



Australian Capital Territory

Domestic Animals (Breeding) Legislation Amendment Act 2015

A2015-9

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Australian Capital Territory

Domestic Animals (Breeding) Legislation Amendment Act 2015

A2015-9

An Act to amend legislation about domestic animals, and for other purposes

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

Part 1 Preliminary

1 Name of Act

This Act is the *Domestic Animals (Breeding) Legislation Amendment Act 2015*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see [Legislation Act](#), s 79).

3 Legislation amended

This Act amends the following legislation:

- [Animal Welfare Act 1992](#)
- [Domestic Animals Act 2000](#)
- [Domestic Animals Regulation 2001](#).

Part 2 Animal Welfare Act 1992

4 New section 4A

insert

4A Objects of Act

The objects of this Act are to—

- (a) promote and protect the welfare, safety and health of animals; and
- (b) ensure the proper and humane care and management of animals; and
- (c) reflect the community's expectation that people who keep or care for animals will ensure that they are properly treated.

5 New section 15B

insert

15B Intensive breeding of cats or dogs

- (1) For this section, the Minister may determine a standard for the breeding of cats or dogs (a *breeding standard*).
- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (3) A breeding standard may provide for any matter that the Minister reasonably considers is appropriate to protect the welfare, safety or health of fertile cats and dogs in relation to breeding.

Examples

- 1 the minimum age for a dog before first mating
- 2 the age at which, or number of litters after which, a dog must be retired from breeding

3 the maximum number of litters a cat may have in a 12-month period, or in her lifetime

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (4) A person commits an offence if the person—
- (a) is in charge of a female cat or dog; and
 - (b) allows the cat or dog to breed; and
 - (c) is reckless as to whether the breeding contravenes a breeding standard.

Maximum penalty: 50 penalty units.

- (5) A person commits an offence if the person—
- (a) is in charge of a female cat or dog; and
 - (b) allows the cat or dog to breed in a way that contravenes a breeding standard; and
 - (c) does so with the intention of making a profit or commercial gain.

Maximum penalty: 100 penalty units.

- (6) Subsections (4) and (5) do not apply if the person allows the cat or dog to breed in accordance with the written approval of a veterinary surgeon.

6 Contents
Section 21, new paragraph (ea)

insert

- (ea) the breeding and selling of cats or dogs with heritable defects;

Part 3 Domestic Animals Act 2000

7 Offences against Act—application of Criminal Code etc Section 4A, note 1

insert

- s 72 (Breeding dogs and cats—requirement to be licensed)
- s 72I (Breeding licensee—change of address)
- s 72K (Breeding—advertising requirements)
- s 72L (Breeding—surrender of licence)

8 Multiple dog licences—approval or refusal Section 20 (2) (c)

after

approved

insert

or mandatory

9 Seizure of dogs—general New section 56 (ea)

insert

(ea) the court has ordered the dog be destroyed under section 50A (4) (Dangerous dog attacks or harasses person or animal); or

**10 Releasing dogs seized under attacking and harassing power
Section 64 (2) (c)**

substitute

- (c) the court has not ordered the dog be destroyed under—
- (i) section 50 (5) (Dog attacks person or animal causing serious injury); or
 - (ii) section 50A (4) (Dangerous dog attacks or harasses person or animal); and

11 New division 3.1 and division 3.2 heading

insert

Division 3.1 Controlling breeding

72 Offence—breeding dog or cats without licence

- (1) A person commits an offence if the person—
- (a) is a keeper or carer of a female dog or cat; and
 - (b) breeds a litter from the dog or cat for profit or commercial gain; and
 - (c) does not hold a breeding licence.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

72A Breeding licence—applications

A person may apply to the registrar for a licence to breed a dog or cat (a *breeding licence*).

Note If a form is approved under s 147 for this provision, the form must be used.

72B Breeding licence—approval or refusal

- (1) If an application for a breeding licence is made under section 72A, the registrar must—
 - (a) issue the licence; or
 - (b) refuse to issue the licence.
- (2) The registrar must refuse to issue a breeding licence unless satisfied that the applicant can comply with the requirements of the *Animal Welfare Act 1992* and any approved or mandatory code of practice under that Act.
- (3) In making a decision under this section, the registrar must consider the following:
 - (a) the number and kind of animals kept by the applicant at the premises to which the application relates;
 - (b) the size and nature of the premises to which the application relates;
 - (c) the suitability of facilities on the premises for keeping and breeding dogs or cats;
 - (d) the potential impact on the occupiers of neighbouring premises;
 - (e) whether the applicant is a member of a recognised breeding organisation;
 - (f) any conviction or finding of guilt of the applicant within the last 10 years against a law of a State or Territory for an offence relating to the welfare, keeping or control of an animal.
- (4) Subsection (3) does not limit the matters the registrar may consider.

72C Breeding licence—duration

A breeding licence is in force unless it is surrendered or cancelled.

72D Breeding licence—form

- (1) A breeding licence must—
 - (a) be in writing; and
 - (b) state the following information:
 - (i) the name of the licensee;
 - (ii) the address or location of the premises to which the licence relates;
 - (iii) the conditions on the licence;
 - (iv) the unique licence number relating to the licence;
 - (v) anything else prescribed by regulation.
- (2) A licence may include anything else the registrar considers relevant.

72E Breeding licence—conditions

- (1) The registrar may issue a breeding licence on conditions stated in the licence.
- (2) A breeding licence is subject to the condition that the licensee complies with any relevant breeding standard determined under the *Animal Welfare Act 1992*, section 15B (Intensive breeding of cats or dogs).
- (3) In making a decision whether or not to impose a condition on a breeding licence, the registrar must consider the following:
 - (a) the number and kind of animals kept by the applicant at the premises to which the application relates;
 - (b) the size and nature of the premises to which the application relates;

- (c) the potential impact on the occupiers of neighbouring premises.
- (4) Subsection (3) does not limit the matters the registrar may consider.

72F Breeding licence—variation

- (1) On application by the holder of a breeding licence, the registrar may vary the licence.

Note If a form is approved under s 147 for this provision, the form must be used.

- (2) The registrar may vary a breeding licence on the registrar's own initiative if the registrar is satisfied that it is in the public interest to do so.
- (3) Before varying a breeding licence on the registrar's own initiative, the registrar must give the licensee a written notice—
 - (a) stating how the registrar proposes to vary the licence; and
 - (b) stating the reasons why the registrar proposes to vary the licence; and
 - (c) telling the licensee that the licensee may give a written response to the registrar about the matters stated in the notice within 14 days beginning on the day after receiving the notice.

Note For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (4) In making a decision under subsection (1) or (2), the registrar must consider—
 - (a) the matters mentioned in section 72B (3) (Breeding licence—approval or refusal); and
 - (b) any breach of the conditions of the licence.
- (5) In making a decision whether to vary the breeding licence on the registrar's own initiative, the registrar must consider any response given to the registrar in accordance with subsection (3) (c).

- (6) Subsections (4) and (5) do not limit the matters the registrar may consider.
- (7) The registrar must refuse to vary a breeding licence if the registrar must refuse under section 72B (2) (Breeding licence—approval or refusal) to issue the licence as varied.
- (8) The registrar must give the licensee written notice of the registrar's decision.
- (9) A variation of a breeding licence takes effect on the day notice of the variation is given to the licensee or, if the notice provides for a later day, that day.

72G Breeding licence—cancellation

- (1) The registrar may cancel a breeding licence if—
 - (a) the registrar becomes aware of circumstances that, if the registrar had been aware of them at the time of the application for the licence, would have resulted in the application being refused; or
 - (b) the licensee contravenes a condition of the licence; or
 - (c) the licence was obtained by a false or misleading statement.
- (2) Before cancelling a breeding licence, the registrar must give the licensee a written notice—
 - (a) stating the grounds on which the registrar proposes to cancel the licence; and
 - (b) stating the facts that, in the registrar's opinion, establish the grounds; and
 - (c) telling the licensee that the licensee may give a written response to the registrar about the matters in the notice, within 14 days beginning on the day after receiving the notice.

Note For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (3) In deciding whether to cancel the licence, the registrar must consider any response given to the registrar in accordance with subsection (2) (c).
- (4) The registrar must give the licensee written notice of the registrar's decision.
- (5) Cancellation of a breeding licence takes effect on the day notice of the cancellation is given to the licensee or, if the notice provides for a later day, that day.

72H Breeding licence—cancellation or disqualification from holding

- (1) If a person is convicted or found guilty of an animal welfare offence or an offence against this Act (other than an excluded offence), the court may—
 - (a) cancel a breeding licence held by the person; or
 - (b) disqualify the person from holding a breeding licence for a period decided by the court.
- (2) In making a decision under subsection (1), the court must consider—
 - (a) the acts or omissions of the person constituting the offence; and
 - (b) any conviction or finding of guilt of the person within the last 10 years for an offence against a law of a State or Territory relating to the welfare, keeping or control of an animal.
- (3) Subsection (2) does not limit the matters that the court may consider.
- (4) If the court cancels or disqualifies a person from holding a breeding licence, the court must give particulars of the cancellation or disqualification to the registrar.

72I Offence—licensee change of address

A person commits an offence if the person—

- (a) holds a breeding licence; and
- (b) changes address; and
- (c) does not tell the registrar of the change in address within 30 days after the change.

Maximum penalty: 1 penalty unit.

72J Breeding—recognised breeding organisation

- (1) The registrar may declare that a breeding organisation is a recognised breeding organisation.
- (2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

72K Offence—advertising requirements

- (1) A person who holds a breeding licence commits an offence if the person—
 - (a) breeds a dog or cat; and
 - (b) publishes a statement that either—
 - (i) constitutes an invitation to buy the dog or cat from the person; or
 - (ii) could reasonably be understood to constitute an invitation to buy the dog or cat from the person; and
 - (c) does not include in the publication the breeding licence number.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

72L Offence—surrender of breeding licence

A person commits an offence if the person—

- (a) holds a breeding licence; and
- (b) ceases to operate a business to breed under the licence; and
- (c) fails to surrender the licence to the registrar within 30 days of ceasing to operate the business.

Maximum penalty: 1 penalty unit.

Division 3.2 Controlling dogs and cats**12 Multiple cat licences—approval or refusal
Section 84C (2)**

after

approved

insert

or mandatory

**13 Entry and exercise of powers in emergency situations
Section 130 (1) (a)**

substitute

- (a) reasonably believes that an offence under 1 of the following provisions has been, is being or will be committed:
 - (i) section 49A (Dog attacks or harasses person or animal);
 - (ii) section 50 (Dog attacks person or animal causing serious injury);

(iii) section 50A (Dangerous dog attacks or harasses person or animal);

(iv) section 51 (Encouraging dogs to attack or harass); and

14 Dictionary, definition of *animal welfare offence*, new paragraph (oa)

insert

(oa) section 15B (Intensive breeding of cats or dogs);

15 Dictionary, new definitions

insert

breeding licence—see section 72A.

recognised breeding organisation means an organisation declared as a recognised breeding organisation under section 72J.

Part 4 Domestic Animals Regulation 2001

16 Reviewable decisions Schedule 1, new items 13A to 13E

insert

13A	Act , 72B (1) (b)	refuse to issue breeding licence	applicant for licence
13B	Act , 72E (1)	impose condition on breeding licence	licensee
13C	Act , 72F (1)	refuse to vary breeding licence	licensee
13D	Act , 72F (2)	vary breeding licence on registrar's initiative	licensee
13E	Act , 72G (1)	cancel a breeding licence	person whose licence cancelled

17 Dictionary, definition of *corresponding law*, paragraph (b)

substitute

(b) [Companion Animals Regulation 2008](#) (NSW);

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 19 February 2015.

2 Notification

Notified under the [Legislation Act](#) on 7 April 2015.

3 Republications of amended laws

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

I certify that the above is a true copy of the Domestic Animals (Breeding) Legislation Amendment Bill 2015, which was passed by the Legislative Assembly on 24 March 2015.

Clerk of the Legislative Assembly

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