

2018

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

Domestic Animals Legislation Amendment Bill 2018

EXPLANATORY STATEMENT

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Introduction

This explanatory statement relates to the *Domestic Animals Legislation Amendment Bill 2018* (the Bill) as presented to the ACT Legislative Assembly. It has been prepared to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the ACT Legislative Assembly.

This explanatory statement must be read in conjunction with the Bill. It is not, and is not intended to be, a comprehensive description of the Bill. What is written about a provision is not to be taken as an authoritative statement of the meaning of a provision, this being a responsibility of the Courts.

Overview of the Bill

This Bill presents amendments to the *Domestic Animals Act 2000* and *Domestic Animals Regulation 2001*. The Bill also amends the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* which commences on 30 April 2018.

This Bill:

- aligns recent legislative amendments for racing greyhounds (*Domestic Animals (Racing Greyhounds) Amendment Act 2017*) with the amendments for dangerous dogs (*the Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*) that were passed by the Legislative Assembly on 28 and 29 November 2017 respectively.

The Bill will ensure that there are no inconsistencies and that the greyhound provisions reflect the changes introduced through the dangerous dog amendments in relation to responsible dog management, care and control and the public safety test. This will ensure that these principles apply equally to all dogs in the ACT.

- harmonises the infringement notice framework under the Act to bring it in to line with current policy and ensure authorised officers can effectively administer fines by stating or reframing offences as strict liability or not.
- makes other minor amendments following the dangerous dog amendments, including:
 - providing a definition of ‘breeding’ in the legislation, which includes the full process of breeding from insemination to birth and weaning, in line with best-practice;

- allowing for a dog control order to be placed on a carer for a dog as well as the keeper for a dog. For example where the keeper is temporarily overseas or where a dog attacks a neighbour's chickens but can be suitably located temporarily with a carer while the keeper finds alternate housing;
- allowing for a home impoundment direction to be placed on a carer for a dog as well as the keeper for a dog. For example where the keeper has moved overseas and the carer can appropriately and safely keep the dog at home while ownership of the dog is transferred to the carer;
- allowing for a dog to be impounded on Territory premises or another location approved by the registrar. Currently a dog can only be impounded on Territory premises. The amendments would mean that if Domestic Animal Services (DAS) undertakes a targeted compliance program to stamp out illegal breeding it can temporarily impound dogs at a location other than the pound, for example with an animal rescue facility. This would alleviate pressure on the pound and also mean that breeding female dogs and puppies can be placed in more appropriate facilities. Studies have found the facilities at pounds are not ideal for the welfare of puppies; and
- making minor technical amendments to clarify some sections, for example stating that a person must carry equipment to dispose of faeces dropped by their dog (not just faeces in general) and including new definitions.

Human Rights Implications

During the Amendment Bill's development due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004* (HR Act). The measures introduced through the Amendment Bill give effect to a consistent legislative framework to implement the Government's decision to end greyhound racing in the ACT, to strengthen the laws for dangerous and potentially dangerous dogs, and to ensure responsible pet ownership.

An assessment of the Bill against section 28 of the HR Act is provided below.

This Bill provides stronger protections for fundamental human rights, notably the right to life, protection of the family and children, freedom of movement, and the right to liberty and security of the person. In protecting these rights there will be restrictions placed on the property rights of others.

The property rights implications of this Bill are to remove property (in this case, a racing greyhound) or to restrict the way in which that property is owned, kept or used. This right only becomes limited after a dog has attacked, harassed or resulted in a nuisance to a person or animal; where a person does not demonstrate responsible dog management, care or control; or where there is a potential or real risk to public safety.

The limitations on property rights are considered to be fair, equitable and proportionate in consideration of the fundamental human rights mentioned above. The Bill will respect the rights of responsible pet owners.

There are also limitations on the right to a fair trial by stating or reframing existing offences as strict liability to harmonise the infringement notice framework under the *Domestic Animals Act 2000* (the Act) in line with the *2010 Guide for Framing Offences*. This is considered to be fair and proportionate, and the least restrictive means to ensuring high standards of animal welfare and community safety while also allowing for efficient administration of the law.

Section 28 Human Rights Act assessment

Section 28 of the HR Act provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society. Section 28(2) of the HR Act provides that, in deciding whether a limit on a human right is reasonable, all relevant factors must be considered, including:

- a) the nature of the right affected;
- b) the importance of the purpose of the limitation;
- c) the nature and extent of the limitation;
- d) the relationship between the limitation and its purpose; and
- e) any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve.

The following matters are particularly considered relevant:

- Refusing or cancelling a person's registration (and therefore ownership) of a racing greyhound.
 - This would only occur when a person has failed or is unable to demonstrate responsible dog management, care and/or control. The registrar must consider breaches of the *Domestic Animals Act 2000* and any animal welfare offences previously committed by that person.
 - This is a reviewable decision.
 - This is considered proportionate in balancing a person's right to own a racing greyhound with public safety and animal welfare.
 - This is considered the least restrictive means possible to achieve the aim of effectively administering racing greyhound registration and ownership with regard to public safety and animal welfare.
- Approving or refusing a racing greyhound controller licence.
 - The registrar must refuse to issue a racing greyhound controller licence unless satisfied that the applicant is able to demonstrate responsible dog management, care and control.
 - This is considered proportionate in balancing a person's right to have a licence for day-to-day control of one or more racing greyhounds with public safety and animal welfare considerations.
 - This is considered the least restrictive means possible to achieve the aim of effectively administering animal registration and ownership with regard to public safety and animal welfare.
- Stating and/or reframing offences as strict liability, supported by infringement notices.
 - This will impact on a person's right to a fair trial.
 - Infringement notices will be able to be paid off over time to assist low income earners or anyone else who needs assistance in payment.
 - Penalties will only be incurred where a keeper or carer of a dog has breached the Act and the offence is stated to be strict liability. Strict liability offences are discussed in more detail below.
 - Offences have been framed to be clear and unambiguous, and are intended to have attached infringement notices.
 - Specific conditions are included in the *Domestic Animal Regulation 2001* for a multiple dog licence, dangerous dog licence, control order and home impoundment direction. It is intended that an infringement notice will be able to be issued for a breach of these specific conditions.

Strict liability offences

The Amendments will state that the following offences which already have fines attached to them are strict liability:

- former keeper fails to tell registrar of the change of ownership of the dog (section 12 (1));
- new keeper for longer than 28 days fails to tell registrar they are the new keeper (section 12 (2)); and
- dog in a public place not on leash or without carer (section 44).

The Amendments reframe the following offences to be clearly strict liability which already have fines attached to them:

- keeping an unregistered dog (section 14 (1) (a));
- keeping a registered dog by a person who is not the registered keeper (section 14 (1) (b));
- the registered keeper failing to tell the registrar of a change of address (section 16 (1));
- the registered keeper failing to tell the registrar of change of address of where the registered dog is kept (section 16(2));
- keeping a dangerous dog except in accordance with a dangerous dog licence (section 23(1));
- having an unmuzzled dangerous dog in a public place (section 27 (1));
- having an uncontrolled dangerous dog in public place (section 27 (2));
- taking a dog into a prohibited area (section 41 (5));
- taking a dog into a prohibited place (sections 42 (1) to (4));
- not restraining a dog on someone else's private premises without permission (sections 45(3) to 45 (5));
- not removing faeces (sections 46 (1) and (2));
- having a female dog on heat in a public place (section 47 (1)); and
- breaching of nuisance notice (section 112 (7)).

The Amendments reframe the following offences to be clearly strict liability where a fine has been attached through the recent dangerous dog amendments:

- failing to display signs about dangerous dogs (section 28); and
- failing to produce a dog for inspection on request (section 134A (3)).

The Amendments state or reframe the following offences to be strict liability, which do not yet have fines attached to them but where infringement notices are proposed to be added:

- breaching a prescribed condition of a multiple dog licence (section 21);
- a keeper or carer failing to report a serious injury from an attack by their dog to the registrar within 5 days (section 50B (3));
- a carer or keeper breaching a prescribed control order (section 53E); and

- a carer or keeper breaching a prescribed condition of a home impoundment direction (section 56A and section 60).

Prescribed conditions are those conditions that are set out by regulation in the *Domestic Animals Regulation 2001*.

The incorporation of strict liability elements has been carefully considered.

Strict liability offences arise in a regulatory context where reasons such as animal welfare, public safety and the public interest in ensuring that regulatory schemes are observed require the sanction of criminal penalties. In particular, where a defendant can reasonably be expected to know what the requirements of the law are, the mental, or fault, element can justifiably be excluded. This is particularly the case for breach of a notice, licence, direction or order where the defendant, in practice, must agree to the notice, licence, direction or order (by consent) being placed on them and is aware of the conditions attached. A keeper or carer can choose not to apply for, or agree to, a nuisance notice, control order, special licence or home impoundment direction and the dog could be seized or relinquished.

The rationale for inclusion of strict liability offences is to ensure that a sufficiently robust and consistent monitoring and enforcement regime can operate efficiently, without requiring prosecution in all cases, to meet the purpose of ensuring public safety and high animal welfare standards. The issuing of infringement notices is guided by internal policy, where education and awareness is the primary mechanism used for compliance with the law.

The offences that are strict liability are or will be infringement notices and are designed to enable a quick and effective response where parties have failed to meet obligations, and are intended to act to prevent a harm, being either an animal welfare or community safety harm.

The framework is designed to encourage compliance, not disproportionately penalise those who fail to comply, and will work hand-in-hand with a comprehensive education and awareness package.

Many of the above offences are already constructed as strict liability and/or have fines attached to them. The amendments are designed to regularise the Act and ensure a consistent and harmonised approach to offences and infringement notices.

In developing the amendments an assessment has been made as to whether there is any less restrictive means available to achieve the purposes of the Act. This is considered the least restrictive means whilst ensuring high standards of animal welfare and community safety.

Due regard has been given to the *Guide for Framing Offences*. Furthermore, the Criminal Code defences are still available to a person charged under these offence provisions, particularly the mistake of fact defence (*Criminal Code 2002* section 36 and section 53) and the defence of intervening conduct or event (Criminal Code section 39, noting section 54).

While due consideration has been given to the framing of offences in the Bill and the impact on human rights, it should be noted that the strict liability offences apply only to those pet owners who have breached the Act.

Climate Change impacts

The Bill has no identifiable climate change impacts.

OUTLINE OF PROVISIONS OF THE BILL

PART 1 PRELIMINARY

Clause 1 Name of Act

This clause is a formal clause and states that the name of the Act is the *Domestic Animals Legislation Amendment Act 2018*.

Clause 2 Commencement

This clause states that the Act, other than Schedule 1, commences on the commencement of the *Domestic Animals (Racing Greyhounds) Amendment Act 2017*, section 3 (racing greyhound amendments). This clause also states that Schedule 1 commences immediately before the commencement of the *Domestic Animals (Racing Greyhounds) Amendment Act 2017*, section 3.

This is because this Bill relates to the racing greyhound amendments and brings those amendments in line with the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017* that came into effect on 14 December 2018.

Clause 3 Legislation amended

This clause states that this Bill amends the *Domestic Animals Act 2000* and the *Domestic Animals Regulation 2001*.

It is noted that the Act also amends the *Domestic Animals (Racing Greyhounds) Amendment Act 2017*. It amends that Act to align it with the changes introduced through the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

PART 2 DOMESTIC ANIMALS ACT 2000

Clause 4 Offences against Act – application of Criminal Code etc

Section 4A

This clause is a formal provision that inserts a number of offences where the criminal code applies.

Clauses 5-7 Change of keeper

Section 12

These clauses reframe offences in section 12 to be strict liability and bring consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. These clauses also state that the maximum penalty is 10 penalty units in line with the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. Offences under section 12 already have infringement notices attached to them.

This offence is aimed at ensuring Domestic Animal Services has accurate and up-to-date information to effectively manage dogs in the ACT in a way that leads to improved public safety and animal welfare outcomes.

Clauses 8-9 Unregistered dogs

Section 14

These clauses reframe the offence in section 14 (1) to be strict liability and bring consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. Offences under section 14 already have infringement notices attached to them. This offence is aimed at ensuring all dogs are registered in the ACT.

Clause 10 Change of address

Substitute section 16

This clause reframes the offences in section 16 to be strict liability and bring consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. Offences under section 16 already have infringement notices attached to them.

This offence is aimed at ensuring Domestic Animal Services has accurate and up-to-date information to effectively manage dogs in the ACT in a way that leads to improved public safety and animal welfare outcomes.

Clause 11 Requirement to be licensed if multiple dogs

New section 18 (3) (da)

This clause corrects the reference in the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* from section 18 (2) (da) to section 18 (3) (da) to reflect the change to section number made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

Clauses 12-13 Multiple dog licences – conditions

New section 21 (3) and 21 (6)

These clauses state that an offence against section 21, breaching a condition of a multiple dog licence, is a strict liability offence. This is important for public safety and animal welfare outcomes, which are both associated with the keeping of four or more dogs.

The clauses clarify that a condition on a multiple dog licence may include a condition prescribed by regulation and any other condition the registrar considers appropriate. By choosing to proceed with a multiple dog licence, an applicant is agreeing to abide by the conditions and acknowledging that they understand what these conditions mean.

A list of conditions are prescribed by regulation as part of this Bill (prescribed conditions). It is clear and straightforward to establish if there is a breach of these prescribed conditions. This is intended to support an infringement notice attached to a breach of prescribed condition.

Clause 14 Licensing of keepers of dangerous dogs

Section 23 (1)

This clause reframes the offences in section 23 (1), for breach of a condition of a dangerous dog licence or keeping a dangerous dog without a licence, to be strict liability and bring consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. This is important for public safety and protecting the community from dangerous dogs, as well as for animal welfare.

See related clause 15 which states that conditions on a dangerous dog licence can include a condition prescribed by regulation and any other condition the registrar considers appropriate. A list of conditions are prescribed by regulation as part of this Bill (prescribed conditions). It is clear and straightforward to establish if there is a breach of these prescribed conditions. An infringement notice is proposed to be attached to a breach of a prescribed condition. The offence under section 23 (1) currently has an infringement notice attached.

Clause 15 Dangerous dog licences – conditions

New section 26 (1A)

This clause clarifies that a condition on a dangerous dog licence may include a condition prescribed by regulation and any other condition the registrar considers appropriate. By choosing to proceed with a dangerous dog licence, an applicant is agreeing to abide by the conditions and acknowledging that they understand what these conditions mean.

A list of conditions are prescribed by regulation as part of this Bill (prescribed conditions). This makes it clear and straightforward to establish if there is a breach of a prescribed condition. An infringement notice is proposed to be attached to a breach of a prescribed condition.

Clause 16 Dangerous dogs in public places

Substitute section 27

This clause reframes the offences in section 27, for having a dangerous dog in a public place, to be strict liability and bring consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. The offences under section 27 already have infringement notices attached to them. These are important for ensuring public safety.

Clause 17 Signs on premises about dangerous dogs

New Section 28 (1A)

This clause states that an offence against section 28, which is not displaying warning signs for a dangerous dog, is a strict liability offence and brings consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. This is important for public safety.

Clause 18 Presumption greyhound is racing greyhound

Section 39B (2)

This clause makes a technical amendment to this section to bring it in line with current ACT Government policy to remove references to statutory declarations in legislation on the basis that the legal requirements for statutory declarations create an unnecessary administrative burden on the applicant and render those declarations incompatible with the development of online processing. This is in line with the *Red Tape Reduction Legislation Amendment Act 2016*.

Clause 19 Racing greyhounds - registration

Section 39C (2)

This clause brings section 39C (2), introduced through the *Domestic Animals (Racing Greyhounds) Amendment Act 2017*, in to line with the amendments made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017* in relation to registrations.

This clause means that the registrar must refuse to register a greyhound as a racing greyhound if the applicant is disqualified from keeping a dog or any other animal, regardless of whether it is a greyhound or not, and may refuse to register the greyhound as a racing greyhound if the dog does not have a microchip or the registrar reasonably believes that the applicant has failed, or is unable to, exercise responsible dog management, care or control.

This reflects the ownership bans introduced under the dangerous dog laws for all other types of dogs and should similarly apply to racing greyhounds.

Responsible dog management, care and control is defined in the Act.

Clause 20 Racing greyhounds – registration numbers etc

Section 39E

This clause corrects the reference in the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* from sections 11 (1), (2), (4) and (5) to section 11 to reflect the change to registration tags made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

Clause 21 Racing greyhounds – cancellation of registration

Section 39F

This clause brings section 39F, introduced through the *Domestic Animals (Racing Greyhounds) Amendment Act 2017*, in to line with the amendments made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017* in relation to cancellation of registration.

This clause means that the registrar must cancel the registration a greyhound as a racing greyhound in certain circumstances, and may refuse to register the greyhound as a racing greyhound if the person is no longer the owner of the dog or registrar reasonably believes that the applicant has failed, or is unable to, exercise responsible dog management, care or control.

This reflects the ownership cancellations introduced under the dangerous dog laws for all other types of dogs and should similarly apply to racing greyhounds.

Responsible dog management, care and control is defined in the Act.

Clause 22 Racing greyhound controller licences – approval or refusal

New section 39I (2) (ca)

This clause amends new section 39I (2) (ca) introduced through the *Domestic Animals (Racing Greyhounds) Amendment Act 2017*. This clause requires the registrar to refuse to issue a racing greyhound controller licence unless satisfied that the applicant is able to exercise responsible dog management, care and control.

This reflects the responsible dog ownership principles introduced through the dangerous dog laws. Responsible dog management, care and control is defined in the Act.

Clause 23 New section 39I (3) (h)

This clause inserts a new subsection into section 39I (3) introduced through the *Domestic Animals (Racing Greyhounds) Amendment Act 2017*. This clause requires the registrar to consider the safety of the public and other animals in making a decision about whether to issue a greyhound controller licence.

This reflects the public safety test introduced through the dangerous dog laws.

Clause 24 Racing greyhound controller licences - conditions

New section 39J (2) (d)

This clause inserts a new subsection into section 39J (2) introduced through the *Domestic Animals (Racing Greyhounds) Amendment Act 2017*. This clause requires the registrar to consider the safety of the public and other animals in making a decision about whether or not to impose a condition on a racing greyhound controller licence.

This reflects the public safety test introduced through the dangerous dog laws.

Clause 25 Prohibited areas

Section 41 (5)

This clause reframes the offences in section 41 (5), for taking a dog into a prohibited area, to be strict liability and bring consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. The offence under section 41 (5) already has an infringement notice attached. This is important for public safety.

Clause 26 **Prohibited places**

Section 42 (1) to (4)

This clause reframes the offences in section 42 (1) to (4), for taking a dog into a prohibited place, to be strict liability and bring consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. The offences under section 42 already have infringement notices attached to them. This is important for public safety.

This clause also makes minor technical amendments to the offences for clarity and also uses the term ‘authorised sport or training’ which is now defined under this Bill. The clause also clarifies that it is only an offence to take a dog in a public place within 10 metres of a fixed fireplace or heating appliance designed for cooking food where people are using the fireplace or heating appliance.

Clause 27 **Section 42 (5), new definition of *authorised sport or training***

This clause inserts a definition of ‘authorised sport or training’ to provide clarity to the Act and the offence under section 42 (4).

Clause 28 **Dogs in public places must be controlled**

New section 44 (3A)

This clause states that an offence against section 44 is a strict liability offence. This brings consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. The offences under section 44 already have infringement notices attached to them.

The offence is considered suitable to be a strict liability offence, with the term ‘effective control’ defined under this Bill. This provision is important for public safety.

Clause 29 **New section 44 (6)**

This clause inserts a definition of effective control to clarify the offence under section 44 (2). The definition requires a person to demonstrate they can prevent their dog from approaching other animals or people by either a leash, holding or confining the dog, or the dog responding to and following voice commands and being within sight.

Clauses 30-32 Dogs on private premises to be restrained

Section 45 (1), 45 (3) and 45 (5)

These clauses reframe the offences in section 45 (1), (3) and (5), dogs on private premises to be restrained, to be strict liability and bring consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. The offences under section 45 already have infringement notices attached to them. These are important for community safety.

Clause 33 Removal of faeces

Substitute section 46

This clause reframes the offences under section 46, for removal of faeces, to be strict liability and bring consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. The offences under section 46 already have infringement notices attached to them. Examples of hygienic disposal are provided to assist in interpreting and enforcing the provision as a strict liability offence.

Clause 34 Female dogs on heat

Section 47 (1)

This clause reframes the offence under section 47, for having a female dog on heat in a public place, to be strict liability and bring consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. The offence under section 47 (1) already has an infringement notice attached. This is to avoid non de-sexed and in-heat female dogs from being in a public place. Non de-sexed dogs and in-heat females are contributing factors to dog attacks and unwanted litters.

Clause 35 Obligations of keeper or carer if dog attacks

Section 50B (3)

This clause reframes the offence under section 50B, for a person not telling the registrar if a person's dog causes a serious injury from an attack within 5 days of the attack, to be strict liability. This is aimed at ensuring that a keeper or carer for a dog that attacks a person or animal resulting in a serious injury informs the registrar of the attack so that appropriate action can be taken by Domestic Animal Services, leading to improved animal welfare and public safety outcomes. The term 'serious injury' is defined in the Act and a clear timeframe of five days has now been included.

Clauses 36-37 Dealing with attacking dogs – death or serious injury to person or death of animal

Section 53B (6)

These clauses allow for a control order to be issued to a carer for a dog as well as a keeper for a dog. There are circumstances where it is appropriate for a control order to be placed on a carer, for example where the dog is being temporarily housed with the carer while the keeper is overseas. If a control order is issued to the carer the registrar must also issue the dog's keeper with the order. Control orders are issued by consent. A carer and/or keeper could refuse a control order and the dog could be seized or relinquished.

Clause 38-39 Dealing with attacking, harassing or menacing dogs generally

Section 53C (4)

These clauses allow for a control order to be issued to a carer for a dog as well as a keeper for a dog. There are circumstances where it is appropriate for a control order to be placed on a carer, for example where the dog is being temporarily housed with the carer while the keeper is overseas. If a control order is issued to the carer the registrar must also issue the dog's keeper with the order. Control orders are issued by consent. A carer and/or keeper could refuse a control order and the dog could be seized or relinquished.

Clause 40 New sections 53CA and 53CB

This clause clarifies what a control order means and the kind of things that can be prescribed in a control order. A thing can be prescribed by regulation, or the registrar can place anything on the dog's keeper or carer the registrar considers appropriate.

A list of prescribed control orders are set out by regulation as part of this Bill. This makes it clear and straightforward to establish if there is a breach of a prescribed thing in a control order, and is intended to support an infringement notice attached to a breach of a prescribed control order.

Control orders are issued by consent. A carer and/or keeper could refuse a control order and the dog could be seized or relinquished.

This clause also requires that if a control order is given to a keeper of a dog and there is also a carer for that dog then the keeper must give a copy of the control order to the carer. An offence against this section is constructed as a strict liability offence. This is an important provision for ensuring a carer is made aware of a control order if there is one in place for a dog that has been given to them to care for. This is aimed at ensuring public safety.

Clauses 41-42 Offence – failure to comply with control order

Section 53E

These clauses introduce a strict liability offence under section 53E, for a carer not to comply with a control order. It is also a strict liability offence for a keeper not to comply with a control order. This is important for public safety and animal welfare outcomes.

As noted in clause 40 a list of prescribed control orders are set out by regulation as part of this Bill. This makes it clear and straightforward to establish if there is a breach of a prescribed thing in a control order, and is intended to support an infringement notice attached to a breach of a prescribed control order.

Clauses 43-44 Notice to affected neighbours

Section 55B (1) (b) and (c), section 55B (2)

These clauses amend section 55B so that the registrar may, if the registrar thinks it is in the interest of the safety of the public and other animals to do so, give notice of a control order or nuisance notice to people occupying property adjacent or nearby to premises where the dog is kept or being cared for if a control order or nuisance notice is issued to a carer of a dog or the keeper of a dog (or both). This is because, under this Bill, a carer can now be issued with a control order or nuisance notice.

Clause 45 Seizure of dogs – general

Section 56 (2) (c)

This clause means that an authorised person may seize a dog if the carer or keeper has not complied with a control order issued to the carer or keeper in relation to the dog. Previously this could only be done where the keeper did not comply with a control order issued to them. This change is necessary because under this Bill control orders can be issued to a carer as well as a keeper.

Clause 46 Seizure of dogs – investigation of complaints about attacking, harassing or menacing dogs

Section 56A (3)

This clause now means that a dog can be impounded on premises other than Territory premises, for example an approved animal welfare facility. This clause results in improved animal welfare outcomes. For example, if a complaint about a dog attacking a neighbour's chickens is being investigated and the dog can't be securely kept at its home, it could be placed in an animal welfare facility if the pound is at capacity or this is considered better for the welfare of the dog.

This clause also means that a dog can be impounded on the premises of a carer as well as a keeper. Previously a home impoundment direction could only be given to a dog's keeper. This results in improved animal welfare outcomes. For example, in the situation above with a neighbour's chickens, it could mean that a dog is safely and securely kept on the premises of a carer at a different location and away from chickens, while an investigation is underway, rather than being placed in the pound. The pound is not ideal for the welfare of dogs.

This clause states that a home impoundment direction can be issued on stated conditions. Stated conditions can be prescribed by regulation, or the registrar can place any other condition on the dog's keeper or carer that it considers appropriate.

A list of conditions are prescribed by regulation as part of this Bill. This makes it clear and straightforward to establish if there is a breach of a condition, and is intended to support an infringement notice for a breach of a prescribed condition on a home impoundment direction. Home impoundment directions are issued by consent. A carer and/or keeper could refuse a home impoundment direction and the dog could be seized or relinquished.

Clause 47 Home impoundment direction

New section 56A (6)

This clause states that an offence against section 56A, which is not complying with stated conditions of a home impoundment direction, is a strict liability offence. This is important for public safety and animal welfare outcomes.

As noted in clause 46 a list of conditions are prescribed by regulation as part of this Bill. This makes it clear and straightforward to establish if there is a breach of a condition, and is intended to support an infringement notice for a breach of a prescribed condition on a home impoundment direction.

Clause 48 Impounding of dogs seized

Section 60 (1) (b) (i) and (ii)

This clause requires an authorised person to make reasonable inquiries to find out who the keeper or carer of a dog is if a seized dog is impounded under this section and the identity of the keeper or carer is not known. Previously, an authorised person only had to make reasonable enquiries of the keeper. This reflects changes made throughout this Bill that recognises that there may be times that a dog is with a carer rather than its keeper.

Clause 49 Impounding of dogs seized

Section 60 (3)

This clause means that a home impoundment direction can be given to a dog's keeper or carer. Previously a home impoundment direction could only be given to a dog's keeper under this section. This results in improved animal welfare outcomes, and reflects that there can be times where it is appropriate for a dog to have a home impoundment at a carer's premises.

For example, for a non-serious offence such as not registering a dog where a keeper is overseas, it could mean that the dog is securely kept on the premises of a carer while the situation is rectified, rather than the dog being placed in the pound. The pound is not ideal for the welfare of dogs.

This clause states that a home impoundment direction can be issued on stated conditions. Stated conditions can be prescribed by regulation, or the registrar can place any other condition on the dog's keeper or carer that it considers appropriate.

A list of conditions are prescribed by regulation as part of this Bill. This makes it clear and straightforward to establish if there is a breach of a condition, and is intended to support an infringement notice for a breach of a prescribed condition on a home impoundment direction. Home impoundment directions are issued by consent. A carer and/or keeper could refuse a home impoundment direction and the dog could be seized or relinquished.

Clause 50 New section 60 (6)

This clause states that an offence against section 60A, which is not complying with stated conditions of a home impoundment direction, is a strict liability offence. This is important for public safety and animal welfare outcomes.

As noted in clause 49 a list of conditions are prescribed by regulation as part of this Bill. This makes it clear and straightforward to establish if there is a breach of a condition, and is intended to support an infringement notice for a breach of a prescribed condition on a home impoundment direction.

Clause 51 Returning seized dog to its keeper

Section 70 (1) and (2)

This clause means that the registrar may return a seized dog to a keeper or to a carer. Previously a dog could only be returned to a keeper. This results in better animal welfare outcomes. For example, if a dog is seized because it is roaming in a public place and has escaped its yard and its owner is overseas, the dog can be released to a carer rather than remaining in the pound.

Clause 52 Returning seized dog to its keeper

Section 70 (4)

This clause means that the registrar may return a seized dog to its keeper or carer and may issue a control order for the dog to the keeper or carer. This reflects other changes in this Bill which allow for a control order to be placed on a keeper or a carer. This clause also states that if the registrar issues a carer of a dog with a control order it must also issue the dog's keeper with the order.

Clause 53 Returning seized dog to its keeper

Section 70 (5)

This clause applies section 70 (5) to a carer as well as a keeper. Previously this only applied to a keeper. It may be appropriate for the registrar to waive fees under this part to the carer if it is the carer to whom the dog is being released, rather than the keeper.

Clause 54 Breeding licence - conditions

Section 72E (3)

This clause corrects the reference in the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* from section 72E (2) to 72E (3) to reflect the change to registration tags made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

Clause 55 Sale of older dogs and cats not de-sexed

New section 74A (3)

This clause amends new section 74A (3) introduced through the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* to include wording introduced to this section through the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

Clause 56 Issue of nuisance notices

Section 112 (7)

This clause reframes the offence under section 112 (7), for breaching a nuisance notice, to be strict liability and bring consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. The offence under section 112 (7) already has an infringement notice attached.

A nuisance notice must state what the nuisance is that must be reduced or stopped, where the nuisance is being caused and indicate that proceedings may be instituted for a contravention of the notice if the nuisance is not reduced. A nuisance notice may mention the steps to be taken to prevent the recurrence of the animal nuisance. This makes it clear and straightforward to establish if there is a breach of a nuisance notice.

Clause 57-60 Seizure, impounding and return of nuisance animals
Section 114

These clauses make amendments to section 114 so that the provisions in section 114 apply to a carer as well as a keeper, consistent with the other changes in this Bill, except for subsection (6). This is considered appropriate as any debt payable should be a debt payable by the registered keeper of the dog. It is noted that, similar to other provisions in this Bill for issuing a control order, if the registrar issues a carer of a dog with a control order the registrar must also issue the dog's keeper with the order.

Clause 61 Inspection of animals
New section 134A (3)

This clause states that an offence against section 134A, which is not producing an animal for inspection on request, is a strict liability offence. This brings consistency to the structure of the offence framework under the Act in line with the *2010 Guide for Framing Offences*. An infringement notice is already attached to this offence.

The offence is aimed at ensuring public safety and animal welfare, so that an officer can identify an animal that is related to a contravention of the Act, for example a female dog being used for illegal breeding or a dog involved in a serious dog attack.

Clause 62 New section 137

This clause inserts a new provision that allows the registrar to approve an entity responsible for animal welfare of rehousing abandoned animals to keep or sell animals seized under this Act through a notifiable instrument. This provides clarity and transparency around which entities can be used for impounding of animals or to sell/rehome animals.

Clause 63 Dictionary, new definitions

This clause inserts a new definition of ‘breed’ in to the Act to include all aspects of breeding from insemination to birth and weaning and ensure the Act can be effectively administered in relation to breeding, and in particular illegal breeding.

This clause inserts a definition of ‘approved animal welfare entity’ to be an entity approved by the registrar under new section 137.

Clause 64 Dictionary, definition of *control order*

This clause clarifies, consistent with this Bill, that the definition of a control order can be found in section 53CA (1).

Clause 65 Dictionary, new definition of *impound*

This clause inserts a new definition of ‘impound’ so that a seized animal can be kept on Territory premises or on the premises of an approved animal welfare entity. This is to improve animal welfare outcomes. For example, if a breeding female and puppies are seized then they can be placed with an animal welfare entity that has more suitable facilities. Alternatively, if the pound is at capacity an approved animal welfare entity can be used.

Clause 66 Dictionary, new definition of *sell*

This clause amends the definition of ‘sell’ to include an approved animal welfare entity consistent with the other changes in this Bill and the new definition of approved animal welfare entity, and method for approving an animal welfare entity.

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Clause 67 Dog registration information – Act, s 8

New section 5 (g) and (h)

This clause corrects the reference in the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* from section 5 (f) and (g) of the Regulation to section 5 (g) and (h) of the Regulation to reflect changes made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

Clause 68 Information on dog registration certificates – Act s 11 (2)

Section 6 (f)

This clause corrects the reference in the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* from section 6 (e) of the Regulation to section 6 (f) of the Regulation to reflect changes made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

Clause 69 New sections 6A to 6E

This clause includes a list of prescribed conditions that can be attached to a multiple dog licence, a dangerous dog licence, a control order or a home impoundment direction. These conditions are clearly stated and it is straight forward to establish whether or not there is a breach of a condition. It is intended to attach an infringement notice to a breach of a prescribed condition of a multiple dog licence, a dangerous dog licence, a control order or a home impoundment direction.

This clause also corrects the reference in the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* from section 6AA of the Regulation to section 6C of the Regulation to reflect changes made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

Clauses 70-71 Section 7

These clauses remove references to ‘tag’ in the Regulation. Tag registration no longer exists – it was removed under the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

Clause 72 Reviewable decisions

Schedule 1, item 9, column 3

This clause corrects the reference in the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* from Schedule 1, item 8, column 3 of the Regulation to Schedule 1, item 9, column 3 of the Regulation to reflect changes made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

Clause 73 Schedule 1, new items 10A to 10C

This clause corrects the reference in the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* from Schedule 1, new items 9A to 9C of the Regulation to Schedule 1, new items 10A to 10C of the Regulation to reflect changes made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

Clause 74 Schedule 1, item 32, column 4

This clause corrects a typographical error in Schedule 1, item 32, column 4.

Clause 75 Dictionary, new definition of *off-lead area*

This clause provides a definition of off-lead area, which means an area declared under section 40 of the Act.

Clause 76 Dictionary, note 2

This clause includes the following into Note 2 in the Dictionary: control order; dangerous dog licence; multiple dog licence, public place.

Schedule 1 Other amendments – Domestic Animals (Racing Greyhounds) Amendment Act

This Bill makes a number of consequential amendments to the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* to give effect to the clauses above.