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BILLS DIGEST

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Animal Welfare Amendment Bill 2010

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Portfolio:	Agriculture
Select Committee:	As at 15 February, 1st Reading not held.
Published: 15 February 2010 Prepared by John McSoriley BA LL.B, Barrister Legislative Analyst P: (04) 471-9626 (Ext. 9626) F: (04) 471-1250	Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status. Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The main aim of this Bill is to amend the Animal Welfare Act 1999 (the Act) to increase the maximum sentence for animal cruelty from three to five years, create a new offence of reckless cruelty to animals, and to "make the Animal Welfare Act work better"¹.

Background

The need for the Bill

The Bill complements a range of policy work underway in the animal welfare area. The Minister of Agriculture has said that increasing incidences of animal cruelty are horrifying many New Zealanders and Government intended to introduce stronger measures to deal with this issue².

¹ Media Release, Hon David Carter, Minister of Agriculture, David Carter, [Government adopts animal cruelty bill](#) 02 February, 2010.

² Ibid.

Wilful and reckless ill-treatment of an animal

The Bill increases the maximum penalty for the wilful ill-treatment of an animal from three to five years imprisonment or a fine not exceeding \$100,000 (up from \$50,000) for an individual, or both, and \$500,000 (at present \$250,000) for a body corporate, and creates a new offence of reckless ill-treatment of an animal which carries maximum penalties of three years' imprisonment or fines of \$75,000 (for individuals) or \$350,000 for bodies corporate.

Other ill-treatment offences

The Bill increases the maximum penalties for other ill-treatment offences to imprisonment for twelve months (up from six months) or a fine of \$50,000, for individuals (up from \$25,000) or \$250,000 for bodies corporate (up from \$125,000).

Other amendments

The Bill makes other amendments to " ... improve animal welfare outcomes"³.

Main Provisions

Increase in penalties

The Bill increases penalties as described above (*Clause 4, amending Sections 25(a) and (b) of the Act; Clause 5, inserting substituted Section 28 ("Wilful ill-treatment of animals") into the Act, subsection (3); Clause 5, inserting New Section 28A ("Reckless ill-treatment of animals"), subsection (3); Clause 6, amending Section 37(a) and (b) of the Act; Clause 7, inserting New Section 169B, subsection (2)*).

Wilful ill-treatment of animals

Section 28(1) of the Act at present provides that:

A person commits an offence who wilfully ill-treats an animal in such a way that:

- the animal is permanently disabled; or
- the animal dies; or
- the pain or distress caused to the animal is so great that it is necessary to destroy the animal in order to end its suffering.

The Bill adds a fourth result which is:

- " ... the animal is seriously injured or impaired".

The Bill then defines the meaning of the phrase " ... seriously injured or impaired". An animal is seriously injured or impaired if the injury or impairment:

- involves prolonged pain and suffering or a substantial risk of death or loss of a body part or permanent or prolonged loss of a bodily function; and
- requires treatment by or under the supervision of a veterinarian (*Clause 5, substituting Section 28 of the Act*).

³ Animal Welfare Amendment Bill 2010, Explanatory note, General policy statement, p. 3.

Reckless ill-treatment of animals

The Bill creates the offence of reckless ill-treatment of animals which is worded identically to the offence of wilful ill-treatment of animals described above. The Bill sets maximum penalties described above (*Clause 5, inserting New Section 28A into the Act*).

Comment

It is the Government's intention in creating this new offence that it "... will enable prosecution of cases that might otherwise fail to meet the threshold for wilful ill-treatment, but are too serious to be prosecuted as simple ill-treatment cases"⁴.

Disqualification of person from having custody of animals

The Bill redrafts this offence and, in particular, provides that a Court may set a minimum period of disqualification. An application for the removal or variation of the disqualification cannot be made before the expiry of the minimum disqualification period, if there is one, or before two years from the date of the disqualification order, whichever is the later (*Clause 7, inserting substituted Section 169 and inserting New Sections 169A and 169B*).

Forfeiture of animals

The Bill extends the provision of the Act which gives power to the Court to require a person convicted of an offence against an animal to forfeit that animal to the Crown or to an approved organisation to cover all the animals owned by the offender (instead of just the animals which are the subject of the offence) where the Court considers that this is necessary to protect the welfare of the animals (*Clause 9, amending Section 172 of the Act*).

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⁴ Ibid., p. 2.