

Animal Care and Protection (Code of Practice for Horses at Livestock Slaughter Facilities) Amendment Regulation 2023

Explanatory Notes for SL 2023 No. 181

made under the

Animal Care and Protection Act 2001

General Outline

Short title

Animal Care and Protection (Code of Practice for Horses at Livestock Slaughter Facilities) Amendment Regulation 2023

Authorising law

Sections 3, 4, 13, 15 and 217 of the *Animal Care and Protection Act 2001* (Act)

Policy objectives and the reasons for them

On 17 October 2019, the ABC's 7.30 program 'The Final Race' informed the public that, on a large scale, retired racing horses are being treated as disposable commodities.

The Queensland Government subsequently announced an independent inquiry, to be led by retired District Court Judge Terry Martin SC, (the Martin Inquiry), into animal cruelty in the management of retired thoroughbred and standardbred horses in Queensland. The Inquiry was also established to report on the wastage of retired racehorses including the welfare and management of retired racehorses at Queensland based livestock slaughter facilities.

In January 2020, the findings and recommendations from the inquiry were presented to the Minister for Agricultural Industry Development and Fisheries and the then Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs in a report, "*Inquiry into animal cruelty in the management of retired Thoroughbred and Standardbred horses in Queensland*" (the Martin Inquiry Report).

The Queensland Government subsequently supported, or supported in principle, the recommendations of the Martin Inquiry Report one of which was for the urgent development of a compulsory Queensland Code of Practice for Horses Processed at Slaughtering Establishments.

The current national Model Code of Practice for the Welfare of Animals: Livestock Slaughtering Establishments, Standing Committee on Agriculture and Resource Management Report 79 (Model Code) which has been agreed to by all states and territories and currently under review, is a voluntary code which gives little regard to the specific sensitivities of horses in livestock slaughter facilities. The Model Code lacks standards appropriate for horses in these facilities, in order to provide for their humane slaughter. Even with the existence of the Model Code, instances of mistreatment of horses at one livestock slaughter facility in Queensland still occurred.

The objective of the subordinate legislation is to establish a compulsory code of practice to:

- ensure horses sent to livestock slaughtering facilities are handled and dealt with in accordance with best management practice for their humane treatment at all stages throughout the facility;
- clearly state the obligations and responsibilities of the owners of livestock slaughter facilities, animal welfare officers and other persons handling horses in those facilities; and
- provide for regulatory oversight of the operations of livestock slaughter facilities with regard to the treatment of horses.

Achievement of policy objectives

To achieve its objectives, the subordinate legislation creates a compulsory code of practice which:

- prescribes general responsibilities of owners and animal welfare officers at livestock slaughter facilities to ensure they are aware of their obligations and ensure they have the knowledge, skills and experience necessary to perform their role;
- provides an obligation on owners of facilities to report any non-compliance that adversely affects a horse's welfare to the Department of Agriculture and Fisheries (DAF) and take appropriate corrective action to minimise future non-compliance;
- provides for the design, construction and maintenance of facilities and equipment to ensure animals' welfare at the facility is appropriately provided for;
- provides for the general handling of horses throughout the facility including those which are sick, injured or severely distressed;
- prescribes the process for the humane stunning, killing and exsanguination of horses; and
- establishes an obligation on the facility owner to establish, implement and maintain a management system, policies and procedures, including record keeping for compliance purposes, to minimise the risk to the welfare of a horse at a facility.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the policy objectives of the *Animal Care and Protection Act 2001* under which it is made.

In part, the purposes stated in section three of the Act are to do the following:

- promote the responsible care and use of animals;

- provide standards for the care and use of animals that—
 - achieve a reasonable balance between the welfare of animals and the interests of persons whose livelihood is dependent on animals; and
 - allow for the effect of advancements in scientific knowledge about animal biology and changes in community expectations about practices involving animals; and
- protect animals from unjustifiable, unnecessary or unreasonable pain;

Section 4 of the Act provides how the purposes are to be primarily achieved, which include—

- (a) providing for regulations about codes of practice for animal welfare;
- (b) allowing regulations to require compliance with codes of practice;
- (c) imposing a duty of care on persons in charge of animals;
- (d) prohibiting certain conduct in relation to animals;

Consistent with subsections 4(a) and (b) of the Act, the subordinate legislation contributes to the achievement of the Act's purposes by establishing a compulsory code of practice to ensure horses at livestock slaughtering facilities are afforded adequate standards of welfare with appropriate legislated oversight, to meet community expectations.

Inconsistency with policy objectives of other legislation

The subordinate legislation is not inconsistent with the policy objectives of any other legislation.

Alternative ways of achieving policy objectives

Three alternative approaches were considered—

- maintain the status quo (i.e. do nothing);
- engage with horse slaughter establishments to encourage their undertaking of voluntary improvements;
- adopt standards under the Australian Animal Welfare Standards and Guidelines for Livestock at Processing Facilities, once they are developed, as a compulsory Code of Practice under the Act.

However, none of the alternatives were considered satisfactory to achieve the policy objectives.

The findings of the Martin Inquiry indicated that the status quo is failing to prevent poor welfare outcomes for horses. Maintaining the status quo would likely perpetuate the unsatisfactory welfare outcomes for horses.

The Martin Inquiry found that the national Model Code of Practice for the Welfare of Animals: Livestock at Slaughtering Establishments was voluntary and outdated, but most importantly, it failed to provide for appropriate design of facilities to achieve humane slaughter of horses.

The Martin Inquiry further identified that using loud noises to move horses, allowing horses to see and hear other horses being stunned or shot and smell blood immediately before slaughter, are all factors that lead to poor welfare outcomes for horses and are not prevented under current legislation. In addition, the Martin Inquiry identified a need for livestock slaughter facility management to properly monitor animal welfare and take appropriate corrective action.

The national and state animal welfare frameworks are informed by a series of Australian Animal Welfare Standards and Guidelines documents, endorsed at a national level. The series aims to harmonise and streamline livestock welfare legislation in Australia, ensuring that it results in improved welfare outcomes and is practical for industry. They underpin access to domestic and overseas markets and reinforce Australia's commitment to advancing meaningful and effective animal welfare outcomes.

The Australian Animal Welfare Standards and Guidelines for Livestock at Processing Facilities are being developed through the Animal Welfare Task Group with Queensland leading this process.

Once the Standards and Guidelines are endorsed by the Agriculture Ministers, each State and Territory government is expected to adopt the standards under their respective animal welfare law. In Queensland, the standards are adopted as a compulsory Code of Practice in subordinate legislation made under the Act.

Based on the current status of work, the likely timeframe for national agreement would be by the end of 2024, at the earliest. The standards would then need to be adopted under section 13 of the Act as a code of practice under the regulation, which would take a further 12 – 24 months to complete. This means that this process would be completed by the end of 2025, at the earliest. This alternative fails to address the necessity to implement timely action.

Benefits and costs of implementation

Limited information was provided on the cost impacts by the businesses concerned, and it was not possible to quantitatively evaluate the costs. However, through its engagement with the businesses DAF has identified that the key cost for each facility will arise from the requirement to ensure that horses cannot see, hear or smell other horses being slaughtered. However, the Code of Practice does not specify how this is to be achieved, providing considerable flexibility for businesses to minimise costs.

Consistency with fundamental legislative principles

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

Consultation

The Department of the Premier and Cabinet and Queensland Treasury were consulted on the Code of Practice.

During the Martin Inquiry, submissions were received from stakeholders including racing bodies and animal welfare groups and the general community.

An expert panel was convened to provide guidance to DAF regarding the development of the compulsory Code of Practice. The membership of the expert panel included representatives from:

- Meramist Pty Ltd (the major horse abattoir currently operating in Queensland)
- RSPCA Qld, and
- Australian Veterinary Association, Queensland Branch.

The expert panel met (virtually) on five occasions between October 2021 and August 2022.

The expert panel discussed the issues raised by the Martin Inquiry regarding the processing of horses in livestock slaughter facilities, how these issues would be addressed and provided feedback about a draft Code of Practice. The expert panel was largely supportive of the proposed Code of Practice.

DAF endeavoured to consult with both horse slaughter facilities currently operating in Queensland regarding the cost impacts on their businesses. DAF received limited information from the horse slaughter facilities on the cost impacts by the businesses concerned, and it was not possible to quantitatively evaluate the costs. However, through its engagement with the horse slaughter facilities DAF identified that the key cost for each facility will arise from the requirement to ensure that horses cannot see, hear or smell other horses being slaughtered. To assist these businesses to minimise costs, the code of practice does not specify how this is to be achieved, providing considerable flexibility to businesses to minimise costs.