

Eggs (Cage Systems) Legislation Amendment Bill 2009

Explanatory Statement

Overview

The Eggs (Cage Systems) Legislation Amendment Bill 2009 (the Bill) outlaws the practice of keeping chickens for egg production in a cage system, often called ‘battery cage farming’. As of 2009, this method of egg production has already been banned by many countries, including The Netherlands, Sweden, Finland, Switzerland, Germany, Austria, and Norway.

It is widely recognized that hens kept in caged systems suffer chronically and are one of the most compromised of all farmed animals. The Bill is intended to improve the quality of life for hens, by requiring egg production only be undertaken using more humane alternatives.

The Bill has three main elements:

1. It makes it illegal to keep hens in a cage system in the ACT from 1 January 2011.
2. It requires retail cage eggs to be displayed separately from other eggs, and with descriptive signage.
3. It requires the responsible ACT Government Minister to advocate at the national level for better welfare conditions for poultry.

The phase-out period of approximately 18 months provides time for cage egg producers in the ACT to modify their production systems at minimal cost. Currently there is one producer of cage eggs in the ACT: Parkwood Farm in West Macgregor, which is owned by Pace. According to details provided to the National Pollutant Inventory, in 2007 Parkwood employed 14 people.¹

Although the Bill would prevent battery cage farming in the ACT, it cannot prevent cage eggs being imported from other jurisdictions and sold, because of the Commonwealth *Mutual Recognition Act 1992*.

The Bill proposes to change the way that cage eggs can be displayed by retailers in the ACT. Retailers will need to display cage eggs separately from other eggs. Cage eggs will also be accompanied by a sign explaining that cage egg production is banned in the ACT, and stating the dimensions of the minimum cage sizes. The intention is to clearly inform consumers at the point of sale that the eggs come from a cage system. This will overcome the problems caused by the often confusing labeling on egg cartons. The sign also alerts consumers that the ACT is a jurisdiction that does not support cage egg production. Providing these changes at point of sale will be simple and cheap for retailers to implement.

The Bill also requires the responsible ACT Government Minister to take steps to promote a national ban on cage eggs. The intention is that other Australian jurisdictions will enact an

¹ http://www.npi.gov.au/cgi-bin/npireport.pl?proc=facility_report;instance=public;year=2007;loc_type=national;jur_fac_id=37788

equivalent ban on battery cage systems, eventually leading to the elimination of battery cage egg production in Australia. Other Australian jurisdictions have previously expressed a willingness to move away from cage systems, but no jurisdiction has acted. Enacting this Bill will make the ACT the leading jurisdiction and, in combination with diplomatic action by the Government and cooperation from businesses, will stimulate positive action in other States and Territories.

The Bill also recognises that other poultry housing systems also have adverse animal welfare impacts. It requires the Minister to promote improvements to the living conditions for poultry set under the national code (the *Model Code of Practice for the Welfare of Animals: Domestic Poultry*).

Notes on Clauses

Clause 1 - Name of Act

This clause is a formal provision setting out the name of the proposed Act.

Clause 2 - Commencement

This section sets the starting dates for the different parts of the legislation.

The sections of the Bill which require the Minister to begin working with other States and Territories to improve welfare conditions for poultry begin immediately after the Bill is passed.

The sections of the Bill which require retail cage eggs to be displayed separately and with signs (indicating the ban will begin from 2011) will begin 1 January 2010. This gives retailers time to prepare for the new display requirements.

The sections of the Bill which ban the production of eggs in a cage system begin from 1 January 2011. This gives the ACT's caged egg producer time to transition to a different production method. This should be sufficient time, as cage layer hens are killed and restocked approximately once per year. Also from 1 January 2011, a different sign must accompany retail cage eggs, stating that cage egg production is banned, but they may still be imported.

Clause 3 - Legislation Amended – pt 2

This clause is a formal provision to identify that part 2 of the Bill amends the *Animal Welfare Act 1992*.

Clause 4 – New section 9A - Offence to keep hens in a cage system

This clause inserts a new section 9A into the *Animal Welfare Act 1992*, which makes it an offence to keep hens in a cage system. It sets a penalty of a fine or imprisonment. This penalty is equivalent to the penalty for animal cruelty under the Act.

Clause 5 – Exception - approved code of conduct

This clause ensures that the offence of keeping hens in a cage system will operate, despite the fact that a code of practice currently deals with welfare of domestic poultry.

Clause 6 – Duty for Minister to Promote Ban etc

This clause inserts a new section 109A, which requires the Minister to take all reasonable steps to promote a permanent ban by States and Territories on the keeping of poultry in cage systems, and to take all reasonable steps to improve the living conditions for poultry under the Model Code. The Model Code is made by the Animal Welfare Committee of the Primary Industries Ministerial Council, which comprises representatives from all State and Territory Governments.

The new section 109A(3) elaborates on the types of actions that constitute ‘reasonable steps’. There are a number of animal welfare concerns associated with egg production and the Model Code, and national cooperation, is required in order to review the Model Code, strengthen the Code’s guidelines, and improve the standards for hens in other egg production systems.

The new section 109A(4) requires the Minister to present a report to the Legislative Assembly annually on the steps taken to fulfil these obligations.

Clause 7 – Dictionary, note 2

This amendment is consequential on other amendments which insert provisions in which the term *State* is used. The term is defined in the Legislation Act, dictionary to include the Northern Territory. Including this additional dot point directs the reader to this enlarged definition in the Legislation Act.

Clause 8 – Dictionary, new definitions

This clause inserts new definitions of *cage* and *cage system*, 2 terms which will appear in the Act when new sections 9A, 20 (aa) and 109A commence. Cage is defined by a signpost definition that refers to, and so adopts, the definition in the *Eggs (Labelling and Sale) Act 2001*.

Clause 9 – repeal of *Animal Welfare (Amendment) Act 1997*

This clause repeals the *Animal Welfare (Amendment) Act 1997*. The effect of this is that the uncommenced provisions of the Act, which were in effect very similar to the provisions in this bill prohibiting keeping hens in cage systems, will not come into force. These uncommenced provisions were to commence 6 years after an amendment of the *Mutual Recognition Act 1992* (Cwlth) that has still not been made.

Clause 10 - Legislation Amended – pt 3

This clause is a formal provision to identify that part 3 of the Bill amends the *Eggs (Labelling and Sale) Act 2001*.

Clause 11 - Cage eggs retail display (before the ban on cage egg production takes effect)

This clause replaces section 7 in the *Eggs (Labelling and Sale) Act 2001* to make it an offence to display cage eggs for retail sale except under certain circumstances. The penalty for breaching this section is a maximum fine of 50 penalty units.

Subsections 7(2) and 7(3) set out the requirements for display that will apply from 1 January 2010. Retailers will have to display any cage eggs separate from other eggs. There must be a red border marking the boundaries of the display to clearly demarcate it from shelves containing other eggs. There must be a clear sign with the eggs using the wording specified. The font size required will make the signs approximately the same size as signs displayed near alcohol, indicating that intoxicated consumers will not be sold alcohol. The wording is

intended to inform consumers of which eggs are cage eggs, that cage egg systems are being made illegal in the ACT, and of the minimum cage size requirements under the *Model Code of Practice for the Welfare of Animals: Domestic Poultry*.

Clause 12 - Cage eggs retail display (after the ban on cage egg production takes effect)

This clause replaces section 7 in the *Eggs (Labelling and Sale) Act 2001* from 1 January 2011, the date from which cage egg systems would be banned in the ACT under this bill. The display requirements remain the same, except the sign wording changes to reflect the fact that the ban is in place, but that eggs produced in a cage system can still be imported into the ACT from interstate and sold.

Clause 13 – Conditions under which hens are kept - Schedule 1, item 1, column 2

This clause amends the *Eggs (Labelling and Sale) Act 2001* so that eggs from the ACT must be labeled with the words ‘Cage Eggs’ instead of the words ‘Battery Cage Eggs’. This change is intended to remedy a compliance problem. Eggs sold in the ACT are not being labeled ‘Battery Cage Eggs’. It appears that this is happening because cage eggs sold in the ACT come from interstate, mostly NSW. Under the Commonwealth *Mutual Recognition Act 1992* eggs imported from interstate do not need to meet the ACT’s labelling requirements. If ACT’s egg producer is exporting its eggs to NSW, and then re-importing them in order to get around our labelling requirements, it would be preferable to only require that the eggs are labeled ‘cage eggs’. This is an adequate and accurate description.

Clause 14 – Dictionary, new definitions

This clause inserts new definitions of *cage* and a related definition of *cage egg*. The definition of *cage* is a signpost definition directing the reader to the definition in schedule 1.