



Animal Defenders Office

Using the law to protect animals

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The Animal Defenders Office is accredited by Community Legal Centres Australia Inc.

Prevention of Cruelty to Animals Regulation 2025
Regulatory Policy & Economics
NSW Department of Primary Industries and Regional Development
Level 3/66 Harrington St, Foreshore House
The Rocks, Sydney NSW 2000

By email: pocta.reg@dpi.nsw.gov.au

Dear Sir/Madam

Submission to the NSW Department of Primary Industries and Regional Development on the Draft Prevention of Cruelty to Animals Regulation 2025

Thank you for the opportunity to provide a submission to the NSW Department of Primary Industries and Regional Development on the Draft Prevention of Cruelty to Animals Regulation 2025 (**draft Regulation**).

The draft Regulation aims to replace the *Prevention of Cruelty to Animals Regulation 2012* (NSW) (**current Regulation**), which is scheduled to cease on 1 February 2025.

Our comments on the draft Regulation are set out below.

About the Animal Defenders Office

The Animal Defenders Office (ADO) is a nationally accredited not-for-profit community legal centre that specialises in animal law. The ADO provides pro bono animal law services to the community. The ADO is a member of Community Legal Centres NSW Inc., the peak body representing community legal centres in NSW.

Further information about the ADO can be found at www.ado.org.au.

General comments

The ADO does not support the intensive confinement of animals for agricultural purposes. However, while such confinement remains legal, the ADO notes that the draft Regulation proposes amendments that merely align with industry standards regarding fowl rearing. The ADO submits that the draft Regulation should provide for higher standards of care that align with current community expectations of farmed animal welfare.

The ADO does not support the continued exemption of certain activities from animal cruelty offences in the *Prevention of Cruelty to Animals Act 1979* (NSW) (**POCTAA**). Of particular

concern is the exemption of rodeos which, but for the exemptions, would be animal cruelty under POCTAA (s 18(1)).

Specific comments on the draft Regulation

The ADO's comments on specific provisions in the draft Regulation are set out in the following table.

Draft Regulation (provision)	Comments
Part 2 Conditions for fowl confined for egg production	
Division 1 Preliminary	
4 Definitions	<p>The ADO notes the proposed new defined term of 'useable floor area'. The ADO supports its exclusion of the floor space of nesting areas, space under perches and areas where chickens have insufficient area to stand at full height and perform normal postures and behaviours. This acknowledges that the overall floor area of a cage has several parts that cannot be used and therefore should not count towards space that can be used or occupied by a caged bird.</p> <p>The ADO does not support the proposed new defined term of 'furnished cage' as 'a cage at the place where laying fowl are being confined that was installed at the place on or after 1 February 2025'. This definition is unhelpful alongside the definitions of 'cage' and 'pre-2025' cage. In its current state the term 'furnished cage' is essentially just a signifier of when the cage was constructed, not the substantive features of the cage.</p>
Recommendation 1	The ADO recommends that the definition of 'furnished cage' be expanded to provide clarity and to improve welfare standards for layer hens.
Division 2 Confinement of laying fowl	
Subdivision 2 Laying fowl confined in cages	
6 Access to water	<p>(1) The ADO does not support maintaining the 60-hour period for withholding water from new-born chicks. The ADO submits that 24 hours is more in line with contemporary community expectations of good farmed-animal management practices regarding new-born chicks.</p> <p>(2) In general, the ADO does not support maintaining the maximum penalties for the offences in Division 2, especially as they apply to corporations. The ADO submits that, in the unlikely event that a corporation is prosecuted for an offence under Division 2, a maximum</p>

	financial penalty of \$22,000 is too low by contemporary standards and would not function as a disincentive.
7 Nest areas	The ADO notes the proposed new requirements relating to nest areas in cages installed on or after 1 February 2025, but submits these requirements should apply to all cages in which hens are confined for agricultural purposes, as an absolute minimum ‘welfare’ requirement for caged layer hens. Moreover, the ADO submits that the minimum requirements for nest areas (eg 1m ² if <120 hens, or 1 nest for every 7 hens) are too low and should be increased.
8 Perches	<p>The ADO supports:</p> <ul style="list-style-type: none"> • The creation of an offence of confining laying fowl in a furnished cage without a perch; • The inclusion of a penalty for non-compliance; and • The creation of multiple minimum standards for providing perches for laying fowl, in particular, the use of <i>and</i>, rather than <i>or</i>, for each standard proposed in paragraph 8(2)(a).
9 Scratch areas and claw-shortening devices or areas	<p>The ADO supports:</p> <ul style="list-style-type: none"> • The creation of an offence of confining laying fowl in a furnished cage without a scratch area and claw-shortening device; • The inclusion of a penalty for non-compliance; and • Specifying proposed <i>minimum standards for providing scratch areas for laying fowl</i> and including an example of a scratch area. <p>The ADO does not support the minimum area for the scratch area in proposed reg 9(2)(b) on the grounds that it is not sufficient, particularly given the number of laying fowl that may be permitted in each cage (even despite the provision for nesting areas, perches and scratch areas).</p> <p>The ADO submits that the area in proposed reg 9(3)(b) is insufficient for similar reasons, especially given that reg 9(4) proposes to allow a single area to be both a claw-shortening area and scratch area.</p>
10 Substrate for pecking and foraging	<p>The ADO supports:</p> <ul style="list-style-type: none"> • The creation of an offence of confining laying fowl in a furnished cage without substrate for pecking and foraging behaviour; and • The inclusion of a penalty for non-compliance.
12 Cage height	The draft Regulation proposes to allow pre-2025 cages to maintain a height of only 40cm across a maximum of 65% of the total floor area, while furnished cages must be at least 55cm over the whole of the useable floor area of the cage (reg 12(2)).

	<p>The ADO does not support exempting pre-2025 cages (ie existing cages) from the height requirements that are proposed to apply to furnished cages. The ADO submits that the pre-2025 standards are too low and do not reflect contemporary expectations regarding farmed animal welfare. The ADO submits that the same height requirements should apply to any cage in which layer hens are kept.</p>
15 Stock densities – furnished cages	<p>The ADO does not support the density proposed by the draft Regulation in furnished cages equating to 750cm² where >1 layer hen is confined in a cage (s15(3)). This is barely more than the proverbial A4 sheet of paper. The ADO submits it is completely unacceptable to keep any farmed animal in such a small amount of space for their entire lives which in the case of confined layer hens can endure for at least 18 months.</p> <p>The ADO notes that the proposed change from the current Regulation of apportioning density based on flock weight is an improvement, in that animal welfare should be assessed on an individual basis. The ADO emphasises that this does not equate to support for the main proposal in reg 15(3).</p>
16 Stock densities – pre-2025 cages	<p>The ADO does not support the inclusion of this regulation unchanged from the current Regulation. By retaining this provision, the draft Regulation permits the continued existence of cages that are inhumane. The failure to remove this section represents the prioritisation of economic interests over animal welfare and the prevention of cruelty.</p>
Recommendation 2	<p>The ADO recommends that:</p> <ul style="list-style-type: none"> (a) The 60-day period to withhold water from new-born chicks in reg 6 be omitted and replaced with a maximum of 24 hours. (b) Consideration be given to increasing the penalties that apply to corporations for offences under Division 2. (c) The requirements for nest areas and perches apply to all cages in which layer hens are confined (regs 7 and 8). (d) The minimum areas for nest, scratch, and claw-shortening areas be increased (regs 7 and 9). (e) The same minimum height requirements apply to any cage in which layer hens are kept (reg 12). This could be achieved by omitting reg 12(2)(b) and (3). (f) The minimum density in furnished cages be increased (reg 15). (g) The densities maintained in proposed reg 16 for pre-2025 cages be omitted.

Subdivision 4 General	
22 Artificial lighting	<p>The ADO notes:</p> <ul style="list-style-type: none"> • The inclusion of minimum darkness periods for layer hens in proposed reg 22(2). • The requirement in reg 22(3) not to confine a layer hen in continuous darkness for any 24-hour period. <p>The ADO submits that:</p> <ul style="list-style-type: none"> • the minimum period of 6 hours total darkness in each 24-hour period is insufficient and should be raised to at least 8 hours to reflect sleep and nesting habits of hens; and • the minimum length of continuous darkness of 4 hours each 24-hour cycle is also insufficient and should at least be raised to match the proposed minimum in reg 22(2) of 6 hours but preferably longer.
23 Lifting or carrying laying fowl	<p>The ADO supports the proposed offence of carrying hens in a way that causes them harm. However, the ADO submits that the provision should also prohibit carrying hens by their feet or in any way that causes the hen to be carried upside down. RSPCA Australia states that:</p> <p style="padding-left: 40px;">You should NEVER restrain your chicken upside down. It is very stressful and, if they have a full crop, it can regurgitate the crop contents. If the chickens inhales[sic] this material, they can die or develop aspiration pneumonia.¹</p> <p>The ADO also submits that this offence should apply to ‘a person’ (rather than ‘a person who confines laying fowl’) as per SB 1.4 in the ‘Australian Animal Welfare Standards and Guidelines for Poultry’ (Poultry Standards and Guidelines).²</p>
Recommendation 3	<p>The ADO recommends that:</p> <ul style="list-style-type: none"> (a) The minimum darkness period proposed in reg 22(2) be increased to at least 8 hours. (b) The minimum continuous darkness period proposed in reg 22(2) be raised to at least 6 hours. (c) Carrying hens by the feet or in any way that results in a hen being carried upside down be prohibited under proposed reg 23.

¹ RSPCA Knowledgebase 'How should I handle my chickens?' <https://kb.rspca.org.au/knowledge-base/how-should-i-handle-my-chickens/>. Updated 19/09/2023.

² Department of Agriculture, Fisheries and Forestry (Cth), ‘Australian Animal Welfare Standards and Guidelines for Poultry’, 2022, <https://www.agriculture.gov.au/sites/default/files/documents/poultry-standards-guidelines-2022.pdf>.

	(d) That the reference in proposed reg 23 to ‘who confines laying fowl’ be omitted.
Part 3 Procedures carried out on animals	
26 Pinioning of birds’ wings	<p>The ADO does not support prescribing any manner of pinioning birds’ wings as an exemption from the general animal cruelty offence in POCTAA, on the grounds that pinioning inflicts harm and is unnecessary in any context. The ADO notes that the proposed exemption in reg 26 does not require the use of pain relief.</p> <p>The ADO submits that reg 26 should therefore be omitted.</p>
27 Tail docking of cows, heifers and calves	The ADO submits that proposed reg 27 should mandate the use of pain relief for the procedure specified in the provision.
28 Debarking	The ADO submits that debarking should only ever be permitted if a veterinary practitioner is satisfied that the procedure is in the best interests of the dog. ³
29 Declawing of cats	The ADO supports the proposed requirement regarding declawing of cats.
Recommendation 4	<p>The ADO recommends that:</p> <p>(a) Regulation 26 be omitted on the grounds that pinioning is cruel regardless of the circumstances in which it is carried out.</p> <p>(b) Pain relief be mandatory if the tail of an animal specified in reg 27 is docked.</p> <p>(c) Regulation 28(1)(b) be amended to include a requirement that the veterinary practitioner be satisfied that debarking is in the best interests of the dog.</p>
Part 5 Enforcement	
38 Prescribed members of Stock Welfare Panel	The ADO submits that the proposed regulation should prescribe the inclusion of an animal welfare member nominated by an animal welfare organisation, or an additional inspector from an approved charitable organisation that is not already represented on the Panel, if a member of the NSW Farmers’ Association is included. This would ensure that animal welfare representation is maintained in circumstances where additional industry or animal-user members are included on the Panel.
41 Matters to be included in reports	The reports of the approved charitable organisations (ACOs) are crucial in enabling the community to evaluate how well (or not) our animal

³ Recommended by RSPCA Australia ‘RSPCA Policy A9 Surgical modification of companion animals’, adopted 08/04/2024, 9.3.

of approved charitable organisations	<p>protection laws are operating and to identify issues for reform and areas requiring additional funding. The reports also provide transparency on key aspects of the operation of the ACOs.</p> <p>The ADO therefore submits that the draft Regulation should prescribe the following matters to be addressed in the reports of the ACOs:</p> <ul style="list-style-type: none"> (a) The type of animals that are the subject of complaints received. (b) The general nature of animal-use premises inspected and investigated by officers of the ACOs. (c) The number of complaints that lead to follow-up action and the number of complaints that are not followed up. (d) The number of investigations not pursued due to a lack of resources. (e) The species and categories of animals seized or taken possession of eg domestic/farmed/wild pigs; exhibited/rescued native wild animal. (f) The offences and species/types of animals in relation to which cautions were given. (g) The offences and species/types of animals in relation to which notices were issued. (h) The species/types of animals in relation to which proceedings were instituted. (i) The number of individuals and corporations against whom/which proceedings were instituted. (j) The outcomes of proceedings eg withdrawn, charges dismissed, verdict, sentences. (k) The number, subject matter and outcome of appeal proceedings (whether or not the ACOs are the appellant) (l) The species/types of animals seized or taken possession of under the Act. (m) The precise number of inspectors employed by the ACOs during the reporting period and the average number of inspectors over the period.
Recommendation 5	<p>The ADO recommends that:</p> <ul style="list-style-type: none"> (a) Regulation 38 be amended to prescribe an additional inspector from an approved charitable organisation that is not already represented on the Panel, if a member of the NSW Farmers' Association is included in the panel under proposed reg 38(1). (b) Regulation 41 be amended to prescribe the following matters: <ul style="list-style-type: none"> (i) The type of animals that are the subject of complaints received.

	<ul style="list-style-type: none"> (ii) The general nature of animal-use premises inspected and investigated by officers of the ACOs. (iii) The number of complaints that lead to follow-up action and the number of complaints that are not followed up. (iv) The number of investigations not pursued due to a lack of resources. (v) The species and categories of animals seized or taken possession of eg domestic/farmed/wild pigs; exhibited/rescued native wild animal. (vi) The offences and species/types of animals in relation to which cautions were given. (vii) The offences and species/types of animals in relation to which notices were issued. (viii) The species/types of animals in relation to which proceedings were instituted. (ix) The number of individuals and corporations against whom/which proceedings were instituted. (x) The outcomes of proceedings eg withdrawn, charges dismissed, verdict, sentences. (xi) The number, subject matter and outcome of appeal proceedings (whether or not the ACOs are the appellant) (xii) The species/types of animals seized or taken possession of under the Act. (xiii) The precise number of inspectors employed by the ACOs during the reporting period and the average number of inspectors over the period.
Part 6 Miscellaneous	
42 Prohibited traps	<p>The ADO supports the addition of glue traps to the list of traps that must not be used in the whole of New South Wales. This brings NSW into line with the ACT, Tasmania and Victoria.</p> <p>The ADO submits that the use of glue traps should be prohibited outright rather than specify types of glue traps that may be set, as per proposed reg 42(1)(a)(i)-(ii). This would align with the prohibition on the setting of glue traps in the ACT.⁴</p>
44 Exemptions for rodeos from particular prohibitions	The ADO does not support the exemption of rodeos from animal cruelty offences in POCTAA. The ADO submits that rodeo events, notably calf roping and steer wrestling, are distressing and violent activities for the

⁴ *Animal Welfare Act 1992 (ACT)* s 60 and *Animal Welfare Regulation 2001 (ACT)* reg 7C.

	animal ⁵ , and should be prohibited in NSW as in the ACT. ⁶ Compliance with a Code of Practice published in 1988 ⁷ should not, and cannot, justify an exemption from the protection against cruelty provided for in the parent Act.
45 Exemption from prohibition on steeplechasing and hurdle racing	The ADO does not support any exemption from animal cruelty offences in POCTAA relating to steeplechasing and hurdle racing. The ADO submits that the proposed exemption does nothing to prevent the inherent dangers and harm involved in this kind of racing, such as the risk of injury to the horse from jumping over troughs or hurdles.
Recommendation 6	<p>The ADO recommends that:</p> <ul style="list-style-type: none"> (a) Proposed reg 42(1)(a) be amended to omit the words following ‘a glue trap is prescribed as a type of trap’, so that all types of glue traps are prescribed. (b) Proposed regulation 44 be omitted. In the alternative, that paragraph (e) be omitted from the proposed definition of ‘rodeo’ in reg 44(5) so that calf-roping is not exempt from animal cruelty offences in POCTAA. (c) Proposed regulation 45 be omitted.
Schedule 3 Electrical Devices	
Schedule 3	<p>The use of electric shock on farmed and other animals is recognised as likely to cause varying degrees of pain, fear, and anxiety.⁸</p> <p>The ADO therefore submits that the devices specified in Schedule 3 to the proposed draft Regulation be removed.</p>
Recommendation 7	The ADO recommends that the devices specified in Column 1 of Schedule 3 to the proposed draft Regulation be omitted.

⁵ Sentient, The Veterinary Institute for Animal Ethics, ‘Rodeos’, 6 November 2024, <https://www.sentient.org.au/rodeos>; RSPCA Australia, ‘What are the animal welfare issues with rodeos?’, 15 May 2024, <https://kb.rspca.org.au/knowledge-base/what-are-the-animal-welfare-issues-with-rodeos/>.

⁶ *Animal Welfare Act 1992 (ACT)* s 18(1).

⁷ *Code of Practice for the Welfare of Animals Used in Rodeo Events*.

⁸ Morgan Stonebridge et al, ‘The Use of Electric Prodders on Rodeo Horses in Australia: Regulatory Inconsistency and Potential Illegality’, *UNSW Law Journal* (2024) 47(3) p 920, <https://www.unswlawjournal.unsw.edu.au/article/the-use-of-electric-prodders-on-rodeo-horses-in-australia-regulatory-inconsistency-and-potential-illegality>.

Matters not covered in the draft Regulation

The ADO submits that the following matters should be addressed in the draft Regulation.

Issue	Comments
Debeaking	<p>Removing or trimming the beak of fowl is an animal cruelty offence in the ACT.⁹ This procedure is not prohibited in NSW, and nor is pain relief required.¹⁰ The ADO submits that this is a serious oversight given that the procedure can cause acute and/or chronic pain, loss of sensation and produce negative effects on the normal behaviour of hens.¹¹</p> <p>The draft Regulation should make it an offence to debeak or trim the beak of layer hens. The offence could be included in Subdivision 4 of Division 2 of Part 2 of the draft Regulation, which deals with conditions for fowl confined for egg production. The making of such an offence would be in accordance with s 35(1)(a)(i) of POCTAA.</p>
Battery cages	<p>Keeping layer hens in battery cages is an animal cruelty offence in the ACT.¹² The ADO submits that, for the avoidance of doubt, the draft Regulation should make it an offence to keep a layer hen in a battery cage. The offence could be included in Subdivision 2 of Division 2 of Part 2 of the draft Regulation, which deals with laying fowl confined in cages. The making of such an offence would be in accordance with s 35(1)(a)(i) of POCTAA.</p>
Recommendation 8	<p>The ADO recommends that:</p> <ul style="list-style-type: none"> (a) An offence of debeaking or trimming the beak of layer hens be inserted in Subdivision 4 of Division 2 of Part 2 of the draft Regulation. (b) An offence of keeping layer hens in battery cages be inserted in Subdivision 2 of Division 2 of Part 2 of the draft Regulation.

The ADO submits that the draft Regulation needs to be amended along the lines recommended in this submission if the Regulation is to improve protections for animals in NSW rather than merely replicate the status quo.

⁹ *Animal Welfare Act 1992* (ACT) s 9C.

¹⁰ The Poultry Standards and Guidelines require a person to develop and implement strategies that minimise the (perceived) need for beak trimming. Australian Animal Welfare Standards and Guidelines for Poultry, SA 9.15. However, the Standards do not mandate the use of pain relief in these procedures.

¹¹ Glatz PC, Underwood G, Glatz PC, Underwood G (2020) 'Current methods and techniques of beak trimming laying hens, welfare issues and alternative approaches'. *Anim Prod Sci* 61:968–989

¹² *Animal Welfare Act 1992* (ACT) s 9A.

Thank you for taking these submissions into consideration.

Tara Ward and Jackson Bradney

Managing Solicitor and Legal Intern (Volunteers)

Animal Defenders Office

19 December 2024