

2000

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Urban Services)

**Domestic Animals Bill 2000**

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2000

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Urban Services)

**Domestic Animals Bill 2000**

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**A BILL**

FOR

**An Act to provide for the identification and registration of  
certain animals and the duties of owners, carers and keepers,  
and for other purposes**

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

**PART 1—PRELIMINARY**

**1 Name of Act**

5 This Act is the *Domestic Animals Act 2000*.

## 2 Commencement

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

5 *Note 1* The provisions of an Act providing for its name and commencement automatically commence on the date of notification of the Act (see *Interpretation Act 1967*, s 10B).

*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 *Interpretation Act 1967*, s 10C (1)).

10 *Note 3* If a provision has not commenced within 6 months beginning on the date of notification of the Act, it automatically commences on the first day after that period (see *Interpretation Act 1967*, s 10E (2)).

## 3 Dictionary

The dictionary at the end of this Act is part of this Act.

15 *Note 1* The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '*public vehicle—see Road Transport (General) Act 1999*, section 158.' means that the expression 'public vehicle' is defined in the dictionary to that Act and the definition applies to this Act.

20 *Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Interpretation Act 1967*, s 11F and s 11G).

## 4 Notes

A note included in this Act is explanatory and is not part of this Act.

25 *Note* See *Interpretation Act 1967*, s 12 (1), (4) and (5) for the legal status of notes.



**PART 2—DOGS**

***Division 2.1—Registration of dogs***

**5 Register**

(1) The registrar must set up and keep a register for this Act.

5 (2) The registrar may keep the register in a form the registrar considers suitable.

**6 Registration—applications**

(1) An individual who is a keeper of a dog may apply to the registrar for registration of the dog.

10 (2) If the applicant is less than 16 years old and resides with a parent or guardian, a written consent to the registration by the applicant's parent or guardian must accompany the application.

**7 Registration—approval or refusal**

(1) If an application for registration has been made in accordance with section 6, the registrar must, by written notice to the applicant—

(a) register the dog; or

(b) refuse to register the dog.

(2) The registrar must not register a dog if the applicant is disqualified from keeping a dog.

20 **8 Registration—records**

If the registrar registers a dog, the registrar must record in the register the information prescribed under the regulations.

**9 Registration—duration**

25 The registration of a dog remains in force for 1 year unless it is sooner surrendered or cancelled.

**10 Registration—renewals**

(1) The keeper of a registered dog may apply to the registrar for renewal of the registration.

(2) If the keeper of a dog applies for renewal of the registration, the registrar must renew the registration of a dog.

### 11 Registration numbers, certificates and tags

(1) If the registrar registers or renews the registration of a dog, the registrar must—

(a) allot a registration number to the dog; and

(b) give to the keeper of the dog a registration certificate and registration tag for the dog.

(2) A registration certificate for a dog must state the information prescribed under the regulations.

(3) A registration tag for a dog must show the registration number given to the dog.

(4) If the registrar is satisfied that a registration certificate or tag for a dog has been stolen, lost, damaged or destroyed, the registrar may issue a new registration certificate or tag to the keeper of the dog.

(5) If the keeper of a dog asks the registrar for a certified copy of the dog's registration certificate, the registrar must give the keeper a copy of the certificate that is certified by the registrar to be a true copy.

### 12 Change of keeper

(1) If ownership of a dog is transferred, a person who was a keeper of the dog before the transfer must tell the registrar in writing of the name and address of the new owner of the dog within 14 days beginning the day after the transfer.

Maximum penalty: 5 penalty units.

(2) If a person becomes a keeper of a dog (the *new keeper*) for a period likely to be longer than 28 days, the person must tell the registrar in writing that he or she is the keeper of the dog within 14 days beginning the day after becoming the keeper.

Maximum penalty: 5 penalty units.

(3) If the new keeper tells the registrar under subsection (2) about a registered dog, the registrar must—

- (a) change the entry in the register relating to the dog by substituting, for the name and address of the person stated as the keeper of the dog, the name and address of the new keeper; and
- (b) issue a registration certificate for the dog to the new keeper.

5 **13 Registration—cancellation**

If the keeper of a dog tells the registrar in writing that he or she is no longer the keeper of the dog, the registrar must cancel the registration of the dog.

**14 Unregistered dogs**

10 (1) A person must not keep—

- (a) an unregistered dog; or
- (b) a registered dog of which the person is not the registered keeper.

Maximum penalty: 5 penalty units.

(2) This section does not apply if—

- 15 (a) the dog is under 32 days old; or
- (b) the dog has been kept by the person for less than 28 days; or
- (c) the person has been resident in the Territory for less than 28 days.

**15 Registration tag offences**

20 (1) The keeper of a dog or a carer of a dog must not, without reasonable excuse, be in a public place with the dog unless the dog is wearing its registration tag.

Maximum penalty: 3 penalty units.

25 (2) A person other than a keeper of a dog must not, without reasonable excuse, take a registration tag off a dog without the permission of a keeper of the dog.

Maximum penalty: 5 penalty units.

(3) A keeper of a dog must not, without reasonable excuse, allow the dog to wear a registration tag unless the registration tag was issued for the dog.

30 Maximum penalty: 5 penalty units.

**16 Change of address**

(1) If the address of a registered keeper changes, the keeper must tell the registrar, in writing, of the new address within 14 days beginning the day after the change.

5 Maximum penalty: 5 penalty units.

(2) If the address where a registered dog is kept changes, the registered keeper must give the registrar a written notice stating the new address within 14 days beginning the day after the change.

Maximum penalty: 5 penalty units.

10 **17 Evidence of registration or non-registration**

(1) A registration certificate or a certified copy of a registration certificate issued under section 11 (Registration numbers, certificates and tags) is evidence that the dog described in it is, or was, registered for the period mentioned in the certificate or copy.

15 (2) If the registrar certifies in writing that on a day, or during a time, stated in the certificate, a person mentioned in the certificate—

(a) was the registered keeper of a dog mentioned in the certificate; or

(b) was not the registered keeper of—

(i) a dog mentioned in the certificate; or

20 (ii) a dog;

the certificate is evidence of the fact.

(3) A document that purports to be—

(a) a registration certificate; or

25 (b) a certified copy of a registration certificate issued under section 11; or

(c) a certificate mentioned in subsection (2);

is, unless the contrary is proved, to be taken to be a certificate or a certified copy of a certificate and to have been properly given or issued.

**Division 2.2—Keeping 4 or more dogs**

**18 Requirement to be licensed**

(1) A person must not, other than in accordance with a multiple dog licence, keep 4 or more dogs on 1 residential premises.

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

(2) Subsection (1) does not apply to—

(a) a dog under 84 days old; or

(b) a dog kept by the person for less than 28 days; or

(c) a person resident in the Territory for less than 28 days; or

10 (d) a dog that is an assistance animal; or

(e) a dog kept on land that is under a lease granted for agricultural or grazing purposes; or

(f) a dog kept on land that is under a lease that allows for an animal care facility.

15 **19 Multiple dog licences—applications**

A person may apply to the registrar for a licence to keep 4 or more dogs on 1 residential premises (a *multiple dog licence*).

**20 Multiple dog licences—approval or refusal**

20 (1) If an application for a multiple dog licence is made under section 18 (Requirement to be licensed), the registrar must—

(a) approve the issue of a licence; or

(b) refuse to approve the issue of a licence.

(2) The registrar must refuse to issue a multiple dog licence unless satisfied that—

25 (a) the yard and associated facilities are adequately ventilated and constructed in a way to allow them to be kept in a sanitary condition; and

(b) appropriate arrangements exist for the sanitary disposal of waste; and

- (c) the applicant can otherwise comply with the requirements of the *Animal Welfare Act 1992* and any approved code of practice under that Act.
- 5 (3) In making a decision under this section, the registrar must consider the following:
- (a) the number and kind of dogs to which the application relates;
  - (b) the size and nature of the premises where the dogs are proposed to be kept;
  - (c) the security of the premises;
  - 10 (d) the suitability of facilities for keeping the dogs on the premises;
  - (e) the potential impact on the occupiers of neighbouring premises;
  - (f) any conviction or finding of guilty of the applicant within the last 10 years against a Territory or State law for an offence relating to the welfare, keeping or control of an animal.
- 15 (4) Subsection (3) does not limit the matters the registrar may consider.

**21 Multiple dog licences—conditions**

- (1) The registrar may issue a multiple dog licence on conditions stated in the licence.
- (2) In making a decision whether or not to impose a condition on a  
20 multiple dog licence, the registrar must consider the following:
- (a) the number and kind of dogs to which the application relates;
  - (b) the size and nature of the premises where it is proposed to keep the dogs;
  - (c) the potential impact on the occupiers of neighbouring premises.
- 25 (3) The conditions may include the following:
- (a) the confining of each dog in a yard that will allow the dog adequate freedom of movement;
  - (b) no part of the yard being closer than 2m from a boundary fence;
  - (c) there being sufficient shelter for each dog.

**Division 2.3—Dangerous dogs**

**22 Declarations—dangerous dogs**

- (1) The registrar must declare a dog to be a dangerous dog if—
- (a) the dog has been trained as a guard dog, or is kept as a guard dog for guarding premises other than residential premises; or
  - (b) a decision has been made under a State law in relation to the dog, the effect of which is comparable to a declaration under this section.
- (2) The registrar may declare a dog to be a dangerous dog if the dog has attacked or harassed a person or animal.
- (3) In making a decision under subsection (2), the registrar must consider the circumstances surrounding the attack or harassment.
- (4) If the registrar makes a declaration under this section, the registrar must give written notice to a keeper of the dog.
- (5) The notice must—
- (a) contain a statement to the effect that the registrar has declared the dog to be a dangerous dog; and
  - (b) describe the obligations of a keeper of a dangerous dog under this Act; and
  - (c) if the declaration is made while the dog is impounded—contain a statement to the effect that the dog may be destroyed after 7 days beginning on the day after the keeper is given the notice unless, within that 7 days, an application is made for a dangerous dog licence.

**23 Licensing of keepers of dangerous dogs**

- (1) A person must not, without reasonable excuse, keep a dangerous dog except in accordance with a dangerous dog licence.

Maximum penalty: 50 penalty units.

- (2) This section does not apply to a dangerous dog that is temporarily kept by a veterinary surgeon or at an animal boarding facility.

**24 Dangerous dog licences—applications**

(1) A person may apply to the registrar for a licence to keep a dangerous dog.

(2) An application must state—

- 5 (a) the registration number of the dog; and  
(b) the premises where the applicant intends to keep the dog.

**25 Dangerous dog licences—approval or refusal**

(1) If an application for a dangerous dog licence is made under section 24, the registrar must, by written notice to the applicant—

- 10 (a) approve the issue of a licence; or  
(b) refuse to approve the issue of a licence.

(2) In making a decision under this section, the registrar must consider the following:

- 15 (a) the size and nature of the premises where the applicant intends to keep the dog;  
(b) the security of the premises;  
(c) the suitability of facilities for keeping the dog on the premises;  
(d) the potential impact on the occupiers of neighbouring premises;  
20 (e) any conviction or finding of guilty of the applicant within the last 10 years for an offence against a Territory or State law relating to the welfare, keeping or control of an animal;  
(f) the likelihood of harm being caused to any member of the public.

(3) Subsection (2) does not limit the matters the registrar may consider.

**26 Dangerous dogs licences—conditions**

25 (1) The registrar may issue a dangerous dog licence on conditions stated in the licence.

(2) The conditions may include the following:

- (a) the confining of the dog to the premises where the dog is kept under the licence;



- (b) the dog leaving the premises;
- (c) requiring the keeper and dog to complete an approved course in behavioural or socialisation training for the dog.

**27 Dangerous dogs in public places**

- 5 (1) A carer must not, without reasonable excuse, be in a public place with a dangerous dog unless it is wearing a muzzle.

Penalty: 10 penalty units.

- 10 (2) A keeper of a dangerous dog must not, without reasonable excuse, allow the dog to be in a public place without the keeper or someone else who is in charge of the dog.

Maximum penalty: 10 penalty units.

**28 Signs on premises about dangerous dogs**

- (1) The registrar may issue a warning sign to a keeper of a dangerous dog.
- 15 (2) If the registrar issues a warning sign, the keeper of the dog must ensure that the warning sign is displayed at the premises where the dog is kept so that it can be readily seen by a person about to enter the premises through a gate or door.

Maximum penalty: 5 penalty units.

- 20 (3) In this section:  
*door* does not include a door that is used for access to a building ordinarily used as a residence.

***Division 2.4—General provisions about multiple dog and dangerous dog licences***

25 **29 Meaning of licence for div 2.4**

In this Division:

*special licence* means a multiple dog licence or a dangerous dog licence.

**30 Form of special licences**

- 30 A special licence must state—

- (a) the name of the licensee; and
- (b) the registration number of each dog to which the licence relates; and
- (c) the address of the premises to which the licence relates; and
- 5 (d) any conditions of the licence.

**31 Special licences—duration**

(1) A multiple dog licence remains in force for 1 year unless sooner surrendered or cancelled.

10 (2) A dangerous dog licence remains in force for a period not longer than 12 months stated in the licence unless sooner surrendered or cancelled.

**32 Special licences—renewals**

(1) The holder of a special licence may apply to the registrar for renewal of the licence.

15 (2) If the holder of a special licence applies for renewal of the licence, the registrar must renew the licence.

**33 Variation of special licences**

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

20 (2) The registrar may vary a special 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 special 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
- 25 (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 the day after receiving the notice.

30 (4) In making a decision under subsection (1) or (2), the registrar must consider—

- (a) for a multiple dog licence—the matters mentioned in subsection 20 (4) (Multiple dogs licences—approval or refusal); and
- (b) for a dangerous dog licence—the matters mentioned in subsection 25 (3) (Dangerous dogs licences—approval or refusal); and
- 5 (c) any breach of the conditions of the licence.
- (5) In making a decision whether to vary the special licence on the registrar's own initiative, the registrar must consider any response given to the registrar in accordance with paragraph (3) (c).
- (6) The registrar must refuse to vary a multiple dog licence if the  
10 registrar would be obliged under subsection 20 (3) (Multiple dogs licences—approval or refusal) to refuse to issue the licence as varied.
- (7) The registrar must give the licensee written notice of the registrar's decision.
- (8) A variation of a special licence takes effect on the day notice of the  
15 variation is given to the licensee or, if the notice provides for a later day of effect, that day.
- (9) In this section:  
*vary*, for a multiple dog licence, includes substituting a dog for another dog.

20 **34 Endorsement of variations**

- (1) The holder of a varied special licence must not, without reasonable excuse, fail to return the licence to the registrar within 7 days beginning the day after the variation takes effect.
- Maximum penalty: 5 penalty units.
- 25 (2) The registrar must endorse the variation on the licence, and return it to the licensee, as soon as possible after the return of the special licence.

**35 Surrender of special licences**

- (1) The holder of a special licence may surrender the licence by filling in the appropriate endorsement on the licence and giving it to the registrar.
- 30 (2) The surrender of a special licence takes effect from the day when the endorsed licence is given to the registrar or, if a later day is stated in the endorsement, the later day.

**36 Cancellation of special licences**

(1) The registrar may cancel a special licence if—

- 5
- (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 special licence, the registrar must give the licensee a written notice—

- 10
- (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
- 15
- beginning the day after receiving the notice.

(3) In deciding whether to cancel the licence, the registrar must consider any response given to the registrar in accordance with paragraph (2) (c).

20 (4) The registrar must give the licensee written notice of the registrar's decision.

(5) Cancellation of a special licence takes effect on the day notice of the cancellation is given to the licensee or, if the notice provides for a later day of effect, that day.

**37 Return of special licences**

25 If a person whose special licence has been cancelled is asked by the registrar, by written notice, to return the licence, the person must not, without reasonable excuse, fail to return the licence to the registrar within 7 days beginning the day after the notice is given to the person.

Maximum penalty: 10 penalty units.

30 **38 Cancellation or disqualification from holding a special licence**

(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 cancel a special licence held by the person or disqualify the person from holding a special licence for a period decided by the court.

(2) In making a decision under subsection (1), the court must consider—

- 5       (a) the acts or omissions of the person constituting the offence; and  
      (b) any conviction or finding of guilty of the applicant within the last 10 years for an offence against a Territory or State law relating to the welfare, keeping or control of an animal.

10       (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 special licence, the court must give particulars of the cancellation or disqualification to the registrar.

### **39 Applying for special licences if disqualified**

15       A person must not apply for a special licence if the person is disqualified from holding a licence.

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

## ***Division 2.5—Control of dogs***

### **40 Declaration—exercise areas**

20       (1) The Minister may declare an area of land or water to be an exercise area under this Act.

(2) A declaration may provide that an area is an exercise area for all or stated animals.

(3) A declaration under this section is a disallowable instrument.

### **25 41 Prohibited areas**

(1) The Minister may, by a sign or signs, define an area where dogs are prohibited.

(2) An area defined under subsection (1) may include all or part of an exercise area for stated animals.

30       (3) The Minister may, at any time, change or remove a sign.

(4) A person must not take a dog into a prohibited area.

Maximum penalty: 5 penalty units.

5 (5) In a proceeding for an offence against subsection (3), a sign is taken to have been erected with the Minister's authority unless the contrary is proved.

#### 42 Prohibited places

(1) A person must not take a dog into the grounds of a child-care centre, preschool or primary school unless—

- 10 (a) a keeper of the dog resides in the grounds; or
- (b) the dog is taken into the grounds with the permission of the principal or person in charge of the child-care centre, preschool or primary school.

Maximum penalty: 5 penalty units.

15 (2) A person must not take a dog into the grounds of a high school or secondary college during school hours or when school sport, including sport training, is being conducted unless—

- 20 (a) a keeper of the dog resides in the grounds; or
- (b) the dog is taken into the grounds with the permission of the principal or person in charge of the high school or secondary college.

Maximum penalty: 5 penalty units.

(3) A person must not take a dog onto a field or playing area where sport is being played or training for sport is being conducted.

Maximum penalty: 5 penalty units.

25 (4) A person must not take a dog into a public place that is within 10m of—

- 30 (a) anything designed for play by children in the public place if children are playing on it; or
- (b) a fireplace or heating appliance in the public place designed for cooking food; or

- (c) a swimming area as defined by a sign erected, placed or displayed under subparagraph 15 (a) (iiia) of the *Lakes Act 1976*.

Maximum penalty: 5 penalty units.

(5) In this section:

- 5 *dog* does not include an assistance animal that is with a person with a disability.

10 *public place* means any unleased Territory land that the public is entitled to use or that is open to, or used by, the public, and includes any street, road, lane, thoroughfare, footpath, or place that is Territory land open to, or used by, the public.

#### 43 Prohibited areas—permits

- (1) The registrar may permit a person mentioned in the permit to take a particular dog into a particular prohibited area at the times stated in the permit.
- 15 (2) In making a decision under subsection (1), the registrar must consider the opinion of the conservator of flora and fauna about the impact on the environment if the permit were issued.
- (3) Subsection (2) does not limit the matters that the registrar may consider.
- 20 (4) A permit may be issued on conditions.
- (5) A permit—
- (a) takes effect on the day stated in the notice; and
  - (b) unless sooner revoked, remains in force for the period of not longer than 1 year stated in the notice.

#### 25 44 Dogs in public places to be restrained

- (1) A carer must not be in a public place with a dog that is not restrained by a leash, unless the person is in an area designated as an area where dogs are not required to be restrained by a leash.

Maximum penalty: 5 penalty units.

(2) A keeper must not be in a public place with a dog that is not restrained by a leash, unless the person is in an area designated as an area where dogs are not required to be restrained by a leash.

Maximum penalty: 5 penalty units.

5 (3) The keeper of a dog commits an offence if the dog—

(a) is in a public place; and

(b) is not with a carer.

Maximum penalty: 5 penalty units.

10 (4) Subsections (1) and (2) do not apply to a dog that is under the control of a person and is—

(a) in an exercise area declared under section 40 (Declaration—exercise areas); or

(b) a working dog working livestock; or

(c) taking part in—

15 (i) a dog show, field trial or obedience trial; or

(ii) a dramatic performance or other entertainment.

(5) In a prosecution for an offence against subsection (3), it is a defence if the defendant proves that the defendant took reasonable steps to prevent a contravention of the subsection.

20 **45 Dogs on private premises to be restrained**

(1) A carer must not be on private premises with a dog that is not restrained by a leash unless the person has the consent of the occupier of the premises.

Maximum penalty: 5 penalty units.

25 (2) Subsection (1) does not apply if the carer is on premises occupied by the keeper of the dog.

(3) The keeper of a dog must not be on private premises with a dog that is not restrained by a leash unless the keeper has the consent of the occupier of the premises.

30 Maximum penalty: 5 penalty units.



(4) Subsection (3) does not apply if the keeper is on premises occupied by a carer of the dog.

(5) In a prosecution for an offence against subsection (1) or (3), it is evidence that the occupier of premises did not consent if an authorised officer gives evidence that, at the time of the offence, the occupier told the authorised officer that the occupier did not consent.

#### **46 Removal of faeces**

(1) The carer of a dog must hygienically dispose of any faeces dropped by the dog in a public place or in a stormwater drain or channel (whether on public or private land).

Maximum penalty: 5 penalty units.

(2) The carer of a dog must not take the dog into a public place or a stormwater drain or channel (whether on public or private land) unless the carer carries equipment suitable for the hygienic disposal of faeces dropped by the dog.

Maximum penalty: 1 penalty unit.

#### **47 Female dogs on heat**

(1) A keeper or carer of a female dog must not, without reasonable excuse, allow the dog to enter or remain in a public place if the dog is on heat.

Maximum penalty: 5 penalty units.

(2) This section does not apply if the dog is—

- (a) confined in a motor vehicle in a public place; or
- (b) under the control of the keeper or carer and taking part in—
  - (i) a dog show, field trial or obedience trial; or
  - (ii) a dramatic performance or other entertainment.

(3) In a prosecution for an offence against this section, it is not a defence that the dog was under the control of a competent person.

#### **48 Greyhounds**

(1) A carer must not be in a public place with a greyhound that is not wearing a muzzle.

Maximum penalty: 5 penalty units.

(2) A keeper of a greyhound must not allow the greyhound to be in a public place unless it is wearing a muzzle and is with a carer.

Maximum penalty: 5 penalty units.

5 (3) A carer must not be in a public place holding 4 or more greyhound dogs by way of a leash or leashes.

Maximum penalty: 5 penalty units.

————— (4) If a carer contravenes subsection (3), the keeper of each of the dogs commits an offence.

Maximum penalty: 5 penalty units.

10

***Division 2.6—Attacking or harassing dogs***

**49 Harassment of persons and animals by dogs**

(1) A dog is taken to harass a person if, because of its behaviour, the person reasonably fears that the dog is about to attack him or her without provocation.

15 (2) A dog is taken to harass an animal if the dog hunts or torments the animal.

**50 Offences of attacking or harassing**

(1) A carer with a dog must not, without reasonable excuse, allow the dog to attack a person or animal.

20 Maximum penalty: 50 penalty units.

(2) The keeper of a dog commits an offence if the dog harasses a person or animal when it is not with a carer.

Maximum penalty: 50 penalty units.

25 (3) In a prosecution for an offence against subsection (2), it is a defence if—

(a) the defendant establishes that the person or animal provoked the dog; or

(b) if the attack or harassment was on premises occupied by the defendant, the defendant establishes that—

- (i) the person was on the premises without reasonable excuse; or
  - (ii) the person failed to take reasonable care for his or her own safety; or
  - 5 (iii) the person or animal provoked the dog; or
  - (iv) the person was attacked because the dog came to the aid of its keeper.
- (4) If the keeper or a carer of a dog is convicted, or found guilty, of an offence against this section—
- 10 (a) the court must order that the dog be destroyed, unless satisfied there are special circumstances that justify not doing so; or
  - (b) if the court is satisfied that there are special circumstances—
    - (i) declare the dog to be a dangerous dog; and
    - 15 (ii) order the dog and its keeper complete an approved course in behavioural or socialisation training for the dog.

#### **51 Encouraging dogs to attack or harass**

(1) A person must not, without reasonable excuse, knowingly encourage a dog to attack or harass someone else or an animal.

Maximum penalty: 50 penalty units.

- 20 (2) This section does not apply if—
- (a) the defendant reasonably believed the animal to be vermin; and
  - (b) the defendant was on the land with the lessee's consent.

#### **52 Costs of impounding dogs**

25 If a prosecution of a person for an offence against subsection 50 (1) or (2) or section 51 is begun and the court—

- (a) convicts the person, or finds the person guilty, of the offence—the costs of impounding the dog are payable to the Territory by the keeper of the dog; or
- 30 (b) finds the complaint to be frivolous or vexatious—the costs of impounding the dog are payable to the Territory by the complainant.

**53 Destruction of attacking dogs**

(1) A person may destroy a dog that attacks the person if the destruction of the dog is necessary to bring the attack to an end.

5 (2) A person may destroy a dog found attacking someone else or an animal if the destruction of the dog is necessary to bring the attack to an end.

(3) A person may destroy a dog found in an enclosed field if the person reasonably believes that an animal confined in the field has just been killed, injured or attacked by the dog.

10 (4) Subsection (3) does not apply if the dog cannot move freely about the field because of a leash or other form of restraint.

(5) In this section:

*field* includes a paddock, yard or other place.

**54 Inspection of attacking or harassing dogs**

15 (1) An authorised officer or police officer may ask a keeper or carer of a dog to produce the dog for inspection if the officer reasonably believes that the dog has attacked or harassed a person or animal.

(2) A keeper or carer of a dog must not, without reasonable excuse, fail to comply with the request.

20 Maximum penalty: 50 penalty units.

**55 Compensation for injuries etc caused by dogs**

(1) This section applies if—

(a) a dog attacks or harasses a person and the person suffers personal injury or property damage because of the attack or harassment; or

25 (b) a dog attacks or harasses an animal and the animal dies or is injured because of the attack or harassment.

(2) The keeper of the dog is liable to pay to the person, or the owner of the animal, compensation for any loss or expense because of the attack or harassment.

30 (3) Compensation may be recovered—

- (a) whether or not a prosecution for an offence against this Act has been brought against the keeper of the dog in relation to the attack or harassment; and
- 5 (b) if a prosecution for an offence against this Act has been brought against the keeper—even if the keeper has been acquitted of the offence.
- (4) In a proceeding for compensation under this section for loss or expense by a person (the *plaintiff*) for personal injury or property damage, it is a defence for the defendant to prove that—
- 10 (a) the attack or harassment happened to the plaintiff while the plaintiff was, without reasonable excuse, on premises occupied by the defendant; or
- (b) the plaintiff failed to take reasonable care for his or her own safety; or
- 15 (c) the plaintiff provoked the dog.
- (5) In a proceeding for compensation under this section for the death or injury of an animal, it is a defence for the defendant to prove that the attack or harassment happened to the animal while it was on premises occupied by the defendant or that the animal had provoked the dog.
- 20 (6) This section does not affect any right that a person has to recover damages or compensation apart from this section.

***Division 2.7—Seizing dogs and dealing with them***

**56 Seizure—generally**

An authorised officer may seize a dog if the dog—

- 25 (a) is in a prohibited area in contravention of section 41 (Prohibited areas); or
- (b) is not restrained in contravention of subsection 44 (1), (2) or (3) (Dogs in public places to be restrained) or 45 (1) or (3) (Dogs on private premises to be restrained); or
- 30 (c) is a greyhound in a public place in contravention of section 48 (Greyhounds); or

- (d) is on premises occupied by a person other than the keeper of the dog and the occupier asks an authorised officer to seize the dog; or
- (e) the keeper has contravened a condition under subsection 71 (3) (General power to return impounded dogs etc).

**57 Seizure—dangerous dogs**

An authorised officer may seize a dangerous dog—

- (a) if—
- (i) the keeper of the dog has contravened a condition of a dangerous dog licence in force for the dog; and
- (ii) the authorised officer reasonably believes, having regard to the safety of the public, that the contravention justifies the seizure; or
- (b) if a dangerous dog licence is not in force for a dog; or
- (c) if the dangerous dog licence in force for the dog is cancelled.

**58 Seizure—contravention of multiple dog licence**

An authorised officer may seize a dog that is being kept with 3 or more other dogs in contravention of section 18 (Requirement to be licensed).

**59 Seizure—attacking and harassing dogs**

An authorised officer may seize a dog if the officer suspects on reasonable grounds that the dog has attacked or harassed a person or an animal.

**60 Impounding of dogs seized**

- (1) The registrar must—
- (a) impound a seized dog; and
- (b) make reasonable inquiries to find out who is the keeper of the dog; and
- (c) if the registrar can find out who is the keeper of the dog—give oral or written notice to the keeper about the impounding of the dog to the keeper.

(2) The registrar may give the notice by telephone.

**61 Notice of seizure**

For section 60, the following are matters about which notice must be given:

- 5 (a) the reason the dog was seized;
- (b) where the dog may be claimed;
- (c) if the dog is not registered—that the keeper of the dog may apply for registration;
- 10 (d) if the keeper does not hold a dangerous dog licence or multiple dog licence for the dog and the licence is required under this Act for the dog—that the keeper may apply for a dangerous dog licence or multiple dog licence;
- (e) if the keeper holds a dangerous dog licence for the dog—that the conditions of the licence may be varied or cancelled;
- 15 (f) the fee payable for an application under paragraph (c) or (d);
- (g) the fee payable for the release of the dog;
- (h) that the dog may be sold or destroyed if it is not claimed;
- (i) that the keeper may relinquish ownership of the dog if the dog is not going to be claimed.

20 **62 Releasing dogs seized under general power**

(1) This section applies to a dog that is seized under section 56 (Seizure—generally) unless the dog is declared to be a dangerous dog after its seizure.

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

(2) The registrar must release the dog to a person claiming its release if satisfied that the person is its keeper.

*Note 1* A fee may be payable under section 143 (Fees) before a dog may be released.

30 *Note 2* The registrar is not obliged to release a dog if its keeper has relinquished ownership (see s 70 (Relinquishing ownership of dogs)).

(3) However, the registrar must refuse to release the dog if it is not registered.

(4) If the dog was seized under paragraph 56 (a), (b) or (c) (Seizure—generally) because of an act or omission that is an offence against this Act, the registrar must also refuse to release the dog if—

- (a) 28 days have not elapsed since the commission of the offence; or
- 5 (b) an infringement notice has been served for the offence within 7 days after the commission of the offence and the notice has not been withdrawn; or
- 10 (c) a prosecution for the offence has been begun within 28 days after the commission of the offence and the prosecution has not been discontinued or the offence found not proven.

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

(1) This section applies to—

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

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

(2) The registrar must release the dog to a person claiming its release if satisfied that the person is its keeper.

*Note 1* A fee may be payable under section 143 (Fees) before a dog may be released.

25 *Note 2* The registrar is not obliged to release a dog if its keeper has relinquished ownership (see s 70 (Relinquishing ownership of dogs)).

(3) However, the registrar must refuse to release the dog if—

- (a) the dog is not registered; or
- (b) for a dog seized under paragraph 57 (b)—a dangerous dogs licence is not in force for the dog; or
- 30 (c) the dog is seized under paragraph 57 (c); or
- (d) for a dog seized under section 58—a multiple dog licence is required for the dog and a multiple dog licence is not in force for the dog.



*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.

5 (4) If the dog was seized because of a act or omission that is an offence against this Act, the registrar must also refuse to release the dog if—

- (a) 28 days have not elapsed since the commission of the offence; or
- (b) an infringement notice has been served for the offence within 7 days after the commission of the offence and the notice has not been withdrawn; or
- 10 (c) a prosecution for the offence has been begun within 28 days after the commission of the offence and the prosecution has not been discontinued or the offence found not proven.

#### 64 Release of dogs seized under attacking and harassing power

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

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

20 (2) The registrar must release the dog to a person claiming its release if satisfied that the person is its keeper.

*Note 1* A fee may be payable under section 143 (Fees) before a dog may be released.

*Note 2* The registrar is not obliged to release a dog if its keeper has relinquished ownership (see s 70 (Relinquishing ownership of dogs)).

(3) However, the registrar must not release the dog if it is not registered.

25 (4) If the dog was seized under section 59 because of an act or omission that is an offence against this Act, the registrar must also refuse to release the dog—

- (a) 28 days have not elapsed since the commission of the offence; or
- 30 (b) an infringement notice has been served for the offence within 7 days after the commission of the offence and the notice has not been withdrawn; or
- (c) a prosecution for the offence has been begun within 28 days after the commission of the offence and the prosecution has not been discontinued or the offence found not proven.

**65 Releasing dogs declared dangerous after seizure for offence**

If a dog is seized under section 56 (Seizure—generally) or 59 (Seizure—attacking and harassing dogs) and, after the seizure, the dog is declared to be a dangerous dog, the registrar must release the dog to a person claiming its release if satisfied that the person is its keeper and a dangerous dog licence is in force for the dog.

*Note 1* A fee may be payable under section 143 (Fees) before a dog may be released

*Note 2* The registrar is not obliged to release a dog if its keeper has relinquished ownership (see s 70 (Relinquishing ownership of dogs)).

*Note 3* 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.

**66 Selling or destroying dogs (other than dangerous dogs) seized under general or attacking and harassing power**

(1) This section applies to a dog seized under section 56 (Seizure—generally) or 59 (Seizure—attacking and harassing) unless the dog is a dangerous dog.

*Note* Sections 68 and 69 deal with the selling and destruction of dangerous dogs.

(2) The registrar may sell or destroy the dog if—

- (a) within 7 days after the seizure, the registrar cannot find out who is its keeper after making reasonable inquiries; or
- (b) the keeper of the dog relinquishes ownership of the dog; or
- (c) within 7 days beginning on the day after notice under section 61 (Notice of seizure) was given to the keeper of the dog, the keeper does not—
  - (i) tell the registrar in writing that the keeper wishes to claim the dog and, if the dog is not registered, apply to the registrar for registration of the dog; or
  - (ii) relinquish ownership of the dog.

**67 Selling or destroying dogs (other than dangerous dogs) seized under multiple dog licence power**

(1) This section applies to a dog seized under section 58 (Seizure—contravention of multiple dog licence) unless the dog is a dangerous dog.

*Note* Sections 68 and 69 deal with the selling and destruction of dangerous dogs.

(2) The registrar may sell or destroy the dog if—

(a) within 7 days after the seizure, the registrar cannot find out who is its keeper after making reasonable inquiries; or

(b) the keeper of the dog relinquishes ownership of the dog; or

5 (c) within 7 days beginning on the day after notice under section 61 (Notice of seizure) was given to the keeper of the dog, the keeper does not—

(i) tell the registrar, in writing, that the keeper wishes to claim the dog and—

10 (A) if a multiple dog licence is required for the dog and a multiple dog licence is not in force for the dog— apply to the registrar for a multiple dog licence; and

(B) if the dog is not registered—apply to the registrar for registration of the dog; or

15 (ii) relinquish ownership of the dog.

(3) If the keeper applies for a multiple dog licence for the dog mentioned in paragraph (2) (c) but the registrar refuses to issue the licence, the registrar may sell or destroy the dog after 7 days beginning the day after the keeper receives notice of the registrar's decision to refuse to issue the  
20 licence unless, within the 7 days, the keeper makes an application under section 119 (Review of decisions) for review of the decision.

(4) If the registrar's decision to refuse the licence is upheld, the registrar may sell or destroy the dog after 7 days beginning on the day after the decision to uphold the registrar's decision.

25 **68 Selling or destroying dangerous dogs generally**

(1) This section applies to a dog seized under this Division that is a dangerous dog, whether the dog was declared to be a dangerous dog before or after it was seized, but does not include a dog seized under paragraph  
30 57 (c) (Seizure—general) because the dangerous dog licence for the dog is cancelled.

*Note* Section 69 deals with the dangerous dogs seized under paragraph 57 (c).

(2) The registrar may sell or destroy the dog if—

- 5
- (a) within 7 days after its seizure, the registrar cannot find out who is its keeper after making reasonable inquiries; or
  - (b) the keeper of the dog relinquishes ownership of the dog; or
  - (c) within 28 days beginning on the day after notice under section 61 (Notice of seizure) was given to the keeper of the dog, the keeper does not—

(i) tell the registrar, in writing, that the keeper wishes to claim the dog and—

10 (A) if a dangerous dogs licence is not in force for the dog—apply to the registrar for a dangerous dog licence; and

(B) if the dog is not registered—apply to the registrar for registration of the dog; or

(ii) relinquish ownership of the dog.

15 (3) If the registered keeper applies for a dangerous dog licence for the dog mentioned in paragraph (2) (c) but the registrar refuses to issue the licence, the registrar may sell or destroy the dog after 7 days beginning the day after the keeper receives notice of the registrar's decision to refuse to issue the licence unless, within the 7 days, the keeper makes an application under section 119 (Review of decisions) for review of the decision.

(4) If the registrar's decision to refuse the licence is upheld, the registrar may sell or destroy the dog after 7 days beginning on the day after the decision to uphold the registrar's decision.

25 **69 Selling or destroying dangerous dog if dangerous dogs licence cancelled**

(1) This section applies to a dangerous dog seized under paragraph 57 (c) (Seizure—dangerous dogs) because the dangerous dogs licence for the dog is cancelled.

(2) The registrar may sell or destroy the dog if—

30 (a) within 28 days beginning on the day after notice under section 61 (Notice of seizure) was given to the keeper of the dog, the keeper does not tell the registrar, in writing, that the keeper wishes to claim the dog; or

(b) the keeper relinquishes ownership of the dog.

(3) However, the registrar must not sell or destroy the dog if the registered keeper makes an application under section 120 (Notification of decisions) within the 28 days for review of the registrar's decision to cancel the dangerous dogs licence.

- 5 (4) If the registrar's decision to cancel the licence is upheld, the registrar must sell or destroy the dog after 7 days beginning on the day after the decision to uphold the registrar's decision.

#### **70 Relinquishing ownership of dogs**

10 (1) The keeper of a dog may only relinquish ownership of a dog by signed writing.

(2) An instrument relinquishing ownership of a dog—

(a) takes effect at the end of 3 days beginning on the day the keeper signs the instrument; and

(b) must contain a statement to the effect of paragraph (a).

15 (3) If a person relinquishes ownership of an impounded dog, the registrar is not obliged to return the dog to its keeper.

(4) If the keeper of a dog relinquishes ownership of an impounded dog, the registrar must not sell or destroy the dog until after the instrument relinquishing ownership takes effect.

#### **20 Division 2.8—Miscellaneous**

#### **71 General power to return impounded dogs etc**

(1) Despite Division 2.7 (Seizure of dogs and dealing with them), the registrar may return an impounded dog to its keeper if satisfied that it would be in the public interest to do so.

25 (2) In making a decision under subsection (1), the registrar must consider—

(a) the safety of the public; and

(b) the cost of keeping the dog impounded; and

30 (c) whether financial or other hardship would be caused to the keeper if the dog were to remain impounded.

(3) The registrar may return an impounded dog to its keeper under this section on conditions.

5 (4) If the registrar returns an impounded dog under this Division 2.7, the registrar may remit all or part of any fee paid by a keeper of the dog under that Division if satisfied that not to do so would cause the keeper financial hardship.

## **72 Disqualification from keeping animals**

10 (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 disqualify the person from keeping an animal for a period decided by the court.

(2) A disqualification may disqualify a person from keeping a particular animal, a particular kind of animal or any animal.

15 (3) In deciding whether to disqualify a person, the court must consider the following matters:

(a) the acts or omissions of the person constituting the offence;

(b) any conviction or finding of guilty of the applicant within the last 10 years for an offence against a Territory or State law relating to the welfare, keeping or control of an animal.

20 (4) Subsection (3) does not limit the matters the court may consider.

(5) If a court disqualifies a person from keeping an animal, the court must give particulars of the disqualification to the registrar.

(6) A person who is disqualified from keeping an animal must not keep an animal in contravention of the disqualification.

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

(7) If the keeper of an animal is convicted, or found guilty, of an offence against subsection (6), the court may order the registrar to return the animal to its keeper, or to destroy the animal or sell or otherwise dispose of the animal to a person other than—

30 (a) the keeper; or

(b) a person who lives with the keeper.

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**(8)** The court may order the keeper of an animal sold, destroyed or otherwise disposed of under subsection (7) to pay the costs or expenses of the sale, destruction or disposal.

**PART 3—DOGS AND CATS**

**73 Meaning of *de-sex* and *permit* for pt 3**

In this Part:

*de-sex*, in relation to a dog or cat, includes perform a vasectomy or  
5 tubal ligation on the dog or cat.

*permit* means a permit issued under this Part.

**74 Dogs and cats to be de-sexed**

(1) A person must not, without reasonable excuse, keep a cat that has  
not been de-sexed unless the person is the holder of a permit for the cat.

10 Maximum penalty: 50 penalty units.

(2) A person must not, without reasonable excuse, keep a dog that has  
not been de-sexed unless the person is the holder of a permit for the dog.

Maximum penalty: 50 penalty units.

(3) Subsections (1) and (2) do not apply to a dog or cat—

15 (a) under 6 months old; or

(b) bought by, or in the possession of, its owner for less than 28 days;  
or

(c) if the registrar is satisfied that it would be detrimental to the health  
of the dog or cat if it were to be de-sexed.

**20 75 Permits for dogs and cats not de-sexed**

An individual may apply to the registrar for a permit to keep a dog  
or cat that is not de-sexed.

**76 Approval or refusal of applications**

(1) If an application for a permit has been made under section 75, the  
25 registrar must, by written notice to the applicant—

(a) issue a permit; or

(b) refuse to issue a permit.



(2) The registrar must issue a permit if satisfied that the animal to which the application relates—

(a) is a dog or cat—

(i) kept for breeding; or

5 (ii) used, bred or bought for exhibition, or taking part in a cat or dog show; or

(b) is a racing greyhound.

**77 Revocation of permits**

10 The registrar may revoke a permit if satisfied that a dog or cat is no longer one to which subsection 76 (2) (Approval or refusal of applications) applies.

**78 Term of permits**

A permit continues in force until revoked.

**79 Production of permits**

15 (1) If a ranger asks the keeper or owner of a dog or cat to produce a permit for the dog or cat, the keeper or owner of a dog or cat must not, without reasonable excuse, fail to produce a permit for inspection by the ranger.

Maximum penalty: 5 penalty units.

20 (2) A person is not required to comply with a requirement under this section if, when asked by the person, the ranger does not produce his or her identity card.

**80 Earmarkings**

25 (1) A veterinary surgeon must not, without reasonable excuse, de-sex a dog or cat unless the veterinary surgeon marks an ear of the dog or cat with a tattoo.

Maximum penalty: 5 penalty units.

30 (2) A certificate signed by a veterinary surgeon stating that a dog or cat has been de-sexed is evidence that the dog or cat has been de-sexed unless the contrary is proved.

**81 Declaration of cat curfew**

(1) If the Minister is satisfied that cats in an area are a serious threat to native flora or fauna in the area, the Minister may declare the area to be an area where cats must be confined to their keeper's or carer's premises during stated times.

(2) A declaration under this section is a disallowable instrument.

(3) A declaration under this section takes effect on the first day the declaration is no longer liable to be disallowed under section 6 of the *Subordinate Laws Act 1989* or, if the declaration provides for a later time of effect, at the later time.

(4) The Minister must notify the making of a declaration under this section in a daily newspaper published and circulating in the Territory.

**82 Offence—cats in declared areas**

(1) The keeper or carer of a cat must not, without reasonable excuse, allow the cat to be in a declared area in contravention of a declaration under section 81.

Maximum penalty: 10 penalty units.

(2) In this section:

*declared area* means an area for which a declaration under section 78 is in force.

**83 Identification**

(1) A person must not, without reasonable excuse, keep a dog or cat unless it has a form of identification (if any) prescribed under the regulations.

Maximum penalty: 5 penalty units.

(2) The regulations may make provision for or with respect to the compulsory identification of dogs and cats.

(3) In particular, the regulations may provide for—

- (a) how dogs and cats are to be identified; and
- (b) the procedures to be followed for the compulsory identification of dogs and cats; and

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- (c) the persons by whom compulsory identification may be carried out and the duties of the persons; and
  - (d) the particulars making up that identification.
- (4) A form of identification may be a microchip.

**PART 4—INFRINGEMENT NOTICES FOR  
CERTAIN OFFENCES**

***Division 4.1—Interpretation***

**84 Definitions for pt 4**

5 In this Part:

***administering authority***, for an infringement notice offence, means the entity that, under the regulations, is the administering authority for the offence.

***authorised person*** means—

10 (a) for an infringement notice for an infringement notice offence—

(i) the administering authority; or

15 (ii) a person who is authorised, in writing, by the administering authority to serve an infringement notice for the offence; or

(iii) anyone else who, under the regulations, may serve an infringement notice for the offence; or

(b) for a reminder notice for an infringement notice offence—

(i) the administering authority; or

20 (ii) a person who is authorised, in writing, by the administering authority to serve a reminder notice for the offence; or

(iii) anyone else who, under the regulations, may serve a reminder notice for the offence.

25 ***date of service***, of an infringement notice or reminder notice that has been, or is to be, served on a person, means the date the notice is served on the person.

***infringement notice*** means a notice under section 87 (Service of infringement notices).

30 ***infringement notice offence*** means an offence declared under the regulations to be an offence to which this Part applies.

***infringement notice penalty***, for a person for an infringement notice offence, means—

- 5
- (a) the amount prescribed under the regulations as the penalty payable by the person for the offence under an infringement notice for the offence; or
  - (b) if a reminder notice has also been served on the person for the offence—the total of the amount mentioned in paragraph (a) and the amount prescribed under the regulations as the amount payable by the person for the cost of serving the reminder notice.
- 10

***reminder notice*** means a notice under section 96 (Reminder notices).

#### ***Division 4.2—Service of documents under generally***

##### **85 Service of documents**

- 15
- (1) Sections 17A and 18 of the *Interpretation Act 1967* apply to the service of a document on a person under this Part (whether the word ‘serve’, ‘give’ or ‘send’ or any other word is used).
  - (2) However, section 18 of the *Interpretation Act 1967* does not affect the operation of section 160 of the *Evidence Act 1995* (Cwlth).

20 *Note* Interpretation Act, s 17A is about service of documents generally, and s 18 is about service of documents by post. Cwlth Evidence Act s 160 provides a rebuttable presumption that a postal article sent by prepaid post addressed to a person at an address in Australia or an external Territory was received at that address on the 4th working day after having been posted.

#### ***Division 4.3—Infringement and reminder notices***

##### **86 Purpose and effect of div 4.3**

- 25
- (1) The purpose of this Division is to create a system of infringement notices for certain offences against this Act as an alternative to prosecution.
  - (2) This Division does not—
    - (a) require an infringement or reminder notice to be served on a person; or
    - (b) affect the liability of a person to be prosecuted for an offence if—
      - (i) an infringement or reminder notice is not served on the person for the offence; or
- 30

- (ii) the person does not comply with an infringement or reminder notice served on the person for the offence; or
- (iii) an infringement notice served on the person is withdrawn;  
or
- 5 (c) prevent the service of 2 or more infringement notices on a person for an offence; or
- \_\_\_\_\_ (d) limit or otherwise affect the penalty that may be imposed by a court on a person convicted of an offence.

**87 Service of infringement notices**

- 10 (1) If an authorised person believes, on reasonable grounds, that a person has committed an infringement notice offence, the authorised person may serve a notice (an *infringement notice*) on the person for the offence.
- (2) If the infringement notice offence is an offence by the keeper of a dog or cat, the authorised person may serve an infringement notice on—
  - 15 (a) the keeper of the dog or cat at the time of the offence; or
  - (b) if there are 2 or more keepers of the dog or cat at that time—each or any of the keepers.
- (3) If the infringement notice offence is an offence by a carer of a dog or cat, the authorised person may serve an infringement notice on—
  - 20 (a) the carer of the dog or cat at the time of the offence; or
  - (b) if there are 2 or more carers of the dog or cat at that time—each or any of the carers.
- (4) If an infringement notice is to be served on a person under this section by post, the notice may be addressed to the person—
  - 25 (a) at the person's last home or business address known to the registrar; or
  - (b) if the dog is registered under a law of a State or another Territory corresponding to Part 2 (Dogs)—at the latest home or business address of the person in the registration records kept under that  
30 law.

**88 Contents of infringement notices**

(1) An infringement notice served on a person by an authorised person for an infringement notice offence must—

- (a) be identified by a unique number; and
- 5 (b) state the date of service of the notice; and
- (c) state—
  - 10 (i) the full name, or surname and initials, and address of the person on whom the notice is served; or
  - (ii) the particulars that are, under the regulations, identifying particulars of the dog or cat concerned; and
- (d) give brief details of the offence, including the provision of this Act contravened by the person, and—
  - 15 (i) in a case prescribed under the regulations—the particulars that are, under the regulations, identifying particulars for the offence; or
  - (ii) in any other case—the place where the offence was committed and the date and approximate time of the offence; and
- 20 (e) state the infringement notice penalty payable by the person for the offence; and
- (f) contain the information required by section 89; and
- (g) identify the authorised person in accordance with the regulations; and
- 25 (h) include any other information required under the regulations and any additional information that the administering authority considers appropriate.

(2) The regulations may provide that paragraph (1) (c) does not apply to an infringement notice.

**89 Additional information in infringement notices**

30 (1) The infringement notice must also tell the person on whom it is served that—

- (a) the person may pay the infringement notice penalty for the offence or dispute liability for the offence within 28 days after the day when the notice is served on the person (the *date of service* of the notice); and
- 5 (b) the person may apply to the administering authority for additional time in which to pay the penalty or dispute liability for the offence; and
- (c) the notice may be withdrawn before or after the penalty is paid; and
- 10 (d) if the person pays the penalty within the 28 days (or any additional time allowed by the administering authority), then, unless the infringement notice is withdrawn and any penalty refunded—
- (i) any liability of the person for the offence is discharged; and
- 15 (ii) the person will not be prosecuted in court for the offence; and
- (iii) the person will not be taken to have been convicted of the offence; and
- (e) if the person wishes to dispute liability for the offence, the issue
- 20 may be referred to the Magistrates Court; and
- (f) if the Magistrates Court finds against the person or the person is prosecuted in court for the offence, the person may be convicted of the offence and ordered to pay a penalty and costs, and be subject to other court orders; and
- 25 (g) if the person does not pay the infringement notice penalty, or dispute liability for the offence, within the 28 days (or any additional time allowed by the administering authority), a reminder notice may be served on the person for the offence or the person may be prosecuted in court for the offence; and
- 30 (h) if a reminder notice is served on the person, the infringement notice penalty is increased by the amount payable by the person for the cost of serving the reminder notice.
- (2) In addition, the infringement notice must—



- (a) explain how the person may pay the infringement notice penalty or dispute liability for the offence; and
- (b) explain how the person may apply for additional time to pay the infringement notice penalty or dispute liability for the offence.

5 **90 Time for payment of infringement notice penalty**

The infringement notice penalty payable by a person under an infringement notice or reminder notice is payable—

- (a) within 28 days after the date of service; or
- 10 (b) if the person applies to the administering authority within the 28 days for additional time to pay and the additional time is allowed—within the additional time allowed by the administering authority; or
- 15 (c) if the person applies to the administering authority within the 28 days for additional time to pay and the application is refused—within 7 days after the day the person is told of the refusal or 28 days after the date of service, whichever is later.

**91 Extension of time to pay penalty**

(1) The person on whom an infringement notice or reminder notice is served may apply, in writing, to the administering authority, within 28 days after the date of service, for a stated additional time in which to pay the infringement notice penalty.

(2) The administering authority must—

- (a) allow or refuse to allow the additional period; and
- 25 (b) tell the person in writing of the decision and, if the decision is a refusal, the reasons for it.

**92 Effect of payment of infringement notice penalty**

(1) This section applies if—

- (a) an infringement notice has been served on a person for an infringement notice offence; and
- 30 (b) the person pays the infringement notice penalty for the offence in accordance with this Part; and

- (c) when the payment is made, the infringement notice had not been withdrawn and an information had not been laid in the Magistrates Court against the person for the offence.

5 *Note* Section 94 provides for the withdrawal at any time of an infringement notice that has been served on a person. If section 92 applied to the infringement notice, it ceases to apply and is never taken to have applied, on the withdrawal of the notice (see s 94 (4)).

(2) If this section applies—

- (a) any liability of the person for the offence is discharged; and  
(b) the person must not be prosecuted in a court for the offence; and  
10 (c) the person is not taken to have been convicted of the offence.

(3) If 2 or more infringement notices were served on the person for the offence, then, unless all the infringement notices have been withdrawn, subsection (2) applies to the person in relation to the offence if the person pays, in accordance with this Part, the infringement notice penalty in  
15 relation to any of the notices (together with any costs and disbursements payable under this Part in relation to the notice).

(4) If the person was 1 of 2 or more keepers of a dog or cat at the time of the offence, subsection (2) also applies to each of the other keepers.

20 (5) If the person was 1 of 2 or more carers of a dog or cat at the time of the offence, subsection (2) also applies to each of the other carers.

### 93 Application for withdrawal of infringement notice

(1) The person on whom an infringement notice for an infringement notice offence is served may apply to the administering authority, in writing, for the withdrawal of the notice within 28 days after the day when  
25 the infringement notice, or a reminder notice for the offence, is served on the person (or any additional time allowed by the administering authority).

(2) The administering authority must—

- (a) withdraw the notice or refuse to withdraw the notice; and  
(b) tell the person, in writing, of the decision and, if the decision is a  
30 refusal, the reasons for it.

### 94 Withdrawal of infringement notice

(1) This section applies to an infringement notice that has been served on a person for an infringement notice offence.

(2) The administering authority may, by notice served on the person, withdraw the infringement notice, whether or not—

(a) the person has made an application for the withdrawal of the infringement notice; or

5 (b) the infringement notice penalty (or part of it) has been paid for the offence.

(3) The notice must—

(a) include the infringement notice number and the date of service of the infringement notice; and

10 (b) tell the person that the infringement notice is withdrawn and, in general terms, about subsection (4).

(4) On service of the notice—

(a) this Part ceases to apply to the infringement notice; and

15 (b) if the infringement notice penalty (or part of it) has been paid— the amount paid must be repaid by the administering authority; and

(c) if section 92 (Effect of payment of infringement notice penalty) applies to the offence—this section ceases to apply to the offence; and

20 (d) a proceeding for the offence may be taken against anyone (including the person) as if the infringement notice had not been served on the person.

#### 95 Guidelines about withdrawal of infringement notices

25 (1) The Minister may, in writing, issue guidelines about the exercise of an administering authority's functions under section 93 or 94.

(2) The administering authority for an infringement notice must comply with any guidelines applying to the offence.

(3) Guidelines are disallowable instruments.

#### 96 Reminder notices

30 (1) An authorised person may serve a notice (a *reminder notice*) on a person if—

- 5
- (a) an infringement notice has been served on the person for an infringement notice offence; and
  - (b) the infringement notice has not been withdrawn; and
  - (c) the infringement notice penalty has not been paid to the administering authority within the time for payment under this Part; and
  - 10 (d) written notice disputing liability has not been given to the administering authority in accordance with this Part; and
  - (e) a reminder notice has not previously been served on the person for the offence.

(2) Subsection 87 (3) (Service of infringement notices) applies to the service of the reminder notice on the person in the same way as it applies to the service of an infringement notice on the person.

#### **97 Contents of reminder notices**

15 A reminder notice served on a person by an authorised person for an infringement notice offence must—

- (a) be identified by a unique number; and
- (b) include the following information:
  - 20 (i) the provisions of this Act contravened by the person;
  - (ii) the number of the infringement notice served on the person for the offence;
  - (iii) the date of service of the infringement notice; and
- (c) state the date of service of the reminder notice; and
- 25 (d) state the infringement notice penalty that is now payable by the person for the offence; and
- (e) contain the information required by section 89 (Additional information in infringement notices); and
- (f) identify the authorised person in accordance with the regulations; and
- 30 (g) include any other information required under the regulations and any additional information that the administering authority considers appropriate.

**98 Additional information in reminder notices**

(1) The reminder notice must also tell the person on whom it is served that—

- 5 (a) the infringement notice penalty for the offence has not been paid;  
and
- (b) the infringement notice has not been withdrawn; and
- (c) written notice disputing liability has not been received by the  
administering authority from the person for the offence; and
- 10 (d) the infringement notice penalty for the offence has been increased  
by the amount payable by the person for the cost of serving the  
reminder notice; and
- (e) the person may pay the infringement notice penalty that is now  
payable by the person for the offence or dispute liability for the  
15 offence within 28 days after the day when the reminder notice is  
served on the person (the *date of service* of the notice); and
- (f) the person may apply to the administering authority for additional  
time in which to pay the penalty or dispute liability for the  
offence; and
- 20 (g) the notice may be withdrawn before or after the penalty is paid;  
and
- (h) if the person pays the penalty within the 28 days (or any  
additional time allowed by the administering authority), then,  
unless the infringement notice is withdrawn and any penalty  
refunded—
- 25 (i) any liability of the person for the offence is discharged; and
- (ii) the person will not be prosecuted in court for the offence;  
and
- (iii) the person will not be taken to have been convicted of the  
offence; and
- 30 (i) if the person wishes to dispute liability for the offence, the issue  
may be referred to the Magistrates Court; and
- (j) if the Magistrates Court finds against the person or the person is  
prosecuted in court for the offence, the person may be convicted

of the offence and ordered to pay a penalty and costs, and be subject to other court orders; and

5 (k) if the person does not pay the infringement notice penalty, or dispute liability for the offence, within the 28 days (or any additional time allowed by the administering authority), the person may be prosecuted in court for the offence.

(2) In addition, the reminder notice must—

- 10 (a) explain how the person may pay the infringement notice penalty or dispute liability for the offence; and
- (b) explain how the person may apply for additional time to pay the infringement notice penalty or dispute liability for the offence.

#### ***Division 4.4—Disputing liability***

##### **99 Disputing liability for an infringement notice offence**

15 (1) A person on whom an infringement notice or reminder notice has been served for an infringement notice offence may dispute liability for the offence by written notice given to the administering authority.

(2) The notice must set out the grounds on which the person relies.

(3) The notice must be given to the administering authority—

- 20 (a) within 28 days after the date of service of the infringement notice or reminder notice; or
- (b) if the person applies to the administering authority within the 28 days for additional time to dispute liability for the offence and the additional time is allowed—within the additional time allowed by the administering authority; or
- 25 (c) if the person applies to the administering authority within the 28 days for additional time to dispute liability for the offence and the application is refused—within 7 days after the day the person is told of the refusal or 28 days after the date of service, whichever is later.

##### **30 100 Extension of time to dispute liability**

(1) The person on whom an infringement notice or reminder notice is served may apply, in writing, to the administering authority, within 28 days

after the notice is served on the person, for a stated additional time in which to dispute liability for the offence.

(2) The administering authority must—

- (a) allow or refuse to allow the additional time; and
- 5 (b) tell the person in writing of the decision and, if the decision is a refusal, the reasons for it.

### 101 Procedure if liability disputed

(1) This section applies if a person disputes liability for an infringement notice offence by giving the administering authority a notice in accordance with section 99.

(2) The administering authority may lay an information in the Magistrates Court against the person for the offence within 60 days after being given the notice.

(3) The administering authority must discontinue a proceeding instituted against the person for the offence if, before the hearing of the proceeding, the person pays the total of—

- (a) the infringement notice penalty; and
- (b) the costs (if any) prescribed under the regulations for beginning the proceeding; and
- 20 (c) the disbursements (if any) incurred by the administering authority up to the day payment is made.

(4) If subsection (3) applies, section 92 (Effect of payment of infringement notice penalty) also applies to the person in relation to the offence, even though the person paid the infringement notice penalty for the offence after an information had been laid in the Magistrates Court against the person for the offence.

(5) If the administering authority does not lay an information in the Magistrates Court against the person for the offence within 60 days after being given the notice, the administering authority must—

- 30 (a) tell the person, in writing, that no further action will be taken against the person for the offence; and
- (b) take no further action in relation to the person for the offence.

***Division 4.5—Miscellaneous***

**102 Power of delegation**

5 (1) The administering authority for an infringement notice offence may, in writing, delegate all or any of the authority's functions under this Part to an authorised person or a person prescribed under the regulations.

(2) A person prescribed under the regulations for subsection (1) may delegate a power delegated to the person under that subsection to anyone else.

**103 Evidentiary certificates**

10 (1) This section applies to a proceeding for an infringement notice offence.

15 (2) A certificate purporting to be signed by or on behalf of the administering authority and stating any matter relevant to anything done or not done under this Part in relation to the infringement notice offence is evidence of the matter.

(3) Without limiting subsection (2), a certificate given under that subsection may state any of the following:

20 (a) a stated infringement notice or reminder notice was served by a stated authorised person in a stated way on a stated person for a stated infringement notice offence;

(b) the administering authority did not allow further time, or allowed a stated further time, for payment of the infringement notice penalty or to dispute liability for the offence;

25 (c) the infringement notice penalty was not paid within the time in which it was required to be paid under this Part;

(d) the infringement notice has not been withdrawn or was withdrawn on a stated date;

(e) the offence involved a stated dog or cat;

30 (f) a stated person was the keeper (or a keeper) of the dog or cat on a stated date (and, if relevant, at a stated time on that date);

(g) a stated address was on a stated date the last home or business address of a stated person known to the registrar;



- (h) a stated address was on a stated date the latest home or business address of a stated person in the record kept under a law of a State or another Territory corresponding to Part 2 (Dogs);
  - (i) an infringement notice penalty has not been paid by, or a penalty has not been imposed on, a stated person or anyone for the offence.
- 5
- (4) A court must accept a certificate under this section as proof of the matters stated in it if there is no evidence to the contrary.

**PART 5—ASSISTANCE ANIMALS**

**104 Rights of persons accompanied by assistance animals**

5 (1) Despite any other Territory law (other than the *Discrimination Act 1991*), a person with a disability accompanied by an assistance animal has the same right of access to, and the same right to the use of, a public place as a person who is not accompanied by an assistance animal.

(2) Without limiting subsection (1), a person with a disability does not commit an offence merely by taking an assistance animal onto or into, or allowing the animal to enter, a public place.

10 **105 Exclusion of assistance animal from public place**

(1) A person must not, without reasonable excuse, deny a person with a disability accompanied by an assistance animal access to, or the use of, a public place.

Maximum penalty: 10 penalty units.

15 (2) A person must not, without reasonable excuse, exclude or remove from a public place—

- (a) a person with a disability accompanied by an assistance animal; or
- (b) an assistance animal that is with a person with a disability.

Maximum penalty: 10 penalty units.

20 **106 Imposition of excess charges for assistance animal**

(1) A person must not impose a charge of the following kind on a person with a disability accompanied by an assistance animal, unless the charge would be imposed on a person who is not accompanied by an assistance animal:

- 25
- (a) accommodation, goods or services provided or supplied to or for the person with a disability;
  - (b) access to, or the use of, a public place by the person with a disability.

Maximum penalty: 10 penalty units.

(2) A person does not contravene subsection (1) by imposing a charge for the following on a person with a disability accompanied by an assistance animal if the charge was reasonable in the circumstances:

5 (a) accommodation, goods or services provided or supplied for the assistance animal;

(b) expenses reasonably incurred by the first person because of the presence of the assistance animal.

10 (3) If a person with a disability has paid a charge imposed in contravention of subsection (1), the person may recover from the person to whom it was paid the amount by which that charge is more than the charge that could have been imposed without contravening the subsection.

**PART 6—ANIMAL NUISANCE**

**107 Meaning of *animal nuisance* and *nuisance notice* for pt 6**

In this Part:

*animal nuisance*—see section 109.

5 *nuisance notice* means a notice under section 112 (Issue of nuisance notices).

**108 Pt 6 does not apply to keeping animals on certain land**

This Part does not apply in relation to an animal kept on land that is under a lease—

- 10 (a) granted for agricultural or grazing purposes; or  
(b) that allows for an animal care facility.

**109 When animal nuisance exists**

For this Part, animal nuisance exists if the keeping or behaviour of an animal causes a condition, state or activity that constitutes—

- 15 (a) damage to property owned by a person other than the keeper; or  
(b) excessive disturbance to a person other than the keeper because of noise; or  
(c) danger to the health of an animal or a person other than the keeper.

20 **110 Offence of animal nuisance**

(1) A person must not allow an animal nuisance.

Maximum penalty: 10 penalty units.

25 (2) If the keeper of an animal is convicted or found guilty of an offence against this section, the court may order the registrar to return the animal to its keeper, or to destroy or sell the animal or otherwise dispose of it to a person other than its keeper or a person who lives with its keeper.

(3) The court may order the keeper of an animal sold, destroyed or otherwise disposed of to pay the costs or expenses of the sale, destruction or disposal.

**111 Complaints about animal nuisance**

(1) A person may complain in writing to the registrar about an animal nuisance.

(2) The registrar must investigate the complaint.

5 (3) If, after investigation, the registrar decides not to issue a nuisance notice, the registrar must—

(a) give written notice of the decision to the complainant; and

(b) advise the complainant about any methods available for settling the issue privately.

10 **112 Issue of nuisance notices**

(1) If the registrar reasonably believes that an animal nuisance exists, the registrar may issue a written notice to—

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

15 (b) if a keeper cannot be identified—a person who occupies the place where the nuisance exists, or from which it emanates.

(2) In deciding whether to issue a notice, the registrar must consider the following:

(a) the number of persons affected, or potentially affected, by the nuisance;

20 (b) the damage, disturbance or danger resulting, or likely to result, from the nuisance;

(c) any reasonable precautions that a person whose animal is causing the nuisance has or has not taken to avoid or minimise the adverse effects, or the potential adverse effects, of the nuisance;

25 (d) any reasonable precautions that a person adversely affected, or potentially adversely affected, by the nuisance has or has not taken to avoid or minimise the effects, or likely effects, of the nuisance.

30 (3) Subsection (2) does not limit the matters that the registrar may consider.

(4) A nuisance notice—

(a) must—

(i) state the animal nuisance that must be reduced or stopped;  
and

5 (ii) state the place where the nuisance exists or from which it  
emanates; and

10 (iii) indicate that, unless the animal nuisance is reduced or  
stopped, proceedings may be instituted for contravention of  
the notice or an offence against subsection 110 (1) (Offence  
of animal nuisance); and

(b) may mention steps to be taken to prevent the recurrence of the  
animal nuisance.

(5) A nuisance notice continues in force until revoked under  
section 113.

15 (6) A person must not contravene a nuisance notice.

Maximum penalty: 5 penalty units.

**113 Revocation of nuisance notices**

(1) The registrar must revoke a nuisance notice if satisfied, after  
carrying out an inspection, that—

20 (a) the notice has been complied with; and

(b) adequate steps have been taken to reduce the nuisance or stop the  
nuisance from happening again.

(2) A revocation must be in writing given to the person to whom the  
notice was issued.

25 (3) A copy of a revocation notice must be given to the person because  
of whose complaint the nuisance notice was issued.

**114 Seizure, impounding and return of animals**

30 (1) If proceedings are instituted for an offence against subsection  
110 (1), the registrar may seize an animal the registrar reasonably believes  
to be contributing to the animal nuisance, after considering the following:

- (a) the extent of the animal nuisance;
  - (b) the likelihood of the keeper of the animal reducing or stopping the nuisance or complying with steps mentioned in a nuisance notice to prevent its recurrence;
  - 5 (c) the cost of, or practicability of making arrangements for, alternative accommodation for the animal.
- (2) For subsection (1), the registrar may only enter premises under a search warrant under section 133 (Search warrants).
- 10 (3) If an animal is seized under subsection (1), the registrar must impound the animal until, in accordance with this Part, it is returned to its keeper, or sold, destroyed or otherwise disposed of.
- (4) If an animal is seized under subsection (1) and the registrar is satisfied that the animal nuisance is not likely to happen again if the animal is returned to the keeper, the registrar must return the animal to the keeper.
- 15 (5) If an animal is seized under subsection (1) and the proceeding under subsection 110 (1) (Offence of animal nuisance) for the animal nuisance is discontinued or withdrawn, the registrar must return the animal to the keeper.
- 20 (6) Any costs or expenses incurred by the Territory in seizing or impounding an animal seized under subsection (1) are a debt payable to the Territory by the keeper of the animal.

## **PART 7—DESTRUCTION OF ANIMALS**

### **115 Destruction of animals by authorised persons**

A police officer or veterinary surgeon who reasonably believes that the registrar has asked for the destruction of an animal may destroy the animal.

5

### **116 Destruction of vicious animals**

(1) If, because of the viciousness of the animal, an authorised officer or police officer cannot seize an animal under this Act, the officer may destroy the animal.

10 (2) In deciding whether to take action under subsection (1), the authorised officer or police officer must consider the safety of members of the public.

### **117 Destruction of diseased or injured animals**

15 (1) An authorised officer or police officer may destroy an injured or diseased animal if the officer is satisfied that the animal is likely to harm other animals or people.

(2) An authorised officer or police officer may destroy an injured or diseased animal if the officer is satisfied that destruction is the most humane course of action in the circumstances.

20 (3) The registrar must tell the keeper of an animal of its destruction if—

(a) the animal is destroyed under subsection (1) or (2); and

(b) the name and address of the keeper is known to the registrar or may reasonably be found out by the registrar.

(4) The registrar may tell the keeper by telephone.



**PART 8—REVIEW OF DECISIONS**

**118 Meaning of *reviewable decision* for pt 8**

In this Part:

*reviewable decision* means a decision—

- 5 (a) refusing to register a dog (paragraph 7 (1) (b) (Registration—approval or refusal)); or
- (b) issuing a multiple dog licence on conditions (subsection 20 (2) (Multiple dog licences—approval or refusal)); or
- 10 (c) refusing to issue a multiple dog licence (paragraph 20 (1) (b) (Multiple dog licences—approval or refusal)); or
- (d) declaring a dog to be a dangerous dog (subsection 22 (1) or (2) (Declarations—dangerous dogs)); or
- (e) refusing to issue a dangerous dog licence (paragraph 22 (1) (b) (Declarations—dangerous dogs)); or
- 15 (f) issuing a dangerous dog licence on conditions (subsection 25 (2) (Dangerous dogs licences—approval or refusal)); or
- (g) varying or refusing to vary a multiple dog licence or dangerous dog licence (section 33 (Variation of special licences)); or
- 20 (h) cancelling a multiple dog licence or dangerous dog licence (subsection 36 (1) (Cancellation of special licences)); or
- (i) refusing to issue a permit to take a dog into a prohibited area (section 43 (Prohibited areas—permits)); or
- (j) issuing a permit to take a dog into a prohibited area on conditions (section 43 (Prohibited areas—permits)); or
- 25 (k) imposing a condition on the return of a dog (subsection 71 (3) (General power to return impounded dog etc)); or
- (l) refusing to issue a permit to keep a cat or dog that is not desexed (subsection 75 (1) (Approval or refusal of applications)); or
- 30

- (m) issuing of a nuisance notice (section 112 (Issue of nuisance notices)); or
- (n) revoking a nuisance notice (section 113 (Revocation of nuisance notices)); or
- 5 (o) seizing an animal (section 114 (Seizure, impounding and return of animals)); or
- (p) refusing to return an animal (section 114 (Seizure, impounding and return of animals)).

**119 Review of decisions**

10 Application may be made to the administrative appeals tribunal for a review of a reviewable decision of the registrar.

**120 Notification of decisions**

15 (1) If the registrar makes a decision mentioned in section 118 (Meaning of *reviewable decision* for pt 8) in relation to a person, the registrar must give a written notice of the decision to the person.

(2) A notice under subsection (1) must be in accordance with the requirements of the code of practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

**PART 9—ADMINISTRATION**

***Division 9.1—Officers***

**121 Registrar**

(1) There is to be a registrar.

5 (2) The chief executive must establish an office in the public service the duties of which include performing the exercising of the registrar.

(3) The registrar is the public servant for the time being performing the duties of the public service office mentioned in subsection (2).

**122 Deputy registrars**

10 (1) There may be 1 or more deputy registrars.

(2) A deputy registrar may exercise a function of the registrar, subject to a direction of the registrar.

(3) The chief executive may establish 1 or more offices in the public service the duties of which include exercising the functions of a deputy registrar.

15

(4) The following people are deputy registrars:

(a) any public servant for the time being performing the duties of a public service office mentioned in subsection (3);

(b) anyone else appointed in writing by the chief executive.

20 **123 Authorised officers**

(1) There may be 1 or more authorised officers for this Act.

(2) An authorised officer may exercise functions that the registrar directs or are prescribed under the regulations.

(3) The chief executive may establish 1 or more offices in the public service the duties of which include exercising the functions of an authorised officer.

25

(4) The following people are authorised officers:

(a) any public servant for the time being exercising the duties of a public service office mentioned in subsection (3);

- (b) anyone else appointed in writing by the chief executive.

**124 Identity cards**

(1) The chief executive must issue an authorised officer with an identity card that states the person is an authorised officer for this Act, or stated provisions of this Act, and shows—

- (a) a recent photograph of the person; and  
(b) the name of the person; and  
(c) the date of issue of the card; and  
(d) a date of expiry for the card; and  
(e) anything else prescribed under the regulations.

(2) A person who ceases to be an authorised officer must return his or her identity card to the chief executive as soon as practicable, but no later than 7 days after ceasing to occupy or act in that office.

Maximum penalty (subsection (2)): 1 penalty unit.

**125 Power not to be exercised before identity card shown**

An authorised person may exercise a power under this Act in relation to a person only if the authorised person first shows the person his or her identity card.

***Division 9.2—Powers of authorised officers***

**126 Definitions for div 9.2**

In this Division:

*enter* includes board.

*residential premises* means premises used exclusively or mainly for residential purposes, and includes a private room in, but not any other part of, a motel, hotel, hostel or guesthouse.

**127 Things connected with an offence**

- (1) For this Division, a thing is connected with a particular offence if—
- (a) the offence has been committed in relation to it; or  
(b) it is evidence of the commission of the offence; or

(c) it was used, is being used, or is intended to be used, for committing the offence.

(2) A reference in this Division to an offence includes an offence that there are reasonable grounds for believing has been, is being, or will be committed.

### **128 Entry of premises—routine inspections**

(1) For deciding whether this Act is being complied with, an authorised officer may enter any premises with the consent (obtained under section 132 (Consent to entry)) of the occupier.

(2) An authorised officer may enter premises under subsection (1) with necessary and reasonable assistance.

### **129 Entry of premises—search warrants**

(1) If an authorised officer has reasonable grounds for suspecting that there may be on any premises a thing of a particular kind connected with a particular offence against this Act, the authorised officer may enter premises under a search warrant under section 133 (Search warrants).

(2) An authorised officer may enter premises under subsection (1) with necessary and reasonable assistance and force.

(3) A police officer may help the authorised officer in the execution of a search warrant if asked to do so.

### **130 Entry and exercise of powers in emergency situations**

(1) This section applies if an authorised officer—

(a) reasonably believes that an offence under section 50 (Offences of attacking or harassing) or 51 (Encouraging dogs to attack or harass) has been, is being, or will be committed; and

(b) reasonably believes that it is necessary to take action as quickly as possible—

(i) to prevent, minimise or stop an offence; or

(ii) to give assistance to any animal on the premises; or

(iii) to seize a dog.

**(2)** An authorised officer may enter any premises (other than a building used as a dwelling) at any time of the day or night—

- (a) without a warrant; and
- (b) with necessary and reasonable assistance and force.

**5 131 Inspection of premises**

An authorised officer who enters premises under subsection 128 (1) (Entry of premises—routine inspections) or 129 (2) (Entry of premises—search warrants) may do any of the following on the premises or in relation to the premises:

- 10 (a) inspect or examine;
- (b) take measurements;
- (c) take photographs, films, or audio, video or other recordings;
- (d) seize an animal or thing.

**132 Consent to entry**

15 **(1)** Before getting the consent of a person for subsection 128 (1), an authorised officer must—

- (a) produce his or her identity card; and
- (b) tell the person that the person may refuse to give consent.

20 **(2)** If an authorised officer gets the consent of a person for subsection 128 (1), the officer must ask the person to sign a written acknowledgment—

- (a) that the person has been told that the person may refuse to give consent; and
- (b) that the person has voluntarily given consent; and
- 25 (c) of the day when, and the time where, the consent was given.

**(3)** An entry by an authorised officer because a person's consent is lawful only if the consent was voluntary.

**(4)** If—

- 30 (a) it is necessary in a proceeding, for a court to be satisfied that the consent of a person for subsection 128 (1) was voluntary; and

- (b) an acknowledgment, under subsection (2), signed by the person is not produced in evidence;

the court must presume, unless the contrary is proved, that the consent was not voluntary.

5 **133 Search warrants**

- (1) This section applies if—

- (a) an information is laid before a magistrate alleging that an authorised officer has reasonable grounds for suspecting that there may be on any premises an animal or a thing of a particular kind connected with a particular offence against this Act; and

- (b) the information sets out those grounds.

- (2) A magistrate may issue a search warrant authorising the authorised officer named in the warrant, with necessary and reasonable assistance and force—

- (a) to enter the premises described in the warrant; and
- (b) to search the premises for the animal or thing of the kind mentioned in paragraph (1) (a); and
- (c) to exercise any of the powers listed in section 131 (Inspection of premises) in relation to the animal or thing.

- (3) A magistrate may issue a warrant only if—

- (a) the informant or someone else has given the magistrate, either orally on oath or by affidavit, additional information that the magistrate requires about the grounds on which the issue of the warrant is being sought; and
- (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

- (4) A warrant must—

- (a) state the purpose for which it is issued, including a reference to the nature of the offence in relation to which the entry and search is authorised; and
- (b) state that the entry is authorised at any time of the day or night, or state the hours during which the entry is authorised; and

- (c) include a description of the kind of animal or things in relation to which the powers mentioned in section 131 may be exercised; and
- (d) state a date, not later than 1 month after the date when the warrant is issued, when the warrant ceases to have effect.

5 (5) An authorised officer may exercise a power under a warrant in relation to a related thing if, when searching under the warrant for a thing of a particular kind connected with a particular offence, the officer finds the related thing.

(6) In subsection (5):

10 *related thing* means—

(a) a thing the authorised officer reasonably believes to be connected with—

(i) the offence, although not a thing of the kind stated in the warrant; or

15 (ii) another offence against this Act; and

(b) a thing in relation to which the authorised officer is satisfied it is necessary to exercise any of the powers mentioned in section 130 (Entry and exercise of powers in emergency situations) to prevent the committing, continuing or repeating of the offence or the other offence.

20

#### 134 Power to require name and address

(1) An authorised officer or a police officer may require a person to state the person's name and address if the officer—

(a) finds a person committing an offence against this Act; or

25 (b) reasonably believes that a person has just committed an offence against this Act.

(2) If an authorised officer makes a requirement under subsection (1), the authorised officer must—

(a) tell the person of the reasons for the requirement; and

30 (b) as soon as possible, record those reasons.



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**(3)** A person must not, without reasonable excuse, contravene a requirement under subsection (1).

Maximum penalty: 5 penalty units.

**(4)** A person is not required to comply with a requirement under subsection (1) if, when asked by the person, the authorised officer does not produce his or her identity card.

**PART 10—MISCELLANEOUS**

**135 Applications—additional information**

5 The registrar may, by written notice, require an applicant under this Act to give additional information to the registrar about the application either orally or in writing.

**136 Owner aged under 16**

If a person under 16 years old who lives with a parent or guardian is an owner of an animal, the parent or guardian is taken to be the owner of the animal.

10 **137 Release of dogs**

If a provision of this Act refers to the release of a dog to a person, the reference is taken to be a reference to permitting the dog to be collected by the person.

**138 Sale or destruction of animals**

15 If this Act requires the sale or destruction of an animal, the requirement is taken to authorise the registrar to sell the animal or to destroy the animal in a humane way.

**139 Registration renewals**

20 (1) The registration of a dog is not invalid merely because of the registrar issuing a renewal of the registration after the registration has expired.

(2) A licence under this Act is not invalid merely because of the registrar issuing a renewal of the licence after the licence has expired.

**140 Giving notice if more than 1 keeper**

25 If a notice is required or permitted to be given under this Act to the keeper of a dog and there is more than 1 keeper, the notice is taken to have been given to each of the keepers if it is given to 1 of them.

**141 Dishonoured cheques and credit transactions**

5 If the registrar tells a person in writing that a cheque given, or a credit transaction made, by the person in purported payment of a fee was dishonoured, the person must not, without reasonable excuse, fail to surrender to the registrar, any certificate, tag or licence issued to the person because of the purported payment, within 7 days beginning on the day after receiving the notice.

Maximum penalty: 10 penalty units.

**142 Obstruction etc of authorised officers**

10 A person must not, without reasonable excuse, hinder or obstruct an authorised officer in the exercise of the officer's functions under this Act.

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

**143 Fees**

(1) The Minister may determine fees payable under this Act.

15 (2) Without limiting subsection (1), a fee may be determined—

(a) by specifying the fee; or

(b) by setting a rate, or providing a formula or other method, by which the fee is to be worked out.

(3) A determination under this section—

20 (a) must provide who is liable to pay a fee; and

(b) may make provision about when the fee is payable (including the deferment of payment) and how it is to be paid (for example, as a lump sum or by instalments); and

25 (c) may make provision about the remission or refund of fees by the registrar, in whole or in part, in particular circumstances; and

(d) may make provision about anything else relating to the fee.

(4) A determination under this section is a disallowable instrument.

**144 Fees payable to Territory in accordance with determinations etc**

30 (1) A fee determined under section 143 is payable to the Territory, in relation to the relevant matter mentioned in the determination and in

accordance with the determination, by the person liable to pay the fee under the determination.

(2) A fee determined under section 143 is payable in advance unless the determination provides otherwise.

5 (3) If a fee determined under section 143 is payable in advance and the amount has not been paid, the registrar or anyone else is not obliged to exercise a function, or provide a service or facility, in relation to which the amount is payable.

#### 145 Regulations may make provision about fees

10 (1) The regulations may make provision with respect to the payment by cheque or credit card of any fee payable under this Act, including, for example, the consequences of a cheque not being met on presentation or a credit card transaction not being honoured.

15 (2) Without limiting subsection (1), the regulations may make provision for or with respect to—

(a) the suspension, cancellation or revocation of any registration, condition, document, or anything else done, given or issued under this Act if any fee payable for or in relation to it—

(i) is not paid when it is required to be paid; or

20 (ii) is paid by cheque and the cheque is not met on presentation; or

(iii) is paid by credit card and the credit card transaction is not honoured; or

25 (b) the restoration (whether prospectively or during any past period of suspension, cancellation or revocation) of any registration, permit, document, or anything else so suspended, cancelled or revoked.

#### 146 Approved forms

(1) The registrar may approve forms for this Act.

30 (2) If the registrar approves a form for a particular purpose, the approved form must be used for that purpose.

#### 147 Regulation-making power

The Executive may make regulations for this Act.

**148 Repeal of Acts**

The following Acts are repealed:

*Animal Nuisance Control Act 1975 No 36*

*Dog Control Act 1975 No 18*

5 *Dog Control Act 1976 No 11*

*Dog Control (Amendment) Act 1977 No 42*

*Dog Control (Amendment) Act 1981 No 36*

*Dog Control (Amendment) Act 1982 No 65*

*Dog Control (Amendment) Act 1983 No 23*

10 *Dog Control (Amendment) Act 1984 No 48*

*Dog Control (Amendment) Act 1985 No 14*

*Dog Control (Amendment) Act (No. 2) 1985 No 37*

*Dog Control (Amendment) Act 1988 No 84*

*Dog Control (Amendment) Act 1991 No 96*

15 *Dog Control (Amendment) Act 1992 No 27*

*Dog Control (Amendment) Act 1993 No 29*

*Dog Control (Amendment) Act (No. 2) 1993 No 72.*

**149 Repeal of regulations**

The following subordinate laws are repealed:

- 20
- 1976 No 32
  - 1985 No 21.

## PART 11—TRANSITIONAL PROVISIONS

### 150 Definitions for pt 11

*former Act* means the *Dog Control Act 1975*.

### 151 Existing applications for registration or licences

5 (1) An application for registration under section 9 of the former Act that had not been finally decided before the commencement of this Act is taken to be an application for registration under section 6 (Registration—applications) of this Act.

10 (2) An application for a keeper's licence under section 18B of the former Act that had not been finally decided before the commencement of this Act is taken to be an application for a multiple dog licence under section 19 (Multiple dog licences—applications) of this Act.

15 (3) An application for a dangerous dog licence under section 18K of the former Act that had not been finally decided before the commencement of this Act is taken to be an application for a dangerous dog licence under section 24 (Dangerous dog licences—applications) of this Act.

### 152 Existing registrations

20 (1) A dog that, immediately before the commencement of this Act, was registered under the former Act is taken to be registered under this Act for the unexpired time for which the dog was registered immediately before that commencement.

25 (2) A registration tag issued under subsection 12 (1) or section 18 of the former Act that was in force immediately before the commencement of this Act is taken to be a registration tag issued under subsection 11 (1) or (4) (Registration numbers, certificates and tags) of this Act.

30 (3) A registration certificate issued under subsection 12 (1) or 15 (3) or section 18 of the former Act that was in force immediately before the commencement of this Act is taken to be a registration certificate issued under subsection 11 (1) or (4) (Registration numbers, certificates and tags) of this Act.

**153 Existing licences**

(1) A person who, immediately before the commencement of this Act, was the holder of a keeper's licence under section 18C of the former Act is taken to be the holder of a multiple dog licence under section 20 (Multiple dog licences—approval or refusal) of this Act subject to the same conditions as applied to his or her licence immediately before the commencement of this Act.

(2) A person who, immediately before the commencement of this Act, was the holder of a dangerous dog licence under section 18L of the former Act is taken to be the holder of a dangerous dog licence under section 25 (Dangerous dog licences—approval or refusal) of this Act subject to the same conditions as applied to his or her licence immediately before the commencement of this Act.

**154 Existing dangerous dog declarations**

A dangerous dog declaration under section 39A of the former Act that was in force immediately before the commencement of this Act is taken to be a dangerous dog declaration made under subsection 22 (1) or (2) (Declarations—dangerous dogs) of this Act.

**155 Existing declared exercise areas**

A declaration of an exercise area under section 7C of the former Act that was in force immediately before the commencement of this Act is taken to be a declaration of an exercise area made under subsection 40 (1) (Declaration—exercise areas) of this Act.

**156 Renewal of keeper's licence—old yards**

The registrar must not refuse to renew a multiple dog licence under paragraph 20 (1) (b) (Multiple dog licences—approval or refusal) because a part of the yard is less than 2m from a boundary fence if—

- (a) the yard was built on premises before 24 June 1992; and
- (b) an application for a keeper's licence for the premises was made under the *Dog Control Act 1975* before 1 October 1992; and
- (c) the premises have been continuously licensed ever since.

**157 Consequential amendment of Lakes Act**

Section 15 of the *Lakes Act 1976* is amended by inserting after subparagraph (a) (iii) the following subparagraph:

“(iia) a swimming area;”.

**5 158 Expiry of certain provisions of Part**

Sections 150 to 155 and this section expire 1 year after this section commences.



DICTIONARY

(See s 3)

**administering authority**, for Part 4 (Infringement notices for certain offences)—see section 84.

5 **animal boarding facility** means a kennel, cattery, stable or other premises where animals are kept temporarily by a person other than a keeper of the animal.

**animal nuisance**, for Part 6 (Animal nuisance)—see section 107 (Meaning of *animal nuisance* and *nuisance notice* for pt 6).

10 **animal welfare offence** means an offence against a provision of the following sections of the *Animal Welfare Act 1992*:

- (a) section 7 (Cruelty);
- (b) section 8 (Pain);
- (c) section 9 (Confined animals);
- (d) section 10 (Alleviation of pain);
- 15 (e) section 11 (Release);
- (f) section 12 (Poisons);
- (g) section 13 (Electrical devices);
- (h) section 14 (Spurs);
- (i) section 15 (Conveyance and containment);
- 20 (j) section 16 (Working, riding and driving unfit animals);
- (k) section 17 (Matches, competitions and baiting);
- (l) section 19 (Medical and surgical procedures).

**assistance animal** means an animal trained to help a person with a disability to alleviate the effect of the disability.

25 **authorised officer** an authorised officer under section 123 (Authorised officers), and includes the registrar and a deputy registrar.

**authorised person**, for Part 4 (Infringement notices for certain offences)—see section 84.

30 **carer**, for an animal at a particular time, means an individual over 14 years old who is in charge of the animal at that time.

DICTIONARY—continued

**dangerous dog** means a dog that is declared to be a dangerous dog under subsection 22 (1) or (2) (Declarations—dangerous dogs) or section 50 (Offences of attacking or harassing).

5 **dangerous dog licence** means a licence under subsection 25 (1) (Dangerous dog licences—approval or refusal).

**date of service**, for Part 4 (Infringement notices for certain offences)—see section 84.

**deputy registrar** means a deputy registrar under section 122 (Deputy registrars).

10 **de-sex**, for Part 3 (Dogs and Cats)—see section 73 (Meaning of *desex* and *permit* for pt 3).

**disability**, for a person, means—

- (a) total or partial loss of the person's bodily or mental functions; or
- 15 (b) total or partial loss of a part of the body; or
- (c) the presence in the body of disease or organisms causing illness; or
- (d) the presence in the body of organisms that can cause disease or illness; or
- 20 (e) the malfunction, malformation or disfigurement of a part of the person's body; or
- (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- 25 (g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;

and includes a disability that—

- (h) currently exists; or
- 30 (i) previously existed but no longer exists; or

DICTIONARY—continued

(j) may exist in the future; or

(k) is imputed to a person.

*enter*, for Division 9.2 (Powers of authorised officers)—see section 126.

5 *excluded offence* means—

(a) a minor offence; or

(b) an offence against any of the following sections:

(i) section 37 (Return of special licences);

(ii) section 82 (Offence—cats in declared areas);

10 (iii) section 105 (Exclusion of assistance animal from public place);

(iv) section 106 (Imposition of excess charges for assistance animal);

15 (v) section 141 (Dishonoured cheques and credit transactions);

(vi) section 142 (Obstruction etc of authorised officers).

*function* includes power.

*harass*—

20 (a) of a person—see subsection 49 (1) (Harassment of persons and animals by dogs); and

(b) of an animal—see subsection 49 (2).

*infringement notice*—see section 84.

*infringement notice offence*, for Part 4 (Infringement notices for certain offences)—see section 84.

25 *infringement notice penalty*, for Part 4 (Infringement notices for certain offences)—see section 84.

*keeper* means—

(a) of a registered dog—the registered keeper of the dog; or

DICTIONARY—continued

(b) of another animal—the owner of the animal.

**licence**, for Division 2.4 (General provisions about multiple dog and dangerous dog licences)—see section 29 (Meaning of **licence** for div 4).

5 **minor offence** means an offence against this Act punishable by a maximum penalty of 5 penalty units or less.

**multiple dog licence** means a licence under subsection 20 (1) (Multiple dog licences—approval or refusal).

10 **muzzle** means a device that, if worn by a dog, prevents the dog from biting a person or animal.

**nuisance notice**, for Part 6 (Animal nuisance)—see section 107 (Meaning of **animal nuisance** and **nuisance notice** for pt 6).

**occupier**, of premises, includes a person who is, or is reasonably believed to be, in charge of the premises.

15 **permit**, for Part 3 (Dogs and Cats)—see section 73 (Meaning of **desex** and **permit** for pt 3).

**premises** includes land (whether vacant or occupied), an aircraft, a vessel and a vehicle.

20 **prohibited area** means an area declared by the Minister under subsection 41 (1) (Prohibited areas).

**public place**—

(a) see the *Roads and Public Places Act 1937*, section 2; and

(b) includes a public vehicle.

**public vehicle**—see *Road Transport (General) Act 1999*, section 158.

25 **reasonably believes** means has reasonable grounds for believing.

**register** means the register kept by the registrar under section 5 (Register).

**registered keeper**, of a dog, means the person stated in the register as a keeper of the dog.

30 **registrar** means the registrar under section 121 (Registrar).

DICTIONARY—continued

*registration certificate* means a registration certificate issued under subsection 11 (1) or (4) (Registration numbers, certificates and tags).

*registration tag* means a registration tag issued under subsection 11 (1) or (4) (Registration numbers, certificates and tags).

*reminder notice*, for Part 4 (Infringement notices for certain offences)—see section 96 (Reminder notices).

*residential premises*, for Division 9.2 (Powers of authorised officers)—see section 126.

*this Act* includes the regulations.

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**Endnote**

**Penalty units**

Section 33AA of the *Interpretation Act 1967* deals with the meaning of offence penalties that are expressed in penalty units.