

Animal Care and Protection (Code of Practice about Rodeos) Amendment Regulation 2021

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Mark Furner MP, Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities, provide this human rights certificate with respect to the *Animal Care and Protection (Code of Practice about Rodeos) Amendment Regulation 2021* made under the *Animal Care and Protection Act 2001* (the Act).

In my opinion, the *Animal Care and Protection (Code of Practice about Rodeos) Amendment Regulation 2021* (the Amendment Regulation), as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Amendment Regulation is made under the Act. The authorising law for the Amendment Regulation is sections 3, 13, 15 and 217 of the Act.

The Amendment Regulation seeks to reduce the risks to the welfare of animals used in a rodeo by:

- prescribing minimum standards of care, handling and use of the animals;
- defining the responsibilities of those involved in the organisation or operation of a rodeo; and
- providing standards for equipment design, arena conditions, yard and chute design in a Code of Practice.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion the human rights under the *Human Rights Act 2019* that are engaged by the Amendment Regulation are:

- Property rights (section 24 of the *Human Rights Act 2019*);
- Privacy and reputation (section 25 of the *Human Rights Act 2019*).

How each human right is limited is set out below.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

Section 20 (Killing a rodeo animal)

(a) the nature of the right

Property rights (section 24 of the *Human Rights Act 2019*)

This human right protects the right of all persons to own property (alone or with others) and provides that people have a right not to be arbitrarily deprived of their property. The killing of a rodeo animal could be seen as arbitrarily depriving the owner of the animal of their right to property. Section 20 prescribes that a veterinary surgeon or a person acting under the direct supervision of a veterinary surgeon, or any other person, in circumstances where it is necessary to prevent the animal from suffering and it would be inhumane to wait for a veterinary surgeon or person under a veterinary surgeon's supervision to arrive, may kill a rodeo animal humanely.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation is to ensure that rodeo animals do not suffer or endure pain for prolonged periods when injured. Society expects that all animals receive adequate treatment when in pain and when it is not possible or practical for an animal to be treated in a timely manner without the animal enduring more suffering, then it is generally considered kinder to an animal to kill it humanely. This limitation is consequently consistent with a free and democratic society based on human dignity, equality and freedom.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

The limitation on property rights is necessary to achieve the purpose of protecting animals from unjustifiable, unnecessary or unreasonable pain.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

There are no less restrictive ways in which to achieve the purpose because any other intervention would exacerbate an animal's suffering. The impost upon a person's right to own property by virtue of killing a rodeo animal owned by the person is limited to when it is necessary to prevent the animal from suffering and it would be inhumane to delay killing the animal.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

Section 20 strikes a fair balance between preventing the unjustifiable suffering of a rodeo animal and the impost on a person's right to own property. Allowing killing of an animal only when it is necessary to prevent the animal from suffering and it would be inhumane to delay killing the animal avoids the indiscriminate or arbitrary killing of a rodeo animal.

Section 21 (Rodeo animal incident record)

Section 41 (Suitability of subject animal for activity)

Section 46 (Suitability of calf for activity)

(a) the nature of the right

Privacy and reputation (section 25 of the *Human Rights Act 2019*)

The right to privacy protects the individual from all interferences and attacks upon his or her privacy, family, home, correspondence (written and verbal).

Section 21 (Rodeo animal incident record) prescribes that a rodeo organiser must make a written rodeo animal incident record if a rodeo animal becomes, sick, injured or is killed at a rodeo. The incident record must contain details of the date and location of the rodeo and the organiser's name as well as a description of the incident including the number and types of injuries to the animal. In addition, the rodeo organiser must include details of any action taken and if a veterinary surgeon treated the animal and the name of the attending veterinary surgeon. Further, if the incident occurred during the conduct of a rodeo activity, the organiser must provide the names of each person involved in conducting the activity and the names of anyone else who was involved in or has knowledge of the incident. Section 20 potentially impacts the human right to privacy and reputation as it obliges the rodeo organiser to collect the names of all individuals involved in a rodeo animal incident, make a record of same and maintain it for a period of two years.

Section 41 (Suitability of subject animal for activity) prescribes that a person responsible for the rodeo animal may allow the animal to be used for a rodeo activity only if the animal is ridden by a person whose weight is no more than 20% of the animal's live weight. Section 41 potentially impacts a person's right to privacy as it requires the responsible person to enquire the weight of the animal's rider to ensure that his or her weight is no more than 20% of the animal's live weight.

Section 46 (Suitability of calf for activity) prescribes that a person responsible for a calf may allow the animal to be used for a rodeo activity only if the calf is ridden by a child whose weight is no more than 20% of the calf's live weight. Section 46 potentially impacts a person's right to privacy as it requires the responsible person to enquire the weight of the child intending to ride the calf to ensure that his or her weight is no more than 20% of the calf's live weight.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation on privacy in section 21 is to gain sufficient detail of any incident where a rodeo animal becomes sick, injured or killed at a rodeo to enable investigations to be conducted to determine whether any person has breached the Code of Practice. Investigating non-compliance with the Code of Practice ensures that it is effective in providing 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. The information gained may also be used to ascertain whether any procedures involving animals at rodeos need to be reviewed and/or changed to ensure acceptable standards of animal welfare at rodeos are maintained. This is consistent with community expectations for promoting the responsible care and use of animals.

The purpose of the limitation on privacy in sections 41 and 46 is to determine the suitability of a rodeo animal to be used for particular rodeo events. An animal's suitability is determined by the weight of a competitor as a percentage of the live weight of the animal and whether the animal has been used for the rodeo activity no more than three times in a day. In order to determine the percentage of the competitor's weight of the animal's live weight, a competitor would have to disclose his or her weight to the rodeo organiser. Community expectations demand that rodeo animals should be fit for purpose and are not subjected to undue stress and potential injury by carrying excessive weight.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

Investigations into rodeo animal incidents can only be conducted if the names of persons involved in incidents are obtained. Investigations are fundamental to determining whether the Code of Practice has been breached and identifying whether changes to rodeo practices need to be modified.

A rodeo animal can only be assessed as suitable for the activities of bull, steer and poddy riding based on how often the animal has been used in a day and whether it can carry the weight of a particular competitor.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

There are no less restrictive ways in which to achieve the purpose. The requirement to collect information under section 21 is limited to when an incident occurs.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

The limitation on the right to privacy under section 21 is justified when balanced against the importance of enabling investigations to ensure compliance with the Code of Practice and hence achieve a reasonable balance between the welfare of animals and the interests of persons whose livelihood is dependent on animals. In addition, the investigations may also identify when procedures involving animals at rodeos need to be reviewed and/or changed to ensure acceptable animal welfare standards are maintained

The limitation on the right to privacy under sections 41 and 46 is justified when balanced against the importance of determining the suitability of an animal to be used for a particular rodeo event, and hence that it is not subjected to undue stress and potential injury by carrying excessive weight.

(f) any other relevant factors

Nil.

Conclusion

I consider that the *Animal Care and Protection (Code of Practice about Rodeos) Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because, while it does limit, restrict or interfere with human rights, those limitations are reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

Mark Furner MP
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and Minister for Rural Communities

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