

**2018**

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

**Magistrates Court (Domestic Animals Infringement Notices) Amendment**

**Regulation 2018 (No 1)**

**SL2018-12**

**EXPLANATORY STATEMENT**

**Circulated by the authority of  
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Attorney General**

## **Overview**

The Magistrates Court (Domestic Animals Infringement Notices) Amendment Regulation 2018 (No 1) (the amendment regulation) provides for new and amended offences against the *Domestic Animals Act 2000* (the Act) and *Domestic Animals Regulation 2001* (the Regulation) to be dealt with under the infringement notice scheme in Part 3.8 of the *Magistrates Court Act 1930*.

This follows amendments made to the Act by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017* and *Domestic Animals Legislation Amendment Act 2018*.

## **Details of clauses of the Amendment Regulation**

### **Clause 1                      Name of regulation**

This clause states that the name of the amendment regulation is the *Magistrates Court (Domestic Animals Infringement Notices) Amendment Regulation 2018 (No 1)*.

### **Clause 2                      Commencement**

This clause states that the commencement date of the amendment regulation is the day after its notification day.

### **Clause 3                      Legislation amended**

This clause states the name of the regulation being amended, being the *Magistrates Court (Domestic Animals Infringement Notices) Regulation 2005* (the amended regulation).

### **Clause 4                      Dictionary**

#### **Section 4, note 1**

The clause substitutes note 1, explaining the use of signpost definitions in the amended regulation, to include an example that relates to a term used in the *Domestic Animals Act 2000*.

## **Clause 5                      Section 9 (b) (iii) omit**

Section 9 of the amended regulation provides that for an infringement notice in relation to a dog or cat the notice can identify the dog or cat by reference to certain matters. This clause removes the reference to a 'registration tag' as a means of identifying a dog, as a registration tag for dogs is no longer a requirement under the *Domestic Animals Act 2000*.

## **Clauses 6                      Schedule 1, Substitute**

This clause substitutes Schedule 1, including to reflect new and amended offence penalties for offences under the Act and the Regulation. Specifically the replacement schedule:

- Reflects increased maximum penalties for offences under sections 12(1) and 12(2) of the Act consequential on the change to the maximum penalty made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. The infringement penalties for these offences have also been increased from \$50 to \$250. This increase is commensurate with the increase in the maximum penalty and is considered reasonable and proportionate to the offence.
- Reflects increased maximum penalties for offences under sections 14(1)(a) and 14(1)(b) of the Act consequential on the change to the maximum penalty made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. The infringement penalties have also been increased from \$150 to \$350. This increase is commensurate with the increase in the maximum penalty for the offence and is considered reasonable and proportionate to the offence.
- Removes items 5 to 9 as they relate to offences involving dog registration tags and registration tags are no longer required under the *Domestic Animals Act 2000* following the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.
- Substitutes the current infringement penalty of \$50 for the strict liability offences against sections 16(1) and 16(2) with a penalty of \$150. This increase is considered reasonable and proportionate to the offence.
- Inserts a new item as item 7 to establish an infringement notice penalty for keeping 4 or more dogs without a multiple dog licence, which is a strict liability offence under section 18(1) of the *Domestic Animals Act 2000*. The infringement penalty of \$750 reflects the nature of the offence, and is considered reasonable and proportionate.
- Inserts a new item as item 8 to establish an infringement penalty for failing to comply with a prescribed condition of a multiple dog licence, which is a strict liability offence under section 21(5) of the *Domestic Animals Act 2000*. An infringement notice will only be issued if the condition contravened is one specified by regulation under s 21(4)(a). An infringement notice will not be available for contravening a condition made

under s 21(4)(b). The clause provides for an infringement penalty of \$750. This reflects the nature of the offence, and is considered reasonable and proportionate.

- Substitutes the current infringement penalty for keeping a dangerous dog without a licence with two new infringement penalties in items 9 and 10, being keeping a dangerous dog without a licence and failing to comply with a prescribed condition of a dangerous dog licence. These strict liability offences now have a penalty of \$1,500. An infringement notice will only be issued under item 10 if the licence condition contravened is one specified by regulation under s 26(3)(a). An infringement notice will not be available for contravening a condition made under s 26(3)(b). Keeping a dangerous dog without a licence, or breaching a condition of a dangerous dog licence, has the potential for significant adverse consequences. It currently costs \$750 to obtain a licence for a dangerous dog, and the offence of keeping a dangerous dog without a licence, or breaching a condition of the licence, should be sufficiently high as to act as a deterrent and be proportionate to the offence. The infringement penalty amount reflects the nature of the offences, and is considered reasonable and proportionate.
- Reflects increased maximum penalties for offences under sections 27(1) and 27(2) consequential on the change to the penalty for this strict liability offence made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. The infringement penalties have also been increased from \$150 to \$500. This increase is commensurate with the increase in the maximum penalty for the offence and is considered reasonable and proportionate to the offence.
- Inserts a new item as item 13 for failing to display a dangerous dog warning sign, which is a strict liability offence under section 28(1) of the *Domestic Animals Act 2000*. The clause provides for an infringement penalty of \$150. This is considered reasonable and proportionate.
- Increases the infringement penalty amounts for the strict liability offences against sections 39D(1) and 39G(1). The current amount of \$150 is not proportionate and does not act as a deterrent given the fees for obtaining registration and a racing greyhound licence that were established on 30 April 2018 are \$612 and \$640 respectively. The infringement penalty increase to \$1,000 is considered reasonable and proportionate and sufficient to act as a deterrent.
- Reflects increased maximum penalties for offences under sections 42(1)–(4) consequential on the change to the penalties for these strict liability offences made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. The infringement penalties for sections 42(2)–(4) have also been increased from \$75 to \$150. The infringement penalty for section 42(1) has been increased to \$350 to reflect the relatively serious nature of this offence. These increases are commensurate with the increase in the maximum penalty for the offences and are considered reasonable and proportionate.
- Reflects increased maximum penalties for offences under sections 44(1) and 44(2) consequential on the change to the penalty for these strict

liability offences made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. The infringement penalties have also been increased from \$150 to \$250. These increases are commensurate with the increase in the maximum court imposed penalty for the offences and are considered reasonable and proportionate.

- Reflects the increased maximum penalty for the offence under section 44(3) consequential on the change to the penalty for this strict liability offence made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. The infringement penalty has also been increased from \$150 to \$350. This increase is commensurate with the increase in the maximum penalty for the offence and is considered reasonable and proportionate to the offence.
- Reflects increased maximum penalties for offences under sections 45(1) and 45(3) consequential on the change to the penalty for these strict liability offences made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. The infringement penalties have also been increased from \$150 to \$250. These increases are commensurate with the increase in the maximum court imposed penalty for the offences and are considered reasonable and proportionate.
- Reflects the increased maximum penalty for an offence under section 45(5) consequential on the change to the penalty for this strict liability offence made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. The infringement penalty has also been increased from \$100 to \$350. This increase is commensurate with the increase in the maximum court imposed penalty for the offence and is considered reasonable and proportionate to the offence.
- Substitutes the current infringement penalty of \$50 for the strict liability offence against section 46(1) with a penalty of \$150. This increase is considered reasonable and proportionate to the offence.
- Reflects the increased maximum penalty for an offence against section 46(2) consequential on the change to the penalty for this strict liability offence made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. The infringement penalty has also been increased from \$50 to \$75. This increase is commensurate with the increase in the maximum penalty for the offence and is considered reasonable and proportionate to the offence.
- Reflects the increased maximum penalty for an offence under section 47(1) consequential on the change to the penalty for this strict liability offence made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. The infringement penalty has also been increased from \$150 to \$350. This increase is commensurate with the increase in the maximum court imposed penalty for the offence and is considered reasonable and proportionate to the offence.
- Removes the items in the schedule relating to offences for section 48 as these are no longer offences under the *Domestic Animals Act 2000*.
- Increases the infringement penalty for offences under sections 49A(1) and

49A(2) from \$350 to \$500. This increase is considered reasonable and proportionate to the offence.

- Inserts a new item as item 34 for the offence of a keeper failing to give a carer a copy of a control order, which is a strict liability offence under section 53CB (2) of the *Domestic Animals Act 2000*. The offence arises the moment the carer assumes care of the dog. This clause provides for an infringement penalty of \$350. This is considered reasonable and proportionate to the offence.
- Inserts a new item as item 35 for the offence of failing to comply with a prescribed condition on a control order, which is a strict liability offence under section 53E(1) of the *Domestic Animals Act 2000*. An infringement notice will only be issued if the condition contravened is one specified by regulation under s 53CA(a). An infringement notice will not be available for contravening a condition made under s 53CA(b). The clause provides for an infringement penalty of \$500. This is considered reasonable and proportionate to the offence.
- Inserts new items as item 36 and item 37 for the offences of failing to comply with a prescribed condition on a home impoundment direction, which are strict liability offences under sections 56A(6) and 60(6) of the *Domestic Animals Act 2000*. An infringement notice will only be issued if the condition contravened is one specified by regulation under s 56A(4)(a) or s 60(4)(a) respectively. An infringement notice will not be available for contravening a condition made under s 56(4)(b) or s 60(4)(b). The clauses provide for infringement penalties of \$750. This is considered reasonable and proportionate to the offences.
- Inserts a new item as item 38 for the offence of breeding a dog or cat without a licence, which is a strict liability offence under section 72(1) of the *Domestic Animals Act 2000*. The clause provides for an infringement penalty of \$1,500. This is considered reasonable and proportionate, particularly given the commercial nature of the offence.
- Inserts a new item as item 39 for the offence of breeding a racing greyhound without a licence, which is a strict liability offence under section 72(2) of the *Domestic Animals Act 2000*. The clause provides for an infringement penalty of \$1,500. This is considered reasonable and proportionate, particularly given the commercial nature of the offence.
- Inserts a new item as item 40 for the offence of breeding and selling a dog or cat without a licence, which is a strict liability offence under section 72K(1) of the *Domestic Animals Act 2000*. The clause provides for an infringement penalty of \$1,500. This is considered reasonable and proportionate, particularly given the commercial nature of the offence.
- Inserts a new item as item 41 for the offence of a licensed breeder failing to include the breeding number licence when advertising the sale of a dog or cat, which is a strict liability offence under section 72K(2) of the *Domestic Animals Act 2000*. The clause provides for an infringement penalty of \$250. This is considered reasonable and proportionate to the offence.

- Inserts a new item as item 42 for the offence of failing to report the breeding of a litter of greyhounds, which is a strict liability offence under section 72M(1) of the *Domestic Animals Act 2000*. The clause provides for an infringement penalty of \$300. This is considered reasonable and proportionate to the offence.
- Increases the infringement penalty for offences under sections 74(1) and 74(2) from \$75 to \$500 and \$350 respectively. These increases are considered reasonable and proportionate to the offence. Non de-sexed dogs are linked to dog attacks and so the infringement notice amount for section 74(1) reflects the relative seriousness of keeping a non de-sexed dog without a permit.
- Inserts a new item as item 45 for the offence of selling an older dog or cat that is not de-sexed, which is a strict liability offence under section 74A(1) of the *Domestic Animals Act 2000*. The clause provides for an infringement penalty of \$500. This is considered reasonable and proportionate to the offence.
- Inserts a new item as item 46 for the offence of failing to produce a permit for a not de-sexed dog or cat within 24 hours, which is a strict liability offence under section 79(1) of the *Domestic Animals Act 2000*. The clause provides for an infringement penalty of \$150. This is considered reasonable and proportionate to the offence.
- Increases the infringement penalty for an offence under section 82(1) from \$150 to \$300. This increase is considered reasonable and proportionate to the offence.
- Reflects increased maximum penalties for offences under sections 84(1) and 84(2) consequential on the change to the penalties for these strict liability offences made by the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*. The infringement penalty has also been increased from \$75 to \$450. This increase is commensurate with the increase in the maximum penalty and is considered reasonable and proportionate.
- Inserts a new item as item 51 for the offence of failing to comply with a request to produce an animal for inspection, which is a strict liability offence under section 134A(2) of the *Domestic Animals Act 2000*. The clause provides for an infringement penalty of \$650. This is considered reasonable and proportionate to the offence.

This clause also substitutes Part 1.2 of the *Domestic Animals Regulation 2001*, and includes new and amended offence penalties. Specifically the replacement schedule:

- Removes item 1 as this relates to an offence which is now located in the *Domestic Animals Act 2000*, and reflected in Part 1.1 of the schedule.
- Increases the infringement penalty for an offence under section 9A(1) of the Regulation from \$100 to \$500. This is considered reasonable

and proportionate to the offence.

- Inserts a new item as item 2 for the offence of selling or supplying a fake identifying microchip, which is a strict liability offence under section 11(1) of the Regulation, with an infringement penalty of \$300. This is considered reasonable and proportionate to the offence.
- Increases the infringement penalty for an offence under section 15(1) of the Regulation from \$50 to \$150. This is considered reasonable and proportionate to the offence.
- Inserts a new item as item 5 for the offence of implanting an identifying microchip not in accordance with the code, which is a strict liability offence under section 16(3) of the Regulation. This is considered reasonable and proportionate to the offence.
- Increases the infringement penalty for an offence under section 17(1) of the Regulation from \$50 to \$150. This is considered reasonable and proportionate to the offence.

**Clause 7                      Dictionary, definition of *registration tag***

**Omit**

This clause removes the definition of registration tag from the dictionary to the Domestic Animals Regulation as registration tags are no longer required under the *Domestic Animals Act 2000*.