

Explanatory Statement

ANIMAL PROTECTION AND RELATED LEGISLATION AMENDMENT BILL 2025

SERIAL NO.
LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

MINISTER FOR AGRICULTURE AND FISHERIES

GENERAL OUTLINE

This Bill amends the *Animal Protection Act 2018* (Act); *Criminal Code Act 1983* (Criminal Code), and the *Animal Protection Regulations 2022* (Regulations).

The purpose of this Bill is to ensure the Northern Territory (NT) animal protection laws remain fit for purpose, are achieving their objectives and meets ever-changing community expectations with regards to the protection and treatment of animals, including:

- Inserting or increasing appropriate and proportionate penalty offences with regards to minimum level of care and cruelty offences, in accordance with Part IIAA of the Criminal Code, and including prescribing infringement notice offences.
- Provide a new offence for possession and use of prong collars.
- Clarifying the use and exempted use of electrical devices on animals (namely on face, udders, genitals or anus of the animal); restraining of dogs when riding in the back of a utility vehicle or trailer; and ensure regional community events such as campdrafts and rodeos are exempted from being a prohibited activity under the Act.
- Clarifying authorised officer's powers in relation to: seeking additional information to formally identify a person; enter a locked vehicle in an emergency to free an animal in distress; clarify entry and inspection of a premises used in connection with a business involving animals, and premises used for racing or training animals; insert a new power to enable the taking of samples from animals and things in connection to an offence.
- Adopt prescribed codes of practice relating to animal welfare.
- Amend the Criminal Code to insert a new "animal sexual abuse or animal crush material" offence relating to material depicting animal sexual or physical abuse for gratification purposes and increasing the maximum penalty for the section 208N offence (sexual involvement with an animal) from seven years to 10 years.

The Bill aligns and builds upon the existing regulatory framework in the Territory, with clearly defined rights, roles and responsibilities for government, industry and the community with respect to animal welfare. The Bill will serve to strengthen existing policies and make governance of animal welfare more effective, in turn contributing to a greater protection of animals under law in the Territory.

NOTES ON CLAUSES

PART 1 PRELIMINARY MATTERS

Clause 1. Short Title.

This is a formal clause which provides for the citation of the Bill. The Bill when passed will be cited as the *Animal Protection and Related Legislation Amendment Act 2025*.

Clause 2. Commencement.

This clause sets out how the amendment Act will be commenced. In this case this will be done by notice given by the Administrator in the Northern Territory Government Gazette.

PART 2 AMENDMENT TO ANIMAL PROTECTION LEGISLATION

DIVISION 1 ANIMAL PROTECTION ACT 2018

Clause 3. Act amended

Clause 3 is also a formal clause that provides that Division 1 of Part 2 deals with amendments to the *Animal Protection Act 2018* (Act).

Clause 4. Section 4 amended (Definitions)

Clause 4 amends section 4 to omit and insert a new definition of 'animal' with reference to the additional meaning of 'animal' inserted into section 36 that will apply to the operation of Part 4 only. The extended wider meaning of 'animal', for the purposes of Part 4, is to ensure 'animals used for scientific research purposes, including animals in the wild (including sharks or cephalopods for example), are now captured as part of regulating scientific use and research of animals (refer also to clause 14 of the Bill).

The original definition of 'animal' as expressed in section 5 is retained and will continue to apply to the remaining Parts of the Act.

Clause 5. Section 5 amended (meaning of *animal*)

Clause 5 of the Bill clarifies the definition of "animal" in section 5 to ensure drafting consistency with the definition of "animal" inserted into section 36 (refer to clauses 4 (above) and 14 of the Bill).

Clause 6. Section 23 amended (Minimum level of care)

Clause 6 amends section 23 to increase the maximum penalty prescribed for the offence where a person, who is in control of an animal, intentionally does not provide that animal with at least a minimum level of care, resulting in the animal not receiving the required level of care.

The current prescribed maximum penalty of 100 penalty units or imprisonment for 12 months will be increased to 200 penalty units or two years imprisonment respectively.

Clause 7. Sections 23A to 23E inserted

Clause 7 inserts new categories of offence in addition to the more serious minimal level of care offence for section 23.

New section 23A imposes an obligation on a person in control of an animal to provide access to clean water and shelter at any time the person keeps an animal on premises. This is to apply to each animal on the premises. For example, if two animals are kept on a premises both animals must be able to access clean water and shelter at the same time.

The new offence is a strict liability offence with a maximum penalty of 50 penalty units with a prescribed infringement notice offence of 3 penalty units inserted into Schedule 3 of the *Animal Protection Regulations 2022* (Regulations) (refer also to clause 28). This new offence is considered reasonable and proportionate to the nature of the offence, and important in achieving animal protection objectives.

New section 23B imposes an obligation on a person in control of an animal to provide the animal with a hygienic living environment that is appropriate to maintain the animal. This relates to the obligations of a person in charge of an animal to provide care for the animal and provide for the welfare of an animal in their care.

For example, providing a physical environment to support the animal's health, safety, comfort, their ability to express normal behaviour, protect them from extreme weather, predators and other hazards. The physical environment may include providing a living environment that is clean (faeces regularly removed), provide access to shelter, allow adequate access to clean water and food, that permits easy filling, refilling, changing, servicing, and regularly cleaning food and water containers to reduce risk of vermin, disease, parasites, and injury.

This is to be a strict liability offence with a maximum penalty of 50 penalty units and an associated infringement notice of 3 penalty units is inserted into Schedule 3 of the Regulations (refer to clause 28). This is considered reasonable and proportionate to the nature of the offence, and important in achieving animal protection objectives.

New section 23C imposes an obligation on a person in control of an animal to seek treatment for the animal if the animal is diseased, injured, or suffering.

The obligation is to provide the animal with treatment when required, including preventative measures, pain and relief management. An example of appropriate treatment could be that a cat begins to show signs of illness (being lethargic, not eating, and possibly vomiting). The owner promptly takes the cat to a veterinarian who diagnosis the cat with a stomach virus. The cat is given medication and supportive fluids, sent home with a treatment plan which the owner follows.

This is to be a strict liability offence with a maximum penalty of 50 penalty units and an associated infringement notice of 3 penalty units is inserted into Schedule 3 of the Regulations (refer to clause 28). This is considered reasonable and proportionate to the nature of the offence, and important in achieving animal protection objectives.

New section 23D imposes an obligation on a person in control of an animal to not confine or restrain the animal in a way that does not allow the animal to move in a way that is appropriate for the animal's age, physical condition or size.

Having regards to all relevant circumstances, including the animal's age, physical condition and the size of the animal for example, it may be that it is necessary to confine or restrain an animal where it is necessary to do so for its own welfare upon veterinary medical certification or advice.

An additional example where the new provision would unlikely apply is keeping an animal in a backyard or a residence such as house or apartment - unless the animal is stopped from moving freely, has no access to appropriate shelter, or clean water, is unreasonably tethered or chained to a pole, or placed in a small cage (relevant to its size), in the backyard of premises and mostly exposed to the elements.

This is also to be a strict liability offence with a maximum penalty of 50 penalty units and an associated infringement notice of 3 penalty units is inserted into Schedule 3 of the Regulations (refer to clause 28). This is considered reasonable and proportionate to the nature of the offence, and important in achieving animal protection objectives.

New section 23E provides an offence where a person abandons an animal. In this case the normal dictionary definition of abandoned would apply and would cover situations where a person leaves behind an animal completely. An example, depending on all the surrounding circumstances, may include an owner moving house and leaving the animal behind without arranging someone to look after it or providing it with adequate food and clean water.

It is not intended, for example, that this offence apply to a person leaving a dog tied up outside a supermarket while doing some shopping.

This is to be a strict liability offence with a maximum penalty of 50 penalty units and an associated infringement notice of 3 penalty units is inserted into Schedule 3 of the Regulations (refer to clause 28). This is considered reasonable and proportionate to the nature of the offence, and important in achieving animal protection objectives.

Clause 8. Section 24 amended (Cruelty to an animal)

Clause 8 amends sections 24(1) to (7) omits and inserts new penalty maximums of 300 penalty units or imprisonment for 3 years.

Clause 8 also undertakes a minor amendment to section 24(2) of the Act to insert the words "or suffering" after the word "harm" to better clarify the offence where an animal is beaten, and the beating constitutes cruelty.

Clause 9. Section 26 amended (Notification of injury of domesticated animal)

Clause 9 inserts 'examples of domesticated animals' at the end of section 26 to provide guidance as to species of domesticated animals likely to be kept especially on the life-style rural edges of Darwin and other regional towns in the NT.

Examples of domesticated animals include dogs, cat, horses, goats and sheep.

Clause 10. Section 31 amended (Spurs)

Section 31(1) and (2) make it an offence for a person to intentionally attach a spur (with sharpened or fixed rowels) to an animal (e.g. cock fighting) or use such spurs on an animal

(e.g. horse or bull riding). Other offences created include the intentional selling of spurs, and/or possession of these types of spurs. Section 31(9)(a) defines the meaning of spur.

Clause 10 undertakes a minor amendment to the definition of 'spurs' to provide that only the intentional possession, selling and using of spurs with sharpened rowels used on an animal (e.g. horse or bull riding) be an offence.

Clause 11. New section 31A inserted (Prong collars)

Clause 11 inserts a new section 31A to make new offences with regards to the possession and use of prong collars on dogs.

Clause 11(1) inserts new subsection 31A(1) and makes it an offence if the person uses a prong collar on a dog. The offence is a strict liability offence and attracts a maximum fine of 20 penalty units and an associated infringement notice of 2 penalty units inserted into Schedule 3 of the Regulations (refer to clause 28).

Clause 11(2) inserts new section 31A(2) and makes a further offence if a person possesses a prong collar. The offence is also a strict liability offence and attracts a maximum fine of 10 penalty units and associated infringement notice of 1 penalty unit inserted into Schedule 3 of the Regulations (also refer to clause 28).

Clause 11(3) inserts new subsection 31A(3) which defines a 'prong collar' to mean a collar that is designed for use on a dog and consists of a series of links or segments with prongs, teeth, or blunted open ends turned inwards towards the skin of a dog so that, when the collar is tightened, the collar pinches the skin around the dogs neck.

The new offences are considered reasonable and proportionate to the nature of the offence, and important in achieving animal protection objectives. The possession and/or use of prong collars on dogs is becoming more evident in the NT with animal welfare officers finding increasing use of prong collars on dogs usually hidden or disguised through the use of a scarf or some other material tied around the dog's neck.

Clause 12. Section 32 amended (Prohibited activities)

Section 32(1) makes it an offence for a person, who is in control of an animal, to intentionally use the animal, or permit the animal to be used in a prohibited activity (e.g. dog or rooster fights) and the person is reckless in relation to the circumstances. Further offences apply to intentionally organising or conducting a prohibited activity (section 32(2)); for the owner, manager or occupier of a premises that intentionally allows a prohibited activity to take place (section 32(3)); and a person or member of the public who intentionally attends a prohibited activity (section 32(5)).

Prohibitions under section 32(6)(a)-(c) do not apply to: the rehabilitation of native animals for future release into the wild; the keeping and displaying of animals whose normal diets include live food (e.g. providing snakes with live frogs); and the mustering and working of stock animals.

Section 32(7)(a)-(d) defines what is meant by a 'prohibited activity' which includes (in part) the release of an animal from confinement for the purposes of being hunted by persons or another

animal; use of animals to fight a person or another animal; and the using (and/or killing) of an animal as a lure.

Clause 12 inserts an additional paragraph (d) and (e) after section 36(6)(c) to provide a prohibition for the use of horses and cattle at a 'campdraft' event; and the use of bovine (i.e. cattle, banteng and buffalo) or equine animal species (horses) at 'rodeos' events.

Clause 12 further amends section 32(7) to insert a definition of 'campdraft event' to mean a competition or public event that involves a person riding a horse to work cattle for sport. A definition of 'rodeo' has also been inserted to mean a competition or public event that involves the riding or bucking of bovine and equine animals; or the catching, wrestling, roping or tying of bovine or equine animals; or any combination of those activities.

Clause 13. Section 34 replaced (Transport of dogs)

Clause 13 replaces and inserts new section 34, with the heading titled 'Transport of dogs' to modernise the offence for failing to properly secure a dog when transporting the animal on the tray of a motor vehicle or in trailer on a public street.

Clause 13(1) makes it an offence if the person transports a dog on the tray of a motor vehicle or trailer on a public street and the dog is not secured in a way that prevents the dog: from falling off; or out of the tray or trailer; moving off the tray or trailer; or being injured by the movement of the vehicle. Clause 13(2) clarifies that this offence does not apply in relation to a dog used to assist in the movement of stock animals (i.e. musters).

The offence remains a strict liability offence with a maximum penalty of 50 penalty units with an associated infringement notice of 3 penalty units inserted into Schedule 3 of the Regulations (refer to clause 28). This is considered reasonable and proportionate to the nature of the offence, and important in achieving animal protection objectives.

Clause 13(3) inserts a new offence if the person transporting a dog on the tray of a motor vehicle or trailer on a public street and the dog is secured in a way that causes unjustifiable, unnecessary or unreasonable suffering to the dog. An example may include having a dog tethered in the back of the utility for the entire day in the extreme NT sun without shelter or providing clean water and the dog sustaining burnt paws and/or heat stress.

The new offence is a strict liability offence with a maximum penalty of 50 penalty units and an associated infringement notice of 3 penalty units inserted into Schedule 3 of the Regulations (refer to clause 28). As above, this is considered reasonable and proportionate to the nature of the offence, and important in achieving animal protection objectives.

Clause 14. Section 36 amended (Definitions)

Clause 14 amends section 36 to insert a specific definition of 'animal' used for scientific research purposes that aligns with the definition of 'animal' in the *Australian Code for the Care and Use of Animals for Scientific Purposes*, to better capture scientific research undertaken on animals including wild fish, sharks, and cephalopods for example. The amended definition of 'animal' will apply to Part 4 of the Act only.

The current definition of 'animal' prescribed in section 5 is considered a sufficient definition for the purposes of the Act in general (refer to clauses 4 and 5 of the Bill).

Clause 15. Section 81 amended (Power to require name and address)

Clause 15 amends section 81(1) to provide a requirement for a person to produce proof of the person's identification (name and address) when asked by an authorised officer.

The object of the amendment is to positively identify a person for investigation purposes in connection to an offence, and when issuing compliance and enforcement notices.

It should be noted that every person has a right to the protection of the law against interference or attacks (right to privacy). Impacts on a person's right to privacy are limited through an authorised officer being required to first show their identification (identification card) and being only able to request a person's name and address (and evidence of this) where connected with an offence.

Clause 16. Section 83 amended (Power of entry)

Section 82(1) of the Act makes clear that an authorised officer has the necessary powers to perform their functions under the Act. Section 82(2) reinforces this by further making it clear that an authorised officer may use reasonable force in exercising a power or performing a function under the Act. Section 83 of the Act sets out the powers of an authorised officer to enter a premises. In particular, subsection 83(2)(e) provides the necessary exercise of powers in animal welfare situations that are so serious and urgent that immediate entry to the premises is necessary (emergency).

Clause 16 makes amendments to section 83, in response to community and stakeholder animal welfare concerns, as to the need for better regulatory oversight of premises used for commercial and business purposes (e.g. boarding kennels, doggy day care facilities, and cattle holding yards), and premises used for training and racing animals (e.g. greyhound and horse racing).

Clause 16(1) omits and inserts a new section 83(2)(b) and (ba) to provide that where an authorised officer believes on 'reasonable grounds' that the premises is being used for animal racing; or the premises is being used for, in connection with, a business involving animals; an authorised officer is now able to provide advanced 'reasonable notice' to undertake an inspection of the premises to ensure that provisions of the Act are not being contravened. To provide guidance, clause 16(2) inserts a number of examples to provide guidance as to the scope and application of the enhanced entry and inspection power. Clause 16(3) inserts a new subsection 83(2A) to provide safeguard protections to ensure that an authorised person when exercising the new power to enter a premises, cannot enter a premises or part of a premises used as a residential premises without consent, warrant, or in an emergency.

Clause 16(4) amends section 83(3) to remove the current 48 hours advance notice requirement, and inserts 'reasonable notice'. It is anticipated as a policy guideline that advanced 'reasonable notice' in many cases is likely to be a period of at least 24 hours, unless the occupier agrees to a shorter period. The inserting of 'reasonable notice' before being able to exercise the new inspection power aligns with approaches that already apply across jurisdictions and in their respective animal protection legislation.

Clause 17. Section 88 amended (powers of inspection)

Clause 17 inserts new subsection 88(2)(fa) to provide the ability for an authorised officer to take samples from an animal or thing where the officer believes on reasonable grounds is connected to an offence. An example may include taking a sample of blood or urine from an animal or a sample of a substance where there are reasonable grounds the animal may have been supplied with an illegal narcotic to enhance race performance.

Clause 18. Part 7, Division 3 inserted

Clause 18 inserts a new Part 7, Division 3 after section 129 of the Act, to provide transitional matters for this Bill once it commences as an Act.

New section 130 (clause 18(1) of the Bill) is a formal clause which defines, the *Animal Protection and Related Legislation Amendment Act 2025*, as the amending Act for the purposes of the transitional arrangements in Part 7. Further, Commencement is defined by reference to Part 2, Division 1 of the amending Act.

New section 130 further provides that sections 23, 24, and 34 as amended by the amending Act apply in relation to offences committed after commencement. The offence provisions, as in force before the commencement continue to apply to offences committed before the commencement.

DIVISION 2 AMENDMENT OF ANIMAL PROTECTION REGULATIONS 2022**Clause 19. Regulations amended**

Clause 19 provides that Division 2 amends the *Animal Protection Regulations 2022*.

Clause 20. Regulation 4 replaced

Section 20(1) of the Act provides for regulations to allow the adoption or the prescribing codes of practice relating animal welfare. Regulation 4 provides for the documents (codes of practice) specified in Schedule 1, as adopted, to be in force upon commencement being 1 November 2022.

Clause 20 repeals and inserts a new regulation 4 and new Part A and Part B in Schedule 1. Part A specified codes of practice adopted on the original commencement date (1 November 2025), with Part B providing for additional codes of practice documents that will be adopted on the day section 20 of the *Animal Protection and Related Legislation Amendment Act 2025* commences (also refer to clause 26).

Clause 21. Regulation 5 amended (Cruelty – electrical device)

Section 24(5) of the Act creates an offence where a person intentionally engages in conduct in relation to an animal, and the conduct is prescribed by regulations to constitute cruelty to an animal, with specified conduct constituting cruelty. In addition, by section 24(5)(b) of the Act, other conduct may be prescribed by regulations to constitute cruelty.

Clause 21 omits and inserts new regulation 5(a) and (ab) to prescribe the use of an electrical device, against the anus of the animal as well as against the face, udders or genitals, or using the device on an animal less than 3 months old to constitute cruelty.

Clause 22. Regulation 6 amended (Cruelty – other conduct)

In addition to clause 21 (above), section 24(5)(b) of the Act prescribes other conduct in regulation 6 of the Regulations that may also constitute cruelty.

Clause 22 omits and inserts new regulation 6(1) to only apply to conduct involving feeding or applying a foul or noxious substance as constituting cruelty (examples, oral or topical treatment for worms).

Note, “conduct of a sexual nature” as constituting cruelty has been removed with all serious animal sex offences centrally aligned in the Criminal Code (refer to clauses 29 to 38).

Clause 23. Excluded electrical devices

For the purposes of section 30(6)(b) of the Act, regulation 9 of the Regulations currently provides for exclusion of certain electrical devices to be prescribed in Schedule 2. Currently, Schedule 2, column 1, prescribes an excluded electrical device that may be used on an animal if: the device is made or adapted for or used for a purpose specified in column 2; and used on an animal specified in the corresponding entry in column 3; and used in accordance with any conditions specified in column 4.

Clause 23 replaces regulation 9 to streamline and align with new Schedule 2 that has also been inserted to provide additional clarity, by removing the columns and separating out the excluded electrical device items, the animals they can be used on, the purpose of use, and any conditions that apply to their individual use on an animal (refer to clause 27 of the Bill).

Clause 24. Regulation 10 amended (Membership)

Section 19(1) and (2) of the Act established the Animal Welfare Advisory Committee (AWAC), and for it to be constituted in accordance with the Regulations.

Clause 24 amends regulation 10 to undertake two minor administrative changes to the membership of AWAC.

Clause 24(1) omits and amends regulation 10(1)(a) to fix an anomaly with regards to prescribing the correct reference to AWAC member RSPCA, after a recent administrative name change to ‘RSPCA Northern Territory Incorporated’. Clause 24(2) insert new regulation 10(1)(ha) to formalise Animal Management in Rural and Remote Indigenous Communities Ltd CAN 152 429 279 (AMRRIC) to become a full member of AWAC.

Clause 25. Regulation 14 amended (Ministerial termination of appointment)

In addition to the administrative minor amendments in clause 24 (above), clause 25 undertakes an additional administrative amendment to regulation 14(1) to provide, or ensure the Minister has the ability to terminate any member of AWAC, including the new or included membership of the appointed AMRRIC member (new regulation 10(1)(ha)).

Clause 26. Schedule 1 amended (Codes of practice)

Clause 26 should be read in conjunction with clause 20 that amended regulation 4 to provide for documents (animal welfare codes of practice) specified in Schedule 1, as adopted, to be in force upon commencement being 1 November 2022 (Part A), and to allow the adoption of additional animal welfare codes of practice on the day section 19 of the *Animal Protection and Related Legislation Amendment Act 2025* commences (Part B).

The new or additional animal welfare codes of practice to be inserted into Schedule 1, Part B, include:

- *Australian Animal Welfare Standards and Guidelines for Poultry*, Department of Agriculture, Fisheries and Forestry (Cth), 2022.
- *Australian Animal Welfare Standards and Guidelines. Exhibited Animals – General* (Edition 1), Department of Primary Industries (NSW), July 2019.
- *Rules of Campdrafting, Code of Conduct for the Care and Treatment of Campdraft Livestock and Code of Practice for Committees Operating a Campdraft*, National Campdraft Council of Australia Incorporated, 1 September 2022.
- *Minimum Standards and Guidelines for Equine Welfare*, Thoroughbred Racing NT Incorporated, 28 February 2025.
- *Northern Territory Racing and Wagering Commission: Policy for the Welfare of Racing Greyhounds*, Northern Territory Government, 1 July 2024.
- *Standards and Guidelines for Best Practice Boarding Facilities / Establishment and Doggy Day Care Centres*, Pet Industry Association, June 2016.

Clause 27. Schedule 2 replaced (Excluded electrical devices)

For the purposes of section 30(6) and regulation 9, clause 27 repeals and inserts a new Schedule 2 using modern drafting approach to prescribe items of excluded electrical devices on an animal, their purpose of use, and the conditions of use on an animal (refer to clause 23 above). Clause 27 inserts the following 'Items' in new Schedule 2.

Item 1 Electric stock prod

Item 1(1) prescribes an electric stock prod to be an excluded device that may be used on cattle, crocodiles, buffalo, camels, swine, goats or sheep for the purpose of driving, herding, mustering or controlling those animals.

Item 1(2) prescribes prohibited conditions of use where an electric stock prod must not be used against the animal's face, udders, anus or genitals of the animal; or on an animal less than 3 months of age; or an animal that is diseased, injured or suffering. Item (3) provides, that subject to the conditions of use (Item 1(2)) an electric stock prod must also be used in accordance with the manufacturer's instructions.

Item 2 Electric stunning device

Item 2(1) prescribes an electric stunning device may be used on cattle, buffalo, sheep, goats or swine for the purposes of stunning those animals in an abattoir.

Item 2(2) prescribes prohibited conditions of use of the electric stunning device against the face, udders, anus or genitals of an animal; or on an animal less than 3 months of age. Item 2(3) provides, that subject to the conditions of use (Item 2(2)), an electric stunning device must also be used in accordance with the manufacturer's instructions.

Item 3 Electric training collar (excluding a collar operated by a remote-control device)

Item 3(1) prescribes an electric training collar (excluding a collar operated by remote control device) may be used on dogs for the purpose of training dogs.

Item 3(2) prescribes prohibited conditions of use of an electric training device against the face, anus or genitals of a dog; or a dog that is less than 3 months old. Item 3(3) provides, that subject to the conditions of use (Item 3(2)), an electric training collar for the purposes of training dogs must also be used in accordance with the manufacturer's instructions.

Item 4 Electro-ejaculator

Item 4(1) prescribes an electro-ejaculator may be used on a conscious cattle, buffalo or sheep for the purpose of collecting semen. Item 4(2) however further prescribes that an electro-ejaculator may be used on any tranquillised or anaesthetised animal (including cattle, buffalo and sheep).

Item 4(3) prescribes prohibited conditions of use of an electro-ejaculator against the face, udders, or anus of an animal, or an animal that is less than 3 months of age. Item 4(4) provides that subject to the conditions of use (Item 4(3)), an electro-ejaculator must also be used in accordance with the manufacturer's instructions.

Item 5 Electro-immobiliser

Item 5(1) prescribes an electro-immobiliser may be used on cattle or buffalo for the purposes of restraining the animal (i.e. castration of bulls or dehorning the animal).

Item 5(2) prescribes prohibited conditions of use of an electro-immobiliser against the udders or genitals of cattle or buffalo; or as an alternative to analgesia or anaesthesia if one of those options is the preferred procedure under appropriate husbandry practices.

Item 6 Electro-stunner

Item 6(1) prescribes an electro-stunner may be used on crocodiles for the purpose of restraining the animal (crocodile).

Item 6(2) prescribes prohibited conditions of use of an electro-immobiliser against the face, anus or genitals of the crocodile; or as an alternative to analgesia or anaesthesia if one of those options is the preferred procedure under appropriate animal husbandry practices.

Item 7 Electronic fencing systems using collars and transmitters

Item 7(1) prescribes an electronic fencing system (using collars and transmitters) may be used on dogs or cats for the purpose of containing the animals.

Item 7(2) prescribes prohibited conditions of use of using collars and transmitters against the face, anus or genitals of either the dog or cat; or on a dog or cat that is less than 3 months old. Item 7(3) provides that subject to the conditions of use (Item 7(2)), a virtual fencing system (collars and transmitters) must also be used in accordance with the manufacturer's instructions.

Item 8 Virtual fencing systems using collars and GPS systems

Item 8(1) prescribes a virtual fencing system using collars and GPS systems may be used on livestock for the purpose of containing livestock.

Item 8(2) prescribes prohibited conditions of use of a virtual fencing system (collars and GYPS system) against the face, udders, anus or genitals of livestock animals. Item 8(3) provides that subject to the conditions of use (Item 8(2)), a virtual fencing system for containing livestock must also be used in accordance with the manufacturer's instructions.

Clause 28. Schedule 3 amended

Clause 28 amends Schedule 3 of the Regulations prescribing new infringement notice offences and prescribed amounts inserted with regards to the new 'simple' minimum level of care offences (new section 23A to 23E); new offence for the possession and use of dog prong collars (new section 31A); and modernising the offence requirement with regards to transporting a dog (amended section 34).

The new infringement notice offences and prescribed amounts provide the Director Animal Welfare with more flexible enforcement and compliance options other than education and awareness, giving a warning, or prosecution. Prosecution should be a last resort option and only where the type of offending is of the worst kind, or where compliance cannot be achieved through other enforcement measures.

PART 3 AMENDMENT OF CRIMINAL CODE

Clause 29. Act amended

Clause 29 provides for this Part to amend the Criminal Code

Clause 30. Section 1 amended (Definition)

This clause amends section 1 of the Criminal Code by inserting a signpost definition of "sexually involved with" for the Code to refer to the definition set out in more detail in section 208GD.

The definition of "sexually involved with" in section 208GD applies to Part VIA which relates to sexual offences. It covers any type of sexual involvement with an animal and was inserted into the Code in 2023 when the existing offence of "bestiality" in section 208N was amended to extend to all types of sexual offences against animals. This was required as the common law definition of "bestiality" is relatively restrictive and having a wider definition was a response to the Britton matter.

Currently, as the definition of "sexual involvement with an animal" only extends to Part VIA of the Code, this amendment to the definition in section 1 ensures that it will also apply to the new section 125DA offence of "animal sexual abuse or animal crush material" that is being

inserted into Part V of the Criminal Code entitled “Acts injurious to the public general” by clause 33.

Clause 31. Part V, Division 2 heading replaced

Clause 31 provides for the heading of Part V, Division 2 to be amended from “child abuse and indecent articles” to “Child abuse material and other offensive material and articles” to reflect the fact that the new offence of “animal and sexual abuse or animal crush” material is being inserted into this Division.

Clause 32. Section 125A amended (Interpretation)

Clause 32(1) amends section 125A of the Criminal Code to insert a new definition of “animal sexual abuse or animal crush material”, for the purposes of the new section 125DA offence.

The definition is a two-pronged definition to reflect the seriousness of this new offence. “Animal sexual abuse or animal crush material” means material that “depicts, describes or represents” a person sexual involved with an animal OR an animal being “crushed, burnt, drowned, suffocated, impaled or otherwise killed or subjected to serious injury or torture”.

The second arm of the definition is that it must also be material that a “reasonable adult would regard in all the circumstances as being intended or apparently intended” to excite or gratify either “a sexual interest” OR “a sadistic or other perverted interest in violence or cruelty”.

This two-pronged definition is in contrast to the definition of “indecent article” that will continue to apply to the lower-level section 125C offence of “Publishing indecent articles”.

However, clause 32(2) proposes to amend the definition of “indecent article” in section 125A that currently refers to an article depicting “bestiality” in a manner that is likely to cause offence to a reasonable adult, by replacing the reference to “bestiality” to cover any type of “sexual involvement with an animal”. This will ensure that the offence in section 125C applies to a wider scope of indecent or offensive material, in line with the rest of the Code and current public expectations.

Clause 33. Section 125AB amended (Child abuse material and related articles may be destroyed)

Clause 33 amends section 125AB to extend the application of that section to “animal sexual abuse or animal crush material” as well as to child abuse material and related material.

Section 125AB of the Criminal Code provides that Police may authorise the destruction or forfeiture of child abuse material in certain circumstances. There are existing safeguards in section 125AB that will also be extended to “animal sexual abuse or animal crush material”, including that any authorisation must be made by a senior police officer.

This amendment is being made to reflect the seriousness of the offence and the type of material that is involved. It recognises the harm and distress that such material can cause not just to the animals involved but also to people who may view it.

Clause 34. Section 125AC amended (Article containing child abuse material may be returned)

Clause 34 of the Bill amends section 125AC to extend the application of the section to “animal sexual abuse or animal crush material” as well as to child abuse material.

Section 125AC of the Criminal Code currently provides that a senior police officer may authorise the return of a forfeited article that contains child abuse material, but only if the officer is satisfied that the child abuse material has been removed. This can be used for example, for a third party whose computer contained such material used by an offender that they were unaware of. This amendment will allow for this ability to also extend to articles containing animal sexual abuse or animal crush material.

Clause 35. Section 125DA inserted

Clause 35 of the Bill amends the Criminal Code by inserting a new section 125DA offence entitled “Animal sexual abuse or animal crush material”.

Proposed new section 125DA(1) provides that a person commits an offence if they:

- intentionally produce, sell, distribute or possess or offer or advertise for sale or distribution, material; AND
- that material is “animal sexual abuse or animal crush material” as defined in new section 125A.

The maximum penalty for this offence is to be 5 years imprisonment for an individual, or 5000 penalty units for a body corporate.

This offence is based to a large degree on section 547E of the *Crimes Act 1900* (NSW) however the proposed offence goes beyond the NSW offence in the sense that it applies to material that applies to any sexual involvement with an animal, so is not restricted to only behaviour that amounts to bestiality within the more restricted common law definition of that term.

Proposed new section 125DA(2) provides defences to the section 125DA(1) offence that mirror other defences available in Part V, Division 2 relating to Child abuse material. Rather than duplicate the defences in the NSW offence, it is proposed to use the same defences as for the existing NT Child abuse material offence in section 125B, in order to ensure consistency of application and management. This is particularly important given that both child abuse material and animal sexual abuse and animal crush material occur together as in the Britton matter. Accordingly, these defences will apply to situations where the material is held:

- by a law enforcement officer or a court officer in the course of their functions or powers; or
- by a person for classification purposes under the *Classification (Publications, Film and Computer Games) Act 1995* of the Commonwealth; or
- for legitimate medical and health research purposes.

Proposed new section 125DA(3) is an evidential provision that mirrors the approach for child abuse material i.e. section 125B(3). It provides that proof that material was in a place that a person occupied or was in control or management of, is evidence of their possession.

However, under proposed new section 125DA(4) it will not apply if the person did not know or have reason to suspect the animal sexual abuse or animal crush material was in or on that place.

Proposed new section 125DA(5) provides that a court, on finding a person guilty for an offence under section 125DA(1), may order the forfeiture and destruction of any animal sexual abuse or animal crush material (or any articles seized at the same time as the material). This reflects existing section 125B(6) of the Criminal Code relating to the offence of possession etc. of child abuse material.

Clause 36. Section 125E amended (Criminal liability of executive officer of body corporate – legal burden of proof on defence)

Clause 36 proposes to amend section 125E of the Criminal Code to insert a reference to new section 125DA.

This section currently extends criminal liability to an executive officer of a body corporate if an offence under section 125DA is committed by the body corporate e.g. if a body corporate is responsible for selling offensive material. This also reflects the approach taken to child abuse material offences.

However, this liability won't apply if the officer can establish any of the following:

- they weren't in a position to influence the conduct of the body corporate; or
- they took all reasonable steps to prevent the commission of the offence; or
- they didn't know and couldn't know and couldn't possibly have known about the offence.

Essentially, the provision is there to encourage executive officers to act appropriately and exercise due diligence and ensure that they can't hide behind the body corporate.

Clause 37. Section 125F amended (Court proceedings)

Clause 37 proposes to amend section 125F of the Criminal Code to insert a reference to new section 125DA.

This section currently provides that a Court must be closed during proceedings relating to child abuse material offences while the child abuse material is being displayed. This provision is to be extended to "animal sexual abuse and animal crush material" and is an additional protection for the community reflecting the seriousness and distressing nature of such material.

Clause 38. Section 208N amended (Sexual involvement with an animal)

Clause 38 of the Bill amends the Criminal Code by increasing the penalty for 'sexual involvement with an animal' (section 208N) from a current maximum of 7 years to 10 years

imprisonment, reflecting the seriousness of the offence and growing community concern about such conduct.

PART 4 REPEAL OF ACT

Clause 39. Repeal of Act

This is a formal clause to provide that the Act is repealed on the day after it commences.

On commencement, the provisions in this Bill automatically amend the Act and Regulations, thereby completing the Bill's purpose. This standard provision is to ensure that amendment Acts do not remain on the Statute Books after their commencement.