

August 21, 2023

Ministry of the Solicitor General  
George Drew Building  
25 Grosvenor Street, 9th Floor.  
Toronto, ON M7A 1Y6

Submitted online through Ontario's Regulatory Registry website

To Whom It May Concern:

**Re: 23-SOLGEN014: Proposed Regulations Related to Service, Appeal and Animal Forfeiture Time Periods and Contact Information under the *Provincial Animal Welfare Services Act, 2019***

The Ontario Federation of Agriculture (OFA) thanks you for the opportunity to participate in the consultation process for the proposed regulations under the *Provincial Animal Welfare Services (PAWS) Act, 2019*. Our topline feedback is summarized below:

- **Additional Methods of Service and When Service Is Effective:** OFA has concerns with certain listed methods of service; Service by regular mail may cause delayed delivery of important documents in rural Ontario. Alternative methods of delivery should be prioritized. If using regular mail, then registered or tracking mail should be utilized. Farm businesses should be exempt from documents being served to those managing a location. Service of documents to household members should be limited to those verified to be 18 years or older.
- **Additional Time to Initiate an Appeal of an Order, a Removal, a Decision to Keep an Animal in Care, or a Statement of Account and Changes to Corresponding Time Period for Animal Forfeitures:** OFA strongly supports extending the appeal time from five to ten business days, and extending the time period for forfeiture of an animal from ten to fifteen business days. OFA recommends owners/custodians of these animals be informed of timelines when documents are being served.
- **Contact Information to be Collected When Animal Ownership or Ongoing Custodianship Changes While the Animal is the Subject of an Order:** OFA believes an exemption from this requirement should exist for commercial livestock owners, as it is an unrealistic due to the normal production cycle of commercial livestock.
- **Additional Considerations:** OFA has additional recommendations to ensure that the PAWS Act and its regulations are appropriate aligned with livestock agriculture practices and appropriate welfare standards, and functioning as intended.

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OFA is the largest general farm organization in Ontario, proudly representing more than 38,000 farm family members. OFA has a strong voice for our members and the agri-food industry on issues, legislation and regulations administered by all levels of government. We are passionate and dedicated to ensuring that the agri-food sector and rural communities are considered and consulted with for any new or changing legislation that would impact the sustainability and growth of our farm businesses.

Ontario's agri-food sector is an economic powerhouse – producing more than 200 farm and food products, fuelling rural communities, generating nearly 750,000 jobs, and contributing over \$47 billion to Ontario's annual GDP. The province's agri-food strategy, Grow Ontario, aims to strengthen the agri-food sector, support economic growth, and ensure an efficient, reliable and responsible food supply. By removing barriers, unnecessary costs and red tape, Ontario farmers will be positioned to seize opportunities and rise to the challenge of an ambitious growth strategy, allowing the agri-food sector to drive the economy forward. Ontario's agri-food sector is an economic powerhouse – producing more than 200 farm and food products, fuelling rural communities, generating nearly 750,000 jobs, and contributing over \$47 billion to Ontario's annual GDP. The province's agri-food strategy, Grow Ontario, aims to strengthen the agri-food sector, support economic growth, and ensure an efficient, reliable and responsible food supply. By removing barriers, unnecessary costs and red tape, Ontario farmers will be positioned to seize opportunities and rise to the challenge of an ambitious growth strategy, allowing the agri-food sector to drive the economy forward.

OFA firmly believes in and advocates for the humane treatment of all animals, including farmed livestock and poultry. Ontario farmers uphold high standards of care for their animals in alignment with accepted codes of practice and normal farming activities. Ontario's farmers and farm organizations are concerned about the health, safety, welfare, and comfort of the animals under their care.

OFA previously provided comments on Schedule 6: *Provincial Animal Welfare Services Act, 2019* of Bill 102, Strengthening Safety and Modernizing Justice Act, 2023. The Act, which received Royal Assent on June 8<sup>th</sup>, 2023, makes key legislative amendments related to cost recovery for Animal Welfare Services (AWS), clarifying Animal Care Review Board (ACRB) processes, and enhancing and clarifying AWS inspector authorities. OFA is pleased to provide our agricultural perspective on 23-SOLGEN014: Proposed Regulations Related to Service, Appeal and Animal Forfeiture Time Periods and Contact Information under the *Provincial Animal Welfare Services Act, 2019* (PAWS Act).

### **Additional Methods of Service and When Service Is Effective**

OFA mostly supports adding additional methods of service of specific documents to owners or custodians of animals to improve receipt of service, efficiency, and effectiveness. These documents include statements of account, orders to relieve animal distress, notices of animal removal, notices of decisions to keep an animal in care, and notices of euthanasia.

However, OFA has several concerns with the listed methods of service:

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*Service by regular mail.*

OFA is concerned with the service of documents by regular mail to rural regions of Ontario. Many rural residents must travel to community mailboxes to collect mail and may not visit their mailboxes daily, or as frequently as urban residents. This would delay the service of important AWS documents, and cause issues with compliance with other timelines, such as appeal deadlines. OFA believes alternative methods of service should be prioritized before regular mail, to ensure timeliness and receipt of delivery. If regular mail is used to serve documents, OFA recommends using registered or trackable mail to ensure delivery and receipt of the documents.

*Service of a document on a corporation by leaving a copy with an officer, director, or similar person, or with a person at any place of business of the corporation who appears to be managing the location.*

Many farm businesses are incorporated; this additional method of document service could lead to a farm manager or employee of the farm being served, rather than the person who is responsible for the care of the animals. OFA requests that farm businesses be exempt from this method of service, to ensure the documents are delivered to the person who has care and control of the animal.

*Where personal service cannot be made, service of a document to another household member by leaving a copy with a person who appears to be at least 18 years of age and a member of the same household.*

OFA recommends that the age of majority (18 years old) apply to serving another member of the household when personal service cannot be made.

**Additional Time to Initiate an Appeal of an Order, a Removal, a Decision to Keep an Animal in Care, or a Statement of Account and Changes to Corresponding Time Period for Animal Forfeitures**

OFA strongly supports extending the current time to appeal orders, decisions to remove, keeping of animals in the Chief Animal Welfare Inspector's care, and Statements of Account. Extending the timeline beyond five business days will help alleviate the restrictiveness of such a short window of time to appeal and allow the needed time for animal owners or custodians to make informed decisions. OFA also supports extending the time period for the forfeiture of an animal to the Chief Animal Welfare Inspector in the event of a non-payment of a Statement of Account from ten to fifteen business days. OFA recommends that owners and custodians be informed of timelines when being served these documents, to ensure that they understand the options, such as appeals, available to them at the time, and have adequate time for next steps.

**Contact Information to be Collected When Animal Ownership or Ongoing Custodianship Changes While the Animal is the Subject of an Order**

OFA believes an exemption for commercial livestock owners should exist for when a change of ownership occurs while the animal is the subject of an order. The reality of certain commercial livestock species is the animals can have multiple owners over the course of the animal's normal production cycle. Additionally, the primary sales method is through public auction for certain

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commercial livestock species. Often, agents purchase livestock at public auctions on behalf of buyers, which would make ascertaining the contact information of the new owners unrealistic.

Under the federal *Health of Animals Regulations*, livestock that are removed and deemed fit for transport will then be subjected to inspection at the point of sale. This renders the requirement to track animals impractical, as those animals will be subject to other enforcement and inspection requirements and would be under the care and control of an individual who was not involved with the earlier compliance issues.

### **Additional Considerations**

OFA would like to take the opportunity to reinforce our previous comments that the targeted amendments made under the *Strengthening Safety and Modernizing Justice Act, 2023* do not go far enough to enhance animal protection in Ontario. Together with 11 livestock and general farm organizations, OFA has requested discussions with the Ministry of the Solicitor General to ensure the PAWS Act and its regulations are appropriately aligned with livestock agriculture practices and appropriate welfare standards.

#### *Costs*

OFA believes that costs under the current PAWS Act are uncontrolled and highly subjective. OFA believes that the costs able to be recouped by AWS need to be warranted, reasonable and justifiable, linked into an actual cost of production model related to the animal(s) in question, and should not exceed the market value of the animals in care. OFA recommends service rates or cost schedules, comparable to industry standards, should be defined as related to removal, transportation, housing, and veterinary services and care.

The ACRB may confirm, vary or revoke Statements of Account, based on prescribed factors. OFA believes that the prescribed factors to be considered by the ACRB during the assessment of Statements of Account need to ensure that the costs in the specified circumstances were indeed warranted, reasonable, and justified, and allow for a clear and transparent process to confirm, vary, or revoke Statements of Account. OFA would not support changes that would limit the ACRB's authority to determine whether Statements of Account were warranted, reasonable and justified; The ACRB needs to retain the ability to assess, confirm, vary, and revoke Statements of Account if costs were applied unreasonably or unjustifiably by AWS, but with additional guidance to ensure decision consistency. Additionally, OFA requests clarity on whether the ACRB has the ability to increase the costs on Statements of Account.

#### *Removal*

OFA believes that the removal or seizure of animals should be necessary, reasonable, and justifiable, to ensure that no unnecessary burden of cost is incurred by AWS or the owner or caregiver of the animals. Previous enforcement actions by AWS seem to be based on section 15(1)(3), which states that "*no person shall knowingly or recklessly cause an animal to be exposed to an undue risk of distress*". However, "*undue risk of distress*" is not defined in the Act. The subjective definition and its use raises questions about the required grounds for AWS enforcement actions, particularly regarding AWS orders. OFA believes the phrase "*undue risk of distress*" requires a definition in the Act if it continues to be used as a rationale for orders or

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seizures, and how AWS determines that “*undue risk of distress*” warrants the removal of animals needs to be clarified.

Section 31 of the Act outlines the provisions for taking possession of an animal in distress. 31(1)(b) of the Act states that “*an animal welfare inspector may remove an animal from the place where it is and take possession of the animal for the purpose of providing it with necessaries to relieve its distress, if...*”. This section suggests that taking possession of an animal is only warranted where the animal is in actual distress; *Distress* is defined in the Act as:

“... *the state of being,*

(a) *in need of proper care, water, food or shelter,*

(b) *injured, sick, in pain or suffering, or*

(c) *abused or subject to undue physical or psychological hardship, privation or neglect;”.*

However, section 31(1)(c) allows for the removal of an animal when “*an order respecting the animal has been made under section 30 and the order has not been complied with*”. OFA questions taking animals into the possession of AWS when they are not deemed to be in distress. We believe other actions and compliance approaches should be prioritized in lieu of animal removal in the event of non-compliance with orders by animal owners or custodians unless the animal is indeed in distress. Utilizing alternatives, such as monetary penalties, would reduce the burden and costs associated with animal removal and housing of animals for extended periods of time under Subsection 31(1)(c).

#### *Definitions: Commercial Animals or Livestock*

OFA believes it is important to differentiate between commercial animals (livestock) used for agriculture from other types of animals such as domestic pets and wildlife in the legislation or corresponding regulations. Delineating animals in this manner would allow for tailored decision-making, policies, and procedures specific to commercial animals, such as standards of care, in the event of distress, disposal methods in the event of seizure, and costs associated with care.

#### *Standard Operating Procedures*

OFA believes taking possession of an animal should only be necessary where it is in actual distress, or when other compliance approaches have been unsuccessful. The movement of livestock between farms and locations poses a significant risk to biosecurity, with the real potential to introduce diseases and pests onto farms, and into herds and flocks. When warranted, the seizure and removal of livestock need to be done in accordance with existing federal and provincial legislation, regulations, policies, and industry standards of practice. Livestock require specialized handling and transport compared to domestic animals. Individuals contracted to remove/seize livestock must be specifically trained and sufficiently experienced to ensure the health, safety, and welfare of the animals are not further compromised, and risk to animal handlers is minimized. Equipment to handle and transport the animals is equally as crucial to ensure minimal stress and promote animal welfare.

In the event of livestock seizure, ensuring suitable alternative sites to house seized livestock is imperative to make certain animal distress is alleviated. Sites to house livestock must be suitable and compatible with the seized species and should be already equipped with the necessities

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required to house the animals in a good state of welfare. For example, pens, fencing, etc. need to be suitable for the seized species and already exist at the alternative site prior to animals being transported there. Individuals providing care to the seized animals must also be trained in normal farm practices and must be familiar with the requirements needed to care for the species being housed. In the absence of appropriate housing, care, and handling, the health and welfare of livestock may be further compromised.

Livestock farming is a commercial endeavour. Farm animals have very different disposal methods that are not available to domestic animals, such as commodity markets. Owners or custodians of the seized livestock must be provided with a voluntary option to dispose of animals through traditional means, such as a sales yard or an auction barn, instead of removing animals when warranted.

#### *Costs and Statement of Account*

Interventions by AWS must be adapted to reduce costs to both AWS and owners or custodians to reduce potential exorbitant costs associated with relieving distress in livestock, such as removal, transportation, and housing, and in the event of an appeals process. Current costs that are recoverable via Statements of Account are subjective, inconsistent, and arbitrary. Assuming they are justified, OFA believes that costs included in Statements of Account must be reasonable, consistent, and in line with industry standards. OFA suggests rates for costs that are recoverable via Statements of Accounts be included in regulation under the PAWS Act.

Furthermore, OFA believes that the value of any seized, marketable livestock should be assessed immediately. Statements of Account should not exceed the maximum market value of the assessed livestock. A threshold must exist; if Statements of Accounts approach the maximum value of assessed livestock, alternative options must be presented to the animal owner or custodian such as selling animals in appropriate markets. This would ensure the ability to recoup costs by AWS, and that an insurmountable financial burden is not borne by the animal owner in the event of a lengthy appeals process.

The ACRB can order the return of an animal to its owner. However, the time span from livestock seizure or removal through to an order to return can be lengthy and can potentially be longer than the planned remaining lifespan of the animal. OFA recommends that the ACRB be granted the power to reimburse a farmer for their losses upon successful appeal of seizure or destruction, based on a provided compensation schedule.

#### *Mental Health Training and Resources*

Previously, significant animal care cases involving commercial livestock have indicated a strong correlation between animal distress and mental health and/or financial stressors of the owners or custodians. As public servants, AWS must be trained in utilizing the full range of community agencies, services, and social resources to assist in animal protection investigations and enforcement. Mental health training and resources would help AWS respond to situations more appropriately and ensure that individuals experiencing mental health challenges or financial stress get needed aid when needed.



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OFA understands that the capacity to provide mental health support to livestock farmers can be limited. The Farmer Wellness Initiative provides access to free counselling services and tailored mental health support and resources to all Ontario farmers and their families.

#### *Data Collection and Sharing*

Data collection and sharing are critical to maintaining and improving the state of animal care in Ontario. To further strengthen public trust in the system and improve transparency, OFA requests more data collection and reporting on all animal welfare cases, including those involving livestock.

At a minimum, reports should include:

- Number of complaints (including those deemed nuisance complaints),
- Designation of complaints (commercial, domestic, wildlife) and species involved,
- Number of investigations resulting from complaints,
- Orders, and
- Outcomes of animal protection inquiries (including seizures, removals, costs, etc.).

This basic information and statistics should be made available to the public on an ongoing basis.

#### *Training of Inspectors*

OFA believes that training of AWS needs to be enhanced regarding livestock standards, practices, handling, and care. A better understanding of normal farm practices and standards of care is necessary for inspectors to properly assess the conditions and care of farm animals, and for the process thereafter. Inspectors need to be trained in biosecurity practices and protocols, to minimize the risk of spreading disease when entering farms.

OFA believes that Ontario's system of welfare enforcement should be fair, reasonable, and recognize adopted standards of care for the handling and care of livestock in Ontario. We appreciate this opportunity to present our perspectives on 23-SOLGEN014: Proposed Regulations Related to Service, Appeal and Animal Forfeiture Time Periods and Contact Information under the *Provincial Animal Welfare Services Act, 2019* (PAWS Act). OFA would like to reiterate our request for a formal review of the PAWS Act and the underlying system of enforcement and would appreciate the opportunity to engage further on the issues we have outlined in our previous submissions.

Sincerely,



Peggy Brekveld  
President

cc: OFA Board of Directors