substitute:

#### **43—Act does not render unlawful practices that are in accordance with prescribed code of animal husbandry practice**

- (1) Subject to this section, nothing in this Act renders unlawful anything done in accordance with a prescribed code of practice relating to animals.
- (2) This section does not apply in relation to the operation of prescribed organisations (within the meaning of Part 3A) in accordance with a prescribed code of practice to the extent that the code permits such an organisation to operate in contravention of Part 3A.

## **Part 3—Amendment of *Dog and Cat Management Act 1995***

### 14—Amendment of section 4—Interpretation

Section 4—after the definition of *LGA* insert:

***prescribed rescue and rehousing organisation*** means a prescribed organisation licensed under Part 3A of the *Animal Welfare Act 1985*;

### 15—Amendment of section 33—Dogs must be registered

Section 33(5)(b)—after subparagraph (iii) insert:

or

- (iv) a prescribed rescue and rehousing organisation.

### 16—Amendment of section 61—Procedure following seizure of dog

- (1) Section 61(1)(b)—delete "in a facility approved by the Board for the purpose of detaining dogs." and substitute:

in (in order of priority)—

- (i) a facility operated by or on behalf of the council for the area in which the dog was seized; or
- (ii) if no such council facility is available—a facility operated by or on behalf of a prescribed rescue and rehousing organisation; or
- (iii) if no facility contemplated by a preceding subparagraph is available—a facility approved by the Board for the purpose of detaining dogs,

(however nothing in this paragraph relieves a council of primary responsibility for providing adequate facilities to detain dogs seized in the area of the council).

(2) Section 61—after subsection (5) insert:

(5a) Nothing in subsection (1)(b) prevents a prescribed rescue and rehousing organisation from operating a facility for the purposes of detaining dogs on behalf of the council under an arrangement between the council and the prescribed rescue and rehousing organisation.

### 17—Amendment of section 62—Destruction or disposal of seized dog

(1) Section 62, heading—delete "Destruction or disposal of seized dog" and substitute:

Dealing with seized dogs

(2) Section 62(1)—delete "destroyed or otherwise disposed of" and substitute:

sold or rehoused in accordance with the code of practice under Part 3A of the *Animal Welfare Act 1985*

(3) Section 62—after subsection (1) insert:

(1a) The operator of a facility at which a dog is detained under this Part may, if the dog could be euthanased under section 15M of the *Animal Welfare Act 1985*, cause the dog to be destroyed in accordance with that section.

(4) Section 62(3)—delete subsection (3)

### 18—Amendment of section 63—Power to destroy cats

(1) Section 63, heading—after "Power to destroy cats" insert:

under *National Parks and Wildlife Act 1972*

(2) Section 63(1)—delete subsection (1) and substitute:

(1) A person may lawfully destroy or injure a cat if the person is a warden under the *National Parks and Wildlife Act 1972* and the cat is in a reserve or sanctuary (within the meaning of the *National Parks and Wildlife Act 1972*) or a wilderness protection area or zone (within the meaning of the *National Parks and Wildlife Act 1972*).

(3) Section 63(2) to (5)—delete subsections (2) to (5) (inclusive)

### 19—Amendment of section 64—Power to seize and detain cats

(1) Section 64(1)(a) and (b)—delete paragraphs (a) and (b) and substitute:

(a) if the person is a warden under the *National Parks and Wildlife Act 1972* or the *Wilderness Protection Act 1992* and the cat is in a reserve or sanctuary (within the meaning of the *National Parks and Wildlife Act 1972*) or a wilderness protection area or zone (within the meaning of the *Wilderness Protection Act 1992*);

(b) if the person is the owner or occupier of a designated area, or a person authorised for the purpose by the owner or occupier of a designated area and the cat is found in the designated area;

(c) if the cat is found in a place that is more than 1 kilometre from any place genuinely used as a place of residence;

- (d) if the cat is unidentified and—
- (i) the person is an authorised officer under the *Crown Land Management Act 2009* and the cat is found in an area in respect of which the authorised officer is authorised to exercise powers under that Act; or
  - (ii) the person is an authorised officer under the *Landscape South Australia Act 2019* and the cat is found while the person is acting in the ordinary course of their duties under that Act; or
  - (iii) the person is an inspector under the *Animal Welfare Act 1985* and the cat is found while the person is acting in the ordinary course of their duties under that Act; or
  - (iv) the person is a registered veterinary surgeon acting in the ordinary course of their profession; or
  - (v) the person is acting for or on behalf of 1 of the following bodies or persons in respect of a cat that has been delivered to a facility operated by the person or body:
    - (A) the Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated;
    - (B) the Animal Welfare League of South Australia Incorporated;
    - (C) a body or person specified by the regulations; or
- (e) any other circumstances set out in the regulations.

**20—Amendment of section 64A—Destruction or disposal of seized cat**

- (1) Section 64A, heading—delete "Destruction or disposal of seized cat" and substitute:  
Rehousing or other disposal of seized cats
- (2) Section 64A(1)—delete "destroyed or otherwise disposed of" and substitute:  
sold or rehoused in accordance with the code of practice under Part 3A of the *Animal Welfare Act 1985*
- (3) Section 64A—after subsection (1) insert:
- (1a) The operator of a facility at which a cat is detained under this Part may, if the cat could be euthanased under section 15M of the *Animal Welfare Act 1985*, cause the cat to be destroyed in accordance with that section.

## 21—Insertion of Part 5B

After section 64F insert:

### **Part 5B—Special provisions relating to greyhound racing industry**

#### **64G—Interpretation**

In this Part—

*Greyhound Racing SA* means Greyhound Racing SA Limited (and includes any person or body who succeeds Greyhound Racing SA, or who otherwise is the controlling body for greyhound racing in the State, should Greyhound Racing SA be dissolved or otherwise cease to exist);

*registered* means registered (however described) with Greyhound Racing SA in accordance with the Greyhounds Australasia rules.

#### **64H—Greyhound Racing SA to provide certain reports and information**

- (1) Greyhound Racing SA must, on or before 30 September in every year, forward to the Minister a report containing the information required by subsection (2) for the preceding financial year.

Maximum penalty: \$20 000.

- (2) The report must contain—
- (a) information setting out the number of greyhounds registered in the relevant financial year; and
  - (b) information setting out the number of injuries sustained by greyhounds (whether sustained at training or during a race); and
  - (c) information setting out the number of registered greyhounds in the relevant financial year that were—
    - (i) locally bred; or
    - (ii) raced or not raced (as the case may be); or
    - (iii) retired; or
    - (iv) imported from interstate or overseas; or
    - (v) adopted or otherwise rehomed; or
    - (vi) destroyed due to—
      - (A) illness; or
      - (B) an injury (whether or not the injury was incurred on the track); or
      - (C) the behaviour or temperament of the greyhound; and

- (d) information setting out the approximate number of unregistered greyhounds destroyed in the relevant financial year; and
- (e) information setting out the number of registered greyhounds that died of natural causes in the relevant financial year; and
- (f) any other information—
- (i) relating to the life-time tracking of all greyhounds whelped in South Australia or imported into South Australia that the Minister notifies Greyhound Racing SA in writing must be included in the report; or
  - (ii) required by or under the provisions of this Act or any other Act.

(3) The Minister must, within 6 sitting days after receiving a report under this section, cause a copy of the report to be laid before both Houses of Parliament.

(4) The Minister must, within 6 sitting days after receiving a report under this section, cause a copy of the report—

(a) to be provided to the Board; and

(b) to be published on a website determined by the Minister.

## 22—Insertion of section 88AA

After section 88 insert:

### 88AA—Animals that are evidence

Despite any other Act or law, the admissibility of, or weight to be given to, evidence of an offence against this Act consisting of a live dog or cat is not affected by the fact that the dog or cat is sold, rehoused or otherwise disposed of under this or any other Act.

## 23—Amendment of section 91—Regulations

Section 91(2)(c)—before "regulate the detention of dogs" insert:

in a manner that is consistent with the code of practice under Part 3A of the *Animal Welfare Act 1985*,