



Queensland

Animal Care and Protection and Other Legislation Amendment Act 2012

Act No. 23 of 2012



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An Act to amend the Animal Care and Protection Act 2001 to ensure animal welfare obligations apply to acts done under Aboriginal tradition or Torres Strait Islander custom, and to make consequential amendments to the Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984, the Aurukun and Mornington Shire Leases Act 1978 and the Nature Conservation Act 1992.

[Assented to 21 September 2012]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Animal Care and Protection and Other Legislation Amendment Act 2012*.

Part 2 Amendment of Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984

2 Act amended

This part amends the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

3 Amendment of s 61 (Right of Aborigines and Torres Strait Islanders to particular natural resources)

Section 61(1), ‘Subject’—

omit, insert—

‘Subject to the *Animal Care and Protection Act 2001* and’.

Part 3 **Amendment of Animal Care and Protection Act 2001**

4 **Act amended**

This part amends the *Animal Care and Protection Act 2001*.

5 **Amendment of s 5 (Act binds all persons)**

Section 5(1), ‘8’—
omit, insert—
‘7’.

6 **Insertion of new s 6A**

After section 6—
insert—

‘6A **Relationship with Nature Conservation Act 1992**

- ‘(1) This Act does not affect the application of the *Nature Conservation Act 1992* other than as provided under subsection (2).
- ‘(2) This Act applies to an act done, or omission made, by a person for the purposes of either of the following if authorised under the *Nature Conservation Act 1992*—
 - (a) taking, keeping or using an animal to exercise Aboriginal tradition or Island custom;
 - (b) using an animal for a scientific purpose.
- ‘(3) A person does not commit an offence under this Act only because the person does an act or makes an omission that—
 - (a) is authorised under the *Nature Conservation Act 1992*, other than an act or omission mentioned in subsection (2); and
 - (b) would, apart from this subsection, constitute an offence under this Act.’.

[s 7]

7 Amendment of s 7 (Relationship with certain other Acts)

- (1) Section 7(1)(b)—
omit.
- (2) Section 7(1)(c)—
renumber as section 7(1)(b).
- (3) Section 7(2), ‘but for’—
omit, insert—
‘apart from’.

8 Replacement of s 8 (Aboriginal tradition and Island custom)

Section 8—
omit, insert—

‘8 Relationship with native title

‘A person does not avoid liability to be prosecuted for an offence under this Act only because the act or omission that constitutes the offence happens in the exercise or enjoyment of native title rights and interests.’.

9 Amendment of s 38 (Operation of pt 6)

Section 38(1), ‘42’—
omit, insert—
‘41A’.

10 Insertion of new s 41A

After section 41—
insert—

‘41A Killing an animal under Aboriginal tradition, Island custom or native title

- ‘(1) This section applies for an offence if the act that constitutes the offence—
- (a) involves the killing of an animal; and
 - (b) is done—
 - (i) in the exercise of native title rights and interests; or
 - (ii) under the authority of another law of the State or the Commonwealth to take the animal to exercise Aboriginal tradition or Island custom; or
 - (iii) under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, section 61; or
 - (iv) under the *Aurukun and Mornington Shire Leases Act 1978*, section 26.

Example—

hunting and killing an animal for personal consumption

- ‘(2) It is an offence exemption for the offence if the act is done in a way that causes the animal as little pain as is reasonable.
- ‘(3) For subsection (2), the following acts or omissions are taken not to cause the animal as little pain as is reasonable—
- (a) injuring the animal to stop it escaping after it has been caught;
 - (b) injuring the animal or prolonging its life to attract another animal;
 - (c) taking flesh from the animal for human consumption before the animal is dead;
 - (d) doing a thing or omitting to do a thing that causes the animal to die from dehydration or starvation.
- ‘(4) In this section—
- take*, under the authority of another law, includes take, keep or use under the authority of the *Nature Conservation Act 1992*.’.

[s 11]

Part 4 **Amendment of Aurukun and Mornington Shire Leases Act 1978**

11 **Act amended**

This part amends the *Aurukun and Mornington Shire Leases Act 1978*.

12 **Amendment of s 26 (Preservation of Aborigines' hunting and gathering rights)**

Section 26(1), after '93,'—

insert—

'and, for paragraph (a), subject also to the *Animal Care and Protection Act 2001*,'.

Part 5 **Amendment of Nature Conservation Act 1992**

13 **Act amended**

This part amends the *Nature Conservation Act 1992*.

14 **Amendment of s 93 (Aborigines' and Torres Strait Islanders' rights to take etc. protected wildlife)**

Section 93(1), after 'Act,'—

insert—

'but subject to the *Animal Care and Protection Act 2001*,'.

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