



Hon. Members of the Legislative Assembly & Legislative Council
Parliament of Victoria

Via email

9 March 2010

Dear Hon. Members,

Livestock Management Bill 2009 – Item 2, Orders of the Day, Tuesday 9 March, 2010

We write to draw the Hon. Members' attention to what we perceive to be a significant flaw within the *Livestock Management Bill 2009*, namely: failure to provide for disallowance of a regulation made under Clause 63 by either House of Parliament. Debate is scheduled to resume on this Bill today (Tuesday), following its Second Reading in the House on 10 December 2009.

Lawyers for Animals is a not-for-profit incorporated association run by a management committee of lawyers. Its objectives include: alleviating the suffering of animals by engaging with those who create or administer laws in Australia to strengthen legal protection for animals; developing awareness of animal suffering among the legal profession and the wider Australian public through information and education; and promoting better animal welfare practices among animal-related industries in Australia.

Urgent call for amendment to Livestock Management Bill to preserve democracy

'All regulations are law. Citizens are required to obey them. The regulations are made by the Executive and not the Parliament for good and practical reasons including:–

- pressures on Parliamentary time;*
- dealing with situations which change quickly; and*
- dealing with precise technical matters.*

Even so, it is imperative in our parliamentary democracy that Members of the Parliament have opportunity to

examine them and ensure that law thus being made is not inappropriate.'

From: Scrutiny of Acts and Regulations Committee, *Eleventh Report to Parliament on Subordinate Legislation - Annual Report concerning Statutory Rules Series 1998*, para. 1.4, May 1999

Section 23(1)(a) of the *Subordinate Legislation Act 1994* (Vic) provides for the disallowance of a statutory rule or part of a statutory rule only if 'the power to make the statutory rule is expressed to be subject to the statutory rule being disallowed by the Parliament or by a House of the Parliament.' Under Clause 63 of the *Livestock Management Bill 2009*, it is proposed that the 'power' to make a statutory rule 'prescribing livestock management standards' be vested in the Governor in Council. However, neither Clause 63, nor any other Clause of the Bill, states that this 'power' is 'subject to the statutory rule being disallowed by the Parliament or by a House of the Parliament'.

In contrast, the power to create Codes of Practice under the *Prevention of Cruelty to Animals Act 1986* is expressly stated (under Section 7(4)) to be subject to the Code being disallowed by either House of Parliament:

- 7(4) Before—
- (a) any Code of Practice; or
 - (b) any variation or revocation of a Code of Practice—
which deals with any animal is published in the Government Gazette—
 - (c) the Minister must ensure that a copy of that Code, variation or revocation has lain on the table of both the Legislative Assembly and the Legislative Council for fourteen sitting days, during which time the Code may be disallowed by resolution of the Legislative Assembly or of the Legislative Council; and
 - (d) the Code, variation or revocation must not have been so disallowed.

The intentional (or inadvertent) failure to provide for similar disallowance of a livestock management regulation by either House of Parliament, in the *Livestock Management Bill*, is an assault on our time-honoured, democratic process. The livestock management standards mentioned in the *Bill* derive from the Australian Animal Welfare Strategy ('AAWS'): a federal administrative process involving various stakeholders, but overwhelmingly dominated by animal industry groups. The AAWS has no direct connection to the Commonwealth Parliament, nor to democratic process. Since Australia's public interest is strongly affected by (and often correlates with) animal welfare, it is imperative that Parliament retain the mechanism of disallowance as a principal 'check' on an otherwise undemocratic system for generating animal laws.

For all the above reasons, Lawyers for Animals urgently calls on all members of the Victorian Parliament, particularly the Government (who propose this *Bill*), to amend Clause 63, to ensure that the power to make livestock management regulations is subject to such statutory rules being disallowed by either House of Parliament. We would be pleased to assist you in any way to implement our proposed amendment. If you have any queries, please contact the principal author via email: nichola@lawyersforanimals.org.au

Finally, we note that this submission is preliminary in nature, and that Lawyers for Animals intends to send a more comprehensive and detailed review of the *Bill* – addressing additional points of key concern – to the Hon. Members, in the near future.

Yours faithfully,

Nichola Donovan
President
LAWYERS FOR ANIMALS INC.