

Overview of Proposed Animal Welfare Regulations – targeting lower level offending

The **proposed animal welfare regulations** will lift specific minimum standards from codes of welfare into regulations to provide an expanded range of enforcement tools (outlined below) and appropriate responses for less severe cases of animal welfare offending.

Infringement offences

Do not result in a criminal conviction

Two levels of penalty are proposed for infringement offences:

\$300 flat fee

offence may cause mild short-term harm to the animal

- 6. Cattle – milk stimulation
- 12. Dogs – muzzling a dog
- 13. Dogs – dry and shaded shelter
- 14. Dogs – left in hot vehicles
- 15. Dogs – secured on moving vehicles
- 16. Goats – tethering requirements
- 18. Horses and donkeys – tethering requirements
- 19. Horse and donkeys – injuries from equipment
- 23. Llama and alpaca – injuries from equipment
- 24. Pigs – dry sleeping area
- 47. All animals – injury from collars or tethers

\$500 flat fee

offence may cause mild to moderate short-term harm to the animal

- 5, 17, & 28. Cattle, sheep & goat – ingrown horns
- 20. Horses and donkeys – striking in the head
- 30. Stock transport – injuries from transport
- 31. Stock transport – horned or antlered animals
- 32. Stock transport – back-rub from transport
- 38. Stock transport – ingrown horns
- 39. Stock transport – bleeding horns or antlers
- 40. Stock transport – lame animals
- 41. Stock transport – animals in late pregnancy
- 42. Stock transport – injured or diseased udders
- 43. Stock transport – animals with eye cancer
- 44. & 45. Obligations on stock transporters
- 48. All animals – use of electric prodders
- 49. All animals – use of goads on sensitive areas
- 52. Pigs – tail docking (under 7 days)

Prosecutable regulation offences

May result in a criminal conviction

Two levels of penalty are proposed for regulatory prosecutable offences:

\$3,000

Maximum fine for an individual

\$5,000

\$15,000

Maximum fine for a body corporate

\$25,000

offence has caused mild to moderate and possible long-term harm to the animal

- 7 & 29. Cattle & sheep – ban vehicular traction in calving or lambing
- 25. Pigs – lying space for grower pigs
- 26. Pigs – size of farrowing crates
- 50. Cattle – tail docking
- 51. Dogs – tail docking
- 52. Pigs – tail docking (over 7 days)
- 53. Cattle and sheep – castration
- 56. Dogs – dew claws
- 57. Cattle – disbudding

offence has caused moderate and likely long-term harm to the animal

- 11. Crabs, rock lobster and crayfish – must be insensible before being killed
 - 21. Layer hens – transitional requirements
 - 22. Layer hens – prohibit induced moulting of layer hens
 - 27. Pigs – dry sow stalls
 - 46. Rodeos – fireworks
 - 54. Horse – castration
 - 55. Pigs – castration
 - 58. Cattle – dehorning
 - 59. Sheep – mulesing
- Also an amendment to rules for recording surplus research animals.

When is an offence appropriate for an infringement?

- The nature of the offending is minor
- The potential impact on the animal is low
- A criminal conviction would be disproportionate to the level of offending
- A low-level financial penalty is sufficient to drive behaviour change
- A breach of the regulation is straightforward and easy to determine on the facts

There are no defences for an infringement offence. The defendant may write to the issuing authority (MPI or SPCA) to ask for the infringement to be revoked. The defendant may also request a defended hearing before the District Court. The decision of the District Court is final.

An infringement could be challenged on grounds including that the defendant took all reasonable steps to comply. For example an emergency or natural disaster should be taken into account.

When is an offence appropriate for a prosecution?

- The offending has caused a mild to moderate level of harm to the animal
- The offending may involve many animals
- A criminal conviction is appropriate given the conduct and/or impact involved
- The offending is more likely in a commercial context and higher deterrents may be needed
- The offending involves actions that are not straight forward enough to suit an infringement

Defences: All of the above offences will be subject to a defence that the defendant took all reasonable steps to comply with the regulation. In some cases the defendant may also use a defence that the act or omission constituting the offence took place in circumstances of stress or emergency and was necessary for the preservation, protection or maintenance of human life.

The onus will be on the defendant to prove the defence.

Note: Regulations not shown in the tables above are either administrative 1, 2, 3, 4, 60, 61, 62, 63 & 64 or the incorporated Calf Regulations (2016) 8, 9, 10, 33, 34, 35, 36, & 37 which are already in force.

In all cases where a breach of a regulation has a severe impact on an animal a prosecution can be taken directly under the Animal Welfare Act 1999