

Queensland



# **ANIMALS PROTECTION AMENDMENT BILL 1999**



# Queensland



## ANIMALS PROTECTION AMENDMENT BILL 1999

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**1999**

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**A BILL**

**FOR**

***An Act to amend the *Animals Protection Act 1925****

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**The Parliament of Queensland enacts—**

1

**Short title**

2

Clause 1. This Act may be cited as the *Animals Protection Amendment Act 1999*.

3

**Act amended**

4

Clause 2. This Act amends the *Animals Protection Act 1925*.

5

**Amendment of s 3 (Interpretation)**

6

Clause 3.(1) Section 3—

7

*insert—*

8

“**identity card**”, for an officer who is an inspector, means a document issued by the RSPCA to the inspector that—

9

10

(a) contains a recent photograph of the inspector; and

11

(b) is signed by the inspector; and

12

(c) identifies the inspector as an officer under this Act.

13

“**inspector**” means a person who—

14

(a) is employed or engaged by the RSPCA; and

15

(b) has a relevant qualification; and

16

(c) is appointed by the RSPCA to be an inspector for this Act.

17

“**occupier**”, of a place, includes a person who reasonably appears to be the occupier, or in charge of, the place.

18

19

“**place**” includes any land and premises.

20

“**premises**” includes—

21

(a) a dwelling, building or other structure; and

22

(b) a part of a dwelling, building or other structure.

23

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**“public place”** means a place that the public is entitled to use, is open to the public or is used by the public, whether or not on payment of money. 1  
2

**“relevant qualification”** means a qualification, or veterinary or animal husbandry experience, the RSPCA considers is appropriate to exercise the powers of an officer. 3  
4  
5

**“RSPCA”** means the Royal Society for the Prevention of Cruelty to Animals Queensland.’. 6  
7

(2) Section 3, definition **“officer”**, from ‘the following’ to ‘inspectors’— 8  
*omit, insert—* 9  
‘an inspector’. 10

**Amendment of s 9 (Officer may enter and inspect)** 11

Clause 4. Section 9(2)— 12  
*omit, insert—* 13

‘(2) However, an officer may enter a place under subsection (1) only if— 14

(a) its occupier consents to the entry; or 15

(b) the entry is authorised by a warrant; or 16

(c) it is a public place and the entry is made when it is open to the public. 17  
18

‘(3) For the purpose of asking the occupier of a place for consent to enter, an officer may, without the occupier’s consent or a warrant— 19  
20

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or 21  
22

(b) enter part of the place the inspector reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.’. 23  
24  
25

**Insertion of new ss 9A–9E** 26

Clause 5. After section 9— 27  
*insert—* 28

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**‘Entry with consent**

**‘9A.(1)** This section applies if an officer intends to ask an occupier of a place to consent to the officer or another officer entering the place under section 9(2)(a).

**‘(2)** Before asking for consent, the officer must tell the occupier—

- (a) the purpose of the entry; and
- (b) that the occupier is not required to consent.

**‘(3)** If the consent is given, the officer may ask the occupier to sign an acknowledgment of the consent.

**‘(4)** The acknowledgment must state—

- (a) the occupier has been told—
  - (i) the purpose of the entry; and
  - (ii) that the occupier is not required to consent; and
- (b) the purpose of the entry; and
- (c) the occupier gives the officer consent to enter the place and exercise the officer’s powers under this Act; and
- (d) the time and date the consent was given.

**‘(5)** If the occupier signs the acknowledgment, the officer must promptly give a copy to the occupier.

**‘(6)** A court must find the occupier of a place did not consent to an officer entering the place under this Act if—

- (a) an issue arises in a proceeding before the court whether the occupier of the place consented to the entry under section 9(2)(a); and
- (b) an acknowledgment mentioned in subsection (4) is not produced in evidence; and
- (c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

<b>‘Application for warrant</b>	1
<b>‘9B.(1)</b> An officer may apply to a magistrate for a warrant for a place.	2
<b>‘(2)</b> The application must be sworn and state the grounds on which the warrant is sought.	3 4
<b>‘(3)</b> The magistrate may refuse to consider the application until the officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.	5 6 7
<i>Example—</i>	8
The magistrate may require additional information supporting the application be given by statutory declaration.	9 10
<b>‘Issue of warrant</b>	11
<b>‘9C.(1)</b> The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—	12 13
(a) there is an animal, thing or activity (the <b>“evidence”</b> ) that may provide evidence of an offence against this Act; and	14 15
(b) the evidence is at the place, or may be at the place, within the next 7 days.	16 17
<b>‘(2)</b> The warrant must state—	18
(a) that a stated officer may, with necessary and reasonable help and force—	19 20
(i) enter the place and any other place necessary for entry; and	21
(ii) exercise the officer’s powers under this Act; and	22
(b) the offence for which the warrant is sought; and	23
(c) the hours of the day or night when the place may be entered; and	24
(d) the date, within 7 days after the warrant’s issue, the warrant ends.	25
<b>‘Special warrants</b>	26
<b>‘9D.(1)</b> An officer may apply for a warrant (a <b>“special warrant”</b> ) by phone, fax, radio or another form of communication if the officer considers it necessary because of—	27 28 29

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- (a) urgent circumstances; or 1
- (b) other special circumstances, including, for example, the officer’s remote location. 2  
3
- ‘(2) Before applying for the special warrant, the officer must prepare an application stating the grounds on which the warrant is sought. 4  
5
- ‘(3) The officer may apply for the special warrant before the application is sworn. 6  
7
- ‘(4) After issuing the special warrant, the magistrate must immediately fax a copy (“**facsimile warrant**”) to the officer if it is reasonably practicable to fax the copy. 8  
9  
10
- ‘(5) If it is not reasonably practicable to fax a copy to the officer— 11
- (a) the magistrate must tell the officer— 12
- (i) what the terms of the special warrant are; and 13
- (ii) the date and time the warrant was issued; and 14
- (b) the officer must complete a form of warrant (a “**warrant form**”) and write on it— 15  
16
- (i) the magistrate’s name; and 17
- (ii) the date and time the magistrate issued the warrant; and 18
- (iii) the terms of the warrant. 19
- ‘(6) The facsimile warrant, or the warrant form properly completed by the officer, authorises the entry and the exercise of the other powers stated in the special warrant. 20  
21  
22
- ‘(7) The officer must, at the first reasonable opportunity, send to the magistrate— 23  
24
- (a) the sworn application; and 25
- (b) if the officer completed a warrant form, the completed warrant form. 26  
27
- ‘(8) On receiving the documents, the magistrate must attach them to the special warrant. 28  
29
- ‘(9) A court must find the exercise of the power by an officer was not authorised by a special warrant if— 30  
31

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- (a) an issue arises in a proceeding before the court whether the exercise of the power was authorised by the special warrant; and 1  
2
- (b) the special warrant is not produced in evidence; and 3
- (c) it is not proved by the person relying on the lawfulness of the entry that the officer obtained the warrant. 4  
5

**‘Warrants—procedure before entry** 6

**‘9E.(1)** This section applies if an officer named in a warrant issued under this Act for a place is intending to enter the place under the warrant. 7  
8

**‘(2)** Before entering the place, the officer must do or make a reasonable attempt to do the following things— 9  
10

- (a) identify himself or herself to a person present at the place who is an occupier of the place; 11  
12
- (b) give the person a copy of the warrant or if the entry is authorised by a facsimile warrant or warrant form mentioned in section 9D(6), a copy of the facsimile warrant or warrant form; 13  
14  
15
- (c) tell the person the officer is permitted by the warrant to enter the place; 16  
17
- (d) give the person an opportunity to allow the officer immediate entry to the place without using force. 18  
19

**‘(3)** For subsection (2)(a), an officer, other than a police officer, must produce the officer’s identity card to the person for inspection.<sup>1</sup> 20  
21

**‘(4)** However, the officer need not comply with subsection (2) if the officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.’. 22  
23  
24

**Amendment of s 11 (Power to seize animals etc.)** 25

Clause **6.(1)** Section 11(4), after ‘animal’— 26  
*insert—* 27

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<sup>1</sup> For a police officer, see the *Police Powers and Responsibilities Act 1997*, section 112 (Supplying police officer’s details etc.).

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‘or anything else’. 1  
 (2) Section 11(4A)— 2  
*omit.* 3

**Insertion of new s 25** 4

Clause 7. After section 24— 5  
*insert—* 6

**‘Transitional provision for certain officers** 7

‘**25.(1)** This section applies to a person who, immediately before the 8  
 commencement of this section, was an officer because of the person’s 9  
 employment by the RSPCA as the chief inspector or an inspector. 10

‘**(2)** On the commencement, the person is taken to have been appointed 11  
 by the RSPCA to be an inspector for this Act. 12

‘**(3)** For subsection (2), the person is taken to have a relevant 13  
 qualification. 14

‘**(4)** Unless earlier revoked, the person’s appointment under 15  
 subsection (2) continues to have effect only for 2 years from the 16  
 commencement.’. 17

18