

# THE NATIONAL ANIMAL WELFARE BILL

## A SUBMISSION BY:

### AGAINST ANIMAL CRUELTY TASMANIA



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### **ATTACHMENT 1 – CODES OF PRACTICE**

### **ATTACHMENT 2 – TRANSCRIPT OF “A BLIND EYE”**

## **PREAMBLE**

Against Animal Cruelty Tasmania supports the initiative of a National Animal Welfare regulatory regime. It has become clear over many years that the State-by-State approach is unco-ordinated, inefficient and ineffective, and that Animal Welfare matters are not accorded anything approaching the priority that is so desperately needed.

It has been said that a country is judged by how it treats its animals, and Australia proves itself to be totally undeserving of the status it so wrongly claims, a leader in animal welfare. Current regulatory regimes do not meet the expectations of the community as a whole, or those of animal advocates.

AACT is concerned by the prevalence of the term “*use animals*” in the Bill; we believe that this is a mentality that should be discouraged

The Bill also causes AACT some concerns in that issues to do with farm (or “production”, or “food”) animals are not sufficiently addressed. There are many animal management and husbandry methods involving pigs, sheep, cattle, goats, layer and broiler hens that are manifestly cruel, and would incur prosecution were they to be practiced on “companion” animals.

Further, issues of animals used for entertainment and hunting require further consideration, as do issues to do with crustaceans, cephalopods (octopus, squid etc) and like animals and “vermin”, since at least some of these animals are only covered in the general cruelty provisions of the Bill .

AACT will address these issues further in this document.

## **SCOPE OF THIS SUBMISSION**

AACT does not propose to review the individual provisions of the Bill; rather, it seeks to address inequities in legislative protection of individual and collective animals, as well as commenting on the most critical elements contained in the Bill.. AACT also seeks to provide relevant details on Codes of Practice (which form Attachment 1) and their relationship to present legislation.

## **ADMINISTRATION, COMMENCEMENT, AND OTHER ADMINISTRATIVE MATTERS (PARTS 1 & 2):**

AACT does not offer comment on the administrative provisions of this section other than to support the establishment of an objective and properly resourced National Animal Welfare Authority, with full powers of enforcement. It is essential that its staff, particularly Inspectors, must not have any commercial or like interests in animals or groups/herds/flocks of animals. AACT agrees that employment within the Authority should be as described at Part 10 (1) (116) of the Bill. AACT also concurs with the qualifications/requirements of Inspectors.

AACT does have reservations in relation to the composition of the Authority as described, because typically, animal welfare individuals and groups are under-represented in such forums. Three representatives from the Commonwealth, two from “producing” bodies and at least two (of four places) scientists, one ethicist, and two members representing animal welfare would appear to follow that pattern, even with a further two members being from “community groups” (not further specified).

## **PURPOSES OF THE ACT (S2 PART 3)**

Currently, a number of “National Model Codes” exist, and State and Territory Codes of Practice are, in some cases, based on the National codes.

AACT is surprised to see that the issue of farm animals is not addressed in this section, other than in the general cruelty provisions. We note that later in the Bill there is provision for a ban on docking the tails of cattle and horses to be addressed, however we are surprised to see that other common farm practices which cause obvious suffering, such as mulesing, confining sows to sow stalls and farrowing crates, or hens into battery cages are not specifically addressed

AACT suspects that issues to do with farm animals are not addressed in this Bill because some provisions of the National Model Codes, as well as some State and Territory legislation may remain, possibly including Codes of Practice. Currently, compliance is voluntary, but it also may serve as a defence in a cruelty prosecution. Alternatively, non-compliance can support a prosecution. AACT objects strongly to such Codes of Practice being incorporated into legislation and/or regulation, since they explicitly provide for appalling cruelty to tens of thousands of animals in this country, by effectively providing exemptions from the legislation. Further, should these Codes of Practice be so incorporated, the process of reforming them (or eliminating them) would have to wait until such

time as the relevant legislation or regulation were being reviewed, and these reviews occur only after periods of years.

It is pleasing to see that the Bill addresses matters to do with animals used for hunting, and proposes to make the hunting of wildlife for entertainment illegal.

## **THE NATIONAL ANIMAL WELFARE AUTHORITY (PART 2)**

It is AACT's view that an objective, committed, and properly resourced authority is essential in a country which currently has different and various legislation between the States and Territories. Employees of such an Authority must not have any commercial or similar interests in an animal or group (or herd or flock) of animal/s.

AACT's view is that the RSPCA should no longer hold the universal "power to act" that it currently holds in most State and Territory jurisdictions, and it certainly should not be the *only* entity with such powers. The RSPCA has been shown to be either unable or unwilling to act in many matters brought to its attention, particularly in relation to farm animals, and it has commercial arrangements or other questionable associations with the "users" of farm animals. It is AACT's opinion that, since the RSPCA has on some State Councils live export "producers", pig farmers, and has commercial arrangements with egg producers, the organization as a whole is compromised and has clear conflicts of interest. AACT refers the Committee to the "Four Corners" program "A Blind Eye" of June 2004 (transcript forms Attachment 2).

These relationships are, AACT believes, manifested by the "Codes of Practice" in States and Territories, (and the National Model Codes) which explicitly provide for obvious and demonstrated cruelty in relation to farm animals. The RSPCA is involved in the development of these codes (usually so that the relevant government can say that it "has consulted with animal welfare organizations").

Amongst the issues with the current fragmented system is the fact that animals are frequently transported across State and Territory boundaries, and therefore the legislative protection accorded to them is ad-hoc and unmanageable. This is reflected in the current situations where "farm" animals are transported over extremely long distances simply because there is no Code of Practice which sets out a journey limit. Enquiries to authorities, including the RSPCA, simply elicit the response of "there's nothing we can do". Furthermore, in discussing the matter with relevant authorities, it was clear that no-one was prepared to accept jurisdictional responsibility, the RSPCA going so far as to say that even the deaths of a number of the cattle on such journeys would not constitute "cruelty".

Such transport is stressful and totally inappropriate. Common animal advocacy opinion (including written RSPCA policy) is that animals (if they must be) should be slaughtered as close to the point of their "production" as possible, and transporting them for 3,000 kms, usually simply for slaughter, is therefore clearly cruel and indefensible.

Another matter of serious concern is that there is no reliable, national, cross-institutional database of animal experimentation in Australia. This means that countless animals are subjected to meaningless experiments which may already have been conducted elsewhere in the country. As well, experiments can be undertaken to "validate existing research", and AACT is appalled that such experiments can be repeated more than once. Testing medical and other products has proven to be unreliable, for example Thalidomide and more recently, Vioxx. AACT is pleased to see that no testing would be approved for any cosmetic purpose, and that the Draize Test and classical LD50 test are explicitly banned in the Bill.

## **INSPECTORS**

AACT supports the provisions of Part 3, except that the Bill must provide for random inspections of any premises where an animal is located, *without* prior warning (i.e. delete "within reason"). "Within reason" means very different things to different people. Section 17 Part 5 must also be removed, and the same conditions must apply to entry of vehicles. AACT is also concerned that there is no apparent provision on *by what means* an animal must be destroyed by an Inspector.

AACT is also of the view that Inspectors must be given the power of arrest. In the event of an offence and/or animal/s or property being seized, AACT sees absolutely no reason why the perpetrator of an offence under this Act should be compensated in any way for loss incurred. Under no circumstances should animals be returned to such people, and in cases of serious cruelty, perpetrators must be banned from having any control over animals for life, and this must be enforced. Leading scientists have established parallels between animal cruelty and domestic and other forms of violence, and this must be remembered in the development of this Act.

Power to access vehicles should be extended to members of the public who become aware of animals in (or on) vehicles who are in distress. For example, while it is widely known that dogs die in minutes when locked in unshaded cars, this practice still occurs.

## **DUTY OF CARE**

In the context of animal welfare, duty of care must be clear and unambiguous. With the present trend away from small, family based farms to large corporations controlling thousands of animals, the duty of care for these animals must rest with *every officer of the corporation*.

This trend is what is described as “intensive farming”, where thousands of animals are kept in operations which appear to be exempt from many cruelty provisions so long as they comply with Codes of Practice. Thus the Bill must state clear coverage of individual animals as well as groups, herds and flocks of animals where appropriate.

It is AACT’s view that Part 4, Division 1, (Breach of duty of care) Clause 63 weakens and compromises the Act, and it should be deleted. This clause implies that the current regulatory framework regarding “companion animals” and “farm animals” should remain, (i.e. Codes of Practice covering farm animals which are both implicitly and explicitly cruel) when in fact all animals should receive the same levels of care and protection. So much more information on the physical, spatial, social and behavioural needs of all animals is widely available. Why is it not acceptable to keep a dog in a cage not much larger than itself for most of its life, but acceptable for a pig or a battery hen to live a life of such cruel suffering, when all animals feel pain, fear, hunger, thirst, grief and loneliness? (Pigs are known to be as sensitive and intelligent as dogs). AACT believes that the definition of the notion of “cruelty” has less to do with “perceptions” than it has to do with profit, and this is how Codes of Practice so clearly sanction and support cruelty.

AACT believes that offences under cruelty provisions and breaches of duty of care should be related to the Criminal Code with appropriate and mandated penalties attached. Sanctions presently delivered by the judiciary in all states and territories are so minimal as to be meaningless, and are absolutely no deterrent. For the purposes of this Bill, AACT believes that the penalties should be significantly higher, and that Codes of Practice must not form the basis of a defence against cruelty charges.

## **CRUELTY OFFENCES (DIVISION 2)**

AACT supports the cruelty provisions contained in Division 2, and in particular notes the limitations on the breeding of dogs, although we feel that 25 dogs is

excessive even for a breeder. The atrocities known as “puppy mills” must not be allowed to proliferate.

It is our view that specific inclusion should be made in relation to animals used in entertainment (rodeos and circuses), animals used in hunting, and “vermin”, as well as placing limitations on mass culling of “feral”, “pest” or wild animals, whereby non-lethal methods should be the preferred method of control and any lethal methods used must be demonstrably humane. For example, it is AACT’s opinion that steel jaw traps must be explicitly banned (possession, sale and use), as must the use of 1080 poison and like substances. AACT also has concerns in relation to the Chairperson of the Authority having wide-ranging powers and discretion in relation to “feral” and/or “pest” animals. We believe that this provision is open to abuse, and that even if the situation is said to be “urgent” that such a decision must be made by the Authority as a whole, or at least by an Advisory Committee able to be convened for that purpose.

AACT believes that “aerial culling”, which has been used against wild horses and camels in recent times is totally unacceptable, since attempting to shoot a moving target from a moving platform (such as a helicopter) cannot possibly guarantee a “clean kill”. The status quo is that, once an animal is declared to be a “pest” (usually for commercial reasons), any method used to kill it becomes acceptable. It must be remembered that most of these “pest” animals exist as a result of human ignorance and/or negligence, and we therefore have a responsibility to address the issue humanely.

The use of 1080 and similar poisons and glueboard traps in dealing with “vermin” must also be expressly prohibited.

AACT supports provisions banning the use of dogs for hunting purposes, which is common practice in Tasmania and allowable under the State Wallaby Hunting Standard (i.e. Code of Practice) despite Tasmania’s Animal Welfare Act expressly prohibiting the use of an animal to “torment or worry” another animal. Overall, AACT supports the provisions in relation to electric goading devices, spurs (but we believe the use of all of these devices should be prohibited) and traps, but would like to see these more expressly defined and stated.

AACT supports the Bill’s position on closely confined dogs; however, we would point out that some states in America have implemented legislation which specifically prohibits the chaining of dogs, and specifies space requirements for dogs. The simple answer is that if the dog cannot have its physical, social and behavioural needs met, then the “owner” should not have it.



## **LIVE EXPORTS (PART 5)**

AACT's position is that the export of live animals for slaughter should be banned forthwith, and this is not negotiable. There is ample evidence available showing the distress of animals on transports, the ships used to transport them are almost all 20 years old or more, and that the handling and slaughter practices in importing countries are cruel in the extreme and would be unlawful in Australia.

The gross cruelty of this industry has been substantially documented, and is supported by the current prosecution of an exporter in Western Australia. This case related only to the shipboard phase of the journey, and not the fate of the unfortunate animals who survived the journey in destination countries.

There is also a substantial pool of evidence confirming that government and industry claims that these countries require live animals for religious and cultural purposes are fallacious, since these countries already import massive quantities of meat from Australia. Furthermore, claims that these countries lack refrigeration and other relevant infrastructure are false and deceptive, and the Australian community is aware of this.

Beyond this, AACT has no further comment on this other than:-

1. On Voyage 83 of the "Norvantes" in 2002, the "independent, third party veterinarian" had a consignment of his own cattle on board, and approved the ship to sail into a cyclone
2. An exporter who lost his licence over the disaster that was the maiden voyage of the "Becrux" was known to be continuing to trade through his directorship of another export company.
3. The Keniry Review was the third such review of the live export trade. All three reviews arrived at similar conclusions, and the government has fundamentally ignored their recommendations. The most significant of the recommendations are that the industry must become more "accountable" and "transparent", yet any reports are protected by the government's "confidential in confidence" provisions. Dr Keniry also determined that a veterinarian should be on board all voyages to the Middle East, and this is not the case. All three reviews were deliberately limited in their scope, and concluded that "animal welfare" in importing countries cannot be addressed.

The live export trade has proven itself to be deceptive and incapable of regulating itself, and the government has shown itself to be no better. The industry measures its success on the basis of “mortalities” (only on ships), failing to recognize that for every animal who dies, countless others suffer terribly. These are amongst the reasons for AACT’s unequivocal position on the export of live animals (of any species) for slaughter.

## **ANIMALS USED FOR EXPERIMENTAL PURPOSES (PART 8)**

AACT finds the provisions contained in Part 8 to be comprehensive but wishes that its objection to the use of live animals as experimental tools generally be noted. We would point out that the use of non-human animal models for human research is largely unreliable and therefore unjustified. Current statistics are as follows:

Animal experiments record:

a 63% failure rate when detecting human carcinogens

a 75-95% failure rate for detecting drug side effects

a 70% failure rate for detecting drugs which cause birth defects

Success rates lower than those achieved by uneducated guesswork

## **ISSUES NOT COMPREHENSIVELY ADDRESSED IN THE BILL**

AACT has previously stated its objections to Codes of Practice relating to farm animals (as well as animals used in entertainment and hunting) being incorporated into legislation, and our comment on Codes of Practice forms Appendix 1. The Bill, since it does not address issues to do with these animals, fails to recognize the “Five Freedoms” which AACT regards as the essential *minimum* standards for farm animals, which were developed by the Brambell Committee in 1965.

The ‘five freedoms’ for animals are a set of principles which provide a logical and comprehensive framework for analysis of welfare within any “animal production system”.

*The Five Freedoms are:*

1. Freedom from hunger and thirst: by ready access to fresh water and a diet to maintain full health and vigour;
2. Freedom from discomfort: by providing an appropriate environment including shelter and a comfortable resting area;

3. Freedom from pain, injury and disease: by prevention through rapid diagnosis and treatment;
4. Freedom to express normal behaviours: by providing sufficient space, proper facilities and company of the animal's own kind; and
5. Freedom from fear and distress: by ensuring conditions and treatment which avoid mental suffering.

The Five Freedoms have been promoted by the UK Farm Animal Welfare Council which advises the UK government on all aspects of farm animal welfare, including new legislation. <sup>1</sup> Clearly, Codes of Practice have no absolutely no regard for the "Five Freedoms"

It is our view also that animals, especially exotic animals should be prohibited from circuses, and that Rodeos and hunting activities (including duck shooting) should be explicitly banned as prohibited events.

AACT would prefer to see the long distance transport of animals to saleyards and to slaughter explicitly banned, but as a minimum recommends that a journey time limit of 8 hours for animals being transported across State and Territory boundaries must be implemented, and jurisdiction and monitoring procedures established over such journeys,

## **CONCLUSIONS**

While AACT supports a national animal welfare system, and in particular the establishment of an independent National Animal Welfare Authority, we are concerned at the apparent limitations of this Bill in relation to full and equivalent protection for ALL animals. The Bill appears to rely upon the general cruelty provisions contained in it, and Codes of Practice, to largely cover farm animals, animals used in entertainment and hunting, and vermin.

Overall, however, the provisions it contains are comprehensive, in particular the innovative material in relation to animals used in experiments and closely confined dogs.

## **REFERENCES**

RSPCA Australia website

[www.liveexportshame.com](http://www.liveexportshame.com)

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<sup>1</sup> RSPCA Australia website [http://www.rspca.org.au/resource/article\\_define.asp](http://www.rspca.org.au/resource/article_define.asp) accessed 27/11/2005



