

2014

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Territory and Municipal Services)

Domestic Animals Amendment Bill 2014

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Domestic Animals Amendment Bill 2014

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 **1 Name of Act**
- 2 This Act is the *Domestic Animals Amendment Act 2014*.
- 3 **2 Commencement**
- 4 This Act commences on the day after its notification day.
- 5 *Note* The naming and commencement provisions automatically commence on
6 the notification day (see [Legislation Act](#), s 75 (1)).
- 7 **3 Legislation amended**
- 8 This Act amends the *Domestic Animals Act 2000*.
- 9 *Note* This Act also amends the *Magistrates Court (Domestic Animals*
10 *Infringement Notices) Regulation 2005* (see sch 1).
- 11 **4 Offences against Act—application of Criminal Code etc**
12 **Section 4A, note 1**
- 13 *omit*
- 14
 - s 50A (Allowing dangerous dog to harass etc)
- 15 *substitute*
- 16
 - s 49A (Dog attacks or harasses person or animal)
 - s 50 (Dog attacks person or animal causing serious injury)
 - s 50A (Dangerous dog attacks or harasses person or animal)
- 19 **5 New section 49A**
- 20 *insert*
- 21 **49A Dog attacks or harasses person or animal**
- 22 (1) A person commits an offence if—
- 23 (a) the person is the carer for a dog; and
- 24 (b) the dog attacks or harasses another person or animal.
- 25 Maximum penalty: 50 penalty units.

- 1 (2) A person commits an offence if—
2 (a) the person is the keeper of a dog; and
3 (b) the dog attacks or harasses another person or animal.
4 Maximum penalty: 50 penalty units.
- 5 (3) An offence against this section is a strict liability offence.
- 6 (4) It is a defence to a prosecution for an offence against this section if
7 the defendant proves that—
8 (a) the person or animal provoked the dog; or
9 (b) the person or animal was attacked or harassed because the dog
10 came to the aid of a person or animal the dog could be
11 expected to protect; or
12 (c) if the attack or harassment was on premises occupied by the
13 defendant—the person was on the premises without lawful
14 excuse.
- 15 (5) Also, it is a defence to a prosecution for an offence against
16 subsection (2) if the defendant proves that someone else was, at the
17 time of the offence, the carer for the dog.
- 18 *Note* The defendant has a legal burden in relation to the matters mentioned in
19 ss (4) and (5) (see [Criminal Code](#), s 59).

6 Section 50

substitute

50 Dog attacks person or animal causing serious injury

- 23 (1) A person commits an offence if—
24 (a) the person is the carer for a dog; and
25 (b) the person does or omits to do something; and

- 1 (c) the act or omission results in the dog attacking another person
2 or animal; and
- 3 (d) the attack causes serious injury to the other person or animal;
4 and
- 5 (e) the person intends the attack to cause, or is reckless about the
6 attack causing, serious injury to the other person or animal.
- 7 Maximum penalty: 100 penalty units, imprisonment for 1 year or
8 both.
- 9 (2) A person commits an offence if—
- 10 (a) the person is the keeper of a dog; and
- 11 (b) the person does or omits to do something; and
- 12 (c) the act or omission results in the dog attacking another person
13 or animal; and
- 14 (d) the attack causes serious injury to the other person or animal;
15 and
- 16 (e) the person intends the attack to cause, or is reckless about the
17 attack causing, serious injury to the other person or animal.
- 18 Maximum penalty: 100 penalty units, imprisonment for 1 year or
19 both.
- 20 (3) It is a defence to a prosecution for an offence against this section if
21 the defendant proves that—
- 22 (a) the person or animal provoked the dog; or
- 23 (b) the person or animal was attacked or harassed because the dog
24 came to the aid of a person or animal the dog could be
25 expected to protect; or
- 26 (c) if the attack or harassment was on premises occupied by the
27 defendant—the person was on the premises without lawful
28 excuse.

1 (4) Also, it is a defence to a prosecution for an offence against
2 subsection (2) if the defendant proves that someone else was, at the
3 time of the offence, the carer for the dog.

4 *Note* The defendant has a legal burden in relation to the matters mentioned in
5 ss (3) and (4) (see [Criminal Code](#), s 59).

6 (5) If a person charged with an offence under this section is convicted,
7 or found guilty, of the offence—

8 (a) the court must order the dog be destroyed, unless satisfied
9 there are special circumstances that justify not doing so; or

10 (b) if the court is satisfied that there are special circumstances—

11 (i) declare the dog to be a dangerous dog; and

12 (ii) order the dog and its owner complete an approved course
13 in behavioural or socialisation training for the dog.

14 (6) In this section:

15 *serious injury*, of a person or animal, means any injury (including
16 the cumulative effect of more than 1 injury) that—

17 (a) endangers, or is likely to endanger, the person or animal's life;
18 or

19 (b) is, or is likely to be, a significant or longstanding injury.

20 **7 Section 50A heading**

21 *substitute*

22 **50A Dangerous dog attacks or harasses person or animal**

8 Section 50A (1) and (2)

substitute

(1) A person commits an offence if—

- (a) the person is the keeper of a dangerous dog; and
- (b) the person does or omits to do something; and
- (c) the act or omission results in the dog attacking or harassing another person or animal.

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

(2) A person commits an offence if—

- (a) the person is a keeper of a dangerous dog; and
- (b) the person does or omits to do something; and
- (c) the act or omission results in the dog attacking another person or animal; and
- (d) the attack causes serious injury to the other person or animal; and
- (e) the person intends the attack to cause, or is reckless about the attack causing, serious injury to the other person or animal.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

(2A) It is a defence to a prosecution for an offence against this section if the defendant proves that—

- (a) the person or animal provoked the dog; or
- (b) the person or animal was attacked or harassed because the dog came to the aid of a person or animal the dog could be expected to protect; or

1 (c) if the attack or harassment was on premises occupied by the
2 defendant—the person was on the premises without lawful
3 excuse.

4 *Note* The defendant has a legal burden in relation to the matters mentioned in
5 s (2A) (see [Criminal Code](#), s 59).

6 **9 New section 50A (5)**

7 *insert*

8 (5) In this section:

9 *serious injury*, of a person or animal—see section 50 (6).

Amendment [1.1]

1 **Schedule 1** **Magistrates Court (Domestic**
2 **Animals Infringement Notices)**
3 **Regulation 2005**

4 (see s 3)

5 **[1.1] Schedule 1, part 1.1, items 33 and 34**

6 *substitute*

33	49A (1)	dog attacks or harasses person/animal—carer	50	350
34	49A (2)	dog attacks or harasses person/animal— keeper	50	350

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 5 June 2014.

2 Notification

Notified under the [Legislation Act](#) on 2014.

3 Republications of amended laws

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