

22 March 2024

Department of Energy, Environment and Climate Action
8 Nicholson Street
East Melbourne
Victoria 3002



Via email: legislationreform@agriculture.vic.gov.au

Dear Secretariat,

SUBJECT: Reforming Victoria's Animal Care and Protection Laws

Please find enclosed the ACMFs (Australian Chicken Meat Federations) submission in response to the draft Animal Care and Protection Bill and its supporting regulations.

Please do not hesitate to contact our policy officer Amy Roberts at amy.roberts@chicken.org.au if you have any questions or require further information regarding this submission.

Regards,

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ABOUT THE ACMF AND THE AUSTRALIAN POULTRY INDUSTRY

The Australian Chicken Meat Federation (ACMF) is the peak coordinating body for participants in the chicken meat industry in Australia, representing all elements of the industry, including chicken growers and processors, at the national level.

The domestic chicken meat industry contributes significantly to the Australian economy, with an estimated gross value of production to increase to 3.9 billion dollars in 2024-25. The domestic chicken meat industry provides creates/supports jobs for more than 58,000 people (full-time equivalents), many in rural and regional communities. There is a strong industry connection with retail activity and food service outlets for chicken meat.

The industry provides the most popular source of animal protein to domestic consumers, with annual per capita consumption of chicken meat surpassing 50kg (and increasing year on year), far outstripping other meats (e.g. pork is Australia's second most-consumed meat, with a per capita consumption of 28kg per annum). 68 per cent of Australians eat chicken meat as part of a meal at least twice a week because of its affordability, popularity with the entire household, versatility and taste.

EXECUTIVE SUMMARY

The Australian Chicken Meat Federation (ACMF) welcomes the opportunity to respond to the draft Animal Care and Protection Bill (the Bill). As the peak industry body representing the Australian chicken meat sector, we place a strong emphasis on animal welfare and sustainability to ensure a secure and quality supply of Australian-grown chicken meat products to the domestic consumer. Our dedication goes beyond meeting regulatory standards; we have upheld a longstanding commitment to maintaining a high level of animal welfare, with 92% of the industry accredited under the RSPCA Approved Farming Scheme.

In addition to this, the ACMF has worked closely with both state and federal governments, AgriFutures, and the wider industry to develop frameworks such as the Australian Animal Welfare Standards and Guidelines for Poultry to ensure we continue to uphold evidenced-based and industry-relevant welfare standards that are harmonised on a national level.

We support the establishment of a unified, sustainable, and science-based animal welfare framework, that is fit for purpose in enhancing the state's animal welfare system. In its current form, we do not believe the proposed Animal Care and Protection Bill is fit for purpose in achieving these objectives.

The following submission outlines our concerns and makes the following specific recommendations to adjust the Bill prior to it being presented to the Victorian Parliament for endorsement:

Recommendation 1: Provide explicit definitions or guidelines for the ambiguous terms to prevent varying interpretations.

Recommendation 2: That the Victoria Government remove ambiguous language throughout the Bill and/or provide definitions to ensure consistency in their application.

Recommendation 3: Amend clause 197 to ensure that accountability is based on the actual actions and decisions made by each party involved, rather than solely on hierarchical position, to promote a culture of accountability and uphold the principle of individual responsibility.

Recommendation 4: Provide a comprehensive list of activities that will require licensing to prevent uncertainty and facilitate operational clarity.

Recommendation 5: Intensive environments are excluded from complying with additional licensing requirements.

Recommendation 6: An exemption to be included in the Bill which excludes the animal welfare legislation from applying to processing facilities.

Recommendation 7: Note and clarify Primesafe's function including its regulatory oversight for animal welfare in processing facilities.

Recommendation 8: Include the provision for owners/operators to refuse an authorised officer entry into a premise if they fail to comply with biosecurity and/or work health safety directions.

Recommendation 9: Engage with industry in the development and formulation of training materials for authorised officers.

Recommendation 10: Clarify what electric shock devices, will be permitted and if/what licensing will

be required.

Recommendation 11: Exclude water bath stunning for poultry from the Bill.

We also take this opportunity to acknowledge, our members, the Australian Chicken Growers Council (ACGC) who will supplying additional commentary on the proposed Bill.

THE RELIANCE ON SUPPORTING REGULATIONS

The release of a Bill for consultation without accompanying regulations presents several significant risks and challenges that undermine the transparency and effectiveness of the legislative process. Primarily, the absence of supporting regulations leaves stakeholders, including businesses and organisations in a state of uncertainty regarding the practical implications and requirements for compliance. Without clear guidelines outlined in the supporting regulations, stakeholders are unable to accurately assess the full scope of their obligations under the proposed regulations, hindering their ability to provide informed feedback on the Bill. This lack of clarity not only undermines the integrity of the consultation process but also jeopardises the effectiveness and enforceability of the Bill once enacted, as stakeholders may struggle to comply with ambiguous or ill-defined requirements.

Below are key examples of where the regulations are needed to provide clarity of those responsible for animal care:

- **Care Requirements:** The Bill outlines general care requirements but leaves specific standards to be defined in regulations. The lack of clarity on what constitutes "appropriate feed and water" or "reasonable steps" to ensure animal health could lead to uncertainty in operational practices.
- **Licensing Requirements:** The Bill indicates that licenses will be required for various activities but defers the details to the regulations. This introduces unforeseen licensing requirements.
- **Use of Animals in Scientific Procedures:** The Bill allows for scientific procedures on animals but defers the specifics to regulations. This could affect the poultry industry's ability to conduct research or development activities if the regulations impose restrictive conditions.
- **Animal Transporting:** The Bill outlines offences related to animal transporting but leaves the specifics to regulations. This could introduce new compliance challenges for the poultry industry.

Including such clarity will allow producers to accurately assess the full scope of their obligations under the proposed legislation and will further support industry's ability to provide informed feedback regarding the scope and effectiveness of the Bill.

Recommendation 1: That the Victorian Government provide explicit definitions or guidelines for the ambiguous terms to prevent varying interpretations.

AMBIGUOUS LANGUAGE

In reviewing the draft Bill, ACMF has a significant concern about its repeated use of the term 'appropriate' without a clear definition or specification. This ambiguity poses a serious challenge for industries expected to comply with the proposed regulations. The lack of clarity regarding what constitutes 'appropriate' actions or measures leaves room for inconsistent interpretation and implementation.

Without a precise delineation of this term within the context of the Bill, there is a risk of arbitrary enforcement, potential legal disputes, and undue burden on businesses striving to adhere to regulatory standards.

While we recognise the importance of fulfilling animal care and protection requirements across all industries, we are concerned that this lack of clarity and overlapping interpretations will lead to legal challenges, and extraneous penalties being applied to matters that deviate from the intended purpose of addressing animal welfare matters.

Therefore, we urge the Government department to consider providing explicit definitions or guidelines for the term 'appropriate' to ensure transparency, consistency, and fairness in regulatory compliance across affected industries.

Clarifying this aspect will not only enhance regulatory effectiveness but also foster greater confidence and cooperation within the business community.

Below are additional terms or phrases that could potentially cause ambiguity:

- **Reasonably necessary:** This term is subjective and could lead to different interpretations of what constitutes adequate care.
- **Therapeutic purposes:** (Part 3 Section 29) Exception for registered veterinary practitioners and persons acting under the instruction of practitioners)- The term could be interpreted in various ways, potentially leading to disagreements over what constitutes therapeutic intervention.
- **Good health:** (Part 3, Section 17, Care requirements) - This term is subjective and lacks a clear, measurable standard, which could lead to varying interpretations of animal health requirements.
- **Unreasonable harm, pain or distress:** The use of "unreasonable" could lead to subjective interpretations of what level of harm, pain, or distress is considered acceptable or not.

Recommendation 2: That the Victoria Government remove ambiguous language throughout the Bill and/or provide definitions to ensure consistency in their application.

CLAUSE 197

There is a need to clarify the expected boundaries of criminal responsibility of Clause 197. Given the vertical integration of businesses within the poultry industry, the broad scope and extent of this clause causes concern for ACMF. While the proposed clause aims to address situations where individuals may have acted under the direct instruction or supervision of the animal owner, employer, or contractor, it runs the risk of facilitating the transfer of liability throughout the supply chain, particularly in cases where an individual knowingly disregarded welfare concerns.

For example, an instruction, from a manager could outline processes for temperature control of poultry sheds, however, there may be circumstances in which these processes are not reflective of the bird's needs. If the operator chooses to ignore the visual signs to adjust temperatures because they were not reflective of the processes outlined by the manager, and welfare was compromised, Clause 197, could allow the operator to transfer blame to the manager, despite their clear failure to execute a duty of care.

This could undermine the fundamental principle of individual responsibility and dilute the deterrent effect of the legislation. Instead of absolving individuals solely based on their hierarchical position, it is crucial to ensure that accountability is assigned based on the actual actions and decisions made by each party involved, thereby fostering a culture of accountability, and promoting genuine commitment to animal welfare standards throughout the supply chain.

Recommendation 3: Amend clause 197 to ensure that accountability is based on the actual actions and decisions made by each party involved, rather than solely on hierarchical position, to promote a culture of accountability and uphold the principle of individual responsibility.

LICENSING REQUIREMENTS

The ACMF expresses concerns that the proposed expansion of licensing frameworks in the Bill will impose unnecessary and duplicative regulatory requirements upon the livestock industry, overlooking the existing licensing structures in place. Of particular concern is the absence of activities that warrant licensing.

The discretionary nature of these decisions raises concerns about potential legislative overreach, particularly in the absence of licensing guidelines. If the Department commits to introducing licensing requirements, it is essential that they are clearly defined within the Bill, to ensure that licensing such only relates to the objective of safeguarding animal welfare and do not include low-risk animal husbandry practices. Industry consultation will be necessary to guide Government decision-making on high and low-risk animal husbandry practices, and any future amendments to licensing requirements, to ensure the legislation achieves its objective of safeguarding animal welfare without introducing unnecessary regulatory burdens to the livestock sector.

Recommendation 4: Provide a comprehensive list of activities that will require licensing to prevent uncertainty and facilitate operational clarity.

INTENSIVE ENVIRONMENTS

Division 6 of the draft Bill prescribes intensive environments as a regulated activity requiring licensing of which poultry is listed. The Bill must acknowledge that the classification of an intensive environment does not inherently signify a welfare concern and as such should not be subjected to additional licensing requirements.

According to the Victorian Code of Accepted Farming Practice for the Welfare of Poultry, *"It is not possible to relate stocking density to welfare in a simple manner. Adequate welfare involves*

consideration of group size, the housing system, the feeding and watering system, the breed and strain of fowl, temperature, ventilation, lighting and other husbandry factors. The observance of any particular stocking density on its own cannot ensure the welfare of birds.”

It should be noted that there are existing audit, permit, and licensing frameworks in place for intensive poultry.

Introducing licensing prerequisites specifically for intensive poultry environments could result in duplication and unwarranted regulatory and financial pressures on industries that are diligently complying with existing laws and regulations, to support animal welfare.

Recommendation 5: Intensive environments are excluded from complying with additional licensing requirements.

REGULATOR AT THE POINT OF SLAUGHTER

The absence of section 6(1)(a) from the POCTA Act in the Bill would inevitably classify actions tied to animal slaughter as "aggravated cruelty," per section 10. This stems from the inherent fatality of animals which are produced for food consumption.

Presently, PrimeSafe acts as the regulator for the Victorian livestock processing sector, functioning under the guidelines of the Meat Industry Act 1993. Slaughter processes compliant with this Act are exempt from the existing Prevention of Cruelty to Animals (POCTA) legislation with PrimeSafe conducting audits on domestic processing facilities to ensure compliance with the animal welfare requirements in the Australian Standards 4465.

However, the proposed removal of the slaughter exemption in the draft Bill prompts uncertainties regarding the entity responsible for ensuring adherence to animal welfare regulations in the livestock processing sector. Additionally, it raises doubts about PrimeSafe's continued role as the sole regulator overseeing licensing and auditing.

PrimeSafe's role as the designated regulator ensures consistent enforcement of animal welfare standards within the industry. Failure to clarify regulatory responsibilities in the Animal Care and Protection Bill could lead to a dual regulatory system, imposing unnecessary costs and requirements on the Victorian chicken meat industry and leading to undefined lines of responsibility.

Maintaining a unified regulatory body for licensing and auditing, encompassing both animal welfare and food safety is essential.

Recommendation 6: An exemption to be included in the Bill which excludes the animal welfare legislation from applying to processing facilities.

Recommendation 7: That the Victorian Government note and clarify Primesafe's function including its regulatory oversight for animal welfare in processing facilities.

ENTRY WITHOUT CONSENT BY AUTHORISED OFFICERS

In its current form, the draft Bill will allow authorised officers to inspect establishments without the consent of the owner when there is a reasonable suspicion of an animal welfare-related offense.

The Bill must clarify the duties and expectations of an authorised officer to avoid the misuse of power and ensure that the authorised officer in exercising these powers appropriately and justly. The Bill must be expansive enough to cover matters of conflict of interest, intimidation, harassment, and define 'reasonable suspicion' to ensure authorised officers are upheld to the highest enforcement standards.

It is also important for this Bill to outline that authorised officers must adhere to any biosecurity and/or work health safety requirements or procedures on site. Failure of an authorised officer to comply with onsite biosecurity procedures should allow the owner/operator to refuse entry without repercussions. For example, many poultry facilities will require people to wash in and out. If an authorised officer fails to comply with this request, the owner or operator should reserve the right to refuse entry to an authorised officer. This is critical to upholding if there is a reasonable belief that the presence of the authorised officer will risk the welfare of animals in their care and/or risk human health or safety.

In examining the list of those who can be appointed as an authorised officer, ACMF is concerned that not all these groups will have the expertise to effectively perform their functions and duties appropriately. The requirement for appropriate training does provide the industry with the confidence that the knowledge and skills will be provided to authorised officers, however, the scope of this training needs to be specified and subject to industry review.

Recommendation 8: Including the provision for owners/operators to refuse an authorised officer entry into a premise if they fail to comply with biosecurity and/or work health safety directions and or if there is a reasonable belief that the presence of the authorised officer will risk the welfare of animals in their care and/or risk human health or safety.

Recommendation 9: Engage industry in the development and formulation of training materials for authorised officers.

ELECTRIC SHOCK DEVICES

The draft Bill proposes new mandates concerning electric shock devices. Under the new definition, these devices encompass both goads and electrical stunning devices. However, there is presently no clarity regarding which devices will be monitored or prohibited. While ACMF acknowledges that this will be addressed in the Regulations, the underlying principles guiding these regulations remain unclear.

The Bill mustn't prohibit or require a license for the utilisation of water bath stunning. Water bath stunning has been widely accepted as an effective and humane method for stunning poultry, ensuring minimal pain and distress for the chickens before slaughter. Its widespread adoption across the industry highlights its importance as a practical and welfare-conscious method of stunning. Moreover, given the absence of equally viable alternatives, mandating a license for its use would impose undue burdens on processors and potentially disrupt established practices without significant benefit.

Furthermore, as slaughter processes are already rigorously regulated by Primesafe, additional licensing requirements for water bath stunning would create unnecessary bureaucratic hurdles without substantially enhancing animal welfare standards. Maintaining the accessibility of water bath stunning within the regulatory framework is essential for upholding both animal welfare and food

security.

Recommendation 10: That the Victorian Government clarifies what electric shock devices, will be permitted and if/what licensing will be required.

Recommendation 11: That the Victorian Government exclude water bath stunning for poultry from the Bill.

SUPPORTED PROPOSALS

The ACMF is supportive of delayed commencement to allow time to develop regulations that are fit for purpose in support of the Act. We believe the 2-year delayed commencement period should be subject to further extension, to facilitate the industry's transition into these new arrangements while following the current regulations and codes of practice that uphold animal welfare.

The ACMF also supports the establishment of an Expert Advisory Committee and a Special Advisory Committee to harness industry-specific knowledge on animal welfare-related issues. We believe that committee membership should not solely comprise individuals affiliated with governmental entities; rather, it should include industry experts possessing nuanced insights and proficiency in animal welfare within a range of contexts.

CONCLUSION

The Australian Chicken Meat Federation (ACMF) aligns with the goal of Animal Care and Protection, advocating for safeguards in preventing cruelty and mistreatment towards animals. Embracing a robust and sustainable legislative framework, that addresses differing industry contexts and requirements will be essential to safeguarding the welfare of animals. As clarified in our submission, we do maintain our concerns about the immense discretionary power of the Minister to approve and revoke industry licenses for essential animal husbandry practises without legislated guidelines, oversight, and perimeters for appeal.

Navigating new compliance measures and additional licensing requirements, including associated fees and renewals, is likely to inflate production costs, contradicting the state government's goal of securing the Victorian food supply and upholding the state's high level of food security and accessibility standards.

We recommend that the Victorian Government conduct a regulatory impact statement to investigate potential ramifications that also extend beyond the livestock context including the state's GDP potential, interconnected businesses in retail, manufacturing and food services, future enterprise, as well as overall food security.

The ACMF believes this Bill can achieve both objectives of upholding animal justice across all sectors and providing the necessary perimeters of industry to operate with the necessary amendments. Although the Australian chicken meat industry is eager to integrate sustainable and fit-for-purpose practices into their existing high animal welfare standards, we believe the current scope of this Bill requires further collaboration with industry before it is fit for parliamentary endorsement.