

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**Domestic Animals Amendment Bill 2007**

**EXPLANATORY STATEMENT**

**Circulated by the authority of  
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Minister for Territory and  
Municipal Services**

## Domestic Animals Amendment Bill 2007

### Outline

This is a Bill to amend the *Domestic Animals Act 2000* (the Act). The Act and the Domestic Animals Regulation 2001 provide the legislative basis for the management of domestic animals, predominantly dogs and cats, in the Territory. Domestic Animal Services provide the regulatory services and enforcement function through its field force of domestic animals rangers, administers dog registration and operates an animal shelter for dogs at Mugga Lane, Symonston. The Act commenced in December 2000. These amendments are the outcome of a Government commitment to a five year review of the Act since its commencement and they also take account of the Government's recent amendments addressing cat management and cat microchipping in May 2006.

The Domestic Animals Amendment Bill 2006 was released as an Exposure Draft Bill for public comment from 12 December 2006 until 28 February 2007. Three amendments to the Bill were made in response to public comment. This Domestic Animals Amendment Bill 2007 is the final version of the Bill prior to its introduction in to the Legislative Assembly for debate.

In summary, the Bill provides for:

- Lifetime registration of dogs;
- Compulsory microchipping of dogs at point of sale;
- Introduction of microchipping of all dogs over a three year period;
- Improved regulation and revised penalties for dangerous dogs;
- Tightening of dog seizure and return provisions;
- Cat desexing before age of first breeding exempting sellers;
- Guidelines for determining animal nuisance;
- Codes of practice for keeping animals;
- Licensing the keeping of multiple cats; and
- Declaration of dog prohibited areas by disallowable instrument.

Given that cat and dog microchipping procedures are very similar, the regulations and instruments applying to cats will require only minor amendment to also apply to dogs.

### Revenue and cost implications

The principal financial impact of these proposals arises from the replacement of annual dog registration with lifetime dog registration. These changes will result in a better service at less cost, allowing more time and resources for staff to carry out their public awareness, compliance and enforcement duties.

The cost impact of introducing compulsory microchipping of all dogs at point of sale, for dogs declared dangerous and for all dogs after three years will be met by the local retail pet industry and dog owners, not by government. Introducing compulsory desexing of cats at an earlier age has the objective of reducing unwanted cat breeding and therefore the number of stray cats requiring temporary housing and a consequent reduction in the number of cats euthanased by RSPCA-ACT each year.

## **Clause Notes**

### **Clause 1 - Name of Act.**

This clause provides that this Act is called the *Domestic Animals Amendment Act 2007*.

### **Clause 2 - Commencement.**

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

### **Clause 3 - Legislation amended.**

This clause states that the Act amends the *Domestic Animals Act 2000* (the Act).

### **Clause 4 – Offences against Act-application of Criminal Code etc.**

#### **Section 4A, note 1, dot points.**

This clause substitutes a new list of dot points into section 4A of the Act identifying seven sections of the Act with offences to which the *Criminal Code 2002* pt. 2.12 applies.

### **Clause 5 - Section 9. Registration – duration.**

This clause substitutes a new section 9 (Registration- duration).

#### **Subsection 9(1).**

This subsection provides for lifetime registration of dogs replacing the current system of annual renewal of dog registration. Registration remains in force for the lifetime of the dog unless it is surrendered or cancelled.

#### **Subsection 9(2).**

This subsection provides that 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 date. This means that currently registered dogs due for annual renewal will be entitled to lifetime registration. The Government intends to offer lifetime registration to currently registered dogs for the cost of annual renewal. At 2005-06 fee levels this will allow currently registered dogs to achieve lifetime registration at a cost of \$13.30 compared to a cost of \$40.00 for lifetime registration for new dog owners.

#### **Subsection 9(3).**

This subsection ensures that any other registration of a dog ends on the day stated on the registration certificate, unless it is sooner surrendered or cancelled. This provision ensures annual dog registration will be replaced with lifetime dog registration.

#### **Subsection 9(4).**

This subsection ensures that subsections 9(2) and 9(3) will expire one year after they commence.

### **Clause 6 – Registration – renewals. New Section 10(3) and (4).**

This clause inserts two subsections which are transitional and remain in force only for one year to facilitate changing from annual to lifetime registration of dogs.

**Subsection 10(3).**

This subsection ensures that the subsections 10(1) and 10(2) providing for annual registration only apply in relation to a dog registered before the commencement of the *Domestic Animals Amendment Act 2006*.

**Subsection 10(4).**

This is a transitional subsection ensuring that subsection 10(3) expires 1 year after subsection 10(4) commences.

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

This clause is a consequential amendment resulting from introducing lifetime registration of dogs and ceasing annual registration renewal. It removes the unnecessary words: ‘or renews the registration of’ from existing section 11(1) of the Act.

**Clause 8 – New Section 11(6) and 11(7).**

This clause inserts two new subsections to existing section 11. These subsections are transitional provisions inserted to accommodate the transition from annual to lifetime dog registration. In the first year after the amended Act commences, currently registered dogs will be eligible for lifetime registration by paying the scheduled annual dog registration renewal fee (ie. \$13.30 in 2006-07).

**Subsection 11(6).**

Subsection 11(6) allows for the temporary meaning of ‘register’ for this section only to include renewal of registration.

**Subsection 11(7).**

Subsection 11(7) provides for the expiry of subsection 11(6) and this subsection one year after the amended Act commences.

**Clause 9 – Section 15. Tag offences.**

This clause substitutes an amended section 15 – ‘Tag offences’ for the existing section 15 – ‘Regulation tag offences’. Amendment was necessary for two reasons. Firstly, the section required amendment to allow a dog to be compliant with this section if it was wearing a tag other than its issued registration tag provided that the tag displayed its registration number; and secondly; amendment was necessary to make the offences strict liability offences which are compliant with the *Criminal Code 2002*.

Subsections 15(1) to 15(5) are amended subsections equivalent to existing subsections 15(1) to 15(4) in the Act. They create offences if the keeper or carer of a dog is in a public or private place and the dog is not wearing its registration tag, a tag is removed, or another tag not equivalent to the issued registration tag is worn.

Subsection 15(6) is a new subsection providing for all section 15 offences to be strict liability offences.

Subsection 15(7) is a new subsection allowing that section 15 does not apply if, on the advice of a veterinary surgeon given for the dog's health or welfare, a dog is not wearing its registration tag or another tag that shows its registration number. This provision allows for registration information to be not displayed by a dog in cases where, on a veterinary surgeon's advice, it would not be in the best interests of the dog for health or animal welfare reasons.

**Clause 10 - Dangerous dog licences - applications. Section 24(1).**

This clause omits the words "A person" from subsection 24(1) and inserts the words "An adult". This change ensures that only adults, that is, persons over 18 years of age, can apply for a dangerous dog licence. This change will serve to remove the previous doubt that existed before a court as to whether the carer or keeper of a dangerous dog who was a minor could be held responsible for the behaviour of the dog.

**Clause 11 - Dangerous dog licences - approval or refusal. New section 25(2A).**

This clause inserts a new subsection 25(2A). This subsection provides that the Registrar may approve an application for a dangerous dog licence only if the dog has been identified by implanted microchip. This measure ensures that all licensed dangerous dogs must be identified by an implanted microchip.

**Clause 12 - Section 25(3).**

This clause omits the word "However" from subsection 25(3) and substitutes the word "Also". This change makes it clear that the amended subsections 62(3), 63(3) and 64(3) will take effect in addition to subsection 25(3) in the case where a dog is seized under Division 2.7 (Seizing dogs and dealing with them).

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

This clause substitutes new subsections for the current subsections 41(1), (2), and (3) adding a new subsection 3A. These changes will ensure that a declared dog exercise area will be identified by signage and mapped as a disallowable instrument so that the precise boundaries of the declared area will be known to both members of the public and to enforcement officers. This will be a distinct improvement over the previous provision, which required identification of declared dog prohibited areas by signage only.

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

This clause amends subsection 50(3)(b) of subsection 50(3) which allows certain defences to offences for a keeper of a dog that attacks or harasses a person or animal when it is not with its carer.

Existing subsection 50(3)(b) allows that if the person was attacked because the dog came to the aid of its keeper, or another person the dog could be reasonably be expected to protect, that a defence can be mounted against a prosecution for an offence under subsection 50(2).

The amended subsection 50(3)(b) allows the same defence, but extends it to cases where an animal may have been subject to attack or harassment by the dog when coming to the aid of its keeper. For example, a dog may have attacked a threatening animal in coming to the aid of its keeper or another person or animal it normally protects.

**Clause 15 – New Section 50A. Allowing dangerous dog to harass.**

This clause inserts a new section 50A. These provisions, in addition to existing section 50 in the Act, ensure that keepers of dogs which have been declared dangerous because of previous attacking or harassing offences can be penalised more severely when found guilty of a similar offence a second time.

**Subsection 50A(1).**

Subsection 50A(1) creates an offence if a keeper of a declared dangerous dog does or fails to do something that results in the dog attacking or harassing a person or animal. The maximum penalty for the offence is 100 penalty units or imprisonment for 1 year.

The *Criminal Code 2002* applies to this offence and section 22 of the Code imports default fault elements for the offence. Therefore the offence would apply if the keeper of a declared dangerous dog knowingly does something or knowingly fails to do something that results in the dog attacking or harassing a person or animal. Recklessness would apply to subsection 1(b) in that the person must be aware of a substantial risk that their act or omission could result in the dog attacking or harassing a person or animal, and having regard to this risk acts or fails to act, and by so doing, unjustifiably takes the risk.

**Subsection 50A(2).**

Subsection 50A(2) allows for a number of specific defences for the subsection 50A(1) offence including where the defendant proves that the person or animal provoked the dog, or 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 if the attack or harassment was on premises occupied by the defendant- the person was on the premises without reasonable excuse; or the person failed to take reasonable care for the person's own safety.

In allowing for these defences, subsection (2) effectively reverses the onus of proof onto the defendant. The defence is an 'evidential burden' defence - the defendant bears the burden of adducing or pointing to evidence that suggests a reasonable possibility that the defence is made out. If this is done, the prosecution must refute the defence beyond all reasonable doubt.

The presumption of innocence is a fundamental feature of our legal system. In general, the prosecution should be required to prove all aspects of a criminal offence beyond reasonable doubt. However in this situation it is considered that the onus of proof may be reversed due to compelling policy justifications, specifically that the conduct proscribed by the offence poses a grave danger to public safety. This onus of proof is particularly heightened in the context of declared dangerous dogs where the matter to be proved is within the knowledge of the defendant and would not be available to the prosecution. Because of this it would be significantly more difficult for the prosecution to disprove the matter existed than for the defendant to establish it.

Where a matter is peculiarly within the defendant's knowledge and not available to the prosecution, it is legitimate to cast the matter as a defence.

**Subsection 50A(3).**

Subsection 50A(3) provides that if a keeper of a dog is convicted, or found guilty, of the offence the court must order that the dog be destroyed, unless satisfied there are special circumstances that justify not doing so; or 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. Again, this provision is justified given the conduct proscribed by the offence poses a grave danger to public safety, and if a person is convicted the dog would continue to be a significant risk to public safety. However the provision places certain discretions on the court in relation to the destruction of the animal, in particular in cases where special circumstances exist.

**Clause 16 – Cost of impounding dogs. Section 52(1).**

This clause makes a consequential amendment which is necessary because of the new section 50A added by clause 15. The clause omits existing words in subsection 52(1) and substitutes new equivalent words which bring the new section 50A within scope of the meaning of subsection 52(1). The effect of this amendment is to provide that if a person is found guilty of an offence under section 50A, the keeper of the dog is liable to pay any costs of impounding the dog to the Territory.

**Clause 17 - Seizure of dogs – general. Section 56(e).**

This clause replaces subsection 56(e) with new subsections 56(e), (f) and (g). These new subsections ensure that, in addition to the current circumstances under which a dog may be seized, an authorised officer may seize a dog if a court orders it to be destroyed or the keeper is disqualified from keeping the dog under subsection 138A(1). These changes correct oversights in the previously existing provisions.

**Clause 18 - Releasing dogs seized under general seizure power.**

**New section 62(2)(ba).**

This clause inserts a new subsection to a section which specifies that the Registrar must release a seized dog to a person claiming its release, only if the Registrar is satisfied of certain criteria. The new subsection (ba) reads: “the premises where the dog will be kept are secure enough to prevent the dog escaping; and”. This provision adds a new criterion which gives the Registrar the power to ensure a dog which has offended will not escape from premises and cause offence again.

**Clause 19 – Section 62(3)(a) and (c).**

This clause omits the words “offence was committed” from subsection 62(3)(a) and substitutes the words “dog was seized”. This change allows the compulsory 28 day return period to commence from the day the dog is seized rather than from the day the offence was committed. This change allows authorised officers more time to negotiate with a dog's owner to ensure that conditions which may be imposed on the dog's return to its owner are met.

**Clause 20 - Releasing dogs seized under power relating to dangerous dogs or multiple dogs. New section 63(2)(ba).**

This clause inserts a new subsection - similar to that inserted by Clause 17 above, which requires the Registrar must release a dog to a person claiming its release if, but only if he/she is satisfied of certain criteria. The new subsection (ba) reads; “the premises where the dog is to be kept are secure enough to prevent the dog escaping; and”. This provision strengthens the Registrar’s ability to ensure that declared dangerous dog or multiple dog which has offended will not escape and cause offence again.

**Clause 21 - Section 63(3)(a) and (c).**

This clause omits the words “offence was committed” and substitutes the words “dog was seized”. This change is to allow the compulsory 28 day return period to commence from the day the dog is seized rather than from the day the offence was committed. This change allows authorised officers more time to negotiate with a declared dangerous dog or multiple dog’s owner to ensure that conditions which may be imposed on the dog’s return to its owner are met.

**Clause 22 – Releasing dogs seized under attacking and harassing power. Section 64(3)(a) and (c).**

This clause omits the words “offence was committed” and substitutes the words “dog was seized”. This change is to allow the compulsory 28 day return period to commence from the day the dog is seized rather than on the day the offence was committed. This change allows authorised officers more time to negotiate with an owner whose dog has committed an attacking or harassing offence to ensure that conditions which may be imposed on a dog’s return to its owner are met.

**Clause 23 – New Section 74. Dogs and cats to be de-sexed if over certain age.**

This clause substitutes a new section 74 for the existing section 74 which requires that keepers of dogs and cats must have their cats desexed by six months of age unless they have a permit to keep a sexually entire animal.

The effect of this new section is to change the compulsory age for desexing of cats to three months which is before a cat’s possible age of first breeding at four months. Female cats can begin their oestrus cycle at four months of age and can therefore have a first litter by six months of age. Female cats continue to come into season until mated. Entire male cats roam widely, fight and spray territory causing many of the nuisance complaints received from the public by Domestic Animal Services.

These changes reflect recent amendments to the equivalent *Domestic (Feral and Nuisance) Animals Act 1994* applying throughout Victoria which makes registration of dogs and cats compulsory by 3 months of age together with compulsory desexing by-laws which may be enacted by local government. For example, the City of Wodonga has made desexing of cats compulsory before registration by three months of age to come into effect by 1 July 2007.

The age by which dogs must be desexed in the Territory remains unchanged at 6 months.



A major aim of restricting unintended breeding of domestic dogs and cats is to reduce the numbers of unwanted animals that must be euthanased because they are unclaimed or cannot be successfully re-homed by RSPCA-ACT or Domestic Animal Services each year. In 2005-06, 45% of unwanted cats surrendered to RSPCA-ACT were euthanased because new owners could not be found for them. While the existing section 74 has been in place since 2001 and requires compulsory desexing of cats by six months of age, the numbers of unwanted cats being surrendered to RSPCA each year since 2001 during the breeding season has not declined and has increased significantly in recent years.

A further reason is to restrict the unintended breeding and recruitment to the population of stray and feral cats. Stray and feral cats are significant predators of native wildlife including endangered and protected native bird species in nature reserves, so reducing stray and feral cat numbers is in the public interest and will contribute to the conservation of native wildlife.

**Subsections 74(1) and 74(2).**

The maximum penalty which applies for a person keeping a dog or cat which has not been desexed remains unchanged at 50 penalty units (\$5,000). However, if the keeper of the dog or cat has a permit to keep a sexually entire dog or cat for breeding purposes under Part 3 of the Act, then they are not committing an offence.

**Subsection 74(3).**

The section 74(1) and 74(2) offences have been made strict liability offences to ensure all non-breeding dogs and cats are effectively desexed before breeding age. The penalty level is at the upper end of the penalty range for strict liability offences reflecting the ACT Government's commitment to restrict the unintended breeding of domestic dogs and cats.

**Subsection 74(4).**

Subsection 74(4)(a) provides that the desexing requirement does not apply to dogs that are less than 6 months of age and cats that are less than 3 months of age.

Subsection 74(4)(b) provides that compulsory desexing requirement does not apply to dogs or cats that were born before the commencement of the Act on 21 June 2001.

**Subsection 74(5).**

Subsection 75(5)(a) provides that it is a defence to a prosecution for an offence against section 74 in relation to a dog or cat if it is less than 28 since a dog or cat came into a defendant's possession.

A practical consequence of this provision is that the new owner of a sexually entire dog or cat which is older than the required desexing age has 28 days grace to either arrange for the animal to be desexed or apply for a licence to keep the animal sexually entire under Part 3 of the Act.

Subsection 75(5)(b) provides that it is a defence against prosecution for an offence against section 74 in relation to a dog or cat if the defendant is carrying on a retail business for the purpose of offering dogs or cats for sale and is keeping the dog or cat for that purpose.

This provision allows pet retailers to keep and sell cats or dogs which are sexually entire beyond the age by which the animals are required to desexed under section 74. This provision recognises that it is the new owner of a sexually entire dog or cat who has the right to determine whether the animal will be desexed according to law or kept as a sexually entire animal for breeding purposes.

**New section 74A – Sale of older dogs and cats to be notified if not de-sexed.**

This new section creates an offence if a person sells a dog or cat that is not desexed and the person believes, or ought reasonably to believe, in the case of a dog – the dog is older than 6 months and in the case of a cat – the cat is older than 3 months; and the person does not, within 3 working days of the sale, tell the registrar in writing the name and address of the buyer.

The effect of this provision will be to enable Domestic Animals Services officers to track and document the sale of sexually entire dogs and cats to advise new owners of their responsibilities and obligations under the Act and the Regulation. This new provision applies to any person selling a sexually entire dog or cat including pet retailers, cat or dog breeders and private individuals.

The maximum penalty which applies for an offence against this section is 5 penalty units. Subsection 74A(2) specifies an offence is a strict liability offence meaning a person can be held liable for the offence regardless of fault such as wrongful intent or negligence being required to be proved.

**Clause 24 – Identification of dogs and cats – regulations.**

**Section 83(2) - examples and note.**

This clause omits the existing examples and note for section 83(2) because it and the examples no longer apply.

**Clause 25 - Identification of dogs and cats – requirement.**

**Section 84(2).**

This clause inserts the words “dog or” before “cat” in subsection 84(2) so that it covers both dogs and cats.

**Clause 26 – Part 4 heading.**

This clause substitutes a new Part 4 that deals with cats. These new provisions are similar to the current provisions in the *Domestic Animals Act 2000* for dogs.

The new provisions require that if a person wishes to keep more than three cats then the person must apply for a licence to keep multiple cats. These provisions aim to ensure cat owners care responsibly for the animals in their care and that if multiple cats are kept, that adequate housing, facilities and shelter are provided and any potential impact on neighbours is minimised.

The new provisions have a secondary aim in ensuring that cat owners are treated in the similar way as dog owners, to ensure equity with respect to the rights and responsibilities of dog and cat owners for the animals in their care.

These provisions reflect similar controls which apply to cats in other jurisdictions. For example, in the cities of Wodonga, Benalla, Shepparton and Wangaratta and the shire of Cardinia and Mornington in Victoria, no more than 2 cats may be kept without a licence to keep multiple animals.

## **Part 4. Cats.**

### **Division 4.1. Keeping 4 or more cats.**

This is a new heading for Division 4.1 added to Part 4 of the Act.

#### **Section 84A - Multiple cat licences – requirement to be licensed.**

This section creates an offence where a person keeping 4 or more cats on 1 residential premises does so without having a multiple cat licence. This offence is subject to certain exemptions (2)(a) to (e) including an exemption (d) for assistance animals and (e) for a cat kept on land under a lease that allows for an animal care facility. The maximum penalty that may apply is 50 penalty units or 6 months imprisonment. This level and type of penalty is the same as for dogs, see section 18 of the Act.

#### **Section 84B – Multiple cat licences – applications.**

This subsection provides for a person to apply for a multiple cat licence. A person applies to the Registrar for a licence to keep 4 or more cats on 1 residential premises.

#### **Section 84C – Multiple cat licences - approval or refusal.**

This subsection describes the process the Registrar must follow and the considerations he or she must take into account before deciding to issue a multiple cat licence. 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. The Registrar can also require the applicant to undergo a police check, section 84C(3)(f).

#### **Section 84D – Multiple cat licences – conditions.**

This subsection allows the Registrar to issue a multiple cat licence and include conditions in the licence. In deciding whether or not to issue a condition on a licence, the Registrar must the matters contained in subsection 84D(2)(a) to (c) relating to the numbers of cats to be kept, the size of the premises and potential impacts on neighbours; and in subsection 84D(3) to the amount of shelter available for each cat. Under subsection 84D(4) the Registrar is not limited to the matters he or she can consider.

### **Division 4.2. Seizing cats and dealing with them.**

This is a new heading for Divisions 4.2 added to Part 4 of the Act.

#### **Clause 27 – new section 114C.**

This clause inserts a new section 114C in Part 6 of the Act.

**Section 114C - Guidelines about animal nuisance.**

This provision allows the Minister to issue guidelines about the exercise of the Registrar's functions and for the public in making animal nuisance complaints under Part 6 of the Act. The guidelines may be notified as a disallowable instrument and tabled in the Assembly. Once the guidelines have been made the Registrar must comply with them.

**Clause 28 – Meaning of *reviewable decision* for pt 8.**

**New Section 118(ja).**

This clause inserts a new subsection to section 118 which provides that decisions by the Registrar to refuse to release a dangerous or multiple dog seized under section 62(2) or under the general seizure power under section 63(2) because the premises where the dog will be kept are not secure enough to prevent the dog escaping are decisions which are subject to review by the administrative appeals tribunal.

**Clause 29 – Meaning of *reviewable decision* for pt 8.**

**New Section 118(la) and (lb).**

This clause inserts new subsections to section 118 which provide that a decision by the Registrar to issue, renew or set conditions for a multiple cat licence are reviewable decisions which may be reviewed by application to the administrative appeals tribunal. This amendment extends the same right to have a decision reviewed that applies to dogs to also apply to cats.

**Clause 30 – Definitions for div. 9.2.**

**Section 126, definition of *residential premises*.**

This clause omits the definition of *residential premises* from the list of defined terms for existing section 126 because the term *residential premises* is not used in Division 9.2 of the Act.

**Clause 31 – Section 138A(7). Disqualification from keeping animals.**

This clause substitutes the existing subsection 138(7) and replaces it with the following new subsection.

- ‘(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 keepers disqualification and order the to return the animal to the keeper; or
  - (b) order the r to destroy the animal or sell or otherwise dispose of the animal to a person other than the keeper or person who lives with the keeper.’

This new wording of the subsection makes it clear that if the keeper of an animal is found guilty of an offence against subsection 138A(6), then the court may order either that the registrar return the animal to its keeper; or order that the registrar destroy, sell or otherwise dispose of the animal.

The difference with the new subsection is that the court can decide to end the keeper's disqualification under the new subsection 138A(7)(a). This new provision corrects a previous logical inconsistency where a court may have ordered an animal to be returned to its keeper even though the keeper may have been found guilty of keeping a disqualified animal.

**Clause 32 - Section 139 heading.**

This clause substitutes a new heading '**139 Renewals**' for the existing heading: '**139 Registration renewals**' for section 139 in the Act.

This change reflects the fact that annual renewals of registration will not be necessary after lifetime registration of dogs is introduced.

**Clause 33 – New Section 139(3).**

This clause inserts a new subsection 139(3) in section 139. This new subsection causes subsection 139(1) to expire and subsection 139(3) itself to expire one year after commencement of the Act. This is a consequential amendment necessary because once-only lifetime dog registration is replacing annual dog registration. After currently registered dogs switch to lifetime registration during the first year after commencement of this Act, the existing subsection 139(1) becomes redundant.

**Clause 34 - New Sections 143, 143A and 143B.**

This clause inserts the following new provisions allowing for codes of practice to be prepared and for inspection and notification of incorporated documents.

**Section 143 – Codes of Practice.**

These provisions allow for the Minister to prepare codes of practice relating to the duties of owners, carers and keepers of particular domestic animals if they are kept on land in relation to which a residential lease has been granted. The note gives examples of the kinds of animals for which codes of practice may be prepared. A code of practice is a disallowable instrument which is prepared in consultation with stakeholders before tabling in the Assembly for final approval.

**Section 143A – Inspection of incorporated documents.**

This subsection allows for the inspection free of charge of any incorporated documents in a code of practice at the office of the business unit of the chief executive. The office is currently located at the Department of the Territory and Municipal Services, Macarthur House, 12 Wattle Street, Lyneham 2602 or at the Domestic Animals Shelter, Mugga Lane, Symonston 2609.

**Section 143B - Notification of certain incorporated documents.**

This subsection deals with the requirement the Chief Executive to prepare a written incorporation document notice that includes certain information in relation to what will be recognised as incorporated documents in a code of practice. Such a notice is a notifiable instrument.

**Clause 35 – Section 148(2). Regulation-making power.**

This clause deals with the regulation making power in the Act and by amending subsection 148(2) allowing regulations to have penalties up to a new maximum number of penalty units.

New section 148(2) omits the current maximum of 10 penalty units and substitutes a higher maximum penalty of 20 penalty units. This change will allow penalties for offences committed in the Territory to be consistent with penalties for similar offences that apply under comparable law in other jurisdictions. For example, penalties imposed by a court in the Territory for breach of a code of practice made under the Domestic Animals Regulation 2001 could be made consistent with equivalent penalties imposed by a Victorian court under the Domestic (Feral and Nuisance) Animals Regulation 2005 (Vic).

**Clause 36 – Dictionary, definition of *approved provider*.**

This clause is a necessary consequential amendment arising from the creation of a new Division 4.1 (Keeping 4 or more cats) in Part 4 of the Act. Existing section 85 defines *approved provider* and allows the registrar to approve an *approved provider* by notifiable instrument. *Approved provider* is also referenced in the Dictionary. The clause substitutes the existing reference to *approved provider* in the Dictionary with a new reference correctly identifying the term as being defined in section 85 which is in Division 4.2 (Seizing cats and dealing with them) in Part 4 of the Act.

**Clause 37 – Dictionary, new definition of *incorporated document*.**

This clause inserts the definition for an ‘incorporated document’ in to the Dictionary.

**Clause 38 – Dictionary, new definition of *multiple cat licence*.**

This clause inserts the definition of a ‘multiple cat licence’ in to the Dictionary.

**Clause 39 – Dictionary, definition of *residential premises*.**

This clause substitutes the previous reference to the definition of *residential premises* in the Dictionary with a definition which applies the use of the term in the Act as whole.

**Clause 40 – Further amendments, mentions of *this part*.**

This clause makes necessary consequential amendments arising from the creation of a new Division 4.2 (Seizing cats and dealing with them) in Part 4 of the Act. The clause omits the words ‘this part’ and substitutes the words ‘this division’ where necessary in the wording of sections comprising Division 4.2. The sections for which this substitution is necessary are listed as dot points.