



Australian Capital Territory

Domestic Animals Amendment Act 2002

Act 2002 No 44

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Australian Capital Territory

Domestic Animals Amendment Act 2002

Act 2002 No 44

An Act to amend the *Domestic Animals Act 2000*, and for related purposes

*Notified under the Legislation Act 2001 on 2 December 2002
(see www.legislation.act.gov.au)*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Domestic Animals Amendment Act 2002*.

2 Commencement

This Act commences on the day after its notification day.

Part 2 Domestic Animals Act 2000

3 Act amended—pt 2

This part amends the *Domestic Animals Act 2000*.

4 Registration tag offences Section 15 (1)

substitute

- (1) The keeper of a dog or carer of a dog must not, without reasonable excuse—
- (a) be on private premises (other than the keeper's address) with the dog, unless the dog is wearing its registration tag; or
 - (b) be in a public place with the dog, unless the dog is wearing its registration tag.

Maximum penalty: 3 penalty units.

- (1A) The keeper of a dog commits an offence if—
- (a) the dog is in a public place or on private premises (other than the keeper's address); and
 - (b) the dog is not with a carer; and
 - (c) the dog is not wearing its registration tag.

Maximum penalty: 3 penalty units.

5 Section 15

renumber the subsections when Act next republished under the Legislation Act 2001

**6 Dangerous dogs licences—approval or refusal
New section 25 (2A)**

insert

- (2A) However, if the application is made after the dog was seized under division 2.7 (Seizing dogs and dealing with them) and the dog is declared to be a dangerous dog after it was seized, the registrar may approve the application only if section 62 (3), 63 (3) or 64 (3) applies to the offence for which the dog was seized.

7 Section 25

renumber the subsections when Act next republished under the Legislation Act 2001

**8 Dogs on private premises to be restrained
New section 45 (4A)**

insert

- (4A) The keeper of a dog commits an offence if the dog is on private premises and is not with a carer, unless the keeper has the consent of the occupier of the premises.

Maximum penalty: 5 penalty units.

9 Section 45 (5) and (6)

omit

(1) or (3)

substitute

(1), (3) or (4A)

10 Section 45

renumber the subsections when Act next republished under the Legislation Act 2001

**11 Offences of attacking or harassing
Section 50 (1)**

omit

attack

substitute

attack or harass

12 Section 50 (2)

omit

harasses

substitute

attacks or harasses

13 Section 50 (3) (b)

omit

attacked

substitute

attacked or harassed

14 Sections 62, 63 and 64

substitute

62 Releasing dogs seized under general power

- (1) This section applies to a dog seized under section 56 (Seizure—generally) unless the dog is declared to be a dangerous dog after it was seized.

Note Section 65 (Releasing dogs declared dangerous after seizure for offence) deals with the release of a dog declared to be dangerous after it is seized.

- (2) The registrar must release the dog to a person claiming its release only if—
- (a) the registrar is satisfied the person is the dog's keeper; and
 - (b) the dog is registered; and
 - (c) if the dog was seized under section 56 (a), (b) or (c) because of an offence against this Act—subsection (3) applies to the offence; and
 - (d) the keeper of the dog has not relinquished ownership under section 69 (Relinquishing ownership of dogs); and
 - (e) any fee payable under section 144 (Determination of fees) for the release of the dog has been paid.
- (3) This subsection applies to an offence if—
- (a) 28 days have elapsed since the day the offence was committed and—
 - (i) a prosecution has not been begun for the offence; and
 - (ii) an infringement notice has not been served for the offence; or
 - (b) an infringement notice has been served for the offence and the infringement notice penalty has been paid or the notice withdrawn; or
 - (c) a prosecution for the offence was begun within 28 days after the day the offence was committed and—
 - (i) the prosecution is discontinued; or
 - (ii) the keeper is convicted or found guilty of the offence but is not disqualified from keeping the dog, any dog, a dog of that kind or any animal.

63 Releasing dogs seized under power relating to dangerous dogs or multiple dogs

- (1) This section applies to—
- (a) a dog seized under section 57 (Seizure—dangerous dogs); or
 - (b) a dog seized under section 58 (Seizure—contravention of multiple dog licence) unless the dog is declared to be a dangerous dog after it was seized.

Note Section 65 (Releasing dogs declared dangerous after seizure for offence) deals with the release of a dog declared to be dangerous after it is seized.

- (2) The registrar must release the dog to a person claiming its release only if—
- (a) the registrar is satisfied the person is the dog's keeper; and
 - (b) the dog is registered; and
 - (c) if the dog was seized under section 57 (b) or (c)—a dangerous dogs licence is in force for the dog; and
 - (d) if the dog was seized under section 58—the keeper has any multiple dog licence needed to keep the dog; and
 - (e) if the dog was seized because of an offence against this Act—subsection (3) applies to the offence; and
 - (f) the keeper of the dog has not relinquished ownership under section 69 (Relinquishing ownership of dogs); and
 - (g) any fee payable under section 144 (Determination of fees) for the release of the dog has been paid.

Note As a condition of the issue of a dangerous dogs licence, the registrar can require the keeper of the dog and the dog complete an approved course in behavioural or socialisation training for the dog.

- (3) This subsection applies to an offence if—
- (a) 28 days have elapsed since the day the offence was committed and—

- (i) a prosecution has not been begun for the offence; and
 - (ii) an infringement notice has not been served for the offence; or
- (b) an infringement notice has been served for the offence and the infringement notice penalty has been paid or withdrawn; or
- (c) a prosecution for the offence was begun within 28 days after the day the offence was committed and—
- (i) the prosecution is discontinued; or
 - (ii) the keeper is convicted or found guilty of the offence but is not disqualified from keeping the dog, any dog, a dog of that kind or any animal.

64 Release of dogs seized under attacking and harassing power

- (1) This section applies to a dog seized under section 59 (Seizure—attacking and harassing dogs) unless the dog is declared to be a dangerous dog after it was seized.

Note Section 65 (Releasing dogs declared dangerous after seizure for offence) deals with the release of a dog declared to be dangerous after it is seized.

- (2) The registrar must release the dog to a person claiming its release only if—
- (a) the registrar is satisfied the person is the dog's keeper; and
 - (b) the dog is registered; and
 - (c) the court has not ordered the destruction of the dog under section 50 (4) (Offences of attacking or harassing); and
 - (d) if the dog was seized under section 59 because of an offence against this Act—subsection (3) applies to the offence; and
 - (e) the keeper of the dog has not relinquished ownership under section 69 (Relinquishing ownership of dogs); and

- (f) any fee payable under section 144 (Determination of fees) for the release of the dog has been paid.
- (3) This subsection applies to an offence if—
- (a) 28 days have elapsed since the day the offence was committed and—
- (i) a prosecution has not been begun for the offence; and
 - (ii) an infringement notice has not been served for the offence; or
- (b) an infringement notice has been served for the offence and the infringement notice penalty has been paid or withdrawn; or
- (c) a prosecution for the offence was begun within 28 days after the day the offence was committed and—
- (i) the prosecution is discontinued; or
 - (ii) the keeper is convicted or found guilty of the offence but is not disqualified from keeping the dog, any dog, a dog of that kind or any animal.

15 Relinquishing ownership of dogs
New section 69 (1A)

insert before subsection (1)

- (1A) This section applies to a dog seized under this division.

16 Section 69

renumber the subsections when Act next republished under the Legislation Act 2001

17 Issue of nuisance notices
Section 112 (1) (a) and (b)

substitute

- (a) the keeper of the animal believed to be causing the nuisance; or

- (b) if the keeper cannot be identified or is not the occupier of the premises—a person who occupies the place where the nuisance exists, or from which it emanates.

18 Seizure, impounding and return of animals Section 114 (1)

omit

the registrar

substitute

an authorised officer

19 Section 114 (2)

substitute

- (2) For subsection (1), the authorised officer may only enter premises under section 114A.

20 New sections 114A and 114B

insert

114A Entry to premises for nuisance animal

- (1) This section applies if a proceeding is begun for an offence under section 110 (1) (Offence of animal nuisance).
- (2) An authorised officer may enter premises where the animal nuisance exists without a warrant at any reasonable time, or if the occupier consents to the entry.
- (3) An authorised officer may enter premises under subsection (2) with necessary and reasonable assistance and force.
- (4) An authorised officer may, without the occupier's consent, enter the premises where the animal nuisance exists to ask for consent to enter the premises.

- (5) A police officer may help an authorised officer in exercising the authorised officer's powers under this section if asked by the authorised officer to do so.

Note Consent to entry to premises for the Act is dealt with by s 132.

114B Powers on entry

An authorised officer who enters premises under section 114A (2) may seize the animal causing the animal nuisance.

Note The power of entry is not to be exercised unless the authorised officer first shows the officer's identity card (see s 125).

21 Consent to entry Section 132

substitute

132 Consent to entry

- (1) This section applies if an authorised officer intends to ask the occupier of premises to consent to the authorised officer entering the premises under section 114A (2) (Entry to premises for nuisance animal) or section 128 (1) (Entry of premises—routine inspections).
- (2) Before asking for the consent, the authorised officer must tell the occupier—
 - (a) the reason for the entry; and
 - (b) that the occupier is not required to consent.
- (3) If the consent is given, the authorised officer may ask the occupier to sign a written acknowledgment of the consent.
- (4) The acknowledgment must state—
 - (a) that the occupier was told—
 - (i) the reason for the entry; and
 - (ii) the occupier is not required to consent; and

- (b) that the occupier gives the authorised officer consent to enter the premises and exercise powers under section 114A (2) or 128 (1); and
 - (c) the time and date the consent was given.
- (5) A court may presume the occupier did not consent if—
- (a) a question arises, in a proceeding in the court, whether the occupier consented to the authorised officer entering the premises under section 114A (2) or 128 (1); and
 - (b) an acknowledgment under this section for the entry is not produced in evidence; and
 - (c) it is not proved that the occupier consented to the entry.

Part 3 Domestic Animals Regulations 2001

22 Regulations amended—pt 3

This part amends the *Domestic Animals Regulations 2001*.

23 Regulation 4

substitute

4 Identifying particulars—s 83

- (1) A cat is to be identified by—
 - (a) a microchip implanted beneath the cat's skin containing a number by which the name and address of the cat's owner can be worked out; or
 - (b) a tag on the cat's collar.
- (2) A dog is to be identified by a registration tag.
- (3) The particulars making up the identification of a cat are—
 - (a) the name and address of the cat's keeper or carer; or
 - (b) a contact telephone number for the cat's keeper or carer.
- (4) The particular making up the identification of a dog is its registration number.

Endnotes

Republications of amended laws

- 1 For the latest republication of amended laws, see www.legislation.act.gov.au.

Penalty units

- 2 The *Legislation Act 2001*, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

[Presentation speech made in Assembly on 26 September 2002]

I certify that the above is a true copy of the Domestic Animal Amendment Bill 2002 which was passed by the Legislative Assembly on 14 November 2002.

Clerk of the Legislative Assembly

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