

EXPOSURE DRAFT

(Prepared by Parliamentary Counsel's Office)

Domestic Animals Amendment Bill 2006

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Domestic Animals Amendment Bill 2006

A Bill for

An Act to amend the *Domestic Animals Act 2000*

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

1 Name of Act

This Act is the *Domestic Animals Amendment Act 2006*.

2 Commencement

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

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Legislation amended

This Act amends the *Domestic Animals Act 2000*.

4 Offences against Act—application of Criminal Code etc Section 4A, note 1, dot points

substitute

- s 15 (Tag offences)
- s 50A (Allowing dangerous dog to harass etc)
- s 74 (Dogs and cats to be de-sexed)
- s 82 (Cats in breach of cat curfew)
- s 84 (Identification of dogs and cats—requirement)
- s 84A (Multiple cat licences—requirement to be licensed)

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5 Section 9

substitute

9 Registration—duration

- (1) The registration of a dog remains in force for the lifetime of the dog unless it is sooner surrendered or cancelled.
- (2) Subsection (1) applies only in relation to the registration of a dog registered or renewed after the commencement of the *Domestic Animals Amendment Act 2006*, including the renewal of a registration of a dog registered before that commencement.
- (3) Any other registration of a dog ends on the day stated on the registration certificate for the dog as the day the registration ends, unless it is sooner surrendered or cancelled.
- (4) Subsections (2), (3) and this subsection expire 1 year after the day they commence.

**6 Registration—renewals
New section 10 (3) and (4)**

insert

- (3) This section applies only in relation to the registration of a dog registered before the commencement of the *Domestic Animals Amendment Act 2006*.
- (4) This section expires 1 year after the day this subsection commences.

**7 Registration numbers, certificates and tags
Section 11 (1)**

omit

or renews the registration of

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8 New section 11 (6) and (7)

insert

- (6) In this section:
register a dog includes renew the registration of a dog.
- (7) Subsection (6) and this subsection expire 1 year after the day they commence.

9 Section 15

substitute

15 Tag offences

- (1) The keeper or carer of a registered dog commits an offence if—
- (a) the keeper or carer is with the dog on private premises (other than premises occupied by the keeper or carer); and
 - (b) the dog is not wearing its registration tag or another tag that shows its registration number.

Maximum penalty: 3 penalty units.

- (2) The keeper or carer of a registered dog must not be in a public place with the dog if the dog is not wearing its registration tag or another tag that shows its registration number.

Maximum penalty: 3 penalty units.

- (3) The keeper of a registered dog commits an offence if the dog—
- (a) is in a public place or on private premises (other than premises occupied by the keeper); and
 - (b) is not with a carer; and

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- (c) is not wearing its registration tag or another tag that shows its registration number.

Maximum penalty: 3 penalty units.

- (4) A person must not take off a dog the dog's registration tag, or another tag that shows the dog's registration number, if the person does not have the consent of the dog's keeper.

Maximum penalty: 5 penalty units.

- (5) The keeper of a dog must not allow the dog to wear—
 - (a) a registration tag that was not issued for the dog; or
 - (b) another tag that purports to show the dog's registration number if the number is not the dog's registration number.

Maximum penalty: 5 penalty units.

- (6) An offence against this section is a strict liability offence.
- (7) Subsections (1), (2) and (3) do not apply if the dog is not wearing its registration tag, or another tag that show's its registration number, on the advice of a veterinary surgeon given for the dog's health or welfare.

10 Dangerous dog licences—applications
Section 24 (1)

omit

A person

substitute

An adult

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**11 Dangerous dog licences—approval or refusal
New section 25 (2A)**

insert

- (2A) The registrar may approve the application only if the dog has been identified by implanted microchip.

12 Section 25 (3)

omit

However

substitute

Also

**13 Prohibited areas
Section 41 (1), (2) and (3)**

substitute

- (1) The Minister may declare an area of land or water to be an area where dogs are prohibited.
- (2) An area declared under subsection (1) may include all or part of an exercise area for stated animals.
- (3) A declaration is a disallowable instrument.

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

- (3A) If the Minister declares a prohibited area, the Minister must erect a sign or signs identifying the area as a prohibited area.

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**14 Offences of attacking or harassing
Section 50 (3) (b)**

after

the person

insert

or animal

15 New section 50A

insert

50A Allowing dangerous dog to harass etc

- (1) The keeper of a dangerous dog commits an offence if—
- (a) the keeper does or omits to do something; and
 - (b) the act or omission results in the dog attacking or harassing a person or animal.

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

- (2) This section does not apply if—
- (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 its keeper, or another person or animal that the dog could reasonably be expected to protect; or
 - (c) if the attack or harassment was on premises occupied by the defendant—
 - (i) the person was on the premises without reasonable excuse; or

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- (ii) the person failed to take reasonable care for the person's own safety.
- (3) If the keeper of a dog is convicted, or found guilty, of an offence against this section—
 - (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, the court must order that the dog and its keeper complete an approved course in behavioural or socialisation training for the dog.

**16 Seizure of dogs—general
Section 56 (e)**

substitute

- (e) a court has ordered that the dog be destroyed under section 50 (4) (a) (Offences of attacking or harassing); or
- (f) the keeper has contravened a condition under section 70 (4) (Returning seized dog to its keeper); or
- (g) the keeper is disqualified from keeping the dog under section 138A (1) (Disqualification from keeping animals).

**17 Releasing dogs seized under general seizure power
New section 62 (2) (ba)**

insert

- (ba) if the dog was seized under section 56 (d)—the premises where the dog will be kept are secure enough to prevent the dog escaping; and

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18 Section 62 (3) (a)

omit

offence was committed

substitute

dog was seized

**19 Releasing dogs seized under power relating to dangerous dogs or multiple dogs
New section 63 (2) (ba)**

insert

(ba) the premises where the dog is to be kept are secure enough to prevent the dog escaping; and

20 Section 63 (3) (a) and (c)

omit

offence was committed

substitute

dog was seized

**21 Releasing dogs seized under attacking and harassing power
Section 64 (3) (a) and (c)**

omit

offence was committed

substitute

dog was seized

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22 Section 74

substitute

74 Dogs and cats to be de-sexed

- (1) A person must not keep a dog that has not been de-sexed if the person does not hold a permit for the dog.

Maximum penalty: 50 penalty units.

- (2) A person must not keep a cat that has not been de-sexed if the person does not hold a permit for the cat.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) This section does not apply in relation to—

(a) a dog that is less than 6 months old or a cat that is less than 3 months old; or

(b) a dog or cat born before 21 June 2001.

- (5) It is a defence to a prosecution for an offence against this section in relation to a dog or cat if the defendant proves that it is less than 28 days since the day the dog or cat first came into the defendant's possession.

**23 Identification of dogs and cats—regulations
Section 83 (2), examples and note**

omit

**24 Identification of dogs and cats—requirement
Section 84 (2)**

before

cat

insert

dog or

25 Part 4 heading

substitute

Part 4 Cats

Division 4.1 Keeping 4 or more cats

84A Multiple cat licences—requirement to be licensed

- (1) A person commits an offence if—
- (a) the person keeps 4 or more cats on 1 residential premises; and
 - (b) the person does not hold a multiple cat licence to keep the cats on the premises.

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

- (2) This section does not apply to—
- (a) a cat under 84 days old; or
 - (b) a cat kept by the person for less than 28 days; or
 - (c) a person resident in the ACT for less than 28 days; or

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- (d) a cat that is an assistance animal; or
- (e) a cat kept on land that is under a lease that allows for an animal care facility.

84B Multiple cat licences—applications

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

84C Multiple cat licences—approval or refusal

- (1) If an application for a multiple cat licence is made under section 84B, 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 cat licence unless satisfied that the applicant can comply with the requirements of the *Animal Welfare Act 1992* and any approved code of practice under that Act.
- (3) In making a decision under this section, the registrar must consider the following:
 - (a) the number and kind of cats to which the application relates;
 - (b) the size and nature of the premises where the cats are proposed to be kept;
 - (c) the security of the premises;
 - (d) the suitability of facilities for keeping the cats on the premises;
 - (e) the potential impact on the occupiers of neighbouring premises;

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-
- (f) any conviction or finding of guilt of the applicant within the last 10 years against a law of a Territory or State for an offence relating to the welfare, keeping or control of an animal.
 - (4) Subsection (3) does not limit the matters the registrar may consider.

84D Multiple cat licences—conditions

- (1) The registrar may issue a multiple cat licence on conditions stated in the licence.
- (2) In making a decision whether or not to impose a condition on a multiple cat licence, the registrar must consider the following:
 - (a) the number and kind of cats to which the application relates;
 - (b) the size and nature of the premises where it is proposed to keep the cats;
 - (c) the potential impact on the occupiers of neighbouring premises.
- (3) The conditions may include there being sufficient shelter for each cat.
- (4) Subsection (2) does not limit the matters the registrar may consider.

Division 4.2 Seizing cats and dealing with them

26 New section 114C

in part 6, insert

114C Guidelines about animal nuisance

- (1) The Minister may issue guidelines about the exercise of the registrar's functions under this part.
- (2) The registrar must comply with any guidelines under this section.

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- (3) A guideline is a disallowable instrument.

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

27 **Meaning of *reviewable decision* for pt 8**
New section 118 (1a) and (1b)

insert

- (1a) refusing to issue a multiple cat licence (section 84C (1) (b) (Multiple cat licences—approval or refusal)); or
- (1b) issuing a multiple cat licence on conditions (section 84D (1) (Multiple cat licences—conditions)); or

28 **Disqualification from keeping animals**
Section 138A (7)

substitute

- (7) If the keeper of an animal is convicted or found guilty of an offence against subsection (6), the court may—
- (a) decide to end the keeper's disqualification and order the registrar to return the animal to the keeper; or
- (b) order the registrar to destroy the animal or sell or otherwise dispose of the animal to a person other than the keeper or a person who lives with the keeper.

29 **Section 139 heading**

substitute

139 **Renewals**

30 New section 139 (3)

insert

- (3) Subsection (1) and this subsection expire 1 year after the day this subsection commences.

31 New sections 143, 143A and 143B

insert

143 Codes of practice

- (1) The Minister may, in writing, approve codes of practice setting out the duties of owners, carers and keepers of domestic animals if the animals are kept on land in relation to which a residential lease has been granted.

Examples of domestic animals

- cats
- dogs
- pigs
- horses
- pigeons
- rabbits
- goats
- bees

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

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- (2) An approved code of practice may apply, adopt or incorporate an instrument, as in force from time to time.

Note 1 The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

- (3) An approved code of practice is a disallowable instrument.

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

- (4) In this section:

residential lease—see the *Land (Planning and Environment) Act 1991*, section 159 (Definitions for pt 5).

143A Inspection of incorporated documents

- (1) This section applies to an incorporated document, or an amendment of, or replacement for, an incorporated document.

Note For the meaning of *incorporated document*, see the dictionary.

- (2) The chief executive must ensure that the document, amendment or replacement is made available for inspection free of charge to the public on business days at reasonable times at the office of an administrative unit administered by the chief executive.

- (3) In this section:

amendment, of an incorporated document—see section 143B (6).

replacement, for an incorporated document—see section 143B (6).

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143B Notification of certain incorporated documents

- (1) This section applies to—
- (a) an incorporated document; or
 - (b) an amendment of, or replacement for, an incorporated document.

Example of replacement document

a new edition of the incorporated document

Note 1 For the meaning of *incorporated document*, see the dictionary.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The chief executive may prepare a written notice (an *incorporated document notice*) for the incorporated document, amendment or replacement that contains the following information:
- (a) for an incorporated document—details of the document, including its title, author and date of publication;
 - (b) for an amendment—the date of publication of the amendment (or of the document as amended) and a brief summary of the effect of the amendment;
 - (c) for a replacement—details of the replacement, including its title, author and date of publication;
 - (d) for an incorporated document or any amendment or replacement—
 - (i) a date of effect (no earlier than the day after the day of notification of the notice); and

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- (ii) details of how access to inspect the document, amendment or replacement may be obtained under section 143A; and
 - (iii) details of how copies may be obtained, including an indication of whether there is a cost involved.
- (3) An incorporated document notice is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (4) An incorporated document, and any amendment or replacement of an incorporated document, has no effect under this Act unless—
- (a) an incorporated document notice is notified in relation to the document, amendment or replacement; or
 - (b) the document, amendment or replacement is notified under the Legislation Act, section 47 (6).
- (5) The Legislation Act, section 47 (7) does not apply in relation to incorporated documents.
- (6) In this section:

amendment, of an incorporated document, includes an amendment of a replacement for the incorporated document.

replacement, for an incorporated document, means—

- (a) a document that replaces the incorporated document; or
- (b) a document (an ***initial replacement***) that replaces a document mentioned in paragraph (a); or
- (c) a document (a ***further replacement***) that replaces an initial replacement or any further replacement.

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**32 Regulation-making power
Section 148 (2)**

omit

10 penalty units

substitute

20 penalty units

33 Dictionary, new definition of *incorporated document*

insert

incorporated document means an instrument applied, adopted or incorporated by a code of practice or another statutory instrument made or approved under this Act.

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Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2006.

2 Notification

Notified under the Legislation Act on 2006.

3 Republications of amended laws

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

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