



HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 5 October 1999

ANIMAL WELFARE BILL (NO. 2)

Proposed Amendments

Hon JOHN LUXTON, in Committee, to move the following amendments:

Clause 1: To omit from line 8 on page 5 the expression "October 1999", and substitute the expression "January 2000".

Clause 2: To omit from line 30 on page 7 the expression "section 125", and substitute the expression "section 125A".

PART 1

CARE OF ANIMALS

Clause 17A: To insert, after *clause 17* (which appears on pages 29 and 30), the following clause:

17A. Docking of dogs' tails—(1) A person commits an offence who, on or after 1 January 2003, docks, or causes to be docked, the tail of any dog.

(2) Nothing in subsection (1) makes it an offence—

(a) For a veterinarian to dock the tail of a dog for therapeutic reasons; or

(b) For a person who is acting under the direct supervision of a veterinarian and who is being taught veterinary science at undergraduate level to dock the tail of a dog for therapeutic reasons; or

(c) For any person to cause the tail of a dog to be docked for therapeutic reasons by a person who is entitled under paragraph (a) or paragraph (b) to dock the tail of a dog.

(3) A veterinarian who, on or after 1 January 2003, for the purpose of teaching veterinary science, supervises the docking of the tail of a dog, must be present throughout the docking of the tail.

(4) A person commits an offence who, without reasonable excuse, acts in contravention of, or fails to comply with, subsection (3).

Clause 21: To insert in line 16 on page 31, after the expression "section 17 (2)", the expression "or section 17A (1) or section 17A (4)".

Clause 21A: To insert, after *clause 21* (which appears on page 31), the following heading and clause:

Safari Parks

21A. Safari parks—Subject to **section 7**, the owner of, or person in charge of, a wild animal that is available for hunting in a safari park is, under this Part, subject to the same obligations and liabilities as any other owner of, or person in charge of, an animal.

PART 3

ANIMAL EXPORTS

Clause 36: To omit paragraph (a) (all the words in lines 6 and 7 on page 44), and substitute the following paragraph:

- (a) The manner in which the welfare of any animals previously exported by the applicant was attended to on the journey between New Zealand and the country to which they were exported:

To omit paragraph (g) (all the words in lines 20 to 22 on page 44).

PART 7

PROVISIONS RELATING TO ADMINISTRATION

Clause 105: To omit paragraphs (a) and (b) of subclause (2) (all the words in lines 12 and 13 on page 89), and substitute the following paragraph:

- (a) The full name and address of the applicant; and

Clause 123: To omit from each of subclauses (2) (a) (iii), (2) (b) (iii), (3) (c), and (4) (c) the words “other person” (at lines 13, 25, and 41 on page 104, and line 4 on page 105), and substitute in each case the words “auxiliary officer”.

Clause 125: To omit this clause (all the words in lines 29 to 43 on page 105), and substitute the following clauses:

125. Application for enforcement order—(1) An inspector may apply to a District Court for an enforcement order requiring any person to comply with the provisions of—

- (a) This Act; or
 (b) Any regulations made under this Act; or
 (c) A code of ethical conduct or conditions imposed by an Animal Ethics Committee in giving its approval of a project.

(2) Every application to a District Court under this section must be made by originating application.

(3) Except as modified—

- (a) By **sections 126 to 136**; and
 (b) By any rules made under **section 137**,—

the rules relating to the practice and procedure of District Courts for the time being in force under the District Courts Act 1947 apply with respect to every application to the Court under this section.

125A. Power to make enforcement order—A District Court may make an enforcement order on an application under **section 125** only if the District Court is satisfied that the person in respect of whom the order is sought has been acting in contravention of the provisions of this Act or of any regulations made under this Act or of any code of ethical conduct or of any conditions imposed by an Animal Ethics

Committee in giving its approval of a project or is likely to do so.

PART 9

MISCELLANEOUS PROVISIONS

Clause 156A: To omit this clause (which appears on page 120), and substitute the following clause:

156A. Hunting in safari parks—(1) Subject to **section 158** and **Part 6**, nothing in this Act makes it unlawful to hunt a wild animal that is available for hunting in a safari park.

(2) Notwithstanding **subsection (1)** and **section 156**, where a person has hunted and captured a wild animal in a safari park (not being an animal that has been captured for the purpose of facilitating its imminent destruction), this Act applies in relation to that person as the person in charge of that animal.

Clause 157: To insert in line 28 on page 120, after the expression “**section 156**,”, the following words “but subject to **subsection (1A)**,”.

To omit from line 4 on page 121 the expression “**section 11 (1) (c)**”, and substitute the expression “**section 11 (c)**”.

To insert, after line 5 on page 121, the following subclause:

(1A) Nothing in **subsection (1)** applies in relation to a wild animal that is hunted and captured in a safari park.

Clause 158: To omit from line 13 on page 121 the expression “**Section 156** does”, and substitute the expression “**Sections 156 and 156A** do”.

Clause 163: To insert in line 31 on page 123, after the words “code holder”, the words “(as defined in **subsection (2)**)”.

To add, after line 30 on page 124, as subclause (2), the following subclause:

(2) In **subsection (1) (c)**, the term “code holder” includes any person carrying out research, testing, or teaching in accordance with **section 76** or **section 76A** or **section 102 (1)** or **section 171 (2)** or **section 171 (3)**.

Clause 170: To insert in line 27 on page 128, after the expression “**sections 46 (2) (a)**,”, the expression “**91 (6)**,”.

To omit from line 27 on page 128 the expression “**109 (4) (a)**”, and substitute the expression “**109 (5) (a)**”.

Clause 170A: To insert in line 37 on page 128, after the words “this Act”, the words “(including the terms defined by **section 2 (1)**)”.

To add, after line 3 on page 129, the following subclause:

(3) Despite **subsection (1)**, where a code continued in force by that subsection contains a provision that would be outside the scope of a code of welfare issued under **section 67**, no such provision has effect by virtue of that subsection.

Clause 171: To insert, after line 31 on page 129, the following subclauses:

(1A) **Sections 85 and 86** and all other provisions of this Act (including the terms defined by **section 2 (1)**) have effect, with all necessary modifications, in relation to every code of ethical conduct to which **subsection (1)** applies.

(1B) Despite **subsection (1)**, where a code of ethical conduct to which that subsection applies contains a provision that would be outside the scope of a code of ethical conduct approved by the Director-General under **section 81**, no such provision has effect by virtue of the approval deemed by **subsection (1)** of this section to have been given under **section 81**.

Clause 180: To omit this clause (which appears on page 133), and substitute the following clause:

180. Expiry of section 179—(1) Subject to subsections (2) to (4), section 179 expires with the close of the period of 3 years beginning on the date of commencement of this Act.

(2) The Minister may, by notice in the *Gazette*, declare that section 179 is to cease to have effect on a date specified in the notice (being a date earlier than the close of the period of 3 years specified in subsection (1))—

- (a) In relation to the castration of any type of animal specified in the notice; or
- (b) In relation to the dehorning of any type of animal specified in the notice.

(3) The Minister may publish a notice under subsection (2) only if—

- (a) Where the notice relates to the castration of any type of animal, a code of welfare relating to the castration of that type of animal has been issued since the commencement of this Act; and
- (b) Where the notice relates to the dehorning of any type of animal, a code of welfare relating to the dehorning of that type of animal has been issued since the commencement of this Act.

(4) Every notice published under subsection (2) has effect according to its tenor.

SCHEDULES

Schedule 3: To insert at the end of Schedule 3, on page 144, the following item:

1999, No. 93—The Animal Products Act 1999 ...	By inserting in section 161 (5) (a), after subparagraph (xi), the following subparagraph: “(xia) The Animal Welfare Act (No. 2) 1998.”.
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EXPLANATORY NOTE

Clause 1: The proposed amendment alters the date of commencement from 1 October 1999 to 1 January 2000.

Clause 2: The proposed amendment alters a cross-reference in the definition of the term “enforcement order”.

PART 1

CARE OF ANIMALS

Clause 17A: This new clause relates to the docking of dogs’ tails.

Subclause (1) provides that a person commits an offence who, on or after 1 January 2003, docks or causes to be docked, the tail of any dog.

Subclause (2) provides that nothing in *subclause (1)* makes it an offence—

- (a) For a veterinarian to dock the tail of a dog for therapeutic reasons; or
- (b) For a person who is acting under the direct supervision of a veterinarian and who is being taught veterinary science at undergraduate level to dock the tail of a dog for therapeutic reasons; or
- (c) For any person to cause the tail of a dog to be docked for therapeutic reasons by a person who is entitled under *paragraph (a)* or *paragraph (b)* to dock the tail of a dog.

Subclause (3) provides that a veterinarian who, on or after 1 January 2003, for the purpose of teaching veterinary science, supervises the docking of the tail of a dog, must be present throughout the docking of the tail.

Subclause (4) provides that a person commits an offence who, without reasonable excuse, acts in contravention of, or fails to comply with, *subclause (3)*.

Clause 21: The proposed amendment is consequential on the inclusion in the Bill of the new *clause 17A*. The penalties set out in *clause 21* are to be the penalties that may be imposed for an offence against *clause 17A (1)* or *clause 17A (4)*.

Clause 21A: This new clause makes it clear that the owner of, or person in charge of, a wild animal that is available for hunting in a safari park is, under *Part 1* of the Bill, subject to the same obligations and liabilities as any other owner of, or person in charge of, an animal. The clause is subject to *clause 7* (which relates, among other things, to the Crown's ownership of wild animals).

The new *clause 156A (1)* (set out in this Supplementary Order Paper) makes it clear that it is not unlawful to hunt in a safari park wild animals that are available for hunting but the new *clause 156A (2)* (set out in this Supplementary Order Paper) imposes requirements that must be observed where wild animals are hunted and captured in a safari park.

PART 3

ANIMAL EXPORTS

Clause 36: The new *paragraph (a)* provides that the Director-General must, in considering an application for an animal welfare export certificate, have regard, among other things, to the manner in which the welfare of any animals previously exported by the applicant was attended to on the journey between New Zealand and the country to which they were exported. The new paragraph is more specific than the existing *paragraph (a)*. That existing paragraph requires the Director-General to have regard to the welfare of any animals previously exported by the applicant.

Paragraph (g), the paragraph proposed to be omitted, provides that the Director-General must, in considering an application for an animal welfare export certificate, have regard, among other things, to the conditions to which the animal will be subject following its arrival in the country to which it is being exported.

PART 7

PROVISIONS RELATING TO ADMINISTRATION

Clause 105: The proposed amendment recognises that an applicant for approval as an organisation will not necessarily be an incorporated body and will not necessarily have a registered office.

Clause 123: Existing references in the clause to "other person" are now changed to refer to auxiliary officers, which more correctly reflects the initial wording in the clause.

New clauses 125 and 125A: The new clauses spell out the relationship between the clauses authorising the making of enforcement orders and the practice and procedure of District Courts.

Every application for an enforcement order is to be made by originating application.

PART 9

MISCELLANEOUS PROVISIONS

Clause 156A: It is proposed that *clause 156A* (which relates to safari parks) be omitted, and a new *clause 156A* substituted.

The new *clause 156A* relates to hunting in safari parks.

Subclause (1) makes it clear that, subject to—

(a) *Clause 158* (which relates to prohibited or restricted traps or devices); and

(b) *Part 6* (which relates to the use of animals in research, testing, and teaching),—nothing in the Bill makes it unlawful to hunt a wild animal that is available for hunting in a safari park.

Subclause (2) makes it clear that, where a wild animal has been hunted and captured in a safari park (not being an animal that has been captured for the purpose of facilitating its imminent destruction), the obligations and liabilities in respect of that animal are the same as those that would apply under *clause 157 (1) (a)*.

Clauses 157 and 158: The proposed amendments are (except for the correction of a cross-reference in *clause 157*) consequential on the replacement of *clause 156A*.

Clause 163 (c) authorises the making of regulations requiring every code holder to collect, and maintain, and to provide to the Director-General or to an inspector, certain information in relation to the projects being undertaken by the code holder.

The proposed amendments, by expanding the meaning of the term "code holder", enable the regulations made under *clause 163 (c)* to apply to any person who carries out research, testing, or teaching in accordance with *clause 76* or *clause 76A* or *clause 102 (1)* or *clause 171 (2)* or *clause 171 (3)*.

Clause 170: The first of the proposed amendments is consequential on the inclusion in *clause 91 (6)* of a reference to "an approved organisation".

The second of the proposed amendments corrects an error in a cross-reference.

Clause 170A (1) deems certain codes to be continued in force, for a period of 3 years, as if they were codes of welfare issued under *clause 67*.

The proposed amendment to *subclause (2)* ensures that the terms defined in *clause 2 (1)* will have effect in relation to the codes of welfare so continued in force.

The new *subclause (3)* now proposed provides that where a code so continued in force contains a provision that would be outside the scope of such a code of welfare, no such provision is to have effect by virtue of *clause 170A (1)*.

Clause 171 (1) deems certain codes of ethical conduct to be continued in force as if they had been approved by the Director-General under *clause 81*.

The proposed new *subclause (1A)* provides that *clauses 85 and 86* and all the other provisions of the Bill (including the terms defined by *clause 2 (1)*) have effect, with all necessary modifications, in relation to every code of ethical conduct so continued in force.

The proposed new *subclause (1B)* provides that where a code so continued in force contains a provision that would be outside the scope of a code of ethical conduct approved by the Director-General under *clause 81*, no such provision has effect by virtue of the approval deemed by *subclause (1)* to have been given under *clause 81*.

Clause 180: The proposed new clause recognises that—

- (a) Codes of welfare in relation to the castration of animals may well be issued on different dates in relation to different types of animals; and
- (b) Codes of welfare in relation to the dehorning of animals may well be issued on different dates in relation to different types of animals, and will not necessarily be issued on the same date as the codes of welfare relating to the castration of animals.

SCHEDULES

Schedule 3: The amendment inserts a reference to the Bill into section 161 of the Animal Products Act 1999. That section provides (among other things) for the disclosure of certain information relating to animal products between Government departments charged with the administration of various listed Acts.