

2005

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Urban Services)

Domestic Animals (Cat Containment) Amendment Bill 2005

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Domestic Animals (Cat Containment) Amendment Bill 2005

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Domestic Animals (Cat Containment) Amendment*
4 *Act 2005*.

5 **2 Commencement**

6 This Act commences on the day after its notification day.

7 *Note* The naming and commencement provisions automatically commence on
8 the notification day (see Legislation Act, s 75 (1)).

1 Part 2 Domestic Animals Act 2000

2 3 Legislation amended—pt 2

3 This part amends the *Domestic Animals Act 2000*.

4 4 New section 4A

5 *in part 1, insert*

6 4A Offences against Act—application of Criminal Code etc

7 Other legislation applies in relation to offences against this Act.

8 *Note 1 Criminal Code*

9 The Criminal Code, ch 2 applies to the following offences against this
10 Act (see Code, pt 2.1):

- 11 • s 82 (Cats in breach of cat curfew)
- 12 • s 84 (Identification of dogs and cats—requirement).

13 The chapter sets out the general principles of criminal responsibility
14 (including burdens of proof and general defences), and defines terms
15 used for offences to which the Code applies (eg *conduct*, *intention*,
16 *recklessness* and *strict liability*).

17 *Note 2 Penalty units*

18 The Legislation Act, s 133 deals with the meaning of offence penalties
19 that are expressed in penalty units.

20 5 Registration—approval or refusal 21 Section 7, note

22 *substitute*

23 *Note* Section 138A deals with the disqualification of a person from keeping
24 an animal.

- 1 **6 Registration—cancellation**
2 **Section 13 (2), note**
- 3 *substitute*
- 4 *Note* Section 138A deals with the disqualification of a person from keeping
5 an animal.
- 6 **7 Disqualification from keeping animals**
7 **Section 72**
- 8 *relocate as section 138A*
- 9 **8 Section 82**
- 10 *substitute*
- 11 **82 Cats in breach of cat curfew**
- 12 (1) A cat’s keeper or carer commits an offence if—
- 13 (a) the cat is in an area for which a declaration under section 81 is
14 in force; and
- 15 (b) the cat is not confined to the premises of a keeper or carer
16 during a time that the declaration is in force.
- 17 Maximum penalty: 10 penalty units.
- 18 (2) An offence against this section is a strict liability offence.
- 19 (3) This section does not apply if the keeper or carer has a reasonable
20 excuse.
- 21 (4) In this section:
- 22 *premises* means a completely or partly enclosed space from which a
23 cat cannot escape, and includes the following:
- 24 (a) a building or part of a building;
- 25 (b) a vehicle;

1 (c) a cat cage.

2 **9 Section 83**

3 *substitute*

4 **83 Identification of dogs and cats—regulations**

5 (1) A regulation may make provision in relation to the compulsory
6 identification of dogs and cats.

7 (2) In particular, a regulation may provide for—

8 (a) how dogs and cats are to be identified; and

9 (b) the procedures to be followed for the compulsory identification
10 of dogs and cats; and

11 (c) the people by whom compulsory identification may be carried
12 out and their duties; and

13 (d) the particulars to be contained in the compulsory identification.

14 **Example of how dogs may be required to be identified**

15 by a registration tag

16 **Example of how cats may be required to be identified**

17 by an implanted microchip

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

21 **84 Identification of dogs and cats—requirement**

22 (1) A person commits an offence if—

23 (a) the person keeps a dog or cat; and

24 (b) the dog or cat is required to be identified by a regulation made
25 for section 83; and

- 1 (c) the dog or cat is not identified as required by the regulation.
2 Maximum penalty: 5 penalty units.
- 3 (2) A person commits an offence if—
4 (a) the person sells a cat; and
5 (b) the cat, after the sale, is required to be identified by a
6 regulation made for section 83; and
7 (c) the cat is not identified as required by the regulation.
8 Maximum penalty: 5 penalty units.
- 9 (3) An offence against this section is a strict liability offence.

10 **10 New part 4**

11 *insert*

12 **Part 4 Seizing cats and dealing with**
13 **them**

14 **85 Approved providers**

- 15 (1) For this part, an *approved provider* is—
16 (a) the Royal Society for the Prevention of Cruelty to Animals; or
17 (b) an entity approved under subsection (2).
- 18 (2) The registrar may approve an entity to provide temporary care for
19 cats seized under this part.
- 20 (3) An approval is a notifiable instrument.
- 21 *Note* A notifiable instrument must be notified under the Legislation Act.

1 **86 Seizure of cats**

- 2 (1) An authorised officer may seize a cat if—
- 3 (a) the cat is in an area for which a declaration under section 81 is
- 4 in force; and
- 5 (b) the cat is not confined to the premises of a keeper or carer
- 6 during a time that the declaration is in force.
- 7 (2) An authorised officer may also seize a cat if the officer reasonably
- 8 believes that—
- 9 (a) the cat is required to be identified by a regulation made for
- 10 section 83; and
- 11 (b) the cat is not identified as required by the regulation.
- 12 (3) In this section:
- 13 *premises*—see section 82.

14 **87 Temporary care of seized cats**

- 15 (1) An authorised officer must—
- 16 (a) arrange for a cat seized under this part to be temporarily cared
- 17 for by an approved provider; and
- 18 (b) make reasonable inquiries to find out who is the keeper of the
- 19 cat; and
- 20 (c) if the authorised officer can find out who is the keeper of the
- 21 cat—give oral or written notice to the keeper, in accordance
- 22 with section 88, about the cat’s seizure.
- 23 (2) The authorised officer may give the notice by telephone.
- 24 *Note* A fee may be determined under s 144 for this provision.

1 **88 Information to be given in notice of cat's seizure**

2 If a cat is seized under this part, the notice of seizure under
3 section 87 (1) (c) must give information about the following:

- 4 (a) when and where the cat was seized;
- 5 (b) the reason the cat was seized;
- 6 (c) where the cat may be claimed;
- 7 (d) if the cat is not identified by a microchip—the implanting of a
8 microchip in the cat for its identification, including the cost of
9 implanting a microchip;
- 10 (e) that the cat may be sold or destroyed if it is not claimed;
- 11 (f) the period in which the cat may be claimed before it may be
12 sold or destroyed;
- 13 (g) that the keeper may relinquish ownership of the cat.

14 **89 Releasing seized cats**

15 (1) An authorised officer or approved provider who has the care of a cat
16 seized under this part must release the cat to a person claiming its
17 release if, but only if, the officer or provider is satisfied—

- 18 (a) the person claiming its release is the keeper of the cat; and
- 19 (b) if the cat is required to be identified by a regulation made for
20 section 83—the cat is identified as required by the regulation;
21 and
- 22 (c) if the cat was seized because of an offence against this Act—
23 subsection (2) applies to the offence; and
- 24 (d) the keeper of the cat has not relinquished ownership under
25 section 91; and
- 26 (e) any fee payable under section 144 for the release of the cat has
27 been paid.

- 1 (2) This subsection applies to an offence if—
- 2 (a) 28 days have passed since the day the offence was committed
- 3 and—
- 4 (i) a prosecution has not been started for the offence; and
- 5 (ii) an infringement notice has not been served for the
- 6 offence; or
- 7 (b) an infringement notice has been served for the offence and the
- 8 infringement notice penalty has been paid or the notice
- 9 withdrawn; or
- 10 (c) a prosecution for the offence was started within 28 days after
- 11 the day the offence was committed and—
- 12 (i) the prosecution has been discontinued; or
- 13 (ii) the keeper has been convicted or found guilty of the
- 14 offence but is not disqualified by an order under
- 15 section 138A from keeping the cat.

16 **90 Selling or destroying seized cats**

17 An authorised officer or approved provider may sell or destroy a cat

18 seized under this part if—

- 19 (a) within 7 days after the day of the seizure, the officer or
- 20 provider cannot find out who is the keeper of the cat after
- 21 making reasonable inquiries; or
- 22 (b) the keeper of the cat relinquishes ownership of the cat under
- 23 section 91; or
- 24 (c) within 7 days after the day notice under section 88 about the
- 25 seizure was given to the keeper of the cat, the keeper does not
- 26 tell the officer or provider, in writing, that the keeper wishes to
- 27 claim the cat.

- 1 **91 Relinquishing ownership of seized cats**
- 2 (1) This section applies to a cat seized under this part.
- 3 (2) The keeper of the cat may relinquish ownership of the cat by signed
- 4 writing given to an authorised officer or approved provider.
- 5 (3) An instrument relinquishing ownership of the cat—
- 6 (a) takes effect at the end of 3 days beginning on the day the
- 7 signed instrument is given to the authorised officer or approved
- 8 provider; and
- 9 (b) must contain a statement to the effect of paragraph (a).
- 10 (4) After an instrument relinquishing ownership of the cat takes effect,
- 11 an authorised officer or approved provider—
- 12 (a) is not obliged to return the cat to its keeper; and
- 13 (b) may sell or destroy the cat.
- 14 (5) To remove any doubt, an authorised officer or approved provider
- 15 must not sell or destroy the cat under this section until the
- 16 instrument relinquishing ownership of the cat takes effect.
- 17 **92 Returning seized cat to its keeper**
- 18 (1) An authorised officer may return a cat seized under this part to its
- 19 keeper under this section if satisfied that it would be in the public
- 20 interest to return the cat.
- 21 (2) In making a decision under subsection (1), the authorised officer
- 22 must consider—
- 23 (a) the safety of the public; and
- 24 (b) the cost of keeping the cat temporarily cared for by an
- 25 approved provider; and

- 1 (c) whether financial or other hardship would be caused to the
2 keeper if the cat were to remain temporarily cared for by an
3 approved provider.
- 4 (3) Subsection (2) does not limit the matters the authorised officer may
5 consider.
- 6 (4) The authorised officer may return the cat to its keeper on conditions.
- 7 (5) If the authorised officer returns the cat to its keeper, the officer may
8 waive all or part of any fee payable by the keeper of the cat under
9 this part if satisfied that not to waive the fee would cause the keeper
10 financial hardship.

11 **93 Guidelines about returning seized cats**

- 12 (1) The Minister may issue guidelines about the exercise of an
13 authorised officer's functions under section 92.
- 14 (2) An authorised officer must comply with any guidelines under this
15 section.
- 16 (3) A guideline is a disallowable instrument.

17 *Note* A disallowable instrument must be notified, and presented to the
18 Legislative Assembly, under the Legislation Act.

19 **11 Meaning of *reviewable decision* for pt 8**
20 **Section 118, definition of *reviewable decision*, new**
21 **paragraph (m)**

22 *insert*

- 23 (m) imposing a condition on the return of a seized cat
24 (section 92 (4)); or

25 **12 Section 118, definition of *reviewable decision*,**
26 **paragraphs (m) to (p)**

27 *renumber as paragraphs (n) to (q)*

1 **13 Section 119**

2 *substitute*

3 **119 Review of decisions**

4 Application may be made to the administrative appeals tribunal for a
5 review of a reviewable decision of the registrar or an authorised
6 officer.

7 **14 Notification of decisions**
8 **Section 120 (1)**

9 *substitute*

10 (1) If the registrar or an authorised officer makes a reviewable decision
11 in relation to a person, the registrar or authorised officer must give
12 written notice of the decision to the person.

13 **15 Dictionary, new definition of *approved provider***

14 *insert*

15 *approved provider*, for part 4 (Seizing cats and dealing with
16 them)—see section 85.

17 **16 Dictionary, definition of *excluded offence*,**
18 **paragraph (b) (ii)**

19 *substitute*

20 (ii) section 82 (Cats in breach of cat curfew);

1 **Part 3** **Domestic Animals Regulation**
2 **2001**

3 **17** **Legislation amended—pt 3**

4 This part amends the *Domestic Animals Regulation 2001*.

5 **18** **New part 1 heading**

6 *insert*

7 **Part 1** **Preliminary**

8 **19** **Sections 2 to 14**

9 *substitute*

10 **2** **Dictionary**

11 The dictionary at the end of this regulation is part of this regulation.

12 *Note 1* The dictionary at the end of this regulation defines certain terms used in
13 this regulation, and includes references (*signpost definitions*) to other
14 terms defined elsewhere in this regulation.

15 For example, the signpost definition ‘*authorised identifier*, for part 4
16 (Implanting microchips in cats)—see section 10.’ means that the term
17 ‘authorised identifier’ is defined in that section and applies to part 4.

18 *Note 2* A definition in the dictionary (including a signpost definition) applies to
19 the entire regulation unless the definition, or another provision of the
20 regulation, provides otherwise or the contrary intention otherwise
21 appears (see Legislation Act, s 155 and s 156 (1)).

1 **3 Notes**

2 A note included in this regulation is explanatory and is not part of
3 this regulation.

4 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
5 notes.

6 **4 Offences against regulation—application of Criminal
7 Code etc**

8 Other legislation applies in relation to offences against this
9 regulation.

10 *Note 1 Criminal Code*

11 The Criminal Code, ch 2 applies to all offences against this regulation
12 (see Code, pt 2.1).

13 The chapter sets out the general principles of criminal responsibility
14 (including burdens of proof and general defences), and defines terms
15 used for offences to which the Code applies (eg *conduct*, *intention*,
16 *recklessness* and *strict liability*).

17 *Note 2 Penalty units*

18 The Legislation Act, s 133 deals with the meaning of offence penalties
19 that are expressed in penalty units.

20 **Part 2 Dogs**

21 **5 Dog registration information—Act, s 8**

22 If the registrar registers a dog, the registrar must record the
23 following information in the register:

- 24 (a) the name and address of the keeper of the dog;
25 (b) if the dog is kept at another address—the address;
26 (c) the registration number allotted to the dog;
27 (d) if the dog is an assistance animal—a statement to that effect;

1 (e) if the dog is a dangerous dog—a statement to that effect.

2 **6 Information on dog registration certificates—Act s 11 (2)**

3 A registration certificate for a dog must state the following
4 information:

5 (a) the registration number allotted to the dog;

6 (b) if the dog is a recognisable breed—the breed;

7 (c) the colour of the dog;

8 (d) if the dog is an assistance animal—a statement to that effect;

9 (e) the name and address of the keeper of the dog;

10 (f) the day the registration ends.

11 **7 Identification of dogs—Act, s 83**

12 (1) All dogs must be identified by a registration tag attached to a collar
13 worn by the dog.

14 (2) The registration tag must include 1 or more of the following
15 identification particulars:

16 (a) the name and address of the dog's keeper;

17 (b) the name and address of the dog's carer;

18 (c) a contact telephone number for the dog's keeper;

19 (d) a contact telephone number for the dog's carer;

20 (e) the dog's registration number.

1 **Part 3** **Identifying cats**

2 **8** **Cats to which compulsory identification applies—Act,**
3 **s 83**

- 4 (1) A cat must be identified if the cat—
- 5 (a) is at least 12 weeks old; or
- 6 (b) has been sold.
- 7 (2) However, a cat need not be identified if—
- 8 (a) the cat is less than 6 months old; and
- 9 (b) a veterinary surgeon certified in writing, before the cat was
- 10 12 weeks old or first sold (whichever is the earlier), that
- 11 identification of the cat as required by section 9 would be a
- 12 serious health risk to the cat.

13 **9** **How cats must be identified—Act, s 83**

- 14 (1) The cat must be identified by an identifying microchip that—
- 15 (a) is implanted in the cat; and
- 16 (b) contains a number by which the identification particulars for
- 17 the cat can be worked out; and
- 18 (c) functions properly.
- 19 (2) The identification particulars for a cat are 1 or more of the
- 20 following:
- 21 (a) the name and address of the cat's keeper;
- 22 (b) the name and address of the cat's carer;
- 23 (c) a contact telephone number for the cat's keeper;
- 24 (d) a contact telephone number for the cat's carer.

- 1 (3) However, this section does not apply to a cat if—
- 2 (a) the keeper or carer of the cat does not live in an area for which
- 3 a declaration under the Act, section 81 is in force; and
- 4 (b) the cat is identified by a tag attached to a collar worn by the
- 5 cat; and
- 6 (c) the tag includes—
- 7 (i) the identification particulars for the cat mentioned in
- 8 subsection (2); or
- 9 (ii) a number by which the identification particulars for the
- 10 cat can be worked out; and
- 11 (d) the cat has not been sold since the commencement of this
- 12 section.
- 13 (4) Subsection (3) and this subsection expire on 30 June 2008.

14 Part 4 Implanting microchips in cats

15 10 Meaning of *authorised identifier*

16 In this part:

17 *authorised identifier* means a person who is authorised under

18 section 14 as an identifier of cats.

19 11 Approval of identifying microchip

- 20 (1) The Minister may approve a microchip (an *identifying microchip*)
- 21 to be used for identifying cats.
- 22 (2) An approval is a notifiable instrument.

23 *Note* A notifiable instrument must be notified under the Legislation Act.

- 1 **12 Identifying microchip to be implanted only by authorised**
2 **people etc**
- 3 (1) A person commits an offence if—
- 4 (a) the person implants an identifying microchip in a cat; and
- 5 (b) the person is not a veterinary surgeon or authorised identifier.
- 6 Maximum penalty: 10 penalty units.
- 7 (2) A person commits an offence if—
- 8 (a) the person is asked by the keeper or carer of a cat to implant an
- 9 identifying microchip in the cat; and
- 10 (b) the person implants a microchip in the cat; and
- 11 (c) the microchip is not an identifying microchip.
- 12 Maximum penalty: 10 penalty units.
- 13 (3) An offence against subsection (1) or (2) is a strict liability offence.
- 14 (4) A person who is not an authorised identifier commits an offence if
- 15 the person represents himself or herself to be an authorised
- 16 identifier.
- 17 Maximum penalty: 5 penalty units.
- 18 **13 Procedure for identification of cats**
- 19 (1) A person must follow the following procedure in implanting an
- 20 identifying microchip in a cat:
- 21 (a) scan the cat, before the microchip is implanted, to ensure it
- 22 does not have a functioning identifying microchip properly
- 23 implanted;
- 24 (b) scan the microchip, immediately before it is implanted—
- 25 (i) to ensure the microchip is functioning properly; and

-
- 1 (ii) to check that its scanned number is the number shown on
2 supporting documentation applying to the microchip as
3 the unique identifying number for the microchip;
- 4 (c) implant the microchip under the cat's skin in the dorsum
5 between the scapulae so that the microchip lies at an oblique
6 angle to the plane of the skin;
- 7 (d) scan the cat, after the microchip is implanted, to confirm the
8 microchip is properly implanted and is functioning properly.
- 9 (2) The Minister may issue guidelines about the procedures to be
10 followed in implanting an identifying microchip in a cat.
- 11 (3) A person implanting an identifying microchip in a cat must comply
12 with subsection (1) and the guidelines.
- 13 (4) A guideline is a disallowable instrument.
- 14 *Note* A disallowable instrument must be notified, and presented to the
15 Legislative Assembly, under the Legislation Act.

16 **14 Authorisation of identifiers**

- 17 (1) A person may apply to the registrar to be an identifier of cats.
- 18 (2) The registrar must decide to—
- 19 (a) authorise the person to be an identifier of cats; or
- 20 (b) refuse to authorise the person to be an identifier of cats.
- 21 (3) The registrar must authorise the person to be an identifier of cats if
22 satisfied that the person—
- 23 (a) is qualified and competent to be an authorised identifier; and
- 24 (b) will comply with the requirements of this part in identifying
25 cats.
- 26 (4) The registrar must give the person written notice of the registrar's
27 decision.

1 **15 Withdrawal of authorisation**

- 2 (1) This section applies to a person who is authorised to be an identifier
3 of cats under section 14.
- 4 (2) The registrar may, by written notice given to the person, withdraw
5 the person's authorisation to be an identifier of cats if satisfied that
6 the person—
- 7 (a) is not, or is no longer, qualified or competent to be an
8 authorised identifier; or
- 9 (b) has been negligent or incompetent in relation to the exercise of
10 the person's functions as an authorised identifier; or
- 11 (c) has failed to comply with a requirement of this part in
12 identifying cats.

13 **16 Review of decisions**

- 14 (1) In this section:
- 15 *reviewable decision* means a decision—
- 16 (a) refusing to authorise a person to be an identifier of cats under
17 section 14; or
- 18 (b) withdrawing a person's authorisation to be an identifier of cats
19 under section 15.
- 20 (2) A notice of a reviewable decision under section 14 (4) or
21 section 15 (2) must be in accordance with the requirements of the
22 code of practice in force under the *Administrative Appeals Tribunal*
23 *Act 1989*, section 25B (1).
- 24 (3) Application may be made to the administrative appeals tribunal for
25 review of a reviewable decision.

1 Part 5 Miscellaneous

2 17 Dishonoured cheques

3 (1) If a person pays a fee under the Act by cheque and the cheque is not
4 met on presentation—

5 (a) the person is liable for—

6 (i) any charge imposed by a bank because the cheque is not
7 met; and

8 (ii) the amount of the cheque; and

9 (b) the registrar may suspend the benefit paid for by the cheque
10 until the amount for which the person is liable is paid.

11 (2) The registrar may waive liability under subsection (1)(a) for
12 payment of the bank charge in cases of hardship.

13 (3) The Minister may issue guidelines about the exercise of the
14 registrar's function under subsection (2).

15 (4) The registrar must comply with any guidelines under this section.

16 (5) A guideline is a disallowable instrument.

17 *Note* A disallowable instrument must be notified, and presented to the
18 Legislative Assembly, under the Legislation Act.

19 (6) In this section:

20 ***benefit*** means any service under the Act for which a fee is payable,
21 and includes a registration, renewal, licence or permit.

1 **20 New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 2)

5 *Note 1* The Legislation Act contains definitions and other provisions relevant to
6 this regulation.

7 *Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- 8 • penalty unit (see s 133)
9 • person
10 • veterinary surgeon.

11 *Note 3* Terms used in this regulation have the same meaning that they have in
12 the *Domestic Animals Act 2000* (see Legislation Act, s 148.) For
13 example, the following terms are defined in the *Domestic Animals*
14 *Act 2000*, dict:

- 15 • carer
16 • keeper
17 • registrar
18 • registration tag.

19 *authorised identifier*, for part 4 (Implanting microchips in cats)—
20 see section 10.

21 *identifying microchip*—see section 11.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2005.

2 Notification

Notified under the Legislation Act on 2005.

3 Republications of amended laws

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

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