

2002

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Urban Services)

# Domestic Animals Amendment Bill 2002

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(As presented)

(Minister for Urban Services)

# **Domestic Animals Amendment Bill 2002**

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## **A Bill for**

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

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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 Amendment Act 2002*.

4 **2 Commencement**

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

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**Part 2 Domestic Animals Act 2000****3 Act amended—pt 2**

This part amends the *Domestic Animals Act 2000*.

**4 Registration tag offences  
Section 15 (1)**

*substitute*

(1) The keeper of a dog or carer of a dog must not, without reasonable excuse—

(a) be on private premises (other than the keeper's address) with the dog, unless the dog is wearing its registration tag; or

(b) be in a public place with the dog, unless the dog is wearing its registration tag.

Maximum penalty: 3 penalty units.

(1A) The keeper of a dog commits an offence if—

(a) the dog is in a public place or on private premises (other than the keeper's address); and

(b) the dog is not with a carer; and

(c) the dog is not wearing its registration tag.

Maximum penalty: 3 penalty units.

**5 Section 15**

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

Section 6

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1 **6 Dangerous dogs licences—approval or refusal**  
2 **New section 25 (2A)**

3 *insert*

4 (2A) However, if the application is made after the dog was seized under  
5 division 2.7 (Seizing dogs and dealing with them) and the dog is  
6 declared to be a dangerous dog after it was seized, the registrar may  
7 approve the application only if section 62 (3), 63 (3) or 64 (3)  
8 applies to the offence for which the dog was seized.

9 **7 Section 25**

10 *renumber the subsections when Act next republished under the*  
11 *Legislation Act 2001*

12 **8 Dogs on private premises to be restrained**  
13 **New section 45 (4A)**

14 *insert*

15 (4A) The keeper of a dog commits an offence if the dog is on private  
16 premises and is not with a carer, unless the keeper has the consent of  
17 the occupier of the premises.

18 Maximum penalty: 5 penalty units.

19 **9 Section 45 (5) and (6)**

20 *omit*

21 (1) or (3)

22 *substitute*

23 (1), (3) or (4A)

24 **10 Section 45**

25 *renumber the subsections when Act next republished under the*  
26 *Legislation Act 2001*

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

3 *omit*

4 attack

5 *substitute*

6 attack or harass

7 **12 Section 50 (2)**

8 *omit*

9 harasses

10 *substitute*

11 attacks or harasses

12 **13 Section 50 (3) (b)**

13 *omit*

14 attacked

15 *substitute*

16 attacked or harassed

17 **14 Sections 62, 63 and 64**

18 *substitute*

19 **62 Releasing dogs seized under general power**

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

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

Section 14

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- 1 (2) The registrar must release the dog to a person claiming its release  
2 only if—
- 3 (a) the registrar is satisfied the person is the dog's keeper; and  
4 (b) the dog is registered; and  
5 (c) if the dog was seized under section 56 (a), (b) or (c) because of  
6 an offence against this Act—subsection (3) applies to the  
7 offence; and  
8 (d) the keeper of the dog has not relinquished ownership under  
9 section 69 (Relinquishing ownership of dogs); and  
10 (e) any fee payable under section 144 (Determination of fees) for  
11 the release of the dog has been paid.
- 12 (3) This subsection applies to an offence if—
- 13 (a) 28 days have elapsed since the day the offence was committed  
14 and—  
15 (i) a prosecution has not been begun for the offence; and  
16 (ii) an infringement notice has not been served for the  
17 offence; or  
18 (b) an infringement notice has been served for the offence and the  
19 infringement notice penalty has been paid or the notice  
20 withdrawn; or  
21 (c) a prosecution for the offence was begun within 28 days after  
22 the day the offence was committed and—  
23 (i) the prosecution is discontinued; or  
24 (ii) the keeper is convicted or found guilty of the offence but  
25 is not disqualified from keeping the dog, any dog, a dog  
26 of that kind or any animal.



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1 **63 Releasing dogs seized under power relating to dangerous**  
2 **dogs or multiple dogs**

3 (1) This section applies to—

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

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

11 (2) The registrar must release the dog to a person claiming its release  
12 only if—

- 13 (a) the registrar is satisfied the person is the dog's keeper; and  
14 (b) the dog is registered; and  
15 (c) if the dog was seized under section 57 (b) or (c)—a dangerous  
16 dogs licence is in force for the dog; and  
17 (d) if the dog was seized under section 58—the keeper has any  
18 multiple dog licence needed to keep the dog; and  
19 (e) if the dog was seized because of an offence against this  
20 Act—subsection (3) applies to the offence; and  
21 (f) the keeper of the dog has not relinquished ownership under  
22 section 69 (Relinquishing ownership of dogs); and  
23 (g) any fee payable under section 144 (Determination of fees) for  
24 the release of the dog has been paid.

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

28 (3) This subsection applies to an offence if—

- 29 (a) 28 days have elapsed since the day the offence was committed  
30 and—

Section 64

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

12 **64 Release of dogs seized under attacking and harassing**  
13 **power**

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

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

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

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

17 **15 Relinquishing ownership of dogs**  
18 **New section 69 (1A)**

19 *insert before subsection (1)*

- 20 (1A) This section applies to a dog seized under this division.

21 **16 Section 69**

22 *renumber the subsections when Act next republished under the*  
23 *Legislation Act 2001*

24 **17 Issue of nuisance notices**  
25 **Section 112 (1) (a) and (b)**

26 *substitute*

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

Section 18

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

4 **18 Seizure, impounding and return of animals**  
5 **Section 114 (1)**

- 6 *omit*  
7 the registrar  
8 *substitute*  
9 an authorised officer

10 **19 Section 114 (2)**

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

14 **20 New sections 114A and 114B**

- 15 *insert*

16 **114A Entry to premises for nuisance animal**

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

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

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

### 5 **114B Powers on entry**

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

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

## 10 **21 Consent to entry** 11 **Section 132**

12 *substitute*

### 13 **132 Consent to entry**

14 (1) This section applies if an authorised officer intends to ask the  
15 occupier of premises to consent to the authorised officer entering the  
16 premises under section 114A (2) (Entry to premises for nuisance  
17 animal) or section 128 (1) (Entry of premises—routine inspections).

18 (2) Before asking for the consent, the authorised officer must tell the  
19 occupier—

20 (a) the reason for the entry; and

21 (b) that the occupier is not required to consent.

22 (3) If the consent is given, the authorised officer may ask the occupier  
23 to sign a written acknowledgment of the consent.

24 (4) The acknowledgment must state—

25 (a) that the occupier was told—

26 (i) the reason for the entry; and

27 (ii) the occupier is not required to consent; and

Section 21

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- 1           (b) that the occupier gives the authorised officer consent to enter  
2           the premises and exercise powers under section 114A (2) or  
3           128 (1); and
- 4           (c) the time and date the consent was given.
- 5       (5) A court may presume the occupier did not consent if—
- 6           (a) a question arises, in a proceeding in the court, whether the  
7           occupier consented to the authorised officer entering the  
8           premises under section 114A (2) or 128 (1); and
- 9           (b) an acknowledgment under this section for the entry is not  
10          produced in evidence; and
- 11          (c) it is not proved that the occupier consented to the entry.

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

3 **22 Regulations amended—pt 3**

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

5 **23 Regulation 5**

6 *substitute*

7 **5 Identifying particulars—s 83**

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

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## Endnotes

### Republications of amended laws

- 1 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

### Penalty units

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

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