



Australian Capital Territory

Animal Welfare Amendment Act 2016

A2016-19

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 New sections 6A and 6B	2
5 Pain	
Section 8	4
6 Section 14	4
7 Exception—conduct in accordance with approved code of practice or mandatory code of practice	
Section 20 (d)	5
8 Powers of inspectors	
New section 82 (1) (fa) and (fb)	5
9 New section 82 (4)	5

J2015-612

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Contents

		Page
10	New sections 82A and 82B	6
11	Powers of authorised officers New section 84 (1) (ga) and (gb)	7
12	New section 84 (4)	8
13	New sections 84AA and 84AB	8
14	New section 100A	10
15	Animal offences—court orders (general) Section 101 (2) and (3)	11
16	New section 101 (5)	12
17	Section 103 heading	12
18	Section 103 (1) (a) (i)	12
19	Section 103 (1) (b)	12
20	Section 103 (2)	13
21	Section 103 (3) (b)	13
22	Section 104 heading	13
23	Section 104	13
24	Dictionary, new definitions	13
Schedule 1	Consequential amendments	14
Part 1.1	Domestic Animals Act 2000	14
Part 1.2	Domestic Violence and Protection Orders Act 2008	14
Part 1.3	Magistrates Court (Animal Welfare Infringement Notices) Regulation 2014	15



Australian Capital Territory

Animal Welfare Amendment Act 2016

A2016-19

An Act to amend the *Animal Welfare Act 1992*, and for other purposes

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

1 Name of Act

This Act is the *Animal Welfare Amendment Act 2016*.

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 *Animal Welfare Act 1992*.

Note This Act also amends the following legislation (see sch 1):

- [Domestic Animals Act 2000](#)
- [Domestic Violence and Protection Orders Act 2008](#)
- [Magistrates Court \(Animal Welfare Infringement Notices\) Regulation 2014](#).

4 New sections 6A and 6B

in part 2, insert

6A Meaning of *cruelty*—pt 2

In this part:

cruelty, in relation to an animal, includes the following:

- (a) causing pain that is unjustifiable, unnecessary or unreasonable in the circumstances;

- (b) beating that causes pain;
- (c) abusing, terrifying or tormenting;
- (d) injuring or wounding that is unjustifiable, unnecessary or unreasonable in the circumstances.

6B Duty to care for animal

- (1) A person in charge of an animal has a duty to care for the animal.
- (2) A person in charge of an animal commits an offence if the person—
 - (a) fails to take reasonable steps to provide the animal with appropriate—
 - (i) food and water; or
 - (ii) shelter or accommodation; or
 - (iii) opportunity to display behaviour that is normal for the animal; or
 - (iv) treatment for illness, disease, and injury; or
 - (b) abandons the animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) In this section:

appropriate means suitable for the needs of the animal having regard to the species, environment and circumstances of the animal.

reasonable steps means the steps a reasonable person would be expected to take having regard to all the circumstances.

treatment includes veterinary treatment if a reasonable person would expect veterinary treatment to be sought in the circumstances.

**5 Pain
Section 8**

omit

6 Section 14

substitute

14 Use or possession of prohibited item

- (1) A person commits an offence if the person uses a prohibited item on, or in relation to, an animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if the person possesses a prohibited item.

Maximum penalty: 20 penalty units.

- (3) Subsection (2) does not apply to a person if the person possesses a prohibited item—

- (a) only for display; or
- (b) as part of a collection that is not intended for use on, or in relation to, an animal.

- (4) In this Act:

prohibited item means—

- (a) a spur with a sharpened or fixed rowel; or
- (b) a cockfighting spur; or
- (c) a device that is made or adapted to be attached to an animal that lets the animal cause injury to another animal.

**7 Exception—conduct in accordance with approved code of practice or mandatory code of practice
Section 20 (d)**

substitute

(d) section 14 (Use or possession of prohibited item);

**8 Powers of inspectors
New section 82 (1) (fa) and (fb)**

insert

- (fa) seize any dependant offspring of an animal seized under paragraph (f); or
- (fb) seize any animal that the inspector believes on reasonable grounds is kept by, or in the care or control of, a person in contravention of—
 - (i) an interim order under section 100A (2) (Animal offences—court orders (interim)); or
 - (ii) an order under section 101 (3) (Animal offences—court orders (general)); or

9 New section 82 (4)

insert

- (4) A person must take reasonable steps to comply with a requirement made of the person under subsection (1) (g).

Maximum penalty: 20 penalty units.

10 New sections 82A and 82B

in division 7.3, insert

82A Direction to give name and address—inspector

- (1) This section applies if an inspector believes on reasonable grounds that a person—
 - (a) has committed, is committing or is about to commit an offence against this Act; or
 - (b) may be able to assist in the investigation of an offence against this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) The inspector may direct the person to give the inspector, immediately, any of the following personal details:
 - (a) the person's full name;
 - (b) the person's home address.

Note Power to make the direction includes power to amend or repeal the direction (see [Legislation Act](#), s 46).

- (3) The person may ask the inspector to produce the inspector's identity card for inspection by the person.
- (4) If the inspector believes on reasonable grounds that a personal detail given by a person in response to a direction under subsection (2) is false or misleading, the inspector may direct the person to produce evidence immediately of the correctness of the detail.
- (5) If an inspector gives a direction under this section to a person, the inspector must tell the person that it is an offence if the person fails to comply with the direction.

82B Offence—fail to comply with inspector’s direction to give name and address

- (1) A person commits an offence if the person—
- (a) is subject to a direction under section 82A (2); and
 - (b) fails to comply with the direction.

Maximum penalty: 5 penalty units.

Note It is an offence to make a false or misleading statement or give false or misleading information (see [Criminal Code](#), pt 3.4).

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to a person if the inspector did not produce the inspector’s identity card for inspection by the person if asked.
- (4) This section does not apply to a person if the inspector did not, before giving the direction, warn the person that failure to comply with the direction is an offence.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) and s (4) (see [Criminal Code](#), s 58).

11 Powers of authorised officers New section 84 (1) (ga) and (gb)

insert

- (ga) seize any dependant offspring of an animal seized under paragraph (g); or
- (gb) seize any animal that the officer believes on reasonable grounds is kept by, or in the care or control of, a person in contravention of—
 - (i) an interim order under section 100A (2) (Animal offences—court orders (interim)); or

- (ii) an order under section 101 (3) (Animal offences—court orders (general)); or

12 New section 84 (4)

insert

- (4) A person must take reasonable steps to comply with a requirement made of the person under subsection (1) (h).

Maximum penalty: 20 penalty units.

13 New sections 84AA and 84AB

in division 7.4, insert

84AA Direction to give name and address—authorised officer

- (1) This section applies if an authorised officer believes on reasonable grounds that a person—
 - (a) has committed, is committing or is about to commit an offence against this Act; or
 - (b) may be able to assist in the investigation of an offence against this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) The authorised officer may direct the person to give the authorised officer, immediately, any of the following personal details:
 - (a) the person's full name;
 - (b) the person's home address.

Note Power to make the direction includes power to amend or repeal the direction (see [Legislation Act](#), s 46).

- (3) The person may ask the authorised officer to produce the authorised officer's identity card for inspection by the person.

- (4) If the authorised officer believes on reasonable grounds that a personal detail given by a person in response to a direction under subsection (2) is false or misleading, the authorised officer may direct the person to produce evidence immediately of the correctness of the detail.
- (5) If an authorised officer gives a direction under this section to a person, the authorised officer must tell the person that it is an offence if the person fails to comply with the direction.

84AB Offence—fail to comply with authorised officer’s direction to give name and address

- (1) A person commits an offence if the person—
 - (a) is subject to a direction under section 84AA (2); and
 - (b) fails to comply with the direction.

Maximum penalty: 5 penalty units.

Note It is an offence to make a false or misleading statement or give false or misleading information (see [Criminal Code](#), pt 3.4).

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to a person if the authorised officer did not produce the authorised officer’s identity card for inspection by the person if asked.
- (4) This section does not apply to a person if the authorised officer did not, before giving the direction, warn the person that failure to comply with the direction is an offence.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) and s (4) (see [Criminal Code](#), s 58).

14 New section 100A

insert

100A Animal offences—court orders (interim)

- (1) This section applies if—
 - (a) an animal has been seized under section 82 (1) (f) or section 84 (1) (g); and
 - (b) a proceeding for an offence has been started in a court against a person who was, before the seizure, in charge of the seized animal; and
 - (c) the court is satisfied that, unless an appropriate interim order under this section is made, the person is likely to engage in conduct in relation to an animal that requires—
 - (i) the seizure of an animal under this Act; or
 - (ii) a further proceeding to be started for an offence.
- (2) The court may make an order (an *interim order*) as it considers appropriate that the person must not—
 - (a) purchase or acquire any animal within the period stated in the order; or
 - (b) keep, care for or control any animal within the period stated in the order.
- (3) The duration of an interim order under subsection (2)—
 - (a) must be stated in the order; and
 - (b) must not be longer than 6 months.
- (4) If an interim order has ended or is about to end the court may make a further interim order if the court is satisfied that the matters mentioned in subsection (1) continue to apply.

- (5) A person must not engage in conduct that contravenes an interim order.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

15 Animal offences—court orders (general)
Section 101 (2) and (3)

substitute

- (2) The court may, in addition to any penalty which it may otherwise impose, make any order it considers appropriate in relation to—
- (a) the disposal of—
 - (i) the animal in relation to which the offence was committed; and
 - (ii) any other animal of which the person is in charge; and
 - (b) the payment to the Territory of expenses incurred in the care of—
 - (i) the animal in relation to which the offence was committed; and
 - (ii) any other animal of which the person is in charge.
- (3) The court may, in addition to any penalty which it may otherwise impose, make an order as it considers appropriate that the person must not—
- (a) purchase or acquire any animal within the period stated in the order; or
 - (b) keep, care for or control any animal within the period stated in the order.

16 New section 101 (5)

insert

(5) In this section:

expenses incurred, in the care of an animal, includes any expense incurred by, or on behalf of, the Territory for any of the following:

- (a) taking possession of the animal;
- (b) transporting the animal;
- (c) providing food, drink and water for the animal;
- (d) providing shelter or accommodation for the animal;
- (e) providing veterinary care for the animal.

17 Section 103 heading

substitute

103 Prohibited item and trap offences—court orders (general)

18 Section 103 (1) (a) (i)

substitute

- (i) under section 14; or

19 Section 103 (1) (b)

omit

a spur, cockfighting spur cap or

substitute

a prohibited item or

20 Section 103 (2)

omit

spur, cockfighting spur cap or

substitute

prohibited item or

21 Section 103 (3) (b)

substitute

(b) a prohibited item.

22 Section 104 heading

substitute

104 Prohibited item and trap offences—court orders (costs and proceeds of disposal)

23 Section 104

omit

spur, cockfighting spur cap or

substitute

prohibited item or

24 Dictionary, new definitions

insert

cruelty, in relation to an animal, for pt 2 (Animal welfare offences)—see section 6A.

prohibited item—see section 14.

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Domestic Animals Act 2000

[1.1] Dictionary, definition of *animal welfare offence*, paragraph (aa)

before paragraph (a), insert

(aa) section 6B (Duty to care for animal);

[1.2] Dictionary, definition of *animal welfare offence*, paragraph (c)

omit

[1.3] Dictionary, definition of *animal welfare offence*, paragraph (m)

substitute

(m) section 14 (Use or possession of a prohibited item);

Part 1.2 Domestic Violence and Protection Orders Act 2008

[1.4] Section 13 (3), definition of *animal violence offence*, paragraph (c)

omit

Part 1.3 Magistrates Court (Animal Welfare Infringement Notices) Regulation 2014

[1.5] Schedule 1, item 7

omit

Endnotes

- 1 Presentation speech**
Presentation speech made in the Legislative Assembly on 10 March 2016.
- 2 Notification**
Notified under the [Legislation Act](#) on 13 April 2016.
- 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 Animal Welfare Amendment Bill 2016, which was passed by the Legislative Assembly on 5 April 2016.

Clerk of the Legislative Assembly

© Australian Capital Territory 2016