

# **Animal Care and Protection (Use of Electrical Device on Horses) Amendment Regulation 2020**

Explanatory Notes for SL 2020 No. 139

made under the

*Animal Care and Protection Act 2001*

## **General Outline**

### **Short title**

*Animal Care and Protection (Use of Electrical Device on Horses) Amendment Regulation 2020*

### **Authorising law**

Sections 18(2)(e) and 217 of the *Animal Care and Protection Act 2001*.

### **Policy objectives and the reasons for them**

The Queensland Government commissioned an independent *Inquiry into animal cruelty in the management of retired Thoroughbred and Standardbred horses in Queensland* (the Martin Inquiry) in October 2019. The Inquiry followed a story that aired in October 2019 on the ABC's 7.30 program about the 'wastage' of retired racehorses. The story also raised issues about the treatment of horses at a Queensland abattoir.

The Final Report of the Martin Inquiry was released by the Government on 10 February 2020. The Final Report contained 55 recommendations. The Government supported 37 of the recommendations in full, 17 in principle and one in part.

Recommendation 10.2.4, which was supported in full by the Government, required the Department of Agriculture and Fisheries to take steps to amend the *Animal Care and Protection Act 2001* (the Act) to make the use of an electric device or prod on a horse an act of cruelty.

The evidence relied on by the Martin Inquiry to support this recommendation is found in international standards for the welfare of animals. The *European Union Council Regulation No. 1099/2009* (the *EU Council Regulation*), which came into effect on 1 January 2013, prescribes a number of animal welfare requirements with which all European Union (EU) listed slaughter establishments must comply. The *EU Council Regulation* prohibits the use of "prods" or other implements with pointed ends on animals.

The World Organisation for Animal Health (Office of International des Epizooties or *OIE*) is an intergovernmental organisation to which Australia is a signatory country and is responsible for improving animal health and welfare. *The OIE Terrestrial Animal Health Code* (the *Terrestrial Animal Health Code*) includes Chapter 7.5 - Slaughter of Animals, which makes specific recommendations addressing the need to ensure the welfare of all food animals, including horses, during pre-slaughter and slaughter processes at slaughter establishments. One of the specific provisions of the *Terrestrial Animal Health Code* is that electric prod should not be used on horses.

The *Terrestrial Animal Health Code* also considers the issue of animals that are not slaughtered at abattoirs and points out that the transport, lairage, restraint and slaughter should be carried out without causing undue stress and under the same principles that underpin the *OIE* published standards.

The Martin Inquiry noted that both the *Model Code of Practice for the Welfare of Animals - Livestock at Slaughtering Establishments* and the Code of Practice for the Transport of Livestock which permit the use of an electric prod on a horse fall below the standards set by international bodies.

The *Terrestrial Animal Health Code* and *EU Council Regulation* principally focus on the use of electric prods on horses in relation to the slaughter process or the handling of horses leading up to the slaughter process. However, Schedule 3 of the *Animal Care and Protection Regulation 2012* (the *Code of Practice for the Transport of Livestock*), a compulsory Code of Practice under the Act, prohibits the use of an electric prod on horses during transport including the loading and unloading of horses. Further, the *Code of Practice for the Transport of Livestock* is not restricted to the transportation of horses to abattoirs, but applies to the land transport of horses within Queensland or through Queensland from another State.

Regardless whether an electric prod is used during transportation, rodeos or in any other circumstances, the impact of such a device on any horse is considered similar. Therefore, the standard set by the *Terrestrial Animal Health Code*, *EU Council Regulation* and the *Code of Practice for the Transport of Livestock* in relation to the use of electric prod on a horse should be adopted for all horses in all situations and not confined to horses that are being slaughtered or transported. It is considered that making the use of an electric prod on a horse an act of cruelty for all situations is considered an appropriate measure to protect the welfare of all horses in all circumstances.

Section 18(2)(e) of the Act makes it an offence to be cruel to an animal if a person uses an electrical device that is prescribed under a regulation on the animal.

## **Achievement of policy objectives**

The subordinate legislation will achieve its objective of making the use of an electric prod on a horse an act of cruelty for section 18(2)(e) of the Act.

## **Consistency with policy objectives of authorising law**

The subordinate legislation is consistent with the objectives of the Act which are to:

- (a) promote the responsible care and use of animals;
- (b) provide standards for the care and use of animals that

- i. achieve a reasonable balance between the welfare of animals and the interests of persons whose livelihood is dependent on animals; and
  - ii. allow for the effect of advancements in scientific knowledge about animal biology and changes to community expectations about practices involving animals;
- (c) protect animals from unjustifiable, unnecessary or unreasonable pain; and  
(d) ensure the use of animals for scientific purposes is accountable, open and responsible.

## **Inconsistency with policy objectives of other legislation**

The amendment regulation is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The subordinate legislation will implement a recommendation of the Martin Inquiry that was supported by the Queensland Government and will protect horses from being subject to the unnecessary pain caused by the use of an electric prod. The subordinate legislation will also align Queensland animal welfare legislation with international standards with respect to the use of electric prods on horses, and demonstrate compliance with EU Regulations including the prohibition on the use of prods or other implements with which Queensland slaughter establishments must comply to allow them to export to the EU.

The expected impact on the community of making the use of an electric prods on all horses in all circumstances an act of cruelty is considered to be minimal. The use of an electric prod on a horse is already prohibited under section 19(1)(e) of Schedule 3 of the *Animal Care and Protection Regulation 2012* (the Code of Practice for the Transport of Livestock) and it is not considered to be a wide spread practice. There will still be circumstances in which electric prods may still be used on other animals in certain circumstances. Therefore, the economic impact on the community in terms of possessing equipment that can no longer be used is considered to be minimal.

The subordinate legislation will not impose additional costs to the community or the government as enforcement activities will be undertaken within existing budgetary constraints.

## **Consistency with fundamental legislative principles**

The subordinate legislation has been drafted with regard to, and is consistent with, the fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992* (LSA).

## **Consultation**

Broad consultation with representatives from the racing industry, meat processing, equestrian, veterinary and animal welfare organisations on all of the issues, including the use of electric prods on horses, was undertaken as part of the Martin Inquiry.

The consultation was undertaken either by telephone or in person, with targeted stakeholders invited to make submissions to the Inquiry. Stakeholders were not opposed

to the use of an electric prod on a horse being prescribed as an act of cruelty under the Act.

The Department of Agriculture and Fisheries consulted the Queensland Productivity Commission (the Commission) on a Preliminary Impact Assessment. The Commission provided advice that no further assessment is required under the *Queensland Government Guide to Better Regulation*. The Commission noted that the proposal will support the compliance of Queensland slaughter establishments with the *EU Council Regulation*, and improve the welfare of horses including at slaughter establishments or under transport.

The Commission noted that, while a penalty applies for a breach of the provision, the imposition of a penalty can be avoided by complying with the legislation. The Commission considered the provision is unlikely to add to the burden of regulation or result in significant adverse impacts.