

Animal Care and Protection and Other Legislation Amendment Bill 2012

Explanatory Notes for amendments to be moved during consideration in detail by the Honourable John McVeigh MP.

Short Title

Animal Care and Protection and Other Legislation Amendment Bill 2012

Objectives of the amendments

The objectives of the amendments are –

- to remove an amendment to the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984* proposed in the Animal Care and Protection and Other Legislation Amendment Bill 2012 (the Bill) to ensure the Bill does not adversely affect the maintenance of cultural identity and linkages among Aboriginal and Torres Strait Islander people; and
- to describe some hunting practices that would not be permissible under the amended *Animal Care and Protection Act 2001* to provide traditional and customary hunters with increased certainty about their animal welfare obligations.

Achievement of the Objectives

Clause 3(2) of the Bill will be omitted to remove part of the proposed amendment to the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

Some hunting practices that would not be permissible under the amended *Animal Care and Protection Act 2001* will be described by inserting a list of practices that are to be taken not to cause as little pain as is reasonable for the purposes of the offence exemption under proposed section 41A of the *Animal Care and Protection Act 2001*.

Alternative ways of achieving policy objectives

Amendment of the Bill is required to give effect to the policy objectives.

Consistency with Fundamental Legislative Principles

The amendments are consistent with fundamental legislative principles.

Estimated Cost for Government Implementation

There will be no costs to Government for implementation of the additional amendments.

Consultation

The amendments are consistent with the Government's response to the Agriculture, Resource and Environment Committee's report into the Bill. The amendments are also in response to feedback on the Bill received from Aboriginal and Torres Strait Islander stakeholder groups.

Notes on Provisions

Clause 1 rennumbers Clause 3(1) (Amendment of s 61 (Right of Aborigines and Torres Strait Islanders to particular natural resources)) of the Bill as Clause 3. The amendment is a consequence of the removal of Clause 3(2) of the Bill.

Clause 2 omits clause 3(2) (Amendment of s 61 (Right of Aborigines and Torres Strait Islanders to particular natural resources)) of the Bill which proposed to prevent the consumption of turtle and dugong meat taken under the *Aboriginal and Torres Strait Islander Communities (Justice Land and Other Matters) Act 1984* outside of community areas.

Clause 3 amends Clause 10 (Insertion of new s 41A) of the Bill to insert new subclause (3) which non-exhaustively describes practices that are to be taken not to cause as little pain as is reasonable for the purpose of new section 41A(2) of the *Animal Care and Protection Act 2001*.

The effect of the amendment is that a person who kills an animal in one of the circumstances described in proposed section 41A(1)(b) of the *Animal Care and Protection Act 2001* would be unable to successfully rely on the offence exemption under proposed section 41A(2) of the *Animal Care and Protection Act 2001* if their action involved any of the following –

- injuring the animal after it has been captured to stop it escaping;
- injuring or prolonging the life of the animal to attract another animal;
- taking flesh from the animal for human consumption before it is dead;
or
- causing the animal to die from dehydration or starvation.

It is intended that this would mean that, for example, a person who –

- tethered a dying dugong to attract other dugongs;
- cut pieces of meat from a turtle to eat before the turtle had died; or
- stored a turtle for an extended period on its back without adequate food and water so that it died;

would not qualify for the offence exemption.

Clause 3 also renumbers existing Clause 10(3) of the Bill as Clause 10(4) as a consequence of the insertion of new subclause (3).