

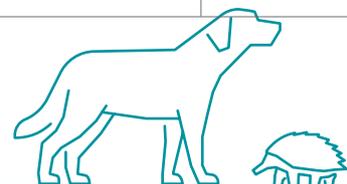
A NEW ANIMAL
WELFARE ACT
FOR VICTORIA

Policy proposals

Summary table – policy proposals

THEME 1: SAFEGUARDING ANIMAL WELFARE

Policy topic	Why does a new Act need this?	What are the option/s proposed?	Read this proposal if you are interested in:
1.1 Animal sentience	Science tells us that animals are sentient. Many other jurisdictions recognise animal sentience in their legislation. Recognising animal sentience in Victoria's animal welfare Act would provide clarity that policy development and regulatory decisions should be based on preserving animal welfare (rather than just responding to animal cruelty).	<p>Adopt an approach to recognising animal sentience.</p> <p>Possible options include one or a combination of:</p> <ul style="list-style-type: none"> • Option 1 Refer to sentience in the Objects of the Act. • Option 2 Refer to sentience in the Principles of the Act. • Option 3 Refer to sentience in the Definition of animals covered by the Act. 	<ul style="list-style-type: none"> • Animal sentience
1.2 Minimum standards of care	The focus of the current POCTA Act on responding to cruelty once it has occurred limits the options for early intervention and response. Animal welfare legislation in other Australian as well as international jurisdictions now place equal weight on safeguarding animal welfare.	<p>Introduce a requirement for people to provide a minimum standard of care for animals.</p>	<ul style="list-style-type: none"> • Duty of care • Basic animal needs • Early intervention • Safeguarding animal welfare • Preventing cruelty to animals
1.3 Prohibited acts	The current POCTA Act provides a specific list of actions or behaviours that constitute cruelty. Listing specific actions or behaviours can be limiting, as not every specific example is clearly covered.	<p>Introduce a set of general escalating offence categories covering things a person must not do to animals.</p> <p>These offence categories would be based on the nature of a person's treatment of animals rather than the extent of the harm inflicted. The harm inflicted would be an aggravating factor.</p>	<ul style="list-style-type: none"> • Offences for cruelty conduct • Penalties for cruelty
1.4 Controlled procedures	Painful or unpleasant animal husbandry procedures are sometimes required to benefit the animal and/or for animal management considerations. The current framework for regulating animal husbandry procedures in Victoria is fragmented across numerous Acts and instruments.	<p>Provide a single regulatory framework for performing controlled procedures on animals.</p> <p>The framework would provide consistency and clarity about the specific qualifications, skills, approach or equipment required to perform these procedures. Three categories for controlled procedures are proposed: Restricted procedures; Prohibited procedures; and Scientific procedures. Specific details for each procedure would be set out in Regulations.</p>	<ul style="list-style-type: none"> • Scientific and restricted procedures performed on animals • Animal husbandry • Restricted acts of veterinary science



Summary table – policy proposals

THEME 2: A SIMPLIFIED AND FLEXIBLE LEGISLATIVE FRAMEWORK



Policy topic	Why does a new Act need this?	What are the option/s proposed?	Read this proposal if you are interested in:
2.1 Consistency of the framework	While the POCTA Act is currently the primary legislation for managing animal welfare in Victoria, the Act does not apply in all situations where an animal is being used, handled or managed. This is one of the more confusing aspects for the community and can create challenges for regulators and those who are trying to comply with the rules.	<p>Consider the need for broad exemptions.</p> <ul style="list-style-type: none"> • Option 1 Continue to allow for some broad exemptions where they meet the objectives of the new Act. • Option 2 Apply the requirements of the new animal welfare Act to all animals and activities, with appropriate exceptions for lawful activities. 	<ul style="list-style-type: none"> • Animals and activities specifically covered by other legislation, such as wildlife, pest animal management, hunting, recreation and fishing.
2.2 Clarity of the framework	Under Victoria's current animal welfare legislative framework, a series of Regulations and Codes of Practice support the POCTA Act to set animal welfare standards. The Regulations and Codes of Practice have become complex, inconsistent and confusing. The requirements of different Codes of Practice can be inconsistent across species and industries, and in many cases the requirements are not mandatory, so are not enforceable.	<p>Reform the current framework of the Act and its supporting Regulations and Codes of Practice to improve clarity.</p> <p>Possible options are:</p> <ul style="list-style-type: none"> • Option 1 A limited set of Regulations supported by mandatory Codes of Practice that would demonstrate compliance with the Act, complemented by best practice Guidelines. • Option 2 A comprehensive set of Regulations supported by best practice Guidelines (no Codes of Practice). 	<ul style="list-style-type: none"> • POCTA Codes of Practice • POCTA Regulations
2.3 National Codes of Practice, Standards and Guidelines	To provide consistent animal welfare legislation and enforcement across Australian states and territories, a number of national Codes of Practice as well as Standards and Guidelines have been developed. There is no clear mechanism in the current POCTA Act to adopt these agreed Codes, Standards or Guidelines.	<p>Introduce a mechanism to incorporate nationally-agreed Standards as mandatory requirements.</p> <ul style="list-style-type: none"> • Option 1 Adopt all agreed national Standards automatically by referencing them in the new animal welfare Act. • Option 2 Adopt relevant content from the national Standards into Regulations. 	<ul style="list-style-type: none"> • Adoption of Australian Animal Standards and Guidelines and national Codes of Practice • Consistency between jurisdictions • Consistency between Victorian legislative instruments
2.4 The role of co-regulation in the framework	Many animal-based industries, activities and not-for-profit organisations that involve animals are regulated by professional non-government bodies. In response to market trends and demands, non-government standards are sometimes higher than the minimum legislated standards. The schemes for these non-government arrangements are not recognised under the current POCTA Act, even if they clearly demonstrate practice above minimum standards.	<p>Allow for the recognition of appropriate co-regulatory schemes in the new Act.</p> <p>This would enable the recognition and adoption of industry best-practice standards for animal welfare in place of direct government regulation.</p>	<ul style="list-style-type: none"> • Reducing regulatory burden • Recognition of non-government requirements • Role of industry and other groups in animal welfare standard setting

Summary table – policy proposals

THEME 2: A SIMPLIFIED AND FLEXIBLE LEGISLATIVE FRAMEWORK (CONTINUED)

Policy topic	Why does a new Act need this?	What are the option/s proposed?	Read this proposal if you are interested in:
2.5 The role of science in the new framework	Animal welfare science and understanding has significantly developed since the POCTA Act came into force in 1986. We can expect scientific understanding of animals, industry practices and technologies to continue to develop. Ongoing expert consideration of these developments and any legislative responses required is needed.	<p>Formalise a role for scientific knowledge and expert opinion to inform decisions under the new Act.</p> <p>Possible options could include one or a combination of:</p> <ul style="list-style-type: none"> • Option 1 Formalise a role for an expert advisory committee by reference in the new Act. • Option 2 Include guidance in the new Act on how science and expert opinion should be used to inform decisions under the Act. • Option 3 Include guidance in the new Act on how science and expert opinion should be considered in the development of Regulations and Codes of Practice under the Act. 	<ul style="list-style-type: none"> • Animal welfare science • Expert advice • Advice on decisions under the Act

THEME 3: A BETTER COMPLIANCE AND ENFORCEMENT MODEL



Policy topic	Why does a new Act need this?	What are the option/s proposed?	Read this proposal if you are interested in:
3.1 Monitoring compliance	Animal welfare enforcement under the current POCTA Act is typically undertaken as a response to a 'reasonable' suspicion about a breach of the cruelty provisions. The POCTA Act is limited and inconsistent in the powers that enable proactive action to intervene early to assess compliance.	<p>Enhance powers to proactively monitor compliance.</p> <p>A shift to requiring people to meet a minimum standard of care for animals may require enhanced proactive monitoring tools. These would be carefully considered against regulatory burden and privacy impacts. Proactive monitoring powers would be limited to specific circumstances.</p>	<ul style="list-style-type: none"> • Monitoring compliance • Early intervention • Powers of enforcement agencies
3.2 Permissions and restrictions	Some specific activities involving animals require licences, permits and approval arrangements under the current POCTA Act (such as rodeos and scientific establishments). Each scheme for these arrangements is drafted with a different approach which adds to the complexity of the Act and there are inconsistencies in the requirements and processes.	<p>Introduce a risk-based framework for permitting restricted activities.</p> <p>This framework would classify activities based on potential risk to animal welfare, and apply a consistent approach to restricting the activities, and to the permissions required to undertake a restricted activity.</p>	<ul style="list-style-type: none"> • Licences • Permits • Approvals for activities
3.3 Managing seized animals	Animals seized under the current POCTA Act may be sold, rehomed or euthanised, although the ability to do this is often linked to legal proceedings. This means the department or the enforcement agency which has seized the animals may need to keep them for long periods until legal proceedings are complete. This can have significant animal welfare and financial implications.	<p>Set out clear alternatives for managing seized animals.</p> <p>If animals could not be returned to the owner or person in charge, possible alternatives include: selling the animals, transferring ownership, euthanasia, or managing animals as required by other legislation.</p>	<ul style="list-style-type: none"> • Holding of animals pending court proceedings