



# Animal Protection Index (API) 2020

## Commonwealth of Australia: ranking D

### Executive summary

Australia is a federal country, whereby most of the responsibility for animal welfare has been devolved to States and Territories. Since the API was first published in 2014, there have been marginal improvements for animal welfare. The Australian Capital Territory has fully banned sow stalls, though there are no intensive pig farming activities taking place in the Territory. Importantly, in 2017, the State of Victoria recognised animals as sentient in its Animal Welfare Action Plan. A ban on greyhound racing was supposed to take effect in New South Wales in July 2017; however, this ban was reversed by NSW Cabinet ministers who only approved some additional changes to the industry. At the national level, the Government introduced a ban on testing cosmetic products and their ingredients on animals. The implementation of this ban has been postponed to July 2020. Furthermore, new measures and penalties have been announced in May 2018 through amendments to the Australian Meat and Livestock Industry Act 1997 and the Export Control Act 1982, which introduce penalties for live exporters who breach animal welfare standards.

However, there is room for improvement in many domains related to animal welfare. Animal sentience is still not recognised at the Commonwealth level. With regards to farm animals, the Commonwealth Government developed a series of National Model Codes of Practice for the Welfare of Livestock, providing guidance on various farming activities – from rearing to transport and slaughtering. These Model Codes cover various species – pigs, sheep, cows, poultry and goats – however, they are not legally binding. State and Territories have incorporated most these Codes into their legislation. These Codes leave wide exceptions to basic animal protections, legalising cruel practices such as the use of sow stalls and farrowing crates, piglet mutilations without anaesthesia and the confinement of egg-laying hens in cages, among others. Stunning is not required prior to slaughter.

The Commonwealth Government is aiming to replace the Model Codes with nationally agreed Australian Animal Welfare Standards and Guidelines. The development of such Guidelines has been incredibly slow, with only four completed – for cattle, sheep, land transport, sale yard and depots – in over a decade. There has been strong concern about industry influence and conflicts of interest in the government agencies developing the rules. Additionally, wild animal farming and fur farming are still allowed in Australia. Australian legislation also allows for animals to be used for cruel forms of entertainment, such as circuses, rodeos and races. Marine mammals are kept in captivity and trained for entertainment.

Under the Australian Constitution, legislative responsibility for animal welfare within Australia is primarily under the responsibility of state and territory governments, which all have animal welfare legislation. The Australian Government holds responsibility for trade and international agreements, which entails live animal export trade and animals processed at export-registered slaughter establishments. The former Australian Animal Welfare Strategy (AAWS) 2010-14 had established a



national intergovernmental committee, the Australian Animal Welfare Advisory Committee, made up of representatives from state and territory government responsible for animal welfare and responsible for the delivery of the Strategy.

In late 2013, the Australian Government stepped back from leading any domestic animal welfare issues, as it announced the hand-over of the coordination and programme management for the ongoing delivery of the Strategy to the states and territories. The Australian Animal Welfare Advisory Committee also got disbanded. Since then, responsibility for animal welfare has been transferred from the Commonwealth government to the state and territory governments, which implies that animal welfare is not a crucial national issue. The then-Department of Agriculture and Water Resources (renamed the Department of Agriculture in 2019) commissioned Animal Health Australia to manage the process of developing the Australian Animal Welfare Standards and Guidelines, through the Animal Welfare Task Group. In 2015, the Voice for Animals Bill, which recommended to establish an Office of Animal Welfare as an independent statutory authority responsible for advising on the protection of animal welfare in Commonwealth-regulated activities, was defeated. At the State and Territory level, animal protection legislations are mostly enforced by state or territory government officers, and through the RSPCA via inspectors authorised by governments.

The Government of Australia is strongly encouraged to resume responsibility for animal welfare, emphasising its importance as a national issue and providing adequate funding for policy development, monitoring, enforcement and education. The Government of Australia is strongly encouraged to renew the Australian Animal Welfare Strategy with an adequate Implementation Plan. The Government should also demonstrate its commitment to animal welfare by enshrining animal sentience into law for, at minimum, all vertebrates, cephalopods and decapod crustaceans. With regards to farm animals, the Government of Australia is urged to enact all the Model Codes of Practice into legally binding legislation. Farm animal legislation should prohibit extreme confinement, mutilations without anaesthesia and ban live export. Moreover, the Government of Australia is urged to ban cruel practices for animals, which include fur farming, wild animal farming and the use of animals for entertainment - in circuses, rodeos, races and marine mammal shows, among others. Further legal and policy recommendations are associated with each Animal Protection Index (API) indicator and contained in the relevant sections of this report.



## Animal Protection Index Indicators

### Goal 1: Recognition of animal sentience and the importance of animal protection as a societal value

#### 1. Animal sentience is formally recognised in legislation

Analysis of the legislation	
Ranking	D
<p>There is no national Australian law applying to animal welfare and setting out basic principles and protections for animals, such as are contained in New Zealand’s Animal Welfare Act 1999. Animal sentience is not explicitly recognised in Australian law, either at Commonwealth or at state and territory level.</p> <p>Animal protection is not included in the Commonwealth of Australia Constitution Act, which deals with the Commonwealth Government’s most important priorities.<sup>1</sup> The Commonwealth Government does not take responsibility for animal welfare. It is left to the states and territories, meaning there is no national coordination and neither the Commonwealth Prime Minister nor other Commonwealth Ministers accepts any responsibility for promoting animal welfare as a priority.</p> <p>State and territory legislation implicitly recognise that animals feel pain by providing for the prevention of pain in some circumstances, although a high degree of pain and psychological trauma are legally permitted in farming, research and teaching, and entertainment.</p> <p>The Queensland Animal Care and Protection Act 2001 defines pain as including distress and mental or physical suffering; South Australia’s Animal Welfare Act 1985 defines harm as any form of damage, pain, suffering or distress and, following amendment in 2015 specifies the meaning of live baiting<sup>2</sup>; Western Australia’s Animal Welfare Act 2002 refers to pain and distress evidenced by severe, abnormal physiological or behavioural reactions; and the New South Wales Prevention of Cruelty to Animals Act 1979 defines pain as suffering and distress. In most states these provisions cover all vertebrates. Fish continue to be excluded from Western Australia and South Australia’s provisions, and are only included in the Northern Territory, when in captivity. In some states these provisions also cover cephalopods (Australian Capital Territory) and crustaceans (Australian Capital Territory and New South Wales – for human consumption; Victoria – adult decapods).</p> <p>In 2004 Australia adopted the Australian Animal Welfare Strategy (AAWS), which explicitly covered ‘all sentient animals—that is, those with a capacity to experience suffering and pleasure’.<sup>3</sup> The</p>	

<sup>1</sup> Parliament of Australia

[https://www.aph.gov.au/About\\_Parliament/Senate/Powers\\_practice\\_n\\_procedures/Constitution.aspx](https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/Constitution.aspx)

<sup>2</sup> <http://extwprlegs1.fao.org/docs/pdf/sa82899.pdf>

<sup>3</sup> <http://www.agriculture.gov.au/animal/welfare/aaws/australian-animal-welfare-strategy-aaws-and-national-implementation-plan-2010-14#australian-animal-welfare-strategy>



recognition of animal sentience underpinned the whole Strategy, as the Australian government recognised that 'sentience is the reason that welfare matters'.<sup>4</sup> The Strategy was accompanied by a National Implementation Plan for the period 2010-2014. However, the AAWS was defunded in 2013 and the Implementation Plan was not renewed post-2014. The defunding of the AAWS was projected to save the Commonwealth government AUD\$3.3 million over four years, at a time when its total revenue was more than AUD\$400 billion.<sup>5</sup>

In 2017, Victoria published its first Animal Welfare Action Plan, acknowledging animals as sentient.<sup>6</sup> This constitutes a positive step by the Victorian Government, which could be translated into legislation. The 24-page plan aims for Victoria to continue to improve animal welfare and to be well respected globally for its animal welfare practices.<sup>7</sup> The action plan covers all animals including pets, livestock, native animals, aquatic animals, animals used in research and teaching and animals used in tourism and recreation. The document embodies community expectations for animals and sets four priority areas. These are a policy and legal framework to safeguard and improve animal welfare in Victoria; collaboration to advance and promote investment in animal welfare; education to improve attitudes and knowledge; and compliance and enforcement that are efficient and effective.<sup>8</sup>

Victoria has an Animal Welfare Advisory Committee which provides advice to the Minister for Agriculture on animal welfare issues. Its roles are to contribute to improving animal welfare in Victoria by providing the Minister with strategic advice; assisting the Minister in reviewing legislation; and providing comment on and participating in the development of animal welfare codes and standards.<sup>9</sup> Agriculture Victoria provides administrative and technical support to the committee as well as to the Domestic Animals Management Implementation Committee; the Wildlife and Small Consultancies Animal Ethics Committee and the Animal Ethics Advisory Committee.<sup>10</sup>

A media article dated 13<sup>th</sup> May 2019 states that the Australian Capital Territory is set to become the first jurisdiction in Australia to recognise animals as sentient beings.<sup>11</sup> The proposed law would recognise that animals have intrinsic value and deserve to be treated with compassion, and that people have a duty to care for the physical and mental welfare of animals. With the above exception, no recognition of positive feelings and levels of awareness or consciousness has yet been introduced in legislation, nor does current knowledge of the science of animal sentience seem to inform legislation

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<sup>4</sup> <http://www.agriculture.gov.au/animal/welfare/aaws/australian-animal-welfare-strategy-aaws-and-national-implementation-plan-2010-14#australian-animal-welfare-strategy>

<sup>5</sup> Dossor, R - Cessation of animal welfare assistance in destination countries and Australian Animal Welfare Strategy, Budget Review 2014-15 Index.

<sup>6</sup> [http://agriculture.vic.gov.au/\\_data/assets/pdf\\_file/0005/377123/Animal-Welfare-Action-Plan-Dec-2017.pdf](http://agriculture.vic.gov.au/_data/assets/pdf_file/0005/377123/Animal-Welfare-Action-Plan-Dec-2017.pdf)

<sup>7</sup> Agriculture Victoria - Animal Welfare Action Plan

[http://agriculture.vic.gov.au/\\_data/assets/pdf\\_file/0005/377123/Animal-Welfare-Action-Plan-Dec-2017.pdf](http://agriculture.vic.gov.au/_data/assets/pdf_file/0005/377123/Animal-Welfare-Action-Plan-Dec-2017.pdf)

<sup>8</sup> Ibid, pp 1 -2.

<sup>9</sup> Agriculture Victoria - Animal Welfare Advisory Committee <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/advisory-committee>

<sup>10</sup> Agriculture Victoria - Our role in animal welfare, p 1.

<sup>11</sup> Scott, E, Roy T and Burnside, N - Canberra set to recognise animals as 'sentient beings' that are able to feel and perceive in Australian first, ABC News, 13 May 2019 <https://www.abc.net.au/news/2019-05-13/canberra-animal-laws-fine-owners-who-dont-exercise-dogs/11106158>



in a way that intrinsic value of animals could be part of the catalogue of protection, or the rationale for protection.

In Tasmania, the Animal Welfare Act 1993 was amended in 2015 through the Animal Welfare Amendment Act No. 18.<sup>12</sup> This review constitutes a missed opportunity for the Tasmanian Animal Welfare Advisory Committee to formally recognise animals as sentient in the legislation.

### Analysis

*Australia has a federal government system: there is a Commonwealth government and six states and two territories.<sup>13</sup> The Commonwealth government is responsible for the conduct of national affairs. The Australian Constitution sets out which matters are to be dealt with by the Commonwealth, and which by states and territories.<sup>14</sup> The Commonwealth's responsibilities include defences and foreign affairs, trade, commerce, currency, immigration, postal services, social services, and telecommunications.<sup>15</sup> State responsibilities include schools, hospitals, roads, police, prisons, agriculture and fishing. The Australian federal Government has largely abrogated all responsibility for animal welfare. It now leaves responsibility to state governments and, as noted above, defunded the Australian Animal Welfare Strategy and National Implementation Plan 2010-14. The fact that animal welfare has been transferred away from the Commonwealth government is an indication that it is not considered to be a crucial national issue and that its importance has been downgraded. There is now no nationwide development and oversight of laws and policies relating to animal welfare.*

*The Australian Animal Welfare Strategy provided a national framework to identify priorities, coordinate stakeholder action and improve consistency. <sup>16</sup>Its vision was that 'All Australians value animals and are committed to improving their welfare.'<sup>17</sup> Its mission was to deliver sustainable improvements in the welfare of all animals.<sup>18</sup> The AAWS sought to build on Australia's current arrangements, including state and territory legislation, standards, guidelines, codes of practice, industry quality assurance programmes, education and training, and research and development. The AAWS said that it was a national change programme that aimed to 'deliver sustainable improvements in welfare for all Australian animals. Animal welfare is of social and strategic importance. Modern societies have expectations that the quality of life should improve for domestic, livestock, working and*

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<sup>12</sup> [http://kirra.austlii.edu.au/cgi-bin/download.cgi/au/legis/tas/num\\_act/awaa201518o2015254](http://kirra.austlii.edu.au/cgi-bin/download.cgi/au/legis/tas/num_act/awaa201518o2015254)

<sup>13</sup> Parliament of Australia - The Roles and Responsibilities of Federal, State and Local Governments  
<https://www.parliament.nsw.gov.au/about/Pages/The-Roles-and-Responsibilities-of-Federal-State-a.aspx>, p 1.

<sup>14</sup> Parliament of Australia - The Australian Constitution - Commonwealth of Australia Constitution Act  
<https://www.aph.gov.au/About-Parliament/Senate/Powers-practice-n-procedures/Constitution.aspx>

<sup>15</sup> Ibid, section 52

[https://www.aph.gov.au/About-Parliament/Senate/Powers-practice-n-procedures/~/\\_/link.aspx?id=AFF6CA564BC3465AA325E73053DED4AA&z=z#chapter-01\\_part-05\\_52](https://www.aph.gov.au/About-Parliament/Senate/Powers-practice-n-procedures/~/_/link.aspx?id=AFF6CA564BC3465AA325E73053DED4AA&z=z#chapter-01_part-05_52)

<sup>16</sup> Department of Agriculture and Water Resources - Australian Animal Welfare Strategy - AAWS  
<http://www.agriculture.gov.au/animal/welfare/aaws>

<sup>17</sup> Ibid, p 1.

<sup>18</sup> Ibid, p 1.



*wild animals.*<sup>19</sup> The fact that the strategy has been defunded, not been renewed and responsibility for animal welfare is no longer held by the Commonwealth government, means that there is no longer any big picture animal welfare focus in Australia.

The AAWS also had a National Implementation Plan outlining how the vision and expectations of the strategy would be turned into actions and deliverables. It provided a framework and timescale for coordinated activities, investment decisions and engagement. It noted that implementation of the strategy was 'a shared responsibility, which relies on the commitment of time, resources and funding from stakeholders across all sectors and from all levels of government.'<sup>20</sup> The plan said that the strategy would provide oversight of how state and territory governments developed, implemented and enforced animal welfare policies and legislation in their jurisdictions. There is now no longer this national oversight of animal welfare.

The government announced on 8<sup>th</sup> November 2013 that the Australian Animal Welfare Strategy Advisory Committee would be scrapped. The committee's chair, former Australian chief vet Dr Gardner Murray, said that dissolving the committee was unwise as animal welfare was under intense public scrutiny. He said that disbanding the committee would harm the development and implementation of future animal welfare policy.<sup>21</sup> Then-Agriculture Minister Barnaby Joyce said that the government's budget was under intense pressure and something had to give. "People can suggest another group they'd want to disband in its favour. I'm not being trite, but someone could say, oh well, we'll cut funding to the ABC and we'll make the money up there."<sup>22</sup> Mr Joyce said that the Advisory Committee could be absorbed back into the Department of Agriculture, which would continue to have oversight of goals and objectives under the AAWA. Both the disbanding and the Minister's comments show that animal welfare is not considered an essential issue. The AAWS has not been renewed. The Australian government's 2014-15 Budget projected that AUD\$3.3 million would be saved over three years by ceasing the AAWS.<sup>23</sup> The Australian government's total revenue for 2017-18 was expected to be AUD\$444.4 billion, and spending was projected to be AUD\$464.3 billion.<sup>24</sup> The monetary saving from cancelling the AAWS was accordingly a tiny fraction.

Following the dismantling of the AAWS, the Australian Animal Welfare Advisory Committee and the Animal Welfare Committee were also disbanded.<sup>25</sup> According to a 2016 World Animal Protection

<sup>19</sup> Department of Agriculture and Water Resources - Australian Animal Welfare Strategy and National Implementation Plan 2010 - 14 <http://www.agriculture.gov.au/animal/welfare/aaws/australian-animal-welfare-strategy-aaws-and-national-implementation-plan-2010-14#part-2-national-implementation-plan>, p 18.

<sup>20</sup> Ibid, p 18.

<sup>21</sup> Vidot, A - Federal Government scraps welfare advisory group, ABC Rural, 8 November 2013 <https://www.abc.net.au/news/rural/2013-11-08/animal-welfare-committee-scrapped/5079284>

<sup>22</sup> Ibid, p 2.

<sup>23</sup> Dossor, R - Cessation of animal welfare assistance in destination countries and Australian Animal Welfare Strategy, Budget Review 2014-15 Index [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/BudgetReview201415/Animal](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201415/Animal)

<sup>24</sup> Australian Government - Budget overview 2017-18 [www.budget.gov.au/2017-18](http://www.budget.gov.au/2017-18)

<sup>25</sup> Ford, J - Advance Australian animal welfare: The urgent need to re-establish national frameworks, World Animal Protection, 29 February 2016, p 9.



report, the Animal Welfare Task Group, comprising representatives from state and territorial governments, was to continue to progress some AAWS projects, but funding for both the AAWS and AWTG ceased in June 2015.<sup>26</sup> The paper described the AWTG as a body with no Commonwealth funding, its membership limited to government officials, obliged to meet only twice a year and with no published minutes or actions.<sup>27</sup>

The Department of Agriculture's website is heavily focused on commerce and has only one page relating to animal welfare.<sup>28</sup> It is difficult to find.<sup>29</sup> Eight pages on the website outline the organisation's structure. There is no reference to animal welfare and none of the positions listed in the outline has responsibility for animal welfare.<sup>30</sup> The information relating to the Australian Chief Veterinary Officer and the Chief Veterinary Officer states that the latter is 'the primary representative of, and advisor to, the Australian Government on all matters relating to the maintenance and improvement of Australia's animal health status and the systems that support it. The overarching objective of this Office is to mitigate threats to the Australian economy and the productivity of Australia's animal-dependent industries, by supporting and enhancing trade and market access for animals and animal products, and representing the Australian Government on animal health issues of national interest.'<sup>31</sup> It is notable that there is no recognition of animals as living beings and no reference to protection or enhancement of their wellbeing. The website also lists the issues and legislation for which the department is responsible.<sup>32</sup> There is no reference to animal welfare or to any animal protection law.

Animal Health Australia has a Strategic Plan 2015-2020.<sup>33</sup> Animal Health Australia is heavily industry-focused. Its vision is for a 'resilient Australian animal health system through effective partnerships.'<sup>34</sup> Strategic priority three in the strategic plan calls for contributing to 'sustainable and improved animal welfare outcomes to support market access.'<sup>35</sup> This is to be done by working to develop industry verification systems and tools for animal welfare; assisting with the adoption of harmonised animal welfare legislative and regulatory arrangements; and contributing to national priority initiatives and agreed approaches to improve animal welfare arrangements.

A concerning indication of the Commonwealth government's approach to animal welfare is the report 'Commodity or Sentient Being? Australia's shifting mindset on farm animal welfare.' The 2018 report was commissioned by the then-Department of Agriculture and Water Resources and prepared by

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<sup>26</sup> Ford, J - Advance Australian animal welfare: The urgent need to re-establish national frameworks, World Animal Protection, 29 February 2016, p 9.

<sup>27</sup> Ibid, p 9.

<sup>28</sup> Department of Agriculture and Water Resources - [www.agriculture.govt.au](http://www.agriculture.govt.au).

<sup>29</sup> Department of Agriculture and Water Resources - Animal Welfare in Australia

<http://www.agriculture.gov.au/animal/welfare/animal-welfare-in-australia#animal-welfare-roles-and-responsibilities>

<sup>30</sup> Department of Agriculture and Water Resources - Organisational structure

<http://www.agriculture.gov.au/about/who-we-are/org-structure>

<sup>31</sup> Ibid, p 4.

<sup>32</sup> Department of Agriculture and Water Resources - Responsibilities and legislation

<http://www.agriculture.gov.au/about/who-we-are/legislation>

<sup>33</sup> Animal Health Australia - Strategic Plan 2015- 2020, Australian Health Council Ltd.

<sup>34</sup> Ibid, p 3.

<sup>35</sup> Ibid, p 10.



consultancy Futureye.<sup>36</sup> The paper states that 'The Department of Agriculture and Water Resources is faced with a number of risks due to changing societal expectations about farm animal welfare and the adequacy of regulation.'<sup>37</sup>The document goes on to say that Futureye's findings 'clearly show that the Australian public's view on how farm animals should be treated has advanced to the point where they expect to see more effective regulation. In Australia today, 95% of people view farm animal welfare to be a concern and 91% want at least some reform to address this. This perceived gap between expectations and regulation spells increasing risk for the Australian federal government, and more specifically the Department of Agriculture and Water Resources.'<sup>38</sup> Futureye says the major driver of the shift in public attitudes is an increased focus on animals' level of sentience and related capabilities. The document says there is a 'fundamental community belief that animals are entitled to the protection of relevant rights and freedoms, closely aligning with activist sentiment.'<sup>39</sup>It also notes there is distrust of both industry and government in relation to farm animal welfare, fuelled by a perception of a lack of transparency. It is strange that community concern about animal welfare is viewed as a threat and a concern, rather than a wake-up call for the government to improve laws and policies. The report goes on to state that the Department faces three major social licence threats related to farm animal welfare. These include 'uninformed sections of the population' being fuelled by media coverage and getting drawn into debate 'which may result in reactive calls for extreme regulation, as seen with the live export issue.' The paper also says there is a strong belief the federal government is the key authority responsible for regulating farm animal welfare and this 'has the potential to result in outrage.'

The research finding that 95 per cent of respondents viewed farm animal welfare with concern and 91 per cent wanted reform to address it<sup>40</sup> indicates that both the Commonwealth and state and territory governments are out of step with public opinion in failing to address animal welfare more actively.

There is allocation of responsibility to authorities throughout the states and territories as part of each state and territory's application of law but not as part of a federal strategy. Following the withdrawal by the government in delivering the Animal Welfare Strategy and the handover to states and territories in late 2013 in an effort to achieve savings across government, animal welfare does not appear to be priority area for work and spending at a federal level.

Australia is heavily dependent on agriculture both domestically and for export earnings. It accordingly places economic benefit and financial returns above animal welfare. The Department of Agriculture is primarily concerned with promoting and expanding agriculture, rather than with animal welfare. This creates a conflict of interest when government agencies are charged both with promoting agriculture and dealing with animal welfare. An example of this occurred in 2018, when there was concern

<sup>36</sup> Futureye Pty Ltd – Commodity or Sentient Being? Australia's shifting mindset on farm animal welfare, 2018, Department of Agriculture and Water Resources.

<sup>37</sup> Ibid, p 4.

<sup>38</sup> Ibid, p 4.

<sup>39</sup> Ibid, p 4.

<sup>40</sup> McGreevy, P \_ Not just activists, 9 out of 10 people are concerned about animal welfare in Australian farming, The Conversation, 15 May 2019.





about the process used to develop Australian animal welfare standards for the poultry and egg industries, with suggestions governments were unduly influenced by industry.<sup>41</sup> Three scientists complained about selective and misleading use of their research to strengthen the case for the continued use of conventional cage egg-laying systems. This led to the RSPCA conducting its own review of the current science. The Victorian government also commissioned its own review of the scientific literature and the Western Australian Agriculture Minister, Alannah MacTiernan, expressed misgivings about the draft standards, stating they failed to reflect both current scientific thinking and community expectations.<sup>42</sup> Documents obtained by the Australian Broadcasting Corporation appeared to show secret meetings between the New South Wales Department of Primary Industries and industry representatives, allegedly to manipulate the outcome of the process.<sup>43</sup>

### Enforcement mechanisms

The legislation has enforcement mechanisms across all state and territory jurisdictions. The laws are enforced by state or territory government officers, and through the RSPCA via inspectors authorised by governments.<sup>44</sup> Enforcement officers are empowered to investigate cruelty, issue statutory notices requiring animal owners to care for their animal in a particular way; to seize animals; to issue infringement notices; and to commence prosecution proceedings for serious offences.

There is little commitment at either Commonwealth or state or territory level to providing the resources needed for effective enforcement.

### Key recommendations

- **Building upon Victoria's Animal Welfare Action Plan, which** recognises that animals are sentient beings, the Government of Australia is encouraged to enshrine animal sentience in the law. The Government of Australia is urged to issue a new implementation plan of the Animal Welfare Strategy, which would lay out how animal sentience translates into practice.
- The Commonwealth Government should resume responsibility for animal welfare, emphasising its importance as a national issue and providing adequate funding for policy development, monitoring, enforcement and education. Australia could demonstrate its commitment to animal welfare by enshrining a commitment to it in the Commonwealth of Australia Constitution Act and including sentience and legal personality for animals. At minimum, all vertebrates, cephalopods and decapod crustaceans should be defined as sentient, and the law provides a mechanism to be expanded in future based on the latest science.

<sup>41</sup> Ellis, E - Governments can't be trusted to deliver welfare standards for chickens, 12 February 2018, The Conversation <https://theconversation.com/governments-cant-be-trusted-to-deliver-welfare-standards-for-chickens-90091>

<sup>42</sup> Ibid, p 2.

<sup>43</sup> Ibid, p 2.

<sup>44</sup> <http://www.agriculture.gov.au/animal/welfare/animal-welfare-in-australia#animal-welfare-roles-and-responsibilities>



2. There are animal protection laws that prohibit causing animal suffering either by a deliberate act of cruelty or by a failure to act

Analysis of the legislation	
Ranking	C
<p>There is no Commonwealth legislation setting out basic protections for animals. States and territories have passed their own legislation prohibiting causing some animal cruelty and neglect. State legislation generally includes provisions for negligence and a duty of care, but there are some differences between the systems in each individual jurisdiction.</p> <p>In the Australian Capital Territory, section 7 of Part 2 (Offences) of the Animal Welfare Act 1992 – reviewed in 2018 – prohibits acts of cruelty carried out by individuals as well as corporations, regulating that the person in charge of an animal should exercise reasonable care, control and supervision, avoid pain when unreasonable, unnecessary or unjustifiable, while alleviating pain and ensuring the necessary veterinary treatment when its occurrence is unavoidable. This protection extends to all vertebrates including amphibians, birds, fish, mammals other than human beings, reptiles and to crustaceans which are intended for human consumption.</p> <p>In New South Wales, section 5 of Part 2 (Offences) of the Prevention of Cruelty to Animals Act 1979<sup>45</sup> prohibits acts of cruelty to animals, defining cruelty as causing the animal unnecessary suffering, and failing to reasonably mitigate its suffering including when suffering is caused accidentally. The Act also places a duty on a person in charge of an animal to exercise reasonable care, control or supervision to prevent the commission of an act of cruelty. This protection extends to all vertebrates and to crustaceans which are in restaurants.</p> <p>In the Northern Territory, Part 2 on Animal Welfare of the Animal Welfare Act 2000<sup>46</sup> – as in force in April 2017 – prohibits causing unnecessary suffering including by acts of cruelty and by failure to act, and creates a duty of care, establishing the necessary minimum level necessary (sections 7 to 9).</p> <p>In Queensland, section 18 of the Animal Care and Protection Act 2001<sup>47</sup> prohibits acts of cruelty and section 17 creates a duty of care. This applies to vertebrates including pre-natal or pre-hatched creatures in the last half of gestation or development, marsupials and to any prescribed cephalopods and malacostraca.</p> <p>In South Australia, section 13 of the Animal Welfare Act 1985<sup>48</sup> prohibits intentionally, unreasonably or recklessly causing an animal unnecessary harm, and creates a duty for an owner to take reasonable steps to mitigate harm suffered by an animal. Harm is defined as any damage, pain, suffering or</p>	

<sup>45</sup> <https://www.legislation.nsw.gov.au/inforce/af92116f-7d2d-60a9-f731-9dacdd705d05/1979-200.pdf>

<sup>46</sup> <https://legislation.nt.gov.au/en/Legislation/ANIMAL-WELFARE-ACT-1999>

<sup>47</sup> <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2001-064>

<sup>48</sup> [https://www.legislation.sa.gov.au/LZ/C/A/ANIMAL%20WELFARE%20ACT%201985/2000.01.31\\_\(1994.12.01\)/1985.106.PDF](https://www.legislation.sa.gov.au/LZ/C/A/ANIMAL%20WELFARE%20ACT%201985/2000.01.31_(1994.12.01)/1985.106.PDF)



distress. This applies to vertebrates except fish.

In Tasmania, section 8 of the Animal Welfare Act 1993<sup>49</sup> prohibits doing or failing to do any act which causes or is likely to cause unreasonable and unjustifiable pain or suffering to an animal. This applies to vertebrates. Section 7 also requires that a person who has the care or charge of an animal or group of animals must not use a method of management that is reasonably likely to result in unreasonable and unjustifiable pain or suffering to the animal or an animal in the group. This applies to vertebrates and any other prescribed creatures.

On 30 October 2018, the Animal Protection Bill 2018 was passed by the Northern Territory's Legislative Assembly.<sup>50</sup> The Act will take effect once its regulations have been drafted and approved by the government. The proposed law aligns with and builds upon the existing regulatory framework in the Territory for animal welfare matters, with clearly defined rights, roles and responsibilities for government, industry and the community. With regards to anti-cruelty legislation, the Act provides that an animal will be automatically forfeited from anyone found guilty of a cruelty or a related offence against that animal. Moreover, a person convicted of three animal cruelty or related offences within a five-year period will automatically be banned for five years from being in control of an animal. Under controlled circumstances, an authorised officer will have the power to destroy an animal (or have it destroyed) humanely and without unnecessary additional suffering, if the animal is so severely injured, diseased or in such poor physical condition that it is cruel to keep the animal alive. The maximum term of imprisonment under the new Act will increase from two to five years and the maximum fine will increase from AUD\$31,000 to AUD\$77,500.

In Victoria, section 9 of the Prevention of Cruelty to Animals Act 1986<sup>51</sup> creates a cruelty offence for causing unreasonable pain or suffering or for acts likely to cause such pain or suffering, including by failure to act, worrying, tormenting or terrifying an animal. This applies to all vertebrates (including reptiles, birds and mammals after the mid-point of gestation) and to all adult decapod crustaceans. There is an exemption however for anything done in accordance with a legislated Code of Practice (section 6) or a livestock management standard.

In Western Australia, section 19 of the Animal Welfare Act 2002<sup>52</sup> prohibits acts of cruelty and causing unnecessary harm to animals, including by abandonment. Section 20 specifies measures in regards of self-defence or protecting another person or an animal against another animal, which provides an exception allowing causing harm if an animal is attacking or threatening to attack, and the defendant did not use more force than was reasonably necessary. These provisions apply to vertebrates other than fish.

### Analysis

*It is regrettable that there is no federal legislation dedicated to animal protection. However, it is positive that all state legislation (except Northern Territory at the time of writing) all include a prohibition of*

<sup>49</sup> <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1993-063>

<sup>50</sup> <https://dpiir.nt.gov.au/primary-industry/animal-welfare-branch/animal-protection-bill-2018>

<sup>51</sup> <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/animal-welfare-legislation/prevention-of-cruelty-to-animals-legislation>

<sup>52</sup> [https://www.legislation.wa.gov.au/legislation/statutes.nsf/main\\_mrtitle\\_50\\_homepage.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_50_homepage.html)



*cruelty to animals, through acting as well as a failure to act. However, in all jurisdictions, there is a high tolerance for cruelty in the course of farming, hunting, research and entertainment and the law legalises all these cruelties.*

*Each state and territory government is responsible for implementing and enforcing domestic animal welfare legislation. These laws are enforced by the RSPCA or by state and territory government officers. The fact that the RSCPA is responsible for much enforcement work is an abdication of responsibility by the Commonwealth, state and territory governments, as the RSPCA has to fundraise for much of its work.*

*Between 2012 and 2018, Agriculture Victoria – Victoria’s agricultural department – inquired into 4912 welfare complaints. It prosecuted 71 cases, resulting in convictions on 557 charges and a total of AUD\$349,950 in fines and sentences of 600 hours of community service, two jail terms, and 15 people being banned from owning or managing livestock for specified periods.<sup>53</sup> Victoria in September 2017 had a population of 6.35 million so both the number of welfare complaints investigated and the conviction rates are extremely low. This indicates that much animal abuse and neglect is not reported or detected, and that prosecutions are taken only in the rarest cases. The penalties imposed are also extremely lenient, calling into question the effectiveness of the enforcement regime.*

### Enforcement mechanisms

Each state animal protection act contains powers (including emergency powers) for inspection and enforcement by authorised officers, as well as a series of procedures for prosecution. There are also powers for confiscation of animals and seizure of evidence.

Enforcement of animal welfare laws is generally shared between the RSPCA Australia and state and territory government agencies.<sup>54</sup> The RSPCA has a budget of AUD\$100 million a year. It receives some government funding but must also fundraise through donations, bequests, grants, and partnerships to obtain enough money for its work.<sup>55</sup>

Victoria’s agricultural department, Agriculture Victoria, administers and enforces the Prevention of Cruelty to Animals Act 1986. The department undertakes inquiries into animal welfare complaints, which can lead to enforcement action being taken and prosecutions.<sup>56</sup> Inspectors appointed under the legislation have the power to enter and search premises, seize animals, inspect livestock and issue compliance notices. The department on its website states that ‘in most cases prosecution is not necessary because early intervention and other prevention measures work, and this is the ultimate

<sup>53</sup> [https://www.legislation.wa.gov.au/legislation/statutes.nsf/main\\_mrtitle\\_50\\_homepage.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_50_homepage.html)

<sup>54</sup> Petrie, C. The Commonwealth’s role in animal welfare, Low and Bills Digest, Parliament of Australia [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/BriefingBook45/p/AnimalWelfare](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook45/p/AnimalWelfare)

<sup>55</sup> RSPCA Australia – About Us - <https://www.rspca.org.au/what-we-do/about-us-0>

<sup>56</sup> Agriculture Victoria – Record of prosecutions <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/record-of-prosecutions>



aim'.<sup>57</sup> That is a very questionable statement and no evidence is provided to support it. Victoria's animal welfare law is more than three decades old and would benefit from being updated.

### Key recommendations

- **Legislation prohibiting animal suffering is enacted at the state and territory level in Australia.** It would be beneficial for the Government to renew the implementation plan of its Animal Welfare Strategy, which expired in 2014, in order to improve the harmonisation of anti-cruelty legislation. Animal sentience should provide the rationale for establishing such anti-cruelty law.
- The State of Victoria maintains an online record of prosecutions, listing details of some prosecutions. This should be expanded to record all prosecutions, and other states and territories should do the same. Such a register is a valuable tool for assessing whether monitoring and enforcement of animal welfare are effective.

## Goal 2: Presence of animal welfare legislations

3. There are laws that apply to animals used in farming including rearing, transport and slaughter

### Analysis of legislation

Ranking	E
<p><u>Rearing</u></p> <p>The Australian Animal Welfare Standards and Guidelines website states that 'government and industry have agreed that national standards and guidelines are needed [for livestock] and are working cooperatively to develop the standards and guidelines under the previous AAWS.'<sup>58</sup> The website states that Animal Health Australia was commissioned under the previous AAWS to facilitate the development of nationally consistent standards and guidelines for livestock, but does not state which organisation currently has this responsibility.</p> <p>An email response to a question to Animal Health Australia dated 17<sup>th</sup> May 2019 stated that the Animal Welfare Task Group was a committee of the Australian Agriculture Senior Officials Committee and Agriculture Ministers' Forum. The email said the committee met regularly and 'focuses on the development of nationally consistent animal welfare Standards and Guidelines to replace an array of Model Codes of Practice for the appropriate care and husbandry of animals in Australia's animal</p>	

<sup>57</sup> Agriculture Victoria - Record of prosecutions <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/record-of-prosecutions>

<sup>58</sup> Australian Animal Welfare Standards and Guidelines - About [www.animalwelfarestandards.net.au/about-2/](http://www.animalwelfarestandards.net.au/about-2/)



use and livestock industries.<sup>59</sup> There is no website for the Animal Welfare Task Group and it is not mentioned anywhere on the Australian Animal Welfare Standards and Guidelines website, which lists its work. There are no details of resources for the Task Group, or about the expertise of its members. The standards and guidelines website states that 'For the past 35 years, the welfare of livestock in Australia has been supported by a series of Model Codes of Practice for the Welfare of Animals. Community values and expectations have changed, and our international trading partners have placed greater emphasis on livestock welfare. A review of the Model Codes of Practice (MCOP) in 2005 recommended they be converted into Australian Animal Welfare Standards and Guidelines. The welfare standards and guidelines for livestock aim to harmonise and streamline livestock welfare legislation in Australia, ensuring it results in improve welfare outcomes and is practical for industry.'<sup>60</sup> The standards and guidelines can be viewed on the website. The only standards and guidelines completed so far are those for cattle, sheep, land transport, and saleyards and depots. Work on the poultry rules is underway.

### Rearing - pigs

In relation to standards and guidelines for pigs, the Australian Animal Welfare Standards and Guidelines website states that a review of the scientific literature and international pig welfare codes and standards was undertaken to inform the upcoming development of rules. The review was undertaken by the Animal Welfare Science Centre at the University of Melbourne and was funded by Australian Pork Limited.<sup>61</sup> Two peer reviews of the scientific literature and international rules review commented that there was missing literature and certain welfare challenges had not been discussed. They also suggested that the protective elements of enrichment should be included; shoulder ulcerations/lesions had not been mentioned; and there should be a detailed discussion of the impact of prenatal stress.<sup>62</sup>

The Model Code of Practice for the Welfare of Animals: Pigs<sup>63</sup> allows for the use of sow stalls and farrowing crates (Section 4 on 'Accommodation'). Castration is presented as a way to limit aggression problems in group housing accommodation. Tail-docking, teeth-clipping and nose-roping are also put forth as preventative measures either to limit aggressions among pigs, or to prevent 'adverse effects to the environment' in the case of nose-ringing (Section 5). There is no obligation to use anaesthesia before carrying out the castration, tail-docking, teeth-clipping and nose-ringing of piglets.

### Rearing - broiler chickens

The Model Code of Practice for the Welfare of Animals: Domestic Poultry<sup>64</sup> contains basic welfare provisions, notably on the lighting, ventilation, temperature and humidity of the rearing environment for

<sup>59</sup> Animal Health Australia, Response to email inquiry, 17 May 2019.

<sup>60</sup> Australian Animal Welfare Standards and Guidelines <http://www.animalwelfarestandards.net.au/>

<sup>61</sup> Australian Animal Welfare Standards and Guidelines - Pigs <http://www.animalwelfarestandards.net.au/pigs/>

<sup>62</sup> Australian Animal Welfare Standards and Guidelines - Pigs [http://www.animalwelfarestandards.net.au/files/2019/01/APL-Project-2017-2217-review-of-pig-welfare-response-to-reviewer-comments\\_.pdf](http://www.animalwelfarestandards.net.au/files/2019/01/APL-Project-2017-2217-review-of-pig-welfare-response-to-reviewer-comments_.pdf)

<sup>63</sup> <http://www.publish.csiro.au/ebook/download/pdf/5698> so

<sup>64</sup> <http://www.publish.csiro.au/ebook/download/pdf/3451>



egg-laying hens and broiler chickens. Appendix I specifies that the maximum stocking density for broiler chickens can go up to 46 kg/m<sup>2</sup>.

### Rearing - egg-laying hens

The Model Code of Practice for the Welfare of Animals: Domestic Poultry contains provisions both for broiler chickens and for egg-laying hens. Three types of housing are laid out: cage systems, barn systems (where hens can roam inside a barn) and free-range systems (where hens are housed in sheds and have access to an outdoor range). There is no restriction on what type of cages can be used: all cages have to abide by 1995 standards.

The Proposed Draft Australian Animal Welfare Standards and Guidelines for Poultry were released in November 2017 contain no provisions to ban cages.<sup>65</sup> An article by a legal academic dated 12<sup>th</sup> February 2018 discussed the process for the development of rules relating to hens, noting that the draft rules excluded any phase-out of battery cages. Instead, the existing space allowance of 550 square centimetres for each laying hen would be retained – smaller than an A4 sheet of paper.<sup>66</sup> The article said there was concern about how the rules had been developed, with allegations that governments were being unduly influenced by industry. Three scientists had complained about the selective and misleading use of their research to strengthen the case for conventional caged egg-laying systems. Western Australia's Agriculture Minister also expressed concern about the draft standards, citing their failure to reflect both current scientific thinking and community expectations.<sup>67</sup> Documents obtained by the Australian Broadcasting Corporation appeared to show secret meetings between the New South Wales Department of Primary Industries and industry representatives, allegedly to manipulate the outcome of the process. Concerns were also expressed by Victoria.<sup>68</sup> A media report dated 8 January 2018 said that the New South Wales Department of Primary Industries had allowed the drafting of new welfare standards for poultry to be 'stage-managed' by industry in a process lacking transparency, governance and independence.<sup>69</sup> The New South Wales Department has been leading the development of new laws for the treatment of Australia's 600 million poultry, the majority of whom are confined in battery cages. A widely expected ban on battery cages was not included in the new draft standards for poultry welfare.

### Rearing - dairy cattle and calves

The 'Cattle Background' page for the Australian Animal Welfare Standards and Guidelines for Cattle states that the standards and guidelines were refined from the Model Code of Practice for the welfare of animals and aim to follow the principles described in the revised AAWS Development of Australian

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<sup>65</sup> Animal Health Australia - Proposed Draft Animal Welfare Standards and Guidelines for Poultry, November 2017 <http://www.animalwelfarestandards.net.au/files/2015/07/Public-Cons-Version-Poultry-SnG-Nov-2017.pdf>

<sup>66</sup> Ellis, E - Governments can't be trusted to deliver welfare standards for chickens, The Conversation, 12 February 2018.

<sup>67</sup> Ibid, p 2.

<sup>68</sup> Ibid, p 2.

<sup>69</sup> Thomas, J - Executive email reveals stoush over 'stage-managed' process to benefit egg industry, Australian Broadcasting Corporation, 8 January 2018.



Standards and Guidelines for the Welfare of Livestock Business Plan.<sup>70</sup> The revised version of that business plan is dated February 2009, meaning that the plan was developed even earlier than that. It is accordingly very out of date and attitudes to animal welfare have changed considerably in the past decade. It is concerning that new rules are being developed based on outdated material. The revised business plan said in 2009 that the aim was to reformat each of the existing Model Codes of Practice into standards and guidelines. It is disturbing and demonstrates a lack of commitment to animal welfare that, a decade later, so little progress has been made.

The Australian Animal Welfare Standards and Guidelines for Cattle were agreed by State and Territory governments in 2016<sup>71</sup> and are being regulated into law by most state and territory governments between 2017 and 2020. Details can be viewed on the website.<sup>72</sup> These 2016 Guidelines state that 'permanent or long-term tethering should be avoided.'

Section 9 specifically refers to the management of dairy cattle. Section 9.2 states that the milking technique should minimise the risk of discomfort, injury and disease. Cattle may be tail-docked only on veterinary advice and only to treat injury or disease. There are no provisions regarding housing, noting that the 'the Australian dairy production system is almost entirely outdoors and pasture-based.'

### Transport

With regards to transport, there is limited relevant legislation at national level. At the end of 2012, the government introduced measures to address the welfare of exported livestock, the Exporter Supply Chain Assurance Scheme. Export permits for slaughter will only be granted where the exporter can show that they have control over the movement of animals within their supply chain and that the animals will be handled in accordance with OIE standards through the point of slaughter.<sup>73</sup>

New measures and penalties have been announced in May 2018<sup>74</sup> through amendments to the Australian Meat and Livestock Industry Act 1997<sup>75</sup> - last updated in January 2017 - and the Export Control Act 1982<sup>76</sup> - amended in November 2016. The announcement introduced penalties for live exporters who breach animal welfare standards. According to the Australian Meat and Livestock Industry Act 1997, an application for an export licence will only be granted if it is made in accordance with the regulations in regards of the quality, standard and grading of meat and livestock, and by the Australian Code for the Export of Livestock which sets out principles in regards of the feeding, treatment, assembling, loading and transport of the livestock until their arrival at their overseas

<sup>70</sup> Australian Animal Welfare Standards and Guidelines - Cattle Background  
<http://www.animalwelfarestandards.net.au/cattle/background/>

<sup>71</sup> [http://www.animalwelfarestandards.net.au/files/2011/01/Cattle-Standards-and-Guidelines-Endorsed-Jan-2016-061017 .pdf](http://www.animalwelfarestandards.net.au/files/2011/01/Cattle-Standards-and-Guidelines-Endorsed-Jan-2016-061017.pdf)

<sup>72</sup> Australian Animal Welfare Standards and Guidelines - Cattle <http://www.animalwelfarestandards.net.au/cattle/>

<sup>73</sup> <http://www.agriculture.gov.au/export/controlled-goods/live-animals/livestock/information-exporters-industry/escas>

<sup>74</sup> <http://www.farmweekly.com.au/news/agriculture/livestock/general-news/littleproud-punishment-must-fit-animal-welfare-crime/2757269.aspx>

<sup>75</sup> <https://www.legislation.gov.au/Details/C2017C00013>

<sup>76</sup> <https://www.legislation.gov.au/Details/C2012C00259>





destination.<sup>77</sup> The Export Control Act 1982 establishes the conditions of application of the Australian Meat and Livestock Industry Act 1997, ascribing penalties in case of the breach of conditions or the occurring of offences. Moreover, it prescribes an approved export programme of activities to be undertaken by an accredited veterinarian or authorised officer, to ensure the health and welfare of livestock through monitoring, examining, testing or treating the exported animals.<sup>78</sup>

Livestock exporters are bound to comply with the Australian Standards for the Export of Livestock (ASEL), which provide the requirements to ensure animals are fit to export and manage the risks to animals' health and welfare throughout the export voyage.

There have been a number of reviews of Australian live exports, leading to the establishment of the Exporter Supply Chain Assurance System (ESCAS) and the development by industry of the Livestock Global Assurance System.<sup>79</sup> Since 2011, ongoing investigations have revealed many failures in ESCAS in destination countries.<sup>80</sup> In April 2018, Michael McCarthy was appointed to undertake an 'independent, short, sharp' review of conditions for sheep exported to the Middle East during the northern hemisphere summer. Dr McCarthy's report was presented to the Government in May 2018 and concluded that live exports were at the crossroads: what had happened in the past must not happen in future and the industry must therefore retreat to a 'safe' position.<sup>81</sup> Dr McCarthy said that the key issues relevant to sheep health and welfare during shipping to the Middle East were stocking density, ventilation and thermoregulation. Stocking densities were reduced by 28 per cent in the wake of the McCarthy review.<sup>82</sup>

Most recently, Philip Moss was appointed as an independent reviewer by the Minister of Agriculture and Water Resources, David Littleproud. Mr Moss's appointment followed the release of footage of sheep on a ship travelling from Fremantle to the Middle East in August 2017. Around 2400 animals died, mostly from heat stress. A whistleblower filmed the footage and it was provided to the NGO Animals Australia, which showed it to Mr Littleproud.<sup>83</sup> He said he was shocked by viewing the dead and decaying sheep. He said that practices of the company involved would be examined. While the August 2017 shipment was en route to the Middle East, the Perth-based exporters were warned of possible prosecution over a shipment in July 2016 during which 3,027 sheep died.<sup>84</sup> All live export shipments with mortality rates of more than two per cent are subject to review, but unless there is a

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<sup>77</sup> <https://www.legislation.gov.au/Details/C2017C00013>

<sup>78</sup> <https://www.legislation.gov.au/Details/C2016C01063>

<sup>79</sup> Australian Government - Productivity Commission Inquiry into the Regulation of Australian Agriculture: Australian Government response, 2019, p 9.

<sup>80</sup> Voiceless - Live export <https://www.voiceless.org.au/hot-topics/live-export>

<sup>81</sup> McCarthy, M - Independent Review of conditions for the export of sheep to the Middle East during the northern hemisphere summer

<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F5971715%22>

<sup>82</sup> Sheep Central - Littleproud to establish an Inspector General for live exports, 31 October 2018, p 4.

<sup>83</sup> Wahlquist, C - Death of 2,400 Australian sheep on ship to Middle East sparks investigation, The Guardian, 5 April 2018 <https://www.theguardian.com/world/2018/apr/05/disgusting-death-of-2900-australian-sheep-on-ship-to-middle-east-sparks-investigation>

<sup>84</sup> Ibid, p 2.



whistleblower true conditions might not be revealed.

Mr Moss reviewed the Australian capability and culture in the regulation of live animal exports to (1) assure government and the Australian public that exporters meet high animal welfare standards and, (2) identify regulatory and investigative improvements that could be applied. A final report was released on 27<sup>th</sup> September 2018, highlighting the need for greater transparency and animal welfare indicators for the live animal export industry.<sup>85</sup> Such animal welfare indicators should relate to every point of the export supply chain and for those indicators to become part of the regulatory framework. Following the release of the Moss report, the Commonwealth Minister for Agriculture and Water Resources, David Littleproud, announced on 31<sup>st</sup> October 2018 a 'regulation reset' for the live export industry, including the appointment of a Principal Regulatory Officer within the Department to improve regulatory practice, compliance and its culture as regulator.<sup>86</sup> The Minister also announced an Independent Inspector-General of Live Animal Exports to oversee the Department's regulation of live exports and provide assurance over Australia's live animal export framework through independent evaluation and verification, and make recommendations for overall system improvements.<sup>87</sup> The Minister said that an animal welfare branch within the Department and the development of animal welfare indicators would be used as part of compliance systems. Mr Littleproud said Australians had been appalled by the August 2017 footage and 'further angered at their assessment the report of the incident did not match the footage.'<sup>88</sup> Mr Littleproud said he was 'determined to clean up this industry and make it sustainable, because so many farm families and rural towns rely on it.' He said that the live export industry needed 'a tough cop on the beat and the Department must become a capable, trusted and effective regulator.'<sup>89</sup> Mr Littleproud said that, to change culture, the light needed to be shun on animal welfare and the threat of being caught and punished needed to be real. Ross Carter began work as the Interim Inspector-General of Live Animal Exports in March 2019. He will fill the role for 12 months while legislation is passed to establish the statutory appointment.<sup>90</sup>

The Australian standards for the export of livestock (ASEL) define a reportable mortality level by species on a voyage or air journey as between 0.5 and 2%, or three animals whichever is the greater number of animals.<sup>91</sup> The Department has been reviewing its investigations into processes for reportable mortality events to establish shorter timeframes for the conduct of investigations and was due to establish a new approach by March 2019.<sup>92</sup> The Department with the agreement of the Live

<sup>85</sup> <https://www.agriculture.gov.au/animal/welfare/export-trade/independent-review-of-regulation>

<sup>86</sup> Australian Government - Productivity Commission Inquiry into the Regulation of Australian Agriculture: Australian Government response, p 8.

<sup>87</sup> Ibid, p 9.

<sup>88</sup> Littleproud, D - Regulation reset for live export industry, Media release, 31 October 2018, Minister of Agriculture and Water Resources.

<sup>89</sup> Ibid, p 1.

<sup>90</sup> Littleproud, D Independent Inspector-General takes office to oversee live animal exports regulation, Media release, 19 March 2019, Minister of Agriculture and Water Resources.

<sup>91</sup> Department of Agriculture and Water Resources - Investigations into mortalities, <http://www.agriculture.gov.au/export/controlled-goods/live-animals/livestock/regulatory-framework/compliance-investigations/investigations-mortalities> p 1.

<sup>92</sup> Department of Agriculture and Water Resources - Investigations into mortalities, <http://www.agriculture.gov.au/export/controlled-goods/live-animals/livestock/regulatory-framework/compliance-investigations/investigations-mortalities> p 1.



Export Industry Consultative Committee undertook to report on investigations conducted of consignments with reportable mortality events. Reports can be found on the Department's website.<sup>93</sup>

From April 2018, Independent Observers have been placed on voyages 'to provide additional assurance of the effectiveness of exporter arrangements in managing animal welfare.'<sup>94</sup> Regular reports from the observers to the Department contain information about the daily care of animals and compliance against an exporter's approved export programme. The Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018 enables the publication of records and reports made by Australian Government Accredited Veterinarians and authorised officers relating to approved export programmes.<sup>95</sup> The first Independent Observer's report was released on 26 November 2018.<sup>96</sup>

### Slaughter

At present the slaughter of non-stunned animals remains allowed in all States and Territories in Australia.<sup>97</sup> Many of the exemptions to pre-slaughter stunning are justified on religious grounds.

In the Model Code of Practice for Domestic Poultry, section 17 points out that 'birds must be slaughtered in a manner that minimises handling and stress'. However, it is not mandated that birds shall be stunned before being slaughtered.

### Other relevant legislations

In the Australian Capital Territory, sections 9A and 9B of the Animal Welfare Act 1992 prohibit keeping commercial laying hens and pigs in accommodation that is not appropriate, which is defined by reference to legislation. Section 9C prohibits beak trimming. Part 3 provides for codes of practice, which may be mandatory, to be made on various issues including transport, slaughter and welfare in intensive farming, and codes have been made on areas including sales yards and the welfare of specified species of livestock. The Australian Capital Territory banned sow stalls altogether in 2014, however this is largely symbolic as there are no intensive piggeries in that jurisdiction.

In New South Wales, section 34A of the Prevention of Cruelty to Animals Act 1979 provides for regulations, guidelines or codes to be made relating to the welfare of species of farm animals, and codes have been made relating to certain species. Section 24 prohibits firing or hot iron branding of the face of stock animals, as well as marking, tagging, branding, castrating, dehorning and preparing for food production in ways that inflict unnecessary pain.

While the Northern Territory Animal Welfare Act does not specifically address the welfare of livestock, as well as referring to the national codes of practice, it has the Northern Territory Livestock Act 2009

<sup>93</sup> Ibid, pp 1 - 16.

<sup>94</sup> Department of Agriculture and Water Resources - Independent observations of live export voyages by sea.

<sup>95</sup> Ibid, p 1.

<sup>96</sup> Littleproud, D - Live exports: first Independent Observer report released, Media Release, Minister of Agriculture and Water Resources, 26 November 2018.

<sup>97</sup> [https://kb.rspca.org.au/is-religious-slaughter-legal-in-australia\\_276.html](https://kb.rspca.org.au/is-religious-slaughter-legal-in-australia_276.html)



- which aims at protecting the health and welfare of livestock by establishing standards and procedures for managing livestock, controlling diseases and implementing the national biosecurity strategy and by other means.<sup>98</sup> Mandatory welfare requirements regarding livestock transport are also provided through a link to the Land Transport Standards.

In Queensland, section 13 of the Animal Care and Protection Act 2001 allows for codes of practice to be made, and under section 15, compliance with these can be compulsory. For this category of animals, there are compulsory codes on transport and partly compulsory codes on pigs and poultry, contained in the Animal Care and Protection Regulation 2012<sup>99</sup>), with voluntary codes on other species and on slaughter.

In South Australia, there are mandatory codes of practice or standards on specified species, transport, sales yards and slaughter, incorporated under the Animal Welfare Regulations 2012. The Regulations also make rules about transport and about keeping poultry and pigs.

In Victoria, there are regulated standards and guidelines both developed and in progress of development which include land transport of livestock, welfare of pigs, cattle, sheep, and livestock at sale yards and depots. Animal welfare standards and guidelines for poultry and for livestock at processing establishments are currently in development, as of March 2019.<sup>100</sup> These codes are voluntary for most commonly farmed species of animal. The Prevention of Cruelty to Animals Act 1986 (section 7) specifies procedures for the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching, trapping, netting, marking, care, use, husbandry or management of any animal or class of animals; or about the premises, facilities, equipment or conditions at any premises to which licences granted.

In Tasmania, the Animal Welfare Act 1993, establishes animal welfare standards may be prescribed as minimum acceptable practices and must be complied with in the care and management of animals. Tasmania's animal welfare standards are legally binding and enforceable and include provisions on the land transport of livestock as well as on the welfare of pigs and poultry. In 2010, Tasmania announced sow would be kept in stalls for a maximum of six weeks from 2014, with a total ban on stalls by 2017.<sup>101</sup> However, the current status of these commitments is unclear.

In Western Australia, the government has produced codes of practice relating to specific species, transport and slaughter, which have guidance status under the Animal Welfare (General) Regulations 2003<sup>102</sup>, and compliance with the codes can be relied upon as a defence to prosecution under the Animal Welfare Act 2002. This undermines the basic protections of the legislation and deprives millions of farmed animals of the opportunity to display normal patterns of behaviour and other fundamental animal welfare requirements.

<sup>98</sup> <https://legislation.nt.gov.au/en/Subordinate-Legislation/Livestock-Regulations>

<sup>99</sup> <https://www.legislation.qld.gov.au/view/pdf/asmade/sl-2012-0141>

<sup>100</sup> <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/australian-animal-welfare-standards-and-guidelines>

<sup>101</sup> <https://www.ava.com.au/newsarticle/coles-and-tasmania-ban-sow-stalls>

<sup>102</sup> [https://www.slp.wa.gov.au/statutes/regs.nsf/3b7e5f26432801b348256ec3002c128c/6daa5b0e6b4c275448256cfe0008e809/\\$FILE/Animal%20Welfare%20%28General%29%20Regulations%202003.PDF](https://www.slp.wa.gov.au/statutes/regs.nsf/3b7e5f26432801b348256ec3002c128c/6daa5b0e6b4c275448256cfe0008e809/$FILE/Animal%20Welfare%20%28General%29%20Regulations%202003.PDF)



### Analysis

*With regards to the rearing of farm animals, there is limited policy at national level. The Model Codes of Practice form a series of policy documents in which guidance on various farming activities (from rearing to slaughtering and transport) are addressed, and which cover a variety of different species (including pigs, sheep, cows, poultry and goats). However, these Model Codes do not have legal status. State and Territory jurisdictions incorporated most of these Codes of Practice under their animal welfare legislation. The Codes still provide for wide exceptions to basic animal protections, legalising cruel practices such as battery cages and the extreme confinement of pigs. The Commonwealth Government is aiming to replace the Model Codes with nationally agreed Australian Animal Welfare Standards and Guidelines. Development has been incredibly slow, with only four completed despite this course of action being set well over a decade ago. There has been strong concern about industry influence and conflicts of interest in the government agencies developing the rules. Unless significant resources are provided for education and monitoring and enforcement, the standards and guidelines will be ineffective.*

*With regards to pigs, confinement in sow stalls or farrowing crate is not forbidden. For broiler chickens, Section 3.1 recommends that maximum acceptable live weight densities be reviewed and adjusted according to advances in knowledge of animal welfare and husbandry. However, the maximum stocking density allowed (46 kg/m<sup>2</sup>) is still largely superior to other international standards (in the EU, for example, stocking densities cannot exceed 42 kg/m<sup>2</sup>). It is shocking that there is no restriction on the type of cages that can be used for egg-laying hens. With regards to dairy cattle and calves, it is regrettable that the permanent or long-term use of tethering is not explicitly forbidden: indeed, the use of 'should' instead of 'shall' proves that the guideline is weaker in that domain.*

*Whilst farm animal welfare is an issue of national concern that appears to be informed by international guiding principles, the government has yet to act to phase out extreme confinement systems such as the battery cage and the dry sow stall. The phasing out of these practices has been achieved in other countries internationally and is a development that derives naturally from widely recognised concepts such as the Five Freedoms, which have a direct relationship with animal welfare. Most of the necessary principles to underpin these improvements can be found already in policy documents such as the National Model Codes of Practice for the Welfare of Livestock and the government is working on the development of nationally consistent standards and guidelines for animal welfare continues.<sup>103</sup> It is noted that some individual jurisdictions have taken steps towards this; in Tasmania the Animal Welfare Regulations 2013 classify as an offence to possess or custody an animal that is confined, constrained or otherwise unable to provide appropriate and sufficient shelter or exercise, and in the Australian Capital Territory, inappropriate accommodation for pigs and fowls for commercial egg production. The commitment of the major retailer Coles in 2010 to end sow stalls by 2017 proves that animal welfare is very slowly becoming of some mainstream concern.<sup>104</sup> With no national legislation dedicated to farm animals, the government does not do its utmost to respond to such a societal*

<sup>103</sup> <https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/general/national>

<sup>104</sup> <https://www.ava.com.au/newsarticle/coles-and-tasmania-ban-sow-stalls>  
<https://www.animalsaustralia.org/features/coles-extends-commitment-to-pigs-and-hens.php>

concern.

Moreover, Australia earns AUD\$1.8 billion a year from live exports. More than 2.7 million animals are shipped from Australia to almost 20 countries.<sup>105</sup> The animals are 1.8 million sheep and 900,00 cattle. Kuwait is the largest market for live sheep, followed closely by Qatar. Indonesia is the largest market for live cattle, followed by Vietnam. Over the past 30 years, Australia has exported over 200 million animals to the Middle East. During that time, more than 2.5 million animals have died en route and many more have suffered injury, illness and distress caused by being transported by sea.

Animal suffering can last for a total of one to two months. Animals are first mustered, then spend up to 50 hours travelling by road or rail to Australian ports. They are then held in pens before being loaded onto ships or planes. They can be confined on board for up to a month - 744 hours. High temperatures and poor ventilation can lead to fatal heat stroke, while ammonia concentrations cause pain and irritation.<sup>106</sup> At the country of destination, the animals are unloaded and transported again. There are few checks on conditions in slaughterhouses. The economic returns to the country explain why live exports for slaughter are permitted to continue, despite many years of evidence of gross suffering of animals, both while being transported and in the countries of destination. There have been investigations by media outlets, evidence from whistleblowers and undercover footage.<sup>107</sup>

In August 2012, an Australian ship carrying 22,000 sheep was prevented from unloading in Kuwait and Bahrain and sheep who had already been at sea for 33 days were left on board for almost two more weeks, in temperatures of up to 38 degrees. Eventually they were unloaded in Pakistan, where a recording revealed shockingly brutal treatment.<sup>108</sup> The 2014-15 Australian government Budget provided for a saving of AUD\$2.3 million over 2014-15 by ceasing the Live Animal Exports - Business Assistance - Improved Supply Chains and Official Development Assistance (Improved Animal Welfare Programme) one year early on 30 June 2014.<sup>109</sup> The programme offered aid funding to support improved animal welfare outcomes in countries importing live animals from Australia. It was set up in response to an Australian Broadcasting Corporation Four Corners programme on 30 May 2011 which showed horrific scenes of cruelty to Australian cattle being slaughtered in Indonesian abattoirs. In 2017, the Commonwealth government allocated AUD\$8.3 million over four years to implement the Livestock Global Assurance Program for the live export industry, evolving the Exporter Supply Chain Assurance System.<sup>110</sup>

Public opinion is strongly opposed to the suffering involved in live export. Even some in the live export industry do not believe it can continue. Geoff Davy, who worked in live exports for over 15 years, said that 'We must plan for the future shutdown of the industry, which I think is inevitable. We've got

<sup>105</sup> Burton, L, Barker, E, Prendergast, J and Collins, A - What would Australia look like without live exports? ABC Rural, 19 September 2018.

<sup>106</sup> Voiceless - Live export <https://www.voiceless.org.au/hot-topics/live-export>

<sup>107</sup> Ibid.

<sup>108</sup> Ibid, p 2.

<sup>109</sup> Dossor, R - Cessation of animal welfare assistance in destination countries and Australian Animal Welfare Strategy, Budget Review 2014-15 Index, p 1.

<sup>110</sup> Curtain, C - Federal Budget 2017: Funding for proposed animal welfare entity for live export industry welcomed, ABC Rural, 10 May 2017, p 1.



*our head in the sand if we think it's not going to happen.*<sup>111</sup>

## Enforcement mechanisms

The Department of Agriculture regulates the export of livestock under the Export Control Act 1982, the Australian Meat and Livestock Industry Act 1997 and associated orders, regulations and standards. This includes the Australian Standards for the Export of Livestock and the Exporter Supply Chain Assurance System. The government advises that the core elements of the department's compliance strategy are to assist stakeholders to understand their rights and obligations; to make it as easy as possible for exporters to meet their regulatory obligations; to support stakeholders who want to do the right thing, to actively pursue those who opportunistically or deliberately contravene Australian legislation that governs the export of live animals.

Each state or territory animal protection act contains measures for inspection and enforcement by authorised officers, as well as a series of procedures and powers (including emergency powers) for prosecution.

The Australian Model Codes of Practice for the Welfare of Animals do not include enforcement measures but are referenced in state and territory legislation and should also assist the public in understanding and applying animal welfare measures at different stages of production and across different species. Queensland, South Australia and Victoria have mandatory codes of practice. In Victoria, failure to comply with the licence conditions that include animal welfare standards can result in a licence to operate an abattoir being revoked (Meat Industry Act 1993), and the Livestock Management Act 2010 implements management standards through compliance agreements. Tasmania has mandatory standards that are enforceable under the Animal Welfare Act 1993 and in New South Wales, animal welfare provisions are applied as a condition of licence on red meat abattoirs. Poultry processors in New South Wales are also required to have animal welfare procedures in place.<sup>112</sup>

In November 2015, the Australian government asked the Productivity Commission to examine regulation of Australian agriculture. The Terms of Reference for the review focused heavily on 'removing or reducing unnecessary regulatory burdens where doing so contributes to improved productivity for farm businesses as well as the wider economy' and illustrate the Australian view that regulation is a cost rather than a protective factor, as well as the strong focus on economic returns from farming and the little attention paid to the welfare of the animals involved.<sup>113</sup>

Few resources are provided for monitoring and enforcement of animal welfare, and most cruelty and neglect are not detected. Undercover filming has resulted in many cases of cruelty and neglect being revealed.

<sup>111</sup> Burton, L, Barker, E, Prendergast, J and Collins, A - What would Australia look like without live exports? ABC Rural, 19 September 2018, p 2.

<sup>112</sup> <https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/improving/welfare-for-poultry>

<sup>113</sup> Morrison, S and Joyce, B - Productivity Commission to examine regulation of Australian agriculture, 20 November 2015, The Treasury, Australian Government.

## Key recommendations

- **Australia has limited legislation applicable at the national level with regards to farm animals.**

At present, the national Government is aiming to replace the Model Codes of Practice with nationally agreed Australian Animal Welfare Standards and Guidelines, which are then enforced at the State and Territory level. However, not all Model Codes have so far been translated into Guidelines.

- **The Government** of Australia is urged to end the extreme confinement of farm animals. As a priority, the Government of Australia is strongly encouraged to ban the confinement of pigs in sow stalls and farrowing crates, **building upon the example of the Australian Capital Territory's** legislation. Similarly, the Government of Australia should fully ban the use of cages for egg-laying hens. At the very least, the use of conventional battery cages should be forbidden.

- **The Government of Australia is highly encouraged to ban the practice of piglet mutilations** without anaesthesia. In addition, analgesics should be used. At present, the Model Codes do not prescribe that anaesthesia should be used for castration, tail-docking, teeth-clipping and nose-ringing.

- The Government of Australia is urged to mandate the humane slaughter of all farm animals. Animals should be instantaneously rendered unconscious and insensible to pain and distress prior to slaughter. Today, there is growing consensus amongst religious authorities worldwide that pre-slaughter stunning is compatible with religious principles.<sup>114</sup> Humane halal slaughter allows for the animal to be temporarily rendered unconscious via stunning prior to slaughter, as long as the animal's skull remains intact and the animal would regain consciousness in time should slaughter not occur. Therefore, animals should be unconscious before being bled, and no further processing should occur until irreversible loss of consciousness is confirmed. No animal should be forced to witness other animals being slaughtered as this is inherently distressing.

- Furthermore, cameras should be installed in all slaughterhouses and resources should be provided for monitoring the footage, in order to reduce deliberate cruelty acts perpetrated to animals at slaughterhouses.

- Additionally, live exports should be banned immediately. More than 2.5 million animals have died during live export in recent decades. Many more have suffered both physically and psychologically but survived the experience, only to be brutally killed in destination countries. Numerous reviews and regulatory changes have failed to achieve any significant improvements. Regulators have been ineffective and reporting systems have been unreliable, as those involved in the industry have a strong financial interest in concealing animal suffering. There are no controls on the treatment of animals in destination countries. Live export is

<sup>114</sup> [http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20\(Halal%20and%20Kosher\)](http://www.fao.org/3/x6909e/x6909e09.htm#b5-Religious%20or%20ritual%20slaughter%20(Halal%20and%20Kosher))





inherently cruel, and no changes can be implemented to prevent animal suffering. Animals are mustered, transported for up to 50 hours to ports, sent by ship or air, unloaded, further transported and then slaughtered. Their ordeals may last for up to two months. They suffer heat stroke, disease and some stop eating after their diets are forcibly changed. Live export is a stain **on Australia's reputation** and immensely damaging to the country internationally. It is a clear example of animal welfare being completely disregarded in the interests of economics.

#### 4. There are laws that apply to animals in captivity

Analysis of the legislation	
Ranking	E
<p>There is very limited relevant legislation at national level with regards to ensuring welfare standards for wild animals in captivity. Part 13A of the Environment Protection and Biodiversity Conservation Act 1999, under international movement of wildlife specimens Division 1 303BA(e) 'to promote the humane treatment of wildlife' applies to the import and export of captive wildlife and is interpreted under the Environment Protection and Biodiversity Conservation Regulations to require facilities to meet certain standards in order to obtain a permit to house animals.</p> <p>Each state and territory government is responsible for implementing and enforcing domestic animal welfare legislation, including for animals in captivity. These laws are enforced by the RSPCA or by state and territory government officers.</p> <p>There is also legislation in some states and territories covering specific aspects of keeping animals in captivity, mostly in the form of prohibitions or restrictions on activities in relation to the use of animals that are confined or captive. Some jurisdictions adopted legislation and policy addressing the exhibition of certain species (such as primates, koalas, kangaroos and wallabies), while others have a more general approach.</p> <p><u>Zoos</u></p> <p>In the Australian Capital Territory, Part 3 of the Animal Welfare Act 1992 provides for codes of practice, which may be mandatory, to be made on various issues including the commercial keeping and display and exhibition of animals, and the keeping of zoo animals. Codes have been made on topics including keeping amphibians, deer, emus, reptiles in captivity, and wildlife during rehabilitation.<sup>115</sup></p> <p>In New South Wales (NSW), section 9 of the Prevention of Cruelty to Animals Act 1979 requires that confined animals are exercised, and the Exhibited Animals Protection Act 1986 sets standards for the care of animals in zoological gardens, aquariums and circuses - requiring records to be kept in</p>	

<sup>115</sup> <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/animal-welfare-legislation/victorian-codes-of-practice-for-animal-welfare>



relation to the breeding, health, welfare and movements of the animals as part of the licensing standards. The state also has a code of practice on animals in rodeo events and on using animals in film and theatrical performances.

In Western Australia, there are codes of practice relating to circuses and zoos, and compliance with these can be relied upon as a defence to prosecution under the Animal Welfare Act 2002.

In Queensland, there are codes of practice relating to circuses and zoos.

In South Australia, there are mandatory codes of practice on the husbandry of captive birds and deer and circuses, incorporated under the Animal Welfare Regulations 2012.<sup>116</sup>

In Victoria, there is a voluntary code of practice for the public display or exhibition of animals, for the welfare of film animals, the private keeping of reptiles and wildlife during rehabilitation, compliance with which provides an exemption from the provisions of the Prevention of Cruelty to Animals Act 1986 (section 6). Keeping of exotic species or wildlife are subject to licence provisions under the Catchment and Land Protection Act 1994 and the Wildlife Act 1975 respectively that incorporate standards for keeping or require compliance with the code of practice i.e. making the code mandatory. The Zoological Parks and Gardens Act 1995 establishes management and regulation of government-funded zoos.<sup>117</sup>

In Tasmania, although there are various codes of practice which have evidential value under the Animal Welfare Act 1993, none of these apply specifically to animals kept in a captive setting such as a zoo. However, animal welfare guidelines have been adopted with regards to possums' welfare in capture and transport. Regulation 35 of the Wildlife Regulations 1999, made under the National Parks and Wildlife Act 1970, requires that a wildlife exhibition licence must be obtained in order to exhibit wildlife to the public, including in circuses and zoos.<sup>118</sup>

### Private keeping of wild animals

In addition, Australia allows for the farming of wild animals. Crocodiles are farmed for their skins, whilst fur and leather produced in Australia from other animals, such as cattle, are by-products of the meat industry.<sup>119</sup> The crocodile skin trade expanded dramatically in the 1950s and by the late 1960s populations of both species were seriously depleted. After receiving full legislative protection, both species recovered substantially and are now listed under Schedule 2 of the *Wildlife Protection (Regulation of Exports and Imports) Act 1982* and under Appendix II of CITES.

Crocodile farming was allowed in Australia in 1972 for the two species endemic to the country, the saltwater and freshwater crocodiles. There are two methods by which young crocodiles can be obtained: (1) through the breeding of adult stock in a contained environment (captive breeding); and

<sup>116</sup><https://www.legislation.sa.gov.au/LZ/C/R/ANIMAL%20WELFARE%20REGULATIONS%202012/CURRENT/2012.187.AUTH.PDF>

<sup>117</sup><https://www.legislation.vic.gov.au/in-force/acts/zoological-parks-and-gardens-act-1995/030>

<sup>118</sup> [http://www7.austlii.edu.au/cgi-bin/viewdoc/au/legis/tas/num\\_reg/wr19991999n168264/s16.html](http://www7.austlii.edu.au/cgi-bin/viewdoc/au/legis/tas/num_reg/wr19991999n168264/s16.html)

<sup>119</sup> [https://kb.rspca.org.au/What-is-RSPCA-Australias-view-on-killing-animals-for-their-fur\\_226.html](https://kb.rspca.org.au/What-is-RSPCA-Australias-view-on-killing-animals-for-their-fur_226.html)



(2) through the removal of eggs or juveniles from the wild and their subsequent incubation and rearing in captivity. The Australian Parliament states that the crocodile-skin industry is 'capital intensive, long-term and export oriented, and is currently expanding'.<sup>120</sup> As of June 2017, there are 10 crocodile farms in Queensland and three in Western Australia.<sup>121</sup> There are three tanneries which process crocodile skins, four abattoirs accredited for processing meat and numerous leather goods manufacturers. There is a small industry based on the use of crocodile parts (skulls and teeth) which produces souvenirs for the tourist trade including small, taxidermically prepared whole animals. Crocodile farming generated AUD\$25m in export revenues in the territory in 2014-15.<sup>122</sup>

### Fur farming

No legislation has been found specifically relating to fur farming.

### Analysis

*The Australian Standards and Guidelines for the Welfare of Exhibited Animals have been under development since 2014, being originally expected to be considered by Agricultural Ministers in early 2015.<sup>123</sup> Existing state or territory legislation recognises that captive animals require protection and, as a result of the former Australian Animal Welfare Strategy, there are national policy positions identified for promoting the welfare of such animals. However, an important part of existing provisions restricts activities that may generate poor welfare (in some cases by addressing potential threats to life and integrity) but does not necessarily elaborate on elements usually found in other international systems that use commonly accepted standards (such as the Five Freedoms) to produce legislation and policy relating to captive animals. In addition, even for specific areas such as the regulation of animals kept in zoos or in captivity for exhibition purposes, there are substantial differences in the approach taken by different jurisdictions, making it more difficult to mainstream the concept of animal welfare for animals in captivity. The development of nationally consistent standards and guidelines on this subject, for adoption by individual state and territory governments, is aimed at increasing consistency. Existing policy plays a very important role in unifying and promoting a conscious debate on the matter, helping to raise standards in different parts of the country, and the introduction of the proposed new guidelines could further improve this position.*

*It is very much concerning that wild animal farming is allowed in Australia. The lack of welfare regulations around wild farming means that animals' needs are not met in such settings. Furthermore, for crocodile farming, it is worrying from a conservation standpoint that the capture of wild individuals or eggs is authorised. The increased trade in crocodile skins bring on pressure to increase production and hence does not bode well to improve the welfare of farmed animals.*

*There are significant barriers in the form of very limited resources and lack of political will and acknowledgement of animal welfare as a major issue.*

<sup>120</sup>[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Completed\\_inquiries/1996-99/wild/report/c11](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Completed_inquiries/1996-99/wild/report/c11)

<sup>121</sup><https://www.ft.com/content/84def9ee-5be7-11e7-9bc8-8055f264aa8b>

<sup>122</sup><https://www.ft.com/content/84def9ee-5be7-11e7-9bc8-8055f264aa8b>

<sup>123</sup>[https://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0014/510080/guide-exhibited-animals-general.pdf](https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0014/510080/guide-exhibited-animals-general.pdf)



*Where legislation exists and addresses the issue of captive animals or regulates activities in relation to this category of animals, there are structures in place to help with implementation of the law in the form of responsible authorities with independent budgets. The new proposed national guidelines should provide uniformity to this issue across the individual jurisdictions. However, it is noted that as there is no longer a Ministerial Council responsible for endorsing such guidelines, uptake will rely on commitment by individual state and territory jurisdictions, and policies aimed at deregulation in several states could present budgetary constraints here.<sup>124</sup>*

### Enforcement mechanisms

Each state and territory government is responsible for implementing and enforcing domestic animal welfare legislation, including for animals in captivity. Provisions for implementation are set out as part of Regulations connected to Territory Acts. These laws are enforced by the RSPCA or by state and territory government officers. All zoos and wildlife parks in Australia are licensed and are required to meet certain criteria to operate. The Zoo and Aquarium Association also has an accreditation program that includes auditing.

However, since no legislation has been found on animals used for fur, there are no enforcement mechanisms associated to this category of animals.

### Key recommendations

- The Government of Australia is highly encouraged to produce detailed legislation at the federal level specifying the conditions under which wild animals may be kept in captivity. Such regulations shall include requirements with regards to housing, feeding, handling and husbandry and should promote the Five Freedoms of all individual animals. At present, each state and territory government is responsible for implementing and enforcing domestic animal welfare legislation.
- **Australian zoos should be regularly inspected with regards to their animal welfare standards** and the results of such inspections should be made publicly available.
- Additionally, the Government of Australia is encouraged to develop a Positive List of species, specifying which animals can be kept as companion animals, based on clear criteria including animal welfare and other relevant concerns.
- **The Government of Australia is urged** to forbid wild animal farming, since this practice is inherently cruel as there are no humane alternatives to any of the stages of farming, including rearing, transport and slaughtering for these species.

<sup>124</sup> <https://www.jobs.gov.au/deregulation-agenda>



- Similarly, the Government of Australia is urged to ban fur farming, seeing that the fur farming industry is inherently cruel, and that fur cannot be produced without causing significant pain, distress and suffering to animals.

## 5. There are laws that apply to companion animals

Analysis of the legislation	
Ranking	D
<p><u>Care of companion animals</u></p> <p>There is no legislation applicable to companion animal welfare at a national level. However, there is legislation applicable in the whole territory since each State and Territory has produced local legislation related that covers companion animals, including the general anti-cruelty and duty of care provisions in state and territory animal welfare legislation. These laws vary among different states, whereas in some of these, animal breeders have to be registered and are required to meet standards of care, in other territories, specific requirements might be lacking. Codes legalise cruelty which would otherwise be unacceptable under the basic purposes and principles of legislation.</p> <p>In the Australian Capital Territory, section 12 of the Animal Welfare Act 1992 provides that laying poison for the purpose of killing animals including domestic animals is illegal. Section 19A prohibits tail docking and ear cropping or removal, as well as clitoridectomy in dogs. Part 3 provides for codes of practice, which may be mandatory, to be made on various issues, and several such codes have been made, including on the use of animals from pounds, the management and control of companion animals and in pounds and shelters, the development of new breeds of companion animals, the breeding and selling of cats or dogs with heritable defects, animal welfare in the racing industry and other matters. The Domestic Animals Act 2000 - amended in 2018 - provides for the identification and registration of cats and dogs and promotes responsible ownership.<sup>125</sup></p> <p>In New South Wales, the Prevention of Cruelty to Animals 1979 prohibits poisons to be administered to domestic animals (section 15) and requires people to report injuries of domestic animals when involved in an accident with a vehicle (section 14). Several specific mutilations are also banned (section 12) including operating upon a dog for the purpose of preventing the dog from being able to bark or removing one or more of the claws of a cat. There are exceptions if the procedure is undertaken by a veterinary practitioner and performed in the prescribed circumstances and in accordance with any conditions specified in the regulations; section 22 of the subsidiary Prevention of Cruelty to Animals Regulation 2012<sup>126</sup> permits cats to be 'declawed' if certain conditions are met including that all the cat has caused repeated and unacceptable damage, has repeatedly injured humans or injured or killed animals, and sections 21 and 22 of the Companion Animals Act 1998<sup>127</sup></p>	

<sup>125</sup> <http://www.legislation.act.gov.au/a/2000-86/current/pdf/2000-86.pdf>

<sup>126</sup> <http://extwprlegs1.fao.org/docs/pdf/nsw119815.pdf>

<sup>127</sup> <https://www.legislation.nsw.gov.au/inforce/8444158c-3268-4730-ab8e-eaf50faf4bc2/1998-87.pdf>



(which generally provides for the identification and registration of cats and dogs and promotes responsible ownership) creates a procedure for a court order to be made requiring a dog which will not stop nuisance by barking, defecating on property, running at or chasing any person or animal, or repeatedly causes damage to other property, to be seized, injured or destroyed if reasonable and necessary for the protection of any person or animal from injury or death. There are also codes of practice on grooming and boarding establishments, pet shops and breeding.<sup>128</sup>

In the Northern Territory, section 7 of the Animal Welfare Act 2000 relates particularly to companion animals, establishing the minimum level of care required for animals. However, section 4 of the Northern Territory's Animal Welfare Regulations as in force at June 2013, authorise the sale and use of electric training collars (excluding those operated by a remote-control device) on dogs, and invisible fences for the containment of dogs. As part of this regulation, it is prohibited to use such electrical devices by applying them to the face, udders or genitals of an animal.

In Western Australia, Regulation 14 of the Animal Welfare (General) Regulations 2003<sup>129</sup> prohibits docking dogs' tails for cosmetic purposes. Regulation 7 regarding the use of devices that cause an electric shock, allows for electric training collars activated by the animal or a person in the course of training, and electrical 'invisible fences' to be used on dogs. The welfare, management and identification of dogs is regulated in the Dog Act 1976<sup>130</sup>, which - under section 29 - establishes that when a dog has attacked a person or is considered dangerous, the dog can be seized, or destroyed and disposed of according to the modalities established in section 33. Sections 39 and 40 of the same Act establish that dogs causing injury or damage may be destroyed. No wording has been included to explicitly specify that the destruction of dogs should be humane in accordance to the Animal Welfare Act. The Cat Act 2011<sup>131</sup>, provides for the registration, identification, sterilisation, and management of cats in the territory of Western Australia. As part of this act, section 34 provides that a seized cat can be destroyed in a humane manner, if the operator of a cat management facility fails to identify the owner of a cat within 3 working days, the identify owner does not reclaim a cat within 7 working days or a specified holding period, or the owner of a cat has surrendered ownership. Moreover, Subdivision 2, section 49, establishes that an authorised person may cause a cat to be destroyed in a humane manner if the person believes on reasonable grounds that the cat is feral, diseased or dangerous, has caused or likely to cause serious injury or illness to a person, another animal or itself.

In Queensland, sections 23 to 26 of the Animal Care and Protection Act 2001<sup>132</sup> prohibit dog ear cropping, dog tail docking, dog 'debarking' and cat 'declawing' unless in the welfare interests of the animal. The Animal Management (Cats and Dogs) Act 2008 provides for the identification and registration of cats and dogs, and promotes responsible ownership.<sup>133</sup>

<sup>128</sup> <https://www.legislation.nsw.gov.au/inforce/8444158c:3268-4730-ab8e-eaf50faf4bc2/1998-87.pdf>

<sup>129</sup> [https://www.legislation.wa.gov.au/legislation/statutes.nsf/main\\_mrtitle\\_1138\\_homepage.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_1138_homepage.html)

<sup>130</sup> [https://www.parliament.wa.gov.au/Parliament/Bills.nsf/4798E38D89B9F49A48257A5A001491FD/\\$File/BB292-1B.pdf](https://www.parliament.wa.gov.au/Parliament/Bills.nsf/4798E38D89B9F49A48257A5A001491FD/$File/BB292-1B.pdf)

<sup>131</sup> [https://www.legislation.wa.gov.au/legislation/statutes.nsf/main\\_mrtitle\\_12866\\_homepage.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_12866_homepage.html)

<sup>132</sup> <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2001-064>

<sup>133</sup> <https://www.legislation.qld.gov.au/view/whole/html/inforce/current/act-2008-074>



In South Australia, the Dog and Cat Management Act 1995<sup>134</sup> provides for the identification and registration of cats and dogs and promotes responsible ownership. The Animal Welfare Regulations 2012<sup>135</sup> prohibit tail docking of dogs and cats, ear cropping, use of electric collars, and 'debarking', and the use of traps.

In Victoria, the Prevention of Cruelty to Animals Regulations 2008<sup>136</sup> regulate the use of certain types of training collars on dogs for debarking and the use of animals from pounds in scientific procedures. There are codes for private ownership of many species kept as pets including for reptiles, amphibians, caged birds, dogs, cats and horses. There is prohibition of certain procedures on pets such as tail docking of dogs and horses, 'declawing' of cats, 'debarking' of dogs and ear cropping of dogs. The Domestic Animals Act 1994<sup>137</sup> provides for the identification and registration of cats and dogs and promotes responsible ownership. There are also various mandatory codes of practice for businesses involving breeding and boarding establishments for cats and dogs, standards for pounds and shelters, greyhound establishments, pet shops and dog training establishments. The Domestic Animals Amendment (Restricted Breed Dogs) Act 2017 came into effect on 30 September 2017. This Amendment Act also amends the Domestic Animals Act 1994 to allow the registration of restricted breed dogs in Victoria; clarify the dangerous dog status of guard dogs when retired to residential premises; increase the payments for registered dogs and cats made by Councils to the Treasurer. Furthermore, the moratorium on euthanasia of restricted breed dogs ended on 30<sup>th</sup> September 2017. Restricted breed dogs may now be registered with councils in Victoria as long as owners comply with the strict controls in place.

In Tasmania, the anti-cruelty provision in section 8 of the Animal Welfare Act 1993<sup>138</sup> includes a prohibition on abandonment. The Dog Control Act 2000<sup>139</sup> provides for the registration and licensing of dog. The Act also establishes that an authorised person may seize or destroy a dog if satisfied that the animal is likely to or has already caused injury of a person or injury and death to an animal, is found distressed or disabled to such an extent that his/her continued existence is likely to involve continued suffering. No explicit reference is made to the humane destruction. The Cat Management Act 2009<sup>140</sup> concerns the control and management of cats. There are also Guidelines for dog breeding which evidently are very valuable under the Animal Welfare Act 1993.

Throughout the country, puppy farming remains a major animal welfare issue, as dogs are confined in intensive breeding facilities. While some puppy farms operate under local council permits, others are run without permits, hiding their activities in isolated areas.<sup>141</sup> 200 puppy farms with permits are

<sup>134</sup><https://www.legislation.sa.gov.au/LZ/C/A/DOG%20AND%20CAT%20MANAGEMENT%20ACT%201995/CURRENT/1995.15.AUTH.PDF>

<sup>135</sup><https://www.legislation.sa.gov.au/LZ/C/R/ANIMAL%20WELFARE%20REGULATIONS%202012/CURRENT/2012.187.AUTH.PDF>

<sup>136</sup><https://www.legislation.sa.gov.au/LZ/C/R/ANIMAL%20WELFARE%20REGULATIONS%202012/CURRENT/2012.187.AUTH.PDF>

<sup>137</sup><https://www.animallaw.info/statute/au-companion-animals-domestic-animals-act-1994-vic>

<sup>138</sup> <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1993-063>

<sup>139</sup> <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2000-102>

<sup>140</sup> <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2009-089>

<sup>141</sup> <https://www.choice.com.au/outdoor/pets/products/articles/puppy-farms-and-buying-a-dog-ethically>

reported in the state of Victoria alone.<sup>142</sup>

There is no national legislation to date which tackles the issue of puppy mills. The state of Victoria adopted in 2017 the Domestic Animals Amendment (Puppy Farms and Pet Shops) Act, which introduces various amendments to the Domestic Animals Act 1994 (Act). These amendments deliver on the Government's election commitment to reform the dog breeding and pet shop industries in Victoria and better regulate the sale of dogs and cats. Namely, these amendments limit the number of fertile female dogs breeders can keep; restrict pet shops to selling dogs and cats sourced from shelters, pounds or enrolled foster carers; clarify the role of foster carers; define 'recreational breeders' and 'micro-breeders'; confirm the definition of 'farm working dogs'; introduce the animal sale permit system; improve traceability of cats and dogs through the establishment of the Pet Exchange Register and strengthen pet advertisement offences. All provisions have been implemented since 1<sup>st</sup> July 2018, except the Pet Exchange Register which will commence on 1<sup>st</sup> July 2019. There is no national legislation banning the use of electric shock collars on dogs, or permanent tethering of dogs.

### Stray animals

No legislation has been found specifically relating to stray animals.

### Analysis

*The need to protect companion animals in legislation is recognised in the country as an independent issue and each state and territory government has produced legislation relating to responsible ownership of animals and includes elements of monitoring and evaluation in the form of some requirements for registration of cats and dogs. Most of the responsible ownership provisions are based on concepts such as the Five Freedoms, which are universally accepted as an international reference to promote good animal welfare.*

*However, there are welfare issues associated with companion animals in the country. There are high rates of companion animal abandonment and euthanasia, and animal welfare NGOs in the country are seeking stronger regulation of the pet industry and dog breeding.<sup>143</sup>*

*There is responsibility for the promotion of welfare of companion animals in the hands of animal welfare and animal management authorities, and some of the state or territory legislation contains specific provisions addressing the allocation of financial resources for implementation. An example of this can be found in the Companion Animals Act 1998 for New South Wales (Section 84 establishes the Companion Animals Fund). Other Acts, such as the Tasmanian Cat Management Act 2009, refer to the general animal welfare legislation where provisions for financial resources can be found.*

*Very few resources are provided for monitoring and enforcement. There are few prosecutions for cruelty and neglect and, when court cases are taken, penalties are very low as animal welfare is not regarded as an important issue and animal suffering is not treated as unacceptable. Lawyer Graeme McEwen in his book 'Animal Law: Principles and Frontiers' states that animal protection statutes are largely unenforced: 'needless to say, a law largely unenforced stands to be a law unobserved. This*

<sup>142</sup> <https://www.choice.com.au/outdoor/pets/products/articles/puppy-farms-and-buying-a-dog-ethically>

<sup>143</sup> [http://www.animalsaustralia.org/issues/companion\\_animals.php](http://www.animalsaustralia.org/issues/companion_animals.php)





*matter turns on, first, leaving principally a charity with limited resources, the RSPCA, to enforce a wide-ranging public interest statute; second, deficient powers of inspection; and, third, the failure of State departments responsible for administration of their local statute to discharge a meaningful investigative or prosecutorial role.*<sup>144</sup>

**Enforcement mechanisms**

Each of the relevant state and territory Acts has provisions on enforcement and implementation including punitive measures such as seizures and fines. However, since no legislation has been found on stray animals, there are no enforcement mechanisms associated to this category of animals.

**Key recommendations**

- Australia has no nationally applicable legislation focusing on companion animals, however, there are extensive legislations at the State and Territory level. There are a significant number of puppy farms within Australia and there are serious animal welfare issues associated with the puppy trade. Therefore, the country should have legislation at the national level. Notably, mandatory registration of dog breeders and the microchipping of all dogs prior to sale or transfer is recommended. The Government of Australia **can take inspiration from Victoria’s Domestic Animals Amendment (2017)** to better regulate dog breeding and the pet shop industry.
- **The** Government of Australia is encouraged to promote responsible pet ownership, including promoting the adoption over the purchase of pets.
- **The Government of Australia is furthermore encouraged** to mandate the humane treatment of stray animals.

6. There are laws that apply to animals used for draught or recreational purposes

**Analysis of the legislation**

Ranking	F
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[Animals used for entertainment](#)

There is no legislation applicable to this category of animals at a national level. However, there is legislation applicable in the whole territory since each State and Territory has produced local legislation related that covers animals used for draught and recreational purposes, including the

<sup>144</sup> McEwen, G - Animal Law: Principles and Frontiers <http://www.internationalanimallaw.com/node/107317> June 2011, p 4.



general anti-cruelty and duty of care provisions in state and territory animal welfare legislation. Greyhound racing, rodeos and the use of animals in circuses are still permitted in Australia.

In the Australian Capital Territory, section 17(1) of the Animal Welfare Act 1992 prohibits releasing a captive animal for hunting, catching, confining, or killing by a person, or to train another animal – extending the responsibility to participants and spectators in these activities – and section 17(2) prohibits owning or using premises for animal fighting or baiting and the bloodying of greyhounds, and extends the provision of 17(1) to the owners, keepers and managers of animals used in the mentioned activities. Section 18 prohibits conducting or taking part in rodeos or game parks where animals other than fish are taken or killed for sport or recreation. Section 18A regulates that it is an offence to conduct, facilitate or allowing a greyhound race. Part 5 of the Animal Welfare Act 1992 permits travelling zoos and circuses to take place under licence; here prohibitions are set on the use of bears, elephants, giraffes, primates and felines different from domestic cats, as well requirements for adequate facilities. In relation to working animals, section 16 prohibits working, riding or driving an animal that is unfit. Part 3 of the Act provides for codes of practice to be made; codes have been made on topics including animals on film sets, greyhound welfare and recreational and sport fishing.

In New South Wales, the Prevention of Cruelty to Animals Act 1979 prohibits several sanctions against animals used for draught or recreational purposes. These include section 13 prohibiting a person to work, ride or drive an animal that is unfit. Section 18 prohibits animal baiting, fighting and bull fighting – which is defined as an exhibition, spectacle or display where a person commits an act of cruelty upon a bull, teases a bull, or does any other thing in relation to a bull, in a manner that is likely to cause the bull to fight or to suffer pain or injury. Section 19 prohibits trap shooting (game parks), section 21 prohibits coursing and section 21C prohibits steeplechasing and hurdle racing. The Exhibited Animals Protection Act 1986<sup>145</sup> provides for the licencing of display animals including dolphins and elephants, and there are subsidiary prescribed standards relating to certain categories and species of animals. There is a code of practice for the welfare of animals in films and theatrical performances, compliance with which is required by the Prevention of Cruelty to Animals (General) Regulation 2006.<sup>146</sup>

In the Northern Territory some of the prohibited acts of cruelty in section 7 on the meaning of minimum level of care of the Animal Welfare Act 2000 relate particularly to this category of animals, such as use of animals for inappropriate work and in organised fights. Section 20 regulates that spurs may not be used to train an animal to fight or inflict injury on another animal. Section 21 prohibits the advertisement, promotion and participation to a match, competition or other activities in which an animal is hunted, caught, confined, killed or caused suffering by another animal, or used to exercise another animal.

In Western Australia, there is a code of practice for circuses. Although this does contain some welfare considerations such as space, social contact and training methods, the basis of the code is that animals including lions and elephants may be trained to perform. There is also a code of practice for racing, exhibited animals and rodeos. Compliance with the codes can be relied on as a defence to

<sup>145</sup> <https://www.legislation.nsw.gov.au/inforce/7d052d32-7772-c4d4-c0da-a2066844d7af/1986-123.pdf>

<sup>146</sup> <https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/general/codes-of-practice/film-theatre/code>



prosecution under the Animal Welfare Act 2002.

In Queensland, section 20 of the Animal Care and Protection Act 2001 prohibits animal fights (including bullfights). There is a compulsory code of practice for the welfare of animals in circuses, and a voluntary code of practice for the welfare of animals in film and television.

In South Australia, section 14 of the Animal Welfare Act 1985 prohibits organising and promoting organised animal fights, live baiting, and releasing an animal from captivity for hunting or killing, and section 34 provides that rodeos may only be held with permits. Rodeos are regulated under the Animal Welfare Regulations.

In Victoria, section 16 of the Prevention of Cruelty to Animals Act 1986 requires that rodeos may only be held with permits. Detailed rules relating to rodeos are set out in the Prevention of Cruelty to Animals Regulations 2008.<sup>147</sup> The regulations cover both rodeos and rodeo schools. They permit the use and tightening of flank straps; the use of electric prodders on cattle; and the use of free-running paddle or spur rowels and ropes.<sup>148</sup> Section 13 of the Act regulates that baiting and luring are not permitted. There is a voluntary code of practice for the public display or exhibition of animals hire of horses and a code for the welfare of film animals, compliance with which provides an exemption from the provisions of the Prevention of Cruelty to Animals Act 1986 (section 6). Standards for conduct of rodeos are regulated and a permit or licence is required to operate a rodeo. Where carriage horses are used in the city boundaries, local government issues a licence that requires compliance with a code of welfare practice.

Animal Welfare Victoria is examining modernisation of Victoria's animal welfare legislation.<sup>149</sup> Consultation on a new Act was due to occur in late 2018. The regulations have been extended until December 2019 to allow law reform to take place. This provides an opportunity to update the law and ban rodeos, greyhound racing, puppy mills, and other cruel practices.

In Tasmania, all provisions of the Animal Welfare Act 1993 cover draught and recreational animals. In addition, section 10 prohibits activities associated with animal fighting and baiting, regulating that a person must not keep or use an animal to fight, bait, worry, kill or injure another animal or for the purpose of being shot, killed, worried or injured. Section 8 specifies that a person is guilty of an offence if that person drives, conveys, carries or packs an animal in a manner or position or in circumstances that subjects or subject the animal to unreasonable and unjustifiable pain or suffering; or works, rides, drives or uses an animal when it is unfit for the purpose. It is also prohibited, in the course of or training for any sport or public performance, to use an electronic device or sharpened spur on an animal. Section 11A requires that rodeos are conducted in accordance with the relevant code of practice. Regulation 35 of the Wildlife Regulations 1999<sup>150</sup>, made under the National Parks and Wildlife Act

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<sup>147</sup> Victorian Government - Prevention of Cruelty to Animals Regulations 2008

[http://agriculture.vic.gov.au/data/assets/pdf\\_file/0020/260426/POCTA-Regulations.pdf](http://agriculture.vic.gov.au/data/assets/pdf_file/0020/260426/POCTA-Regulations.pdf)

<sup>148</sup> Ibid, regulations 81, 82, 84.

<sup>149</sup> Agriculture Victoria - Prevention of Cruelty to Animal Legislation - Summary of Legislation [www.agriculture.vic.gov.au](http://www.agriculture.vic.gov.au)

<sup>150</sup> <https://www.legislation.tas.gov.au/view/html/inforce/2009-12-22/sr-1999-168>



1970, requires that a wildlife exhibition licence must be obtained in order to exhibit wildlife to the public, including in circuses.

In addition to these territory-specific restrictions, it is reported that an increasing number of Australian councils are adopting a ban on the use of wild animals in circuses on council land.<sup>151</sup> Local bans have notably been implemented in the towns of Hobsons Bay, Surf Coast Shire, Parramatta and Lismore.<sup>152</sup>

Consultation on proposed Australian standards and guidelines for exhibited animals took place in 2014 and several drafts and other documents were released, but nothing appears to have happened since then.<sup>153</sup>

### Draught animals

No legislation has been found specifically relating to animals used for draught.

### Analysis

*This issue is acknowledged by Australian legislation and there are provisions regulating aspects of the use of animals for recreation or entertainment. It is positive that animal fights have been banned across the whole territory. However, for other issues of animals used in entertainment, there is some disparity between the state and territory legal protection systems specifically relating to animals in captivity and the enforcement mechanisms in existence lack uniformity.*

*Under the Australian Animal Welfare Strategy - which has not been renewed following its term - a Working Group was established to address issues relating to the use of animals in this category, the Animals used for Work, Recreation, Entertainment and Display Working Group. However, following the announcement by the government in late 2013 to reduce red tape, streamline government processes and make budget savings, responsibility for the Strategy was handed to the states and territories and this Working Group was disbanded.<sup>154</sup> Activities under the strategy continued to be undertaken by the states and territories and by the Department of Agriculture. The Department highlights domestic animal welfare as the responsibility of state and territory governments.*

*Greyhound racing is a prominent animal welfare issue in Australia. In 2015, there were more than 300,000 greyhounds running in 40,000 races in the country.<sup>155</sup> The greyhound racing industry itself admitted being responsible for the 'unnecessary deaths' of between 13,000 and 17,000 greyhounds a year, simply because the dogs are too slow to race.<sup>156</sup> As reported on ABC's 7.30, cases of greyhounds being drugged with cocaine, caffeine and anabolic steroids to run faster have existed for*

<sup>151</sup> <https://www.animalsaustralia.org/features/more-animal-circus-bans.php>

<sup>152</sup> [http://www.pawsweb.org/documents/PAWS\\_bans\\_exotic\\_animals\\_1\\_17\\_2018.pdf](http://www.pawsweb.org/documents/PAWS_bans_exotic_animals_1_17_2018.pdf)

<sup>153</sup> New South Wales Department of Primary Industries - Proposed Australian standards and guidelines for exhibited animals <https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/exhibit/national-standards-and-guidelines-for-exhibited-animals/standards-and-guidelines>

<sup>154</sup> <http://www.abc.net.au/news/2013-11-08/animal-welfare-committee-scraped/5079284>

<sup>155</sup> <https://www.abc.net.au/4corners/making-a-killing/6127124>

<sup>156</sup> [https://www.greyhoundracinginquiry.justice.nsw.gov.au/Documents/Exhibit\\_J.pdf](https://www.greyhoundracinginquiry.justice.nsw.gov.au/Documents/Exhibit_J.pdf)



years.<sup>157</sup> For instance, in January 2015, trainer Linda Britton was suspended for 18 months after pleading guilty to doping dogs with anabolic steroids.<sup>158</sup> In February 2015 investigations across New South Wales, Victoria and Queensland revealed piglets, possums and rabbits being tied to lures and trainers releasing dogs to chase the lure, thereafter allowing dogs to catch and maul the animals.<sup>159</sup> This practice, known as live baiting, is illegal. The revelations led to the banning of greyhound racing in New South Wales, with effect from 1<sup>st</sup> July 2017.<sup>160</sup>

However, on 11<sup>th</sup> October 2016, the NSW Cabinet ministers decided to reverse the ban and implement a new deal with some key changes proposed by the racing industry namely:

- Fewer tracks
- Fewer races
- Breeding capped at 2,000
- A bond of AUD\$1,500 for each dog
- Whole of life management for each dog.<sup>161</sup>

Following the investigation revealing cases of live baiting in New South Wales, the Australian Capital Territory's government enacted a ban on greyhound racing, that came into effect on 30<sup>th</sup> April 2018.<sup>162</sup> The maximum penalty if such activity is undertaken is AUD\$15,000, imprisonment for one year, or both. However, the ACT Government has committed that ownership, breeding and training of greyhounds in the ACT for racing outside the ACT will be able to continue on the basis that it is at no cost to the broader ACT community.<sup>163</sup> Breeding, training and ownership of racing greyhounds is still permitted in the Territory and is monitored by the Transport Canberra and City Services Directorate, against a new mandatory Code of Practice. This Code notably specifies that dog owners are required to obtain a licence. So far, however, the federal government does not seem to be willing to address the fates of greyhounds used and sacrificed for racing.

Furthermore, Australia has one of the world's largest captive dolphin venues. At the time of writing, there are over 30 dolphins at Sea World, Gold Coast. In March 2019, Dolphin Marine Conservation Park announced that it will end the captive breeding of dolphins at its Coffs Harbour location. Following this announcement, Sea World is now the only location in Australia with captive cetaceans.<sup>164</sup>

The withdrawal of funding and government resources demonstrates that the welfare of animals used for draught and recreation is no longer a priority for the government. Existing regulations at state and territory level suggest that some improvement should be possible on a regional basis and representatives from state and territory governments are encouraged to continue with the work

<sup>157</sup> <https://www.abc.net.au/news/2013-10-15/greyhound-racing-industry-hit-by-doping-cruelty-allegations/5024714>

<sup>158</sup> <https://animalsaustralia.org/issues/greyhound-racing.php>

<sup>159</sup> <https://animalsaustralia.org/issues/greyhound-racing.php>

<sup>160</sup> <https://www.smh.com.au/national/nsw/greyhound-racing-banned-after-bill-passes-nsw-parliament-20160824-gqzjOf.html>

<sup>161</sup> <https://www.abc.net.au/news/2016-10-11/greyhound-ban-baird-government-confirms-backflip/7921000>

<sup>162</sup> <https://www.abc.net.au/news/2017-06-23/greyhound-racing-to-be-banned-in-canberra/8646320>

<sup>163</sup> <https://www.act.gov.au/greyhound>

<sup>164</sup> <https://www.worldanimalprotection.org.au/news/calling-ban-captive-dolphin-breeding-last-venue-left-standing-sea-world>



previously undertaken by the Animals used for Work, Recreation, Entertainment and Display Working Group.

### Enforcement mechanisms

There are enforcement mechanisms for the general anti-cruelty and duty of care provisions in each jurisdiction. With regards to the ban on greyhound racing introduced in the Australian Capital Territory, the maximum penalty if such activity is undertaken is AUD\$15,000, imprisonment for one year, or both.<sup>165</sup>

### Key recommendations

- **The** Government of Australia is highly encouraged to establish national legislation to improve the living conditions of animals used in draught and for recreational purposes. At the very least, Australia should adopt basic anti-cruelty legislation specifically addressing the treatment of this category of animals, in order to facilitate the harmonisation of state and territory legislations.
- **The** Government of Australia is urged to ban practices whereby animals are used for entertainment, which cause animal suffering. These include the use of wild animals in circuses, rodeos, animal races.
- **The 2015 investigations in the greyhound racing industry revealed serious breaches of animal** welfare standards, notably by showing live baiting practices and drugs used on dogs. In this vein, the Government of Australia is urged to issue a nation-wide ban on the use breeding, training and racing of greyhounds. So far, only the Australian Capital Territory has issued only a partial ban on greyhound racing. The Government should also issue a moratorium on the euthanasia of healthy dogs, regardless of whether they are too slow to race. Rehoming programmes should be encouraged.
- **Additionally, the Government of Australia is urged to ban the keeping, breeding and trading** of marine mammals currently kept in captivity for entertainment, so that these animals constitute the last generation of marine mammals in captivity in the country. The animals currently captive should be retired to large seaside sanctuaries, which allow for an increased range of natural behaviours.
- **The Government of Australia is urged** to adopt federal legislation specifically addressing the treatment of animals used in draught and for recreational purposes. Working animals must be treated with consideration and must be given adequate shelter, exercise, care, food and water appropriate to their physiological and behavioural needs. Any condition which may impair their welfare must be treated promptly and, if necessary, they must not be worked again until they are fit. They must not be overworked or overloaded, nor must they be forced to work through ill-treatment.

<sup>165</sup> <https://www.act.gov.au/greyhound>



## 7. There are laws that apply to animals used for scientific research

Analysis of the legislation	
Ranking	B
<p>In Australia, all research and teaching that involves the use of live animals is regulated by the Australian Code of Practice for the care and use of animals for scientific purposes (the Code).<sup>166</sup> The Code was developed in 2013 by the National Health and Medical Research Council, which is a non-corporate government entity responsible for promoting and developing public and individual health standards, is required to develop evidence-based guidelines on issues that affect general health policy in Australia.<sup>167</sup> The Code promotes the ethical, humane and responsible care and use of animals used for scientific purposes. The ethical framework and governing principles set out in the Code provide guidance for investigators, teachers, institutions, animal ethics committees and all people involved in the care and use of animals for scientific purposes.</p> <p>The Code applies to the care and use of all live non-human vertebrates and cephalopods. It applies throughout the animal's involvement in activities and projects, including acquisition, transport, breeding, housing, husbandry, the use of the animal in a project, and the provisions for the animal at the completion of their use. Compliance with the Code is required in order to obtain licensing and government funding for research projects. The Code has been incorporated under each state and territory's animal welfare legislation, making compliance with the Code mandatory in each jurisdiction. This ensures that as reviewed versions are published, legislation is automatically updated in line with the latest trends on protection of animals used in scientific research.</p> <p>Neither the Code nor State or Territory legislation specifically bans any form of testing.<sup>168</sup> Under the Code, which is enforced by State and Territory legislation, applications for research using animals must be assessed by an institutional Animal Ethics Committee (AEC), which includes - at least - one animal welfare member, a veterinarian and a scientist. The AEC is charged with the responsibility to decide whether an experiment can be conducted, as well as on the numbers of animals used, the care and the specific use of the animals involved, and on the monitoring of the project. Should these provisions not be complied with, the approval of projects can be withdrawn, and the researcher can be charged under the relevant State legislation.<sup>169</sup></p> <p>In the Australian Capital Territory, Part 4 of the Animal Welfare Act 1992 deals with animal research, teaching and breeding. A person must have a licence granted by the Animal Welfare Authority in order to use or breed animals for research or teaching. Conditions include provisions for the welfare of the animals used in activities. Part 3 of the Act provides for codes of practice, which may be mandatory, to be made on various issues including the care and use of animals for scientific purposes</p>	

<sup>166</sup> <https://www.nhmrc.gov.au/about-us/publications/australian-code-care-and-use-animals-scientific-purposes>

<sup>167</sup> <https://nhmrc.gov.au/>

<sup>168</sup> Petrie, C - The Commonwealth's role in animal welfare, Law and Bill Digest, Parliament of Australia, p 1.

<sup>169</sup> [http://kb.rspca.org.au/How-is-animal-research-regulated-in-Australia\\_8.html](http://kb.rspca.org.au/How-is-animal-research-regulated-in-Australia_8.html)



- produced in July 2014.

In New South Wales, Part 2A of the Animal Research Act 1985<sup>170</sup> requires those carrying out animal research or supplying animals for research to be authorised in accordance with the Act and accredited as research establishments, and certain procedures are prohibited under the Act. As of 2018, a bill is under consideration for the amendment of the Animal Research Act 1985, for the reduction in deaths of cats and dogs used in research. The bill proposes to take all reasonable steps to home a dog or cat that is no longer required for research, such as socialising or training for homing, or entrusting the animal to a person or an animal homing organisation.<sup>171</sup>

In the Northern Territory, Division 3 of the Animal Welfare Act 2000 – dedicated to the permits to conduct teaching or research programmes – provides that in order to conduct animal research, the applicant must obtain a licence from the relevant ethics committee, which may be subject to conditions.

In Western Australia, Part 2 of the Animal Welfare Act 2002 is dedicated to the regulation of the use of animals for scientific purposes, and sets limits on the use of animals for scientific purposes, and the Animal Welfare (Scientific Purposes) Regulations 2003 require that the use of animals for scientific purposes complies with the national Code.

In Queensland, through multiple sections – including section 91 in particular – the Animal Care and Protection Act 2001 establishes that any person proposing to use animals for these purposes, must register with Biosecurity Queensland, obtain approval from an animal ethics committee, comply with the national Code, keep the required documentation and submit an annual Animal Use Statistics Report to the relevant authorities. A compulsory code of practice for the care and use of animals for scientific purposes<sup>172</sup>, published in its 8<sup>th</sup> edition in 2013, is enforced in the territory.

In South Australia, Part 4 of the Animal Welfare Act 1985 requires licensing in order to use an animal for research or experimentation, regulates licences for teaching and research involving animals, and establishes the power of approval of the Animal Ethics Committee.

In Victoria, Part 3 of the Prevention of Cruelty to Animals Act 1986 provides that the use of animals for scientific purposes must comply with the national Code that is referenced under the Prevention of Cruelty Regulations 2008. Research and teaching that uses animals must occur under a licence and only after an Animal Ethics Committee approval and in authorised premises.

In Tasmania, Part 4 of the Animal Welfare Act 1993 provides that in order to carry out animal research, an institution must be licensed by the Minister, and activities should be approved and monitored by an Animal Ethics Committee, and a condition of each licence is that institutions must comply with the national Code. Under the 2018 Animal Protection Bill, individual scientific users of animals for scientific purposes will need to be registered, rather than the current practice of only premises being licenced.

<sup>170</sup> <https://www.legislation.nsw.gov.au/#/view/act/1985/123>

<sup>171</sup> <https://www.legislation.nsw.gov.au/bills/cc1881d6-d677-47e7-bbcc-21d7aa8eaba4>

<sup>172</sup> <https://www.nhmrc.gov.au/guidelines-publications/ea28>





Since the API was first published in 2014, the Australian Government committed to introduce a ban on the cosmetic testing on animals.<sup>173</sup> As a result, the Industrial Chemical Charges Bill was introduced into the House of Representatives of Parliament in June 2017.<sup>174</sup> This Bill will effectively ban animal testing for cosmetics, as Australia will no longer accept results derived from animal experimentation as evidence of a cosmetic product's safety or effectiveness. This means cosmetic brands will be required to show that their products are safe and operational with non-animal testing methods. In addition, this Bill will ensure that funding is delegated to help businesses implement testing methods that do not rely on animals. However, in January 2019, the Government announced that the implementation of the ban was postponed to 1<sup>st</sup> July 2020.<sup>175</sup>

### Analysis

*The existence and importance of the Code for the care and use of animals for scientific purposes demonstrates that the welfare of animals in research is regarded as an independent issue subject to regulation and protection. The Code introduces governing principles that fall in line with international standards of protection, including concepts such as the Three Rs principles - Replacement, Reduction and Refinement. The Code also refers to the best possible practice specific to the species and biology of animals involved in the research. Although there is no specific list of animals on which experimentation is not permitted, there are restrictions (in the form of additional justification requirements) on the use of non-human primates.*

*The National Health and Medical Research Council is responsible for policy revision and production. Section 2 of the Code for the care and use of animals for scientific purposes specifies the responsibilities of those involved in the use of animals in research and provides for the conformation of a committee in charge of ethical reviews on the subject matter. The Code itself, and the general policies contained in it, are subject to review after five years and NHMRC may recommend to the organisation's Chief Executive Officer that a review is necessary. After 10 years, irrespective of whether the Code was reviewed at five years or not, guidelines are either reviewed and the evidence updated, or revoked. The development and review of the Code is undertaken by nominated representatives of experts in the matter, which includes animal welfare organisations, the Australian Government, state and territory governments, specialists in evaluating evidence, professional technical and scientific writers and a public consultation process. There do not appear to be significant barriers to improvement in this area.*

*It is positive that Australia has decided to ban animal testing for cosmetics and their ingredients. This measure will bring Australia in line with international standards, such as those from the EU. However, it is regrettable that the ban's entry into effect has been postponed to July 2020.*

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<sup>173</sup> <http://www.health.gov.au/internet/main/publishing.nsf/Content/ban-cosmetic-testing-animals>

<sup>174</sup> <https://www.livekindly.co/animal-testing-cosmetics-banned-australia/>

<sup>175</sup> <https://www.cosmeticsdesign-asia.com/Article/2019/01/21/Forever-delayed-Australia-postpones-ban-on-animal-testing-for-a-third-time-to-2020>



More than six million animals are used every year in Australia for medical research, experiments and surgical skills training.<sup>176</sup> In 2016, almost 1.3 million mice were subjected to tests and experiments.<sup>177</sup> 8,870 dogs and 2,553 cats were also used. Victoria used 1,080, 136 animals; New South Wales 4,977, 239; Tasmania 225,994; Queensland 4,519,470; and Western Australia 933,242. Figures for 2016 were not available for South Australia, the Australian Capital Territory or the Northern Territory. However, Humane Research Australia calculated that, if figures from all jurisdictions were collected, this would bring the total for 2016 to over 12 million animals.<sup>178</sup> Of the animals used in 2016 reported by four states, 22,689 were in the 'Death as end point category.' This requires animals to die unassisted, with tests generally being conducted without anaesthesia or pain relief to prevent results from being altered. 115,663 animals were in the 'Major physiological challenge' category, meaning the animals suffer a moderate or large degree of distress which is not quickly or effectively alleviated.

Helen Marston, the chief executive of Humane Research Australia, said that Australia was the fourth-highest user of animals in experiments and surgery training in the world after China, Japan and the United States.<sup>179</sup> Dr Denise Russell, a research fellow at the University of Wollongong, said there was a lack of ethical scrutiny of experimental projects. There was an incentive for animal ethics committees simply to accept proposals.<sup>180</sup>

Fairfax media revealed in January 2016 that baboons were being bred in Sydney and Melbourne and used in experiments, including the transplanting of a pig's kidney into a baboon's body. The baboon had to be killed after suffering fatal side effects.<sup>181</sup> New South Wales, Western Australia and South Australia all scheduled surgical skills training with live animals in 2016. The animals were due to be killed afterwards. A petition with more than 14,000 signatures was handed to the Federal Parliament in 2016 calling for a ban on importing primates for medical and scientific research. Humane Research Australia said that there were three government-funded research facilities in New South Wales and Victoria where baboons, marmosets and macaques were being bred specifically for research, but despite that nine permits had been granted since 2000 to import primates into Australia for research.<sup>182</sup> Between 2000 and 2015, Australia imported 331 pig tailed macaques from Indonesia; 250 crab-eating macaques from Indonesia; 71 owl monkeys from the United States; and 37 marmosets from France.<sup>183</sup>

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<sup>176</sup> O'Brien, N - Millions of animals around Australia subjected to experiments and surgery, The Sydney Morning Herald, 30 January 2016 <https://www.smh.com.au/environment/conservation/millions-of-animals-around-australia-subjected-to-experiments-and-surgery-20160129-gmgown.html>

<sup>177</sup> Humane Research Australia - 2016 Australian Statistics of Animal Use in Research & Teaching [http://www.humanersearch.org.au/statistics/statistics\\_2016](http://www.humanersearch.org.au/statistics/statistics_2016)

<sup>178</sup> Ibid.

<sup>179</sup> O'Brien, op cit, p 2.

<sup>180</sup> Ibid, p 2.

<sup>181</sup> Ibid, p 2.

<sup>182</sup> O'Brien, N - Thousands sign petition urging an end to importing of primates for medical research, The Sydney Morning Herald, 24 January 2016 <https://www.smh.com.au/environment/conservation/thousands-sign-petition-to-stop-import-of-primates-for-medical-research-20160121-gmaoh1.html>

<sup>183</sup> Ibid, p 2.



### Enforcement mechanisms

Section 5 of the Code for the care and use of animals for scientific purposes includes provisions for failure to comply with the Code for the responsible conduct of research. This includes disciplinary action and other measures. The Code prescribes the establishment of Animal Ethics Committees at each institution that uses animals for scientific research. The committees have the responsibility of reviewing the ethical parameters of proposed research and may not approve an application if it fails to meet certain ethical principles. Institutions are required to be licensed and must provide annual statistics and reports to state and territory governments.

There are enforcement mechanisms in state and territory legislation for failure to comply.

### Key recommendations

- The Australian Code of Practice for the care and use of animals for scientific purposes (the Code) provides national guidance with regard to the use of animals in scientific research, thereafter, implemented through State and Territory legislations. The Government of Australia is encouraged to develop a national strategy for the implementation of the Three Rs principles – Replacement, Reduction and Refinement of the use of animals in scientific research.
- **The recent ban on the use of animal testing for cosmetics through the Industrial Chemical Charges Bill** is welcome. However, the Government of Australia is encouraged to implement the ban as soon as possible.
- **The** Government of Australia is also encouraged to allocate funding to the development of alternatives to animal use in research.

## 8. There are laws that apply to wild animals

### Analysis of the legislation

Ranking	C
<p>Legislation for the protection of wild animals in Australia is mostly focused on conservation but in some areas, it also addresses some issues related to the welfare of the individual animal. Through the creation of the Australian Biodiversity Conservation Strategy 2010-2030 – which aims at conserving biodiversity through balanced consumption patterns and the reduction of the impact of existing threats – Australia’s efforts in conserving its unique environment, including flora and fauna, are indirectly benefiting the welfare of wild animals who could be captured to be captivated or hunted.<sup>184</sup></p>	

<sup>184</sup> <http://extwprlegs1.fao.org/docs/pdf/aus163028.pdf>



The government regulates the import and export of wildlife through the Environment Protection and Biodiversity Conservation Act 1999<sup>185</sup> – last amended in 2016 – which provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places, defined in the Act as matters of national environmental significance. The Act contains exemptions from various prohibitions for actions that are taken in a humane manner to relieve or prevent suffering for a member of a listed threatened species, migratory species, cetacean or animal (sections 197, 212, 231 and 255).

The Australian government has developed Model Codes of Practice and standard operating procedures for the humane capture, handling or destruction of feral animals in Australia. These have been produced following consultation with stakeholders including government and non-government organisations, animal welfare groups and technical specialists, and include considerations that methods should be humane and target-specific. A model for assessing the relative humaneness of pest animal control methods has also been developed in 2011.<sup>186</sup> Codes of practice for each of the key pest animal species provide general information on best practice management, control strategies, species biology and impact and the humaneness of current control methods. Standard operating procedures include a discussion of animal welfare impacts for target and non-target species.

The Government has also developed National Codes of Practice (commercial and non-commercial) for the humane shooting of kangaroos and wallabies, compliance with which is made mandatory by licensing provisions. Compliance with the commercial code is a requirement of Wildlife Trade Management Plans for the commercial use (and export) of kangaroos and wallabies, approved under the Environment Protection and Biodiversity Conservation Act 1999.

Lawyer Graeme McEwen states that the principal welfare challenge in native wildlife management arises from the industry in the commercial killing of kangaroos.<sup>187</sup> This industry is carried out in four states, each of which has a Kangaroo Management Program (KMP). Each KMP fixes an annual harvest quota which in 2011 was approximately four million.<sup>188</sup> McEwen said that those opposed to the commercial killing of kangaroos said that, each year, well over 100,000 adult kangaroos were not shot cleanly, and the manner in which an additional 300,000 joeys were killed was brutal.<sup>189</sup> McEwen said it was important to list current methods of feral animal control to reinforce how primitive and inhumane most are: poison bait; trapping (including steel-jawed traps); mustering into yards for later transport; shooting from the ground or a helicopter; electric fencing; dogging of rabbits and pigs; biological diseases; fumigation of rabbit burrows and fox dens; and explosive destruction of rabbit warrens.<sup>190</sup> A pig who ingests warfarin may take up to 14 days to die.

Specific legislation in state and territory jurisdictions to protect wildlife predominantly refers to their conservation rather than welfare. There are provisions concerned with problems associated with feral animals (including feral livestock), and native species of animals when they are considered a threat to

<sup>185</sup> <https://www.legislation.gov.au/Details/C2016C00777>

<sup>186</sup> <http://www.agriculture.gov.au/animal/welfare/aaws/humaneness-of-pest-animal-control-methods>

<sup>187</sup> McEwen, G – Animal Law: Principles and Frontiers [www.bawp.org.au](http://www.bawp.org.au) 17 June 2011

<https://www.voiceless.org.au/content/animal-law-principles-and-frontiers>

<sup>188</sup> Ibid, p 131.

<sup>189</sup> Ibid, p 132.

<sup>190</sup> Ibid, pp 143 – 144.



crops or to pose a risk to humans, which allow for the destruction of these animals (and in the case of some feral animals may even require that this be done), and permitted destruction methods often deviate from good animal welfare principles. For example, the use of 1080 poison is allowed in several Australian jurisdictions. In addition, State and Territory governments are responsible for regulating feral pig control techniques, including the use of dogs in feral pig hunting and – while it is generally agreed that it is unacceptable to set dogs on to feral pigs with the intention of bringing them down, holding or attacking them – there is no national Code of Practice covering the use of dogs in pig hunting. The use of dogs in the control of feral pigs is a legal activity as long as it is carried out in line with the requirements under the relevant jurisdiction's protection of cruelty to animal legislation.<sup>191</sup> Australia furthermore allows for the aerial shooting of feral species. The only regulation in place is specifies that aerial shooting should be carried out by an accredited government shooter, with the aim being a 100 per cent humane kill where, in the event of a first shot outside of the target range, a follow-up shot is possible to ensure minimal suffering.<sup>192</sup>

In the Australian Capital Territory, the Nature Conservation Act 2014<sup>193</sup> (which repealed the Nature Conservation Act 1980) makes provisions relating to conservation and protection of certain species, operating in accordance to the Animal Welfare Act 1992. Part 3 of the Animal Welfare Act 1992 provides for Codes of Practice, which may be mandatory, to be made on various issues including fishing, culling of native animals, control of feral animals, trapping and snaring, and commercial pest control. Codes have been made on fox control and on the humane shooting of kangaroos and wallabies. Section 60 prohibits the use of specified traps. In the Australian Capital Territory, hunting is limited to feral animals on private property with landowners' permission to hunt on the property. Only a current firearms licence is required to hunt on private property – there is no hunting permit or fee applicable. Teenagers between the age of 12 and 18 years can apply for a minor's firearm permit.

In New South Wales, section 23 of the Prevention of Cruelty to Animals Act 1979 prohibits the setting of steel-jawed traps and being in the possession of a steel-jawed trap with the intention of using it to trap an animal. Section 4 of the Wild Dog Destruction Act 1921<sup>194</sup> requires owners and occupiers to destroy all wild dogs found upon their land within the Western Division of the state, with no provision as to humane methods of destruction – instead, section 6 establishes that owners or occupiers are required to act 'within the time specified therein for the more effective destruction'. The Game and Feral Animal Control Act 2002<sup>195</sup> provides for the effective management of introduced species of game animals and promotes hunting of those game animals on public and private land and of certain pest animals on public land, yet does not contain welfare considerations. Various hunting permits exist in New South Wales, allowing hunters to kill feral and native species. Hunters are allowed to assist the NSW National Parks and Wildlife Service (NPWS) under certain circumstances to control animal populations.<sup>196</sup>

In the Northern Territory, section 49 of the Territory Parks and Wildlife Conservation Act 2006 allows

<sup>191</sup> <http://www.agriculture.gov.au/animal/welfare/animal-welfare-issues#hunting-of-feral-pigs-with-dogs-pig-dogging>

<sup>192</sup> <http://www.agriculture.gov.au/animal/welfare/animal-welfare-issues#aerial-culling-of-horses>

<sup>193</sup> <http://www.legislation.act.gov.au/a/2014-59/current/pdf/2014-59.pdf>

<sup>194</sup> <https://legislation.nsw.gov.au/inforce/dc83b071-369c-6688-b76b-ac083ad8abee/1921-17.pdf>

<sup>195</sup> <https://www.legislation.nsw.gov.au/#/view/act/2002/64>

<sup>196</sup> <https://ssaa.org.au/hunting/state-territory-hunting-regulations/>



for the destruction of feral animals. References to the welfare of wild animals are included in sections 56 and 57 regarding the grant or refusal to grant permit to insert non-indigenous species in parks, as one of the considerations to be taken into account by the authorities. The Northern Territory currently allows the hunting of feral pigs and waterfowl under a permit system. All other classified feral animals can be taken on private land with the landholders' permission, without a specific permit under the normal conditions of a firearms licence.<sup>197</sup>

In Western Australia there is a Code of Practice for the capture and marketing of feral animals, which provides some restrictions on population management.<sup>198</sup> However, although the Code states that poisoning using unregistered poisons or trapping without prompt removal or destruction are unacceptable on welfare grounds, and that poisoning should not be used where alternatives are available, it does allow (and recommend) other potentially low welfare methods to be used such as chasing with dogs and roping animals. Compliance with the Code can be relied upon as a defence to prosecution under the Animal Welfare Act 2002. Hunting is limited in the State to taking feral and pest animals on private property with landowner's permission.<sup>199</sup>

In Queensland, there is a voluntary Code of Practice for the destruction or capture, handling and marketing of feral livestock animals<sup>200</sup>, and the Land Protection (Pest and Stock Route Management) Act 2002<sup>201</sup> provides a framework and powers for management of pest species, although this does not contain welfare related considerations. Hunting is limited to feral animals on private property with landowners' permission to hunt on the property. Only a current firearms licence is required to hunt on private property; there is no hunting permit or fee applicable.<sup>202</sup>

In South Australia, there are mandatory Codes of Practice for the humane destruction of various species of wildlife<sup>203</sup> - including of birds, wombats, common brushtail possums by shooting, as well as flocking birds by trapping and carbon dioxide narcosis - disciplined under the National Parks and Wildlife Act 1972.<sup>204</sup> Moreover, this act prohibits to undertake or continue activities that could be detrimental to the welfare of a protected animal. Hunting is allowed in South Australia with a permit, which differs depending on the type of species that is hunted. An 'open permit' allows for hunting protected species.<sup>205</sup>

In Victoria, the Wildlife Act 1975<sup>206</sup> provides multiple references to animal welfare. In section 23, this act regulates that should a game license be deleterious to the welfare of any wildlife, the permit will

<sup>197</sup> <https://ssaa.org.au/hunting/state-territory-hunting-regulations/>

<sup>198</sup> [https://www.agric.wa.gov.au/sites/gateway/files/Code%20of%20Practice%20for%20the%20Capture%20and%20Marketing%20of%20Feral%20Animals%20in%20Western%20Australia\\_0.pdf](https://www.agric.wa.gov.au/sites/gateway/files/Code%20of%20Practice%20for%20the%20Capture%20and%20Marketing%20of%20Feral%20Animals%20in%20Western%20Australia_0.pdf)

<sup>199</sup> <https://ssaa.org.au/hunting/state-territory-hunting-regulations/>

<sup>200</sup> <https://www.business.qld.gov.au/industries/farms-fishing-forestry/agriculture/livestock/animal-welfare/feral-code>

<sup>201</sup> <https://www.legislation.qld.gov.au/view/pdf/2014-03-28/act-2002-012>

<sup>202</sup> <https://ssaa.org.au/hunting/state-territory-hunting-regulations/>

<sup>203</sup> [https://www.environment.sa.gov.au/topics/plants-and-animals/animal-welfare/Codes\\_of\\_practice/Codes\\_of\\_practice\\_for\\_the\\_humane\\_destruction\\_of\\_wildlife](https://www.environment.sa.gov.au/topics/plants-and-animals/animal-welfare/Codes_of_practice/Codes_of_practice_for_the_humane_destruction_of_wildlife)

<sup>204</sup> <https://www.legislation.sa.gov.au/LZ/C/A/NATIONAL%20PARKS%20AND%20WILDLIFE%20ACT%201972/CURRENT/1972.56.AUTH.PDF>

<sup>205</sup> <https://ssaa.org.au/hunting/state-territory-hunting-regulations/>

<sup>206</sup> <https://www.legislation.vic.gov.au/in-force/acts/wildlife-act-1975/122>



be refused. However, for animals considered pest or feral, hunters are not required to have a specific permit apart from the normal conditions of firearms licence.<sup>207</sup> The Prevention of Cruelty to Animals Act 1986 provide for protection of wild animals. There is a voluntary Code of Practice for the welfare of animals in hunting, release of game birds for hunting and for rehabilitation of wildlife. In the case of hunting, compliance with the code is a condition of licence.<sup>208</sup> The Emergency Management Act 2013 requires for protection of the welfare of animals and refers to plans for response, including response to oiled sea birds.<sup>209</sup> Other plans, such as the Victorian Emergency Animal Welfare Plan, provide exemptions from the provisions of the Prevention of Cruelty to Animals Act 1986 (section 6).<sup>210</sup>

In Tasmania, all provisions of the Animal Welfare Act 1993 cover wild animals. In addition, section 12 of the Act prohibits the use of leghold traps, glue-board traps and snares, unless an exemption has been granted. There are also approved Welfare Guidelines under the legislation for hunting wallabies and shearwaters. Regulation 28 of the Wildlife Regulations 1999, made under the National Parks and Wildlife Act 1970, puts some limits on hunting methods. With regards to hunting regulations, Tasmania authorises the taking of game during a declared open season. Pest or feral animals can, however, be killed at any time on both private land, state forest and crown land. A hunting permit can be delivered to individuals as young as 16 years old.<sup>211</sup>

### **Analysis**

*The general anti-cruelty laws at state and territory level apply to wild animals, and it is positive the Government has developed a Model for Assessing the Relative Humaneness of Pest Animal Control and Codes of Practice and standard operating procedures for the humane capture, handling or destruction of feral animals. This Model is justified on the basis that there is a 'worldwide trend towards ethical and moral concern for welfare of animals regardless of their status' as well as the 'propensity for animal activist groups to target pest animal control'.<sup>212</sup> However, there are several issues that have been addressed in legislation in a way that does not promote the good welfare of individual animals. Some inhumane methods of culling of animals are still in use in the country, including the use of poison baits, hunting with dogs and some forms of traps. These issues appear in law and promote a negative approach to animal welfare, removing many animals from much of the protection of animal welfare legislation through their designation as 'vermin' or 'pests.'*

*The country continues to face challenges in relation to wild animal welfare, for both native animals (for example, shark culling) and dealing with the conservation threat that some introduced species pose to native wildlife. Killing methods that are permitted in many cases involve poor welfare.*

*There are systems in place for improving animal welfare for wild animals, but not all the provisions could be said to fulfil the objective of promoting or improving animal welfare. The main obstacle then*

<sup>207</sup> <https://ssaa.org.au/hunting/state-territory-hunting-regulations/>

<sup>208</sup> <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/animal-welfare-legislation/victorian-codes-of-practice-for-animal-welfare/code-of-practice-for-the-welfare-of-animals-in-hunting-revision-no.-1>

<sup>209</sup> [http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num\\_act/ema201373o2013236/](http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num_act/ema201373o2013236/)

<sup>210</sup> <http://agriculture.vic.gov.au/agriculture/emergencies/response/victorian-emergency-animal-welfare-plan>

<sup>211</sup> <https://ssaa.org.au/hunting/state-territory-hunting-regulations/>

<sup>212</sup> <http://www.agriculture.gov.au/animal/welfare/aaws/humaneness-of-pest-animal-control-methods#preface-to-the-second-edition>



comes from the definition of issues to be covered by legislation and mechanisms by which this legislation addresses problematic issues in the country. There are significant barriers in the form of concerns about threats (environmental, agricultural and social) from introduced species, as well as from native wild animals (for example, threats to crops). There may also be challenges to the effective enforcement of wild animal legislation due to the remote nature of the land on which hunting can take place.

Enforcement mechanisms

There are enforcement mechanisms relating to the Environment Protection and Biodiversity Conservation Act 1999 and relevant provisions in state and territory legislation.

Key recommendations

- The Government of Australia is encouraged to ban any form of hunting that does not directly support subsistence **i.e. for feeding oneself or one’s family and not for commercial gain**. Subsistence hunting operations must employ the least cruel methods of hunting and slaughter, and that all possible efforts should be made to reduce the time to death of animals killed in these hunts.
- **At present, hunting regulations differ at the state and territory levels. At the very least, the** Government of Australia is encouraged to ban the cruellest forms of hunting, which includes dog hunting, live baiting, poisoning, trapping, falconry, bow hunting.

Goal 3: Presence of effective governance structures and systems

9. The Government has assigned responsibility and accountability for improving animal protection at a high government level and has provided resources

Analysis of the legislation

Ranking	G
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The Australian Commonwealth does not have a Minister of Animal Welfare or Associate Minister of Animal Welfare and none of the eight states or territories has a Minister or Associate Minister dedicated to animal welfare. Australia does not have a Commissioner for Animals at either federal or state level. The website of the Department of Agriculture and Water Resources states that its Ministers are the Minister for Agriculture and Water Resources and the Assistant Minister for Agriculture and Water Resources.<sup>213</sup> There is no reference to animal welfare.

<sup>213</sup> Department of Agriculture and Water Resources – Ministers – [www.agriculture.gov.au/about/ministers](http://www.agriculture.gov.au/about/ministers).





In 2015, the Voice for Animals (Independent Office of Animal Welfare) Bill 2015 was referred by the Senate to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report. The bill aimed to establish an Office of Animal Welfare as an independent statutory authority responsible for advising on the protection of animal welfare in Commonwealth-regulated activities, provide for a chief executive officer and staff, establish the Office of Animal Welfare Advisory Committee to advise the chief executive, and set out reporting requirements.<sup>214</sup> The Committee recommended that the bill not be passed. The Government supported that recommendation, stating that the substantive functions of the proposed statutory authority for animal welfare were already achieved through existing government mechanisms.<sup>215</sup> The government said that legislative responsibility for animal welfare in Australia rested primarily with state and territory governments and local governments. 'The Australian Government's policies for animal welfare arise from specific powers in relation to external trade and treaties. All governments are concerned about animal welfare and do not condone animal cruelty. The Australian Government works with the Australian livestock industry to improve the productivity and profitability of the industry, and farm gate returns. There is a strong link between sustainability, animal welfare and livestock profitability.'<sup>216</sup> The response went on to state that the government considered that creating an Independent Office of Animal Welfare would result in significant cost to the Commonwealth, would add a layer of bureaucracy and would require legislation and ongoing specialist expertise. The Australian Commonwealth Budget for 2019/20 was delivered on 2<sup>nd</sup> April 2019. It projected a surplus of AUD\$7.1 billion in the coming year, with budget surpluses expected to grow to more than one per cent of GDP by 2026/27.<sup>217</sup> The budget provided for AUD\$6.3 billion in drought assistance and concessional loans to farmers and farming communities. AUD\$3.9 billion is being invested in the Future Drought Fund and flood-affected farmers in North Queensland will have access to \$300 million in grants for recovery from floods.<sup>218</sup>

The Australian Productivity Commission prepared a report dated 15<sup>th</sup> November 2016 and titled 'Regulation of Australian Agriculture: Productivity Commission Inquiry Report.' The Commission is the Australian government's independent research and advisory body on a range of economic, social and environmental issues. The report recommended that, to facilitate greater rigour in the process for developing national farm animal welfare standards, the Australian government should take responsibility for ensuring that scientific principles guided the development of standards.<sup>219</sup> In order to do that, the commission said that a stand-alone statutory organisation called the Australian Commission for Animal Welfare should be established. The paper also recommended that, by the end of 2017, state and territory government should review the way in which their farm animal welfare regulations

<sup>214</sup> Department of Agriculture and Water Resources – Australian Government response to the Senate Rural and Regional Affairs and Transport Legislation Committee Report on the Voice for Animals (Independent office of animal welfare) Bill 2015 <http://www.agriculture.gov.au/animal/welfare/gov-response-voice-animals>

<sup>215</sup> Australian Government – Australian Government response to the Senate Rural and Regional Affairs and Transport Legislation Committee report: Voice for animals (Independent Office of Animal Welfare) Bill 2015 <http://www.agriculture.gov.au/SiteCollectionDocuments/animal-plant-health/gov-response-voice-animals.pdf>

<sup>216</sup> Ibid, p 1.

<sup>217</sup> Australian Government – Budget 2019-20 Overview: Our plan for a stronger economy, 2 April 2019, p 5.

<sup>218</sup> Australian Government – Budget 2019-20 Investing in our community, 2 April 2019, p 2.

<sup>219</sup> Productivity Commission – Regulation of Australian Agriculture – Productivity Commission Inquiry Report Overview & Recommendations, Australian Government, 15 November 2016 <https://www.pc.gov.au/inquiries/completed/agriculture/report/agriculture-overview.pdf>, p 38.



were monitored and enforced and make necessary changes so there was a separation between agriculture policy matters and farm animal welfare monitoring and enforcement functions, a transparent process for publicly reporting on monitoring and enforcement functions, and adequate resourcing.<sup>220</sup> The Commission said that the Australian Government should appoint an independent expert or committee to publicly inquire and report, by the end of 2017, on the efficiency and effectiveness of the livestock export regulatory scheme.<sup>221</sup>

The Australian Government released its response to the report in 2019.<sup>222</sup> The Australian government 'noted' the recommendations for the creation of an Australian Commission for Animal Welfare and for state and territory governments to review and make changes by the end of 2017 to the monitoring and enforcement of farm animal welfare regulations.<sup>223</sup> 'Noting' means that no action is taken. The government supported in principle the recommendation for appointment of an independent expert or committee to publicly inquire into and report on the efficiency and effectiveness of the livestock export regulatory system.

Following the ending of funding to the Animal Welfare Strategy (AAWS) in the 2010-14 Australian government budget, the Department of Agriculture and Water Resources commissioned Animal Health Australia to manage the process of developing the Australian Animal Welfare Standards and Guidelines.<sup>224</sup>

Animal Health Australia describes itself as a 'not-for-profit public company that facilitates innovative partnerships between governments, major livestock industries and other stakeholders to protect animal health and the sustainability of Australia's livestock industry.'<sup>225</sup> It is heavily commercially focused and aims to enhance market access.

Under the Australian Constitution, legislative responsibility for animal welfare within Australia is primarily under the responsibility of state and territory governments, which all have animal welfare legislation in place. The Australian Government holds responsibility for trade and international agreements, which entails live animal export trade and animals processed at export-registered slaughter establishments. The national government also regulates the welfare of kangaroos killed for commercial purposes, the conduct of introduced animal management under the Department of Environment National Threat Abatement Plans and animal welfare aspects of wild animal management and animal research.<sup>226</sup>

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<sup>220</sup> Productivity Commission - Regulation of Australian Agriculture - Productivity Commission Inquiry Report Overview & Recommendations, Australian Government, 15 November 2016

<https://www.pc.gov.au/inquiries/completed/agriculture/report/agriculture-overview.pdf>, p 38.

<sup>221</sup> Ibid, p 39.

<sup>222</sup> Australian Government - Productivity Commission Inquiry into the Regulation of Australian Agriculture: Australian Government response, 2019 <https://www.pc.gov.au/inquiries/completed/agriculture/agriculture-government-response.pdf>.

<sup>223</sup> Ibid, pp 7 and 9.

<sup>224</sup> Petrie, C - The Commonwealth's role in animal welfare, Law and Bills Digest, Parliament of Australia, p 3.

<sup>225</sup> Animal Health Australia - About us <https://www.animalhealthaustralia.com.au/who-we-are/about/>

<sup>226</sup> <http://www.agriculture.gov.au/animal/welfare/animal-welfare-in-australia#legislation>



Australia has a national intergovernmental task group for animal welfare, the Animal Welfare Task Group (AWTG), consisting of representatives from the Department of Agriculture and from each state and territory government department responsible for the administration of animal welfare policy and law. The Task Group leads the development of nationally consistent animal welfare standards and guidelines, revisions from the existing Model Codes of Practice for the Welfare of Animals.<sup>227</sup>

The Committee 'meets regularly and focuses on the development of nationally consistent animal welfare Standards and Guidelines to replace an array of Model Codes of Practice for the appropriate care and husbandry of animals in Australia's animal use and livestock industries.' The AWTG includes representatives from each of the state and territory government departments responsible for animal welfare, the Department of Agriculture and Water Resources and the New Zealand Ministry for Primary Industries.

The former Australian Animal Welfare Strategy (AAWS) 2010-14 had established a national intergovernmental committee, the Australian Animal Welfare Advisory Committee, made up of representatives from state and territory government responsible for animal welfare and responsible for the delivery of the Strategy. This replaced the National Consultative Committee on Animal Welfare which had been in existence since 1989, and which contained representatives from all jurisdictions as well as NGO representatives. However, following the announcement by the Australian Government in late 2013 to hand over the coordination and programme management for the ongoing delivery of the Strategy to the states and territories, the Australian government stepped back from leading any domestic animal welfare issues.<sup>228</sup> The Australian Animal Welfare Advisory Committee also got disbanded.

In April 2016, the Australian government expressed to the civil society – by means of a public letter addressed to the Australian office of World Animal Protection<sup>229</sup> – its interest and concern about the welfare of animals. The government affirmed its continuous support to the Animal Welfare Strategy; however, this policy lacks substance without a dedicated implementation plan. The government stated that animal welfare standards and guidelines are still being developed, yet there is no deadline or indication that these standards are near completion.<sup>230</sup>

The activities under the Animal Welfare Strategy continued to be undertaken by state and territory governments, which are developing and implementing relevant legislation and responsibility for the administration of animal welfare law. The legislation also establishes specific animal welfare bodies within government.

In the Australian Capital Territory, section 5 of the Animal Welfare Act 1992 provides for the establishment of an Animal Welfare Authority and section 109 establishes an animal welfare advisory committee responsible for drafting codes of practice.

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<sup>227</sup> <http://www.animalwelfarestandards.net.au/>

<sup>228</sup> <https://www.rspca.org.au/media-centre/press-releases/2013/australian-animal-welfare-advisory-committee-scrapped>

<sup>229</sup> <http://www.agriculture.gov.au/SiteCollectionDocuments/animal-plant-health/welfare/wap.pdf>

<sup>230</sup> <http://www.agriculture.gov.au/animal/welfare/standards-guidelines/>



In New South Wales, part 2A of the Prevention of Cruelty to Animals Act 1979 provides for the establishment of officers who can monitor compliance of the Act and provides for the establishment of inspectors who have the power to inspect suspected breaches of the Act. The Department of Primary Industries has also set up a non-statutory Animal Welfare Advisory Council.<sup>231</sup>

In the Northern Territory, Part 4 of the Animal Welfare Act 2000 provides for the establishment of an Animal Welfare Authority.

In Western Australia, Part 4 of the Animal Welfare Act 2002 provides for the use of inspectors who have powers to inspect suspected breaches of the Act.

In Queensland, Chapter 5 of the Animal Care and Protection Act 2001 provides for the establishment of officers who can monitor compliance of the Act. The Act also provides for the establishment of inspectors who have to power to inspect suspected breaches of the Act. Section 211 gives power to the relevant Minister to establish an animal welfare advisory committee, which was done in 2004.

In South Australia, section 6 of the Animal Welfare Act 1985 provides for the creation of an Animal Welfare Advisory Committee, to consist of relevant stakeholders including from government, industry and animal welfare organisations.<sup>232</sup>

In Victoria, section 18, 18A and 35 of the Prevention of Cruelty to Animals Act 1986 provides for the use of inspectors who have powers to inspect suspected breaches of the Act, and section 7 provides for making codes of practice, including a code for use of animals in scientific procedures to establish animal ethics committees. The Minister for Agriculture and Food Security has established a non-statutory Animal Welfare Advisory Committee (including members of industry and NGOs).<sup>233</sup>

In Tasmania, the Animal Welfare Act 1993 establishes an Animal Welfare Advisory Committee (section 39; to include members of industry and NGOs) which is responsible for reviewing legislation and making recommendations to the Minister, and an Animal Experimentation Ethics Committee (section 30). The new 2018 Animal Protection Bill underscores that the Animal Welfare Advisory Committee (AWAC) is to be retained.<sup>234</sup>

### Analysis

*Responsibility for considering animal welfare matters of national significance – often relating to livestock production issues – and for referring matters to an intergovernmental ministerial council lies with a national intergovernmental task group for animal welfare, the Animal Welfare Task Group.<sup>235</sup> It is regrettable that no Minister in Australia is in charge of animal welfare. At the state and territory*

<sup>231</sup> <https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/awac>

<sup>232</sup> [https://www.environment.sa.gov.au/topics/plants-and-animals/animal-welfare/Animal\\_Welfare\\_Advisory\\_Committee](https://www.environment.sa.gov.au/topics/plants-and-animals/animal-welfare/Animal_Welfare_Advisory_Committee)

<sup>233</sup> <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/committees>

<sup>234</sup> <https://dpiir.nt.gov.au/primary-industry/animal-welfare-branch/animal-protection-bill-2018>

<sup>235</sup> <http://www.agriculture.gov.au/SiteCollectionDocuments/about/foi/disclosure-log/FOI201415-09-Sheep-Welfare-Standards-Guidelines-Part2-project-documents.pdf>



level, animal welfare legislation is mostly enforced through inspectors. It is positive that some States have a dedicated animal welfare authority.

The Task Group consists of representatives from the Australian Government Department of Agriculture and each state and territory government department responsible for the administration of animal welfare policy and law. The Task Group focuses on animal welfare issues that support improved long-term and sustainable economic, social and environmental outcomes that are evidence-based and informed by community expectations and are of national interest or concern. The Task Group leads the development of nationally consistent animal welfare standards and guidelines, revisions from the existing Model Codes of Practice for the Welfare of Animals. In 2013, the government finalised a review of the development process for animal welfare standards and guidelines, involving consultation of a range of stakeholders across agricultural industries, government and animal welfare organisations. The review made 20 recommendations to improve the current development process including more clearly defined roles and responsibilities, improved mechanisms to resolve conflict, better use of the regulatory impact analysis process and targeted research to support the regulation impact statement.<sup>236</sup> The Animal Welfare Task Group accepted all 20 recommendations from the review and is working to adopt the recommendations into future standards and guidelines development processes. The aim is for the standards and guidelines, with binding and advisory status respectively, to be adopted at state and territory level.

At state and territory level, responsibility is allocated to specific authorities and has provided powers and mechanisms to improve animal welfare in the country. This shows some recognition of animal welfare as an independent subject and helps issues to be discussed in areas where decisions on policies affecting animal welfare will have national implications.

In late 2013, the government announced it would hand over the responsibility for coordination and programme management and ongoing delivery for the Australian Animal Welfare Strategy to the state and territory governments, whilst the national government previously contributed to funding approximately AUD\$1 million per annum to the Strategy's implementation. The national government also dissolved the Australian Animal Welfare Strategy Advisory Committee, without any central budget allowance for coordination.<sup>237</sup> That indicates there are priority issues creating a barrier to improvement at a national level. Since the API was first published in 2014, the government has not engaged in any effort to renew the Animal Welfare Strategy nor the Advisory Committee, which proves that its priority areas lie elsewhere.

### Enforcement mechanisms

The allocation of responsibility to relevant government bodies is recorded in legislation, and governance and regulatory responsibilities of the relevant departments are therefore subject to public sector accountability mechanisms. Very few resources are provided for monitoring and enforcement, meaning there is little of this in practice.

<sup>236</sup> <http://www.agriculture.gov.au/animal/welfare/standards-guidelines/review-animal-welfare-standards-and-guidelines-development-process>

<sup>237</sup> <https://www.abc.net.au/news/rural/2013-11-08/animal-welfare-committee-scraped/5079284>



### Key recommendations

- **The Government of Australia is urged to assign responsibility to a Minister for enacting and implementing regulations on animal welfare.**
- **Despite the visible efforts by States and Territories** to synchronise legislation on animal welfare, the absence of a centralised national Animal Welfare Strategy, and of a national Animal Welfare Advisory Committee, is depriving the country from a consistent national coordination mechanism which would simplify harmonisation. Therefore, the Government of Australia is strongly encouraged to renew its national Animal Welfare Strategy and to reinstate the Animal Welfare Strategy Advisory Committee.
- **The Government of Australia is also encouraged to re-create and allocate appropriate funding to the functioning of the Australian Animal Welfare Strategy Advisory Committee.**

### Goal 4: Promotion of international animal welfare standards

10. The Government **has incorporated the OIE’s guiding principles for animal welfare** and its animal welfare standards into policy and legislation

### Analysis of the legislation

Ranking	E
<p>The OIE Animal Welfare Standards focus on transport, slaughter, production systems (beef cattle, broiler chickens, dairy cattle, pigs), stray dog population control, the use of animals in research and education, and working equids.<sup>238</sup></p> <p>At national level, the Australian Standards for the Export of Livestock, which apply in relation to exported animals for slaughter and for breeding, during their transport within Australia and onboard livestock vessels (and aircraft) departing Australia, incorporate some, although not all, relevant OIE standards. Since the end of 2012, Australia has also required compliance with the OIE’s standards in importing countries as a condition of issuing a licence for the live export of animals for slaughter, under the Exporter Supply Chain Assurance System.</p> <p>At an individual state and territory level, in most jurisdictions the OIE’s animal welfare standards are broadly covered in legislation or policy. Standards on population control and animals in research are more prominent. Governments from all states and territories have produced legislation and guidelines for most of the issues covered in the standards in relation to farmed animals. The central government</p>	

<sup>238</sup> <http://www.oie.int/infographic/StandardsAW/index.html>



is encouraged to work on uniformity throughout the country to introduce standards in all states and territories.

### **Analysis**

*Inclusion of the OIE's standards for animal welfare in legislation and policy is very important to create awareness of animal welfare and animal protection as independent issues which need to be normalised throughout the country. The content of many of the OIE's standards appears in legislation and policy documents. The recent export controls indicate that the government views the standards as a useful benchmark for measurement and assessment of the way in which animals are dealt with in importing countries. However, the lack of a national strategy for animal welfare may act as a barrier for the OIE standards to be fully implemented in the country. Similarly, the lack of a central government body responsible for the improvement of animal welfare standards may act as a resource barrier to improvement. It is important that the government reinforces efforts into introducing animal welfare standards in legislation and policy for all categories of animals across all jurisdictions.*

### Enforcement mechanisms

The Government has worked on integrating the OIE's animal welfare standards into legislation in a way that allows most standards to be enforced with legal mechanisms.

The Government also requires compliance with the OIE's standards in importing countries as a condition of issuing a licence for the live export of animals for slaughter (although not for breeding), which is enforced through reporting and auditing arrangements.

In addition, through the Australian Industry-Government Working Group, the Government has produced a series of guidelines to facilitate livestock industries to comply fully with the OIE's standards.

### Key recommendations

- **The** Government of Australia is encouraged to renew its national strategy on animal welfare and to enshrine the OIE standards in such a federal legislation. This would help harmonise current State and Territory animal welfare provisions.

## 11. The Government has pledged in principle support for the Universal Declaration on Animal Welfare (UDAW)

### Analysis of the legislation

The Government was involved in the initial meetings around development of the Universal Declaration on Animal Welfare and has pledged support in principle to UDAW.

Note: The UDAW is a proposed formal international acknowledgement of a set of principles giving animal welfare due recognition among governments and the international community. An expression



of support for the UDAW demonstrates a government's commitment to working with the international community to improve animal welfare.

### Analysis

*Following the 2015 pledge to support the UDAW in principle, the government has advised that it intends to work constructively to support the adoption by the United Nations' General Assembly of UDAW and that it is concerned to ensure the eventual text cannot be misconstrued to restrict trade in live animals and animal products. Australia's support for the UDAW constitutes a useful step into integrating animal protection considerations into different discussion tables, becoming a soft law source for decision makers interested in improving animal protection in the country.*

*The Australian Mission to the United Nations at a meeting with World Animal Protection in New York on 17 October 2019 reaffirmed its support for the Universal Declaration on Animal Welfare.*

### Enforcement mechanisms

There are no enforcement mechanisms relevant to this indicator.

### Key recommendations

- **Since the API was first published in 2014, the Government of Australia** has confirmed that it has pledged support in principle to the UDAW. The Australian Government has offered its support when the UDAW is tabled at the United Nations. Australia therefore is an example for other countries to follow to pledge support in principle to the UDAW.

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