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# SA ACT REVIEW

AUSTRALIAN ALLIANCE FOR ANIMALS GUIDE

2023



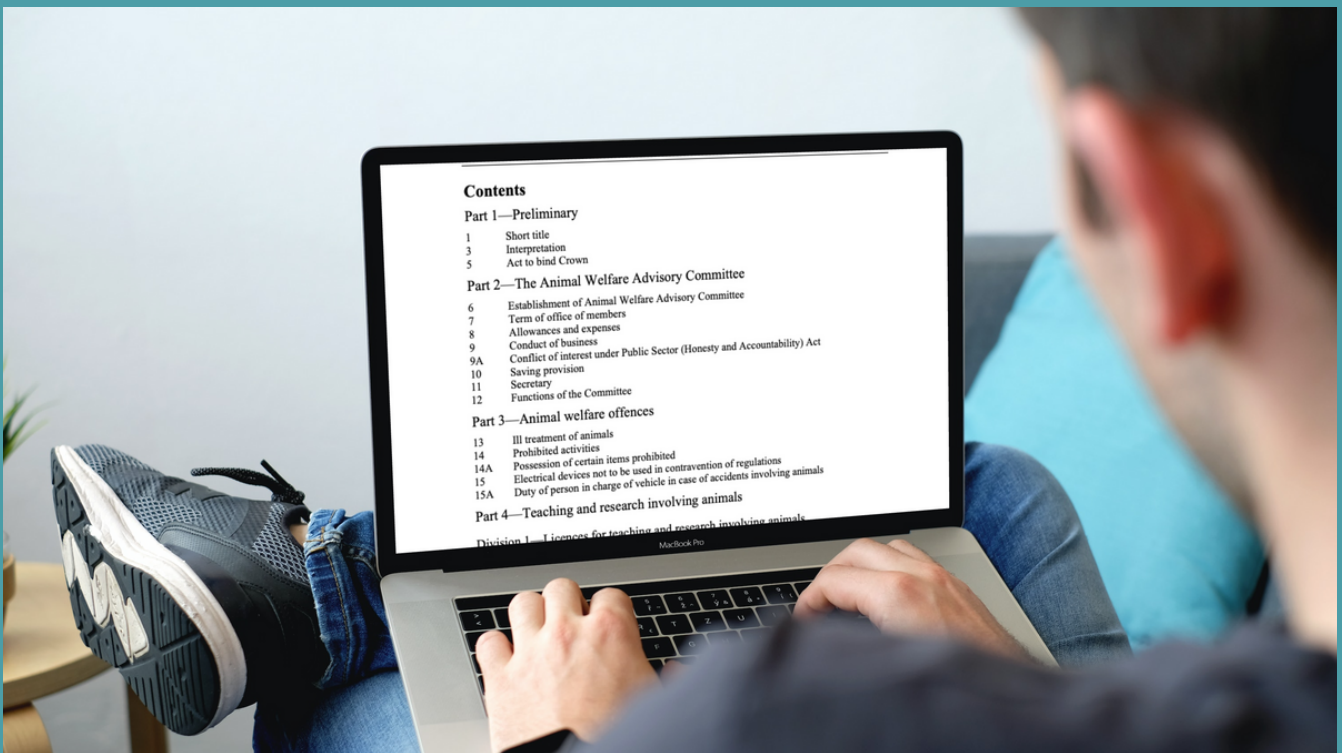
A U S T R A L I A N  
**Alliance  
for Animals**

THIS GUIDE HAS BEEN PREPARED TO ASSIST ALLIANCE SUPPORTERS TO MAKE SUBMISSIONS TO THE SA ANIMAL WELFARE ACT REVIEW 2023.



2023

# Background



The South Australian Government is currently reviewing the [Animal Welfare Act](#) and inviting public feedback. Review is long overdue (the Act was last reviewed in 2007), and your feedback will help identify reform opportunities for consideration by the Minister.

This Guide has been prepared by the Australian Alliance for Animals to assist Alliance supporters and Organisation Network members in preparing submissions to the review process.

Questions? [info@allianceforanimals.org.au](mailto:info@allianceforanimals.org.au)



# Useful resources

2023



You will need to consult:

- Animal Welfare Act 1985 (SA)
- Community Consultation Paper - 2023 Review of the Animal Welfare Act 1985.

The above resources and further information about the process are available from: <https://yoursay.sa.gov.au/animal-welfare-act-review>

You may find the Alliance's report 'Building a fairer Australia for animals' helpful, available from: [www.fairgoforanimals.org.au](http://www.fairgoforanimals.org.au)

You are also welcome to draw from previous Alliance submissions: <https://www.allianceforanimals.org.au/resources/category/Submission>

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2023

# Completing the survey



You can choose to answer the provided questions and/or submit a general feedback comment. The option you choose is just a question of preference, and we have provided guidance for both approaches below.

Once you have selected a response, you will be given space to comment. Also note that the question numbers change once you start responding.

Access survey here: [https://yoursay.sa.gov.au/animal-welfare-act-review/survey\\_tools/animal-welfare-act-review-community-feedback-survey](https://yoursay.sa.gov.au/animal-welfare-act-review/survey_tools/animal-welfare-act-review-community-feedback-survey)

Submissions close Sunday 26 March 2023.

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# Question 1

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7. Do you agree that the current purpose of the Act provides a good understanding of the general aims and principles of the legislation?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Strongly disagree".

The reason for this is that effective modern animal welfare legislation should include a comprehensive 'objects' section which outlines the key purposes the legislation is designed to achieve.

In particular, the Act fails to acknowledge the sentience and intrinsic value of animals. Such recognition would be most appropriate in the objects section of the legislation.

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# Question 2

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8. Should the Act include specific objects?

- No
- Yes
- Skip this question



We recommend selecting "Yes".

The reason for this is that effective modern animal welfare legislation should include a comprehensive 'objects' section which outlines the key purposes the legislation is designed to achieve.

In particular, the Act fails to acknowledge the sentience and intrinsic value of animals. Such recognition would be most appropriate in the objects section of the legislation.

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# Question 3

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9. Do you agree that the definition of 'animal' included in the Act is appropriate?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Strongly disagree".

The reason for this is that the definition of 'animal' under the Act is very limited.

Under the Act, 'animal' should be defined to include all live sentient beings (excluding humans), including fish and species of Cephalopoda and Malacostraca (such as octopus and lobsters).

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# Question 4

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10. Do you agree that the definition of 'harm' in the Act provides adequate protections for the welfare of animals when used in the context of ill treatment?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Disagree".

Although the definition is potentially broad enough to capture mental states of distress, ideally the definition of 'harm' under the Act would expressly include reference to states of mental or psychological distress.

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# Question 5

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11. Do you agree that the definition of 'serious harm' in the Act provides adequate protections for the welfare of animals when used in the context of ill treatment?

- Definitely agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree
- Skip this question



We recommend selecting "Definitely agree".

The reason for this is that the definition of 'serious harm' under the Act is comprehensive in nature, and pending amendment to the ordinary definition of 'harm' in line with the comments above, it will include states of serious mental harm.

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# Question 6

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12. Are there any other terms that should be included or amended in the 'interpretation' section of the Act to provide greater clarity in understanding or applying the Act?

- No
- Yes
- Skip this question



We recommend selecting "Yes".

The term 'sentience' should be defined in the interpretation section, as per the recommendation above to include the term within a new objects clause.

An inclusive definition of 'person in charge' should be considered as a replacement for the term 'owner' and this should include the phrase 'custody or control' instead of 'custody and control' so as to broaden its application.

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# Question 7

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13. Do you agree that the administrative arrangements and functions of the Animal Welfare Advisory Committee, established by the Act, support the promotion of animal welfare?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Neither agree or disagree".

It is positive that the Animal Welfare Advisory Committee is recognised under the legislation. However, the Act should expressly require certain expertise to be reflected in the membership of the Committee, including:

- Veterinary/animal welfare science experts
  - Legal experts
  - Ethics and public policy experts
  - Animal welfare advocacy experts
  - Animal production experts.
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# Question 8

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14. Do you agree that the Act adequately prohibits the ill treatment of animals through the activities described in Section 13?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Strongly disagree".

Section 13 needs to be amended to broaden the concept of animal ill treatment and restrict the use of qualifying terms like 'unreasonably' and 'unnecessary'.

It should also include acts or omissions that are 'likely to cause' harm, and provide guidance to the court on how to determine whether the harm caused was necessary or unnecessary in the circumstances.

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# Question 9

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15. Do you agree that the Act sets out appropriate requirements for owners' care of their animals?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Disagree".

It is recommended that the Act create an express 'duty of care' for people in charge of animals, which sets out enforceable minimum standards of care reflecting the Five Domains of Animal Welfare model.

The Act should also include guidance on what is considered appropriate to fulfil the duty.

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# Question 10

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16. Do you agree that the prohibited activities (Section 14) and items (Section 14a) listed in the Act adequately protect animals, that may be subjected to these activities, from harm?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Disagree".

It is recommended that the Act prohibit a much broader range of harmful activities, including but not limited to:

- Using/possessing glue traps, opera house traps, pronged collars and bows/arrows to kill animals
  - Involvement in rodeos
  - Using animals in circuses
  - Poisoning animals.
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# Question 11

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17. Do you agree that the provisions of Part 4 relating to the use of animals for teaching and research enable the ethical, humane and responsible use of animals for teaching and research?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Disagree".

In accordance with the recommendations of RSPCA South Australia, we recommend:

- Mandatory reporting of number, species, research purpose, levels of severity and outcomes for the animals, as well as publication of Annual Reports
  - Prohibition of the use of both the Forced swim test (FST) and the Forced inhalation test (FIT).
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# Question 12

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18. Do you agree that the structures and functions of Animal Ethics Committees provide appropriate arrangements and oversight for the use of animals for teaching and research?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Disagree".

The structure of AECs should be amended to increase balance and expertise in line with the recommendations of RSPCA South Australia.

All AEC members should be required to complete training in both the Five Domains and in non-animal alternatives.

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# Question 13

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19. Do you agree that the compliance powers set out in Part 5 of the Act are appropriate for the administration and enforcement of the Act, regulations and codes of practice?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Disagree".

Inspectors should be granted further powers under the Act, including but not limited to:

- The power to enter a dwelling without a warrant for the purposes of preventing the concealment or destruction of evidence
  - The power to apply to a Court for an order restricting or prohibiting a person from having custody of animals in the absence of prosecution proceedings
  - Broader powers for routine compliance inspections including unannounced inspections.
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# Question 14

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20. Do you agree that the penalties and expiations for contraventions are appropriate to discourage offending under the Act?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Disagree".

The legislation should impose stronger penalties for offences under the Act, both to increase deterrence and better reflect community views.

We also recommend including an automatic ban on animal ownership for people convicted of serious animal cruelty offences.

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# Question 15

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21. Do you agree that the provisions of the Act that enable this model of shared enforcement are appropriate?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree
- Skip this question



We recommend selecting "Neither agree or disagree".

We acknowledge the potential benefits of co-regulatory arrangements to increase enforcement capacity and coverage. However, to ensure consistency in enforcement approach, a central statutory Animal Welfare Authority should be established to oversee the training and appointment of inspectors from the different organisations.

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Tip: If an issue wasn't covered by the survey questions, you can discuss it here. There is no character limit!

# Question 16

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22. Are there any other areas of the Act or regulations that could be improved to:

- promote animal welfare in South Australia, and / or
- better meet community expectations of animal welfare in South Australia?

We would appreciate if you would consider expressing your support for the Alliance's submission in this section.

The Alliance's submission puts forward eleven proposals:

- Recognise the sentience and intrinsic value of animals
- Establish a South Australian Animal Welfare Authority
- Improve the development of animal welfare standards and codes
- Ensure adequate expertise in membership of the Animal Welfare Advisory Committee
- Reframe the test under s 13 to include guidance on how to determine when an act or omission causes unnecessary harm
- Introduce a minimum standard of care section based on the Five Domains Model of animal welfare
- Require CCTV for all slaughter facilities in SA
- Create public disclosure requirements for animal welfare enforcement
- Ban recreational duck shooting
- Ban puppy farming and introduce a cap of ten fertile female dogs
- Introduce whole-of-government decision-making principles.

If you would like further detail on any of these reform proposals, please contact: [info@allianceforanimals.org.au](mailto:info@allianceforanimals.org.au)

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# #FairGoForAnimals



The #FairGoForAnimals campaign proposes a new framework for creating a more balanced and independent animal welfare governance system:

1. Create Ministers for Animal Welfare to remove conflicts of interest
2. Establish a National Animal Welfare Commission
3. Create state Animal Welfare Authorities
4. Introduce decision-making principles and recognise animals as sentient beings with intrinsic value
5. Create fair and accountable animal welfare standards and decision-making processes
6. Properly fund animal welfare services in line with community expectations.

Pledge your support for a #FairGoForAnimals: [www.fairgoforanimals.org.au](http://www.fairgoforanimals.org.au)