

Animal Welfare and Trespass Legislation: Changes to the Animal Welfare Act – FAQs

The Western Australian Parliament recently passed the *Animal Welfare and Trespass Legislation Amendment Act 2023* (Amending Act). The amendments aim to deter trespass on places used for animal source food production and slaughter, while protecting the welfare of animals through increased inspection powers at certain places.

The Amending Act makes changes to *The Criminal Code*, *Restraining Orders Act 1997* and the *Animal Welfare Act 2002* (AW Act) to achieve these aims. This FAQ document focuses on the changes to the AW Act.

The Amending Act enables the Department of Primary Industries and Regional Development (DPIRD) to implement a proactive modern compliance and inspection regime by giving appointed designated inspectors increased powers of entry under the AW Act. Designated inspectors will be able to enter abattoirs, knackeries and places they believe on reasonable grounds to be intensive production places to monitor compliance with the AW Act, court orders and directions. These new powers can be used in addition to existing powers of entry under the AW Act.

The vast majority of livestock owners provide appropriate care for their animals and the changes to the AW Act, which focus on high-risk facilities, should not cause concern.

Why was the AW Act amended?

The AW Act was amended in response to incidents in 2019 in which individuals trespassed on agricultural land for the purpose of drawing public attention to animal husbandry practices they oppose.

Trespass onto farming properties and other places housing live animals poses a risk to the animals and properties. It also causes undue distress to farmers, farm workers and their families.

Consultation on the Amending Act showed that many in the community believed that the trespassing of these activists was the only way for animal welfare issues to be exposed. The new powers should give the community confidence that DPIRD inspectors are monitoring compliance with animal welfare legislation at high-risk facilities.

How will changes to the AW Act affect livestock owners?

A strong and transparent animal welfare system protects the livestock industry and the livelihoods that depend upon it. Most livestock owners will not be directly impacted by the changes to the legislation.

The amendments to the AW Act focus on abattoirs, knackeries and intensive production places where the animals involved in the production do not have an opportunity to graze or forage outside in the ordinary course of production. They do not apply to farms where animals can graze outside or to residential places.

What types of places are an intensive production place?

Intensive production places are non-residential places used for animal source food production during which, in the ordinary course of production, animals do not have an opportunity to graze or forage outside.

The types of places that will be captured include intensive piggeries, feedlots, and intensive poultry farms (chicken and egg), but only where the animals in those places do not have an opportunity to graze or forage outside in the ordinary course of production.

Why focus on intensive production places, abattoirs and knackeries?

DPIRD views places where large numbers of animals are slaughtered or housed for the purpose of intensive production activities as presenting a heightened risk to animal welfare.

Most of the activities occurring at abattoirs, knackeries and intensive production places occur behind closed doors since animals kept at these places are prevented from grazing or foraging outside. This makes it harder for inspectors to monitor activities at these places, without first obtaining consent from the owner to enter.

DPIRD's new 'designated inspectors' can enter an abattoir, a knackery, or a place that they reasonably believe to be an intensive production place, at any time. **The operation of a modern and effective compliance monitoring regime requires that designated inspectors can proactively inspect such places.**

What does it mean to 'believe, on reasonable grounds' that a place is an intensive production place?

This means that a designated inspector has observed circumstances or otherwise received information that reasonably leads the inspector to believe a place is an intensive production place. An inspector is not required to provide the owner or occupier with an explanation of the circumstances or evidence giving rise to the inspector's belief before entering the place.

What are designated inspectors?

The amendments allow the Chief Executive Officer of DPIRD to appoint DPIRD staff who are already general inspectors under the AW Act as 'designated inspectors'. **Designated inspectors have received extensive training in investigations as well as specialised training in respect of livestock. They are professionals who act in accordance with DPIRD's processes and procedures, including its biosecurity protocols.**

Designated inspectors have the power to proactively inspect abattoirs, knackeries and places they believe on reasonable grounds to be intensive production places—such as intensive poultry farms and piggeries—to monitor their compliance with the AW Act. Designated inspectors can enter these places to monitor compliance with:

- Part 3 of the AW Act;
- directions previously given by inspectors under the AW Act; and
- court orders made under the AW Act.

When using or proposing to use this power to enter a place, designated inspectors will produce their identification card.

The AW Act requires all inspectors (including designated inspectors), when performing a function under the AW Act, to:

- take reasonable precautions to avoid the spread of disease;
- cause as little damage as is reasonably practicable to property; and
- cause as little disruption as is reasonably practicable to any business or activity that is being carried on in accordance with the AW Act.

Designated inspectors are not required to give notice of their intention to enter a place in advance of attendance.

Do designated inspectors need to provide notice to an owner or occupier prior to entering a property?

No. There will be times when designated officers will attend an abattoir, knackery, or intensive production place without prior notification.

Can I refuse entry to a designated inspector?

No. Designated inspectors have been given powers to enter abattoirs, knackeries, and any place they believe on reasonable grounds to be an intensive production place. A person who refuses access may be prosecuted for obstructing an inspector.

Under section 77 of the AW Act, a person must not hinder, obstruct, abuse or threaten an inspector exercising a power under the Act. This offence carries a maximum penalty of \$20,000 and imprisonment for one year.

It is also an offence under section 172 of *The Criminal Code* (Code) to obstruct a public officer in the performance of the officer's functions. A designated inspector is a public officer under paragraph (ad) of the definition in the Code. A person convicted of this offence is guilty of a crime and liable to three years' imprisonment. If convicted summarily, the maximum penalty is 18 months' imprisonment and an \$18,000 fine.

Will DPIRD's designated inspectors receive biosecurity training?

Yes. DPIRD ensures that all inspectors are appropriately skilled, trained and supported to carry out their functions under the AW Act. DPIRD inspectors will be completing additional training to enable them to carry out their functions as designated inspectors. When suitably trained and appointed, designated inspectors will begin carrying out a risk-based, proactive inspection regime.

Designated inspectors will be required to act in accordance with DPIRD's regulatory compliance approach and DPIRD's biosecurity protocols.

How do I make a complaint about a designated inspector?

DPIRD expects the highest standards of its staff, but should you wish to raise concerns or a complaint about how a staff member has acted, please use the customer complaint and feedback form.

Where to go for more information

Visit: <https://www.agric.wa.gov.au/animalwelfare>

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