

Animal welfare

Do you know your rights and obligations for animal welfare under NSW law?



The NSW Prevention of Cruelty to A regulates farmer's rights and responsibilities and the powers of the enforcement officers. Officers enforcing POCTA are from the NSW RSPCA, Animal Welfare League, NSW Police and NSW Department of Primary Industries.

Farmers must take reasonable steps to:

- prevent cruelty
- alleviate pain
- get veterinary treatment
- tie in (or enclose) a dog on an open vehicle when travelling on a public road
- exercise dogs and horses once a day
- alleviate pain if you hit an animal (other than birds) with your vehicle, on public land and if it is tame, notify the owner or an officer
- not tether sows and birds (other than raptors)
- not tether other animals for a long time or with a short or heavy tether
- not abandon animals
- not drive, use or transport an animal not able to cope
- not transport livestock without room to stand upright
- not dock dogs' tails or crop dogs' ears
- not grind, trim or clip sheep's' teeth
- not fire brand the face
- not poison animals likely to be tame
- not use electric prodders on unweaned sheep, cattle or pigs
- provide food, drink or shelter once a day
- during drought conditions, feed ruminants every 3 days

Farmers' Rights

If you are inspected for feed, water or shelter, the officers must take evidence from the RLPB and NSW DPI.

Farmers can:

- ear mark, ear tag or brand a stock animal
- other husbandry procedures as per the table below

	Castrate	Dehorn	Tail dock
Pig	Under 2 mths old		
Calf	Under 6 mths old	Under 12 mths old	Under 6 mths old
Sheep	Under 6 mths old		Under 6 mths old
Goat	Under 6 mths old	Under 1 mth old	

- mules a sheep if under 12 months old (however, if anaesthetic is not used for sheep over 6 months age you may be breaking the law)
- hunt, shoot, snare, trap, catch, capture, destroy or slaughter for human consumption

Enforcement Officers can:

- demand your name and address
- enter land
- enter a house
- detain a vehicle
- examine an animal
- take and retain an animal or a carcass (and recover expenses)
- remove an animal or a carcass (and recover expenses)
- care for an animal (and recover expenses)
- destroy an animal (and recover expenses)
- seize anything as evidence
- bring anyone to assist him/her
- issue a official notice for corrective action
- issue an instant fine (which you can challenge in court)

Farmers' Rights

Before an officer acts (or promptly after they take action) an officer must show their identification as it is illegal to impersonate an officer, state the reason for their actions and warn that failure to comply with their requests may be an offence.

The Inspection Process

An officer may inspect your property if they suspect a problem or receive a complaint. Anonymous complaints are discouraged and may not be investigated.

The officer may bring useful people to the inspection, eg vet, RLPB ranger, agronomist, police or someone from the Dept Primary Industries.

If there are significant concerns the officer will ask if you are a member of NSW Farmers Association and offer the support of the Association. You can call the Association on 1300794000 or you can ask the officer to on your behalf.

The officer may give you a notice for corrective action. If you disagree, you may seek your own opinion from vets or consultants. This should be done as soon as possible. As failure to follow a notice may be admissible as evidence in court.

The Association can send a staff member to be an independent third party at inspections and can assist with any complaints you may make about the professional standards of the officers.

Officers can issue an instant fine, but this can be challenged in court, therefore officers are trained to recognise when their evidence will withstand cross examination.

Officers carry handcuffs but not side arms (however they are licensed for fire arms use for destroying animals).

Officers don't necessarily notify owners of their visits (as they may need to collect untampered evidence).

To prosecute, a NSW RSPCA officer prepares a brief of evidence for the approval of the senior inspectorate which sometimes involves external legal advice. The NSW RSPCA Board is not involved in the decision to prosecute.

When a case goes to court, costs (including legal fees) can be awarded in favour of the acquitted party.

Don't forget the Model Codes!

POCTA is supported by the national Model Codes of Practice for the Welfare of Animals which contain things you must and should do. In a prosecution, a court will take compliance with codes or other guidelines as evidence either for or against you. Therefore all farmers should read the codes relevant to their farm. The codes are available for through the CSIRO.

<http://www.publish.csiro.au/nid/23.htm?nid=23&aid=159>

In the near future these codes are being reviewed to create national standards and guidelines.

What actions are excusable?

- Neither ignorance nor drought is a defence.
- In emergencies you will be judged on whether you acted reasonably in the circumstances.
- You may share the responsibility with your employees or an agister if you could have reasonably prevented an act of cruelty by your employee.

Animal Welfare Law Frequently asked questions

What will the RSPCA do if they see poor sheep?

If an officer sees poor sheep from the road, they may enter the property without notice to inspect them. The officer will endeavour to seek you out as soon as practically possible. The officer will discuss any concerns with you. Any number of things may follow including asking you to take corrective action, taking corrective action themselves, organising a follow up visit, issuing an on the spot fine or filing a prosecution.

What is the requirement for visible diseases (eg calf scours and pink eye)?

You are required to exercise reasonable care, control or supervision to prevent an act of cruelty. If you fail to take reasonable steps to alleviate pain or provide veterinary treatment where necessary then you could be investigated for an act of cruelty. Use your common sense and ring a vet for phone advice if in doubt.

How frequently should stock be inspected if owners are absentee owners?

POCTA does not dictate the frequency of stock inspections. Obviously it depends on the class of stock, weather conditions, feed availability, likelihood of pests and diseases and the safety of the environment (including rivers, fencing and predators). Use your common sense and seek expert advice. If your neighbour is an absentee owner or stock are agisted, you share some responsibility if you ignore any welfare problems by not taking reasonable steps to prevent cruelty.

What are the laws on dogs in vehicles?

Any dog in the back of an open vehicle on a public road must be tied in or enclosed.

How much shade should be provided for stock?

POCTA doesn't prescribe shade, use your common sense, ask your advisor or your industry body for best practice guidelines or refer to the Model Codes. The RSPCA may refer to such guidelines in any prosecution as evidence against you.

What management practices do you need to be accredited for?

POCTA does not prescribe any practices. You should refer to your industry body and the Model codes for updated information. The RSPCA may refer to such guidelines in any prosecution as evidence against you.

What is the law on amount and quality of water?

POCTA does not prescribe the amount and quality of water other than it must be provided once in 24 hours, however the Model Codes of Practice for the Welfare of Animals provide

detailed guidance on providing clean water and ad libitum supply. You should seek expert advice on this. The RSPCA may refer to such guidelines in any prosecution as evidence against you.

What is the minimum kg dry matter/head needed?

POCTA does not prescribe feed intake but rather it says that animals must be provided with food which is proper and sufficient. Therefore, you should seek expert advice on nutrition to ensure feed is adequate for the maintenance or production for each class of stock. The RSPCA may refer to such expert advice in any prosecution as evidence against you. The NSW DPI has a selection of information on drought feeding. <http://www.agric.nsw.gov.au/reader/drought>

What is a visual trigger when assessing stock for supplementary feeding? POCTA does not prescribe condition score indicators. You should seek expert advice. The NSW DPI has a selection of information on drought feeding. <http://www.agric.nsw.gov.au/reader/drought> The RSPCA may refer to such guidelines in any prosecution as evidence against you.

Is it illegal to cut back on routine animal health treatments (eg drenches and vaccinations)?

POCTA states it is illegal to fail to provide veterinary treatment where necessary. A case could be brought if there was evidence that such preventative treatments were known to be essential to stop suffering that was expected to occur. You should refer to industry guidelines or quality assurance programs. The RSPCA may refer to such guidelines in any prosecution as evidence against you.

Should you try to prevent flystrike?

POCTA states it is illegal to fail to provide veterinary treatment where necessary. A case could be brought if there was evidence that such preventative treatments were known to be essential to stop suffering that was expected to occur (eg crutching). The RSPCA supports mulesing until an alternative can be found because prevention of flystrike prevents suffering.

Is there any law relating to transporting animals, especially around any deaths?

POCTA states that animals should not be ridden, driven, used, carried or conveyed if they are unfit for that purpose. They should be conveyed in a cage or vehicle which is high enough for large stock animals to stand up in. Electric prodders cannot be used in unweaned pigs, sheep and cattle. Whether or not any deaths occur is not a condition

of either of these requirements however deaths may lead to an additional offence. Refer to Model Code of Practice for Land transport livestock. The NSW RSPCA advises that "regardless of the transport arrangements no animal should be transported in a manner which unreasonable, unnecessarily or unjustifiably inflicts pain on the animal".

Should dogs be muzzled in yards?

POCTA does not prescribe the use of working dogs, however most saleyards require dogs to be muzzled. The Model Codes of Practice for the Welfare of Animals, industry guidelines or quality assurance programs may recommend best practice animal handling. The RSPCA may refer to such guidelines in any prosecution as evidence against you. Use your common sense. If you are in charge of an unmuzzled dog that is inflicting unnecessary suffering you may be held responsible for an act of cruelty.

How many deaths in a flock/herd will trigger an RSPCA investigation?

POCTA does not prescribe mortality rates. However, you should use your common sense that anything above the district average may be considered inhumane by the RSPCA and worthy of investigation. Industry guidelines or quality assurance programs should be consulted. The RSPCA may refer to such guidelines in any prosecution as evidence against you. Use common sense and remove carcasses from public view.

Are there laws on the use of electric fences?

POCTA permits electric fences for confining, controlling or protecting animals (except dogs and cats).

Expert sources of information on animal welfare

Animal Health NSW Department of Primary Industries
Rural Lands Protection Board
Private vets and agricultural consultants
Law NSW Department of Primary Industries
NSW RSPCA
Private lawyers

