

2022

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

**TRANSPORT CANBERRA AND CITY SERVICES LEGISLATION AMENDMENT
BILL 2022**

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004, s 37*)**

**Presented by
Chris Steel MLA
Minister for Transport and City Services**

TRANSPORT CANBERRA AND CITY SERVICES LEGISLATION AMENDMENT BILL 2022

The Bill is **not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

OVERVIEW OF THE BILL

The purpose of the Transport Canberra and City Services (TCCS) Legislation Amendment Bill 2022 (the Bill) is an omnibus bill to make minor and technical updates to a range of TCCS portfolio legislation to ensure it is accurate and fit for purpose.

Legislation amended by this Bill includes the *Cemeteries and Crematoria Act 2020*, *Litter Act 2004*, Magistrates Court (Litter Infringement Notices) Regulation 2004, *Plastic Reduction Act 2021*, *Veterinary Practice Act 2018*, and Veterinary Practice Regulation 2018.

Cemeteries and crematoria

Amendments to the *Cemeteries and Crematoria Act 2020* have been identified to clarify governance arrangements for the ACT Cemeteries and Crematoria Authority (the Authority) and Canberra Memorial Parks, and to bring the overarching legislation in line with the operations and administration of Canberra's cemeteries and crematoria.

In summary, these amendments are:

- Allowing the Chief Executive Officer (CEO) of the Authority to be a member of the ACT Public Service (ACTPS) in addition to continuing as a member of the Authority Governing Board;
- Allowing the unique identifying number for a burial or cremation to be provided to the applicant in a realistic timeframe, as these numbers are often not generated until after the application process;
- Allowing funeral directors or undertakers to be considered as the applicant for information about the booking to be provided to, in addition to the family member, as often these third parties are nominated to represent the family partway through the process;
- Removing the requirement for the time of cremation to be provided to the applicant, while retaining the requirement for the day to be provided, as the time of service can vary for cremations; and

- Removing the requirement for personal information of a family member who collects cremated remains to be publicly searchable, while retaining a requirement for these details to be recorded on a secure electronic database.

Litter and illegal dumping

Amendments to the *Litter Act 2004* have been identified to clarify the operational administration of the existing policies and legislation surrounding litter and illegal dumping, which are enforced by TCCS City Operations, specifically City Rangers.

In summary, these amendments are:

- Clarifying the existing exemptions for littering and dumping of materials to make it clear that depositing materials at waste and recycling management facilities must be done in accordance with the facility's requirements; and
- Clarifying the existing framework for securing loads on vehicles so that both offences reflect the same wording to ensure it is understood that a vehicle load must be secured so that the load or any part of it does not break loose.

A minor typographical amendment is also made to Schedule 1 of the Magistrates Court (Litter Infringement Notices) Regulation 2004.

Plastic reduction

An amendment to the *Plastic Reduction Act 2021* has been identified where the existing definition of 'compostable' is limited only to compostable plastic bags, which is considered to have been carried over in drafting from the repealed *Plastic Shopping Bags Ban Act 2010*. This older definition is to be replaced with compostable plastic products in general to reflect how compostable and non-compostable items are referred to in the legislation.

Compostable plastic items may already potentially be incorporated into the regulations as part of the plastics ban under section 7(1)(a)(v), while non-compostable plastics may be incorporated under subsection (vi). This means expanding the definition of compostable does not expand the scope of what can potentially be prescribed by regulation under the plastics ban, as subsection (v) broadly covers items that may or may not be defined as 'compostable'.

A minor typographical amendment is also made to section 37, where the incorrect section is referenced.

ACT Veterinary Practitioners Board and regulations

Amendments to the *Veterinary Practice Act 2018* have been identified to make minor updates to the governance arrangements of the ACT Veterinary Practitioners Board (Vet Board). Amendments to the restricted acts of veterinary science set out in

Schedule 1 of the Veterinary Practice Regulation 2018 are also included in the Bill following industry consultation led by the Vet Board in 2019.

In summary, the amendments to the *Veterinary Practice Act 2018* are as follows:

- Allowing membership on the Vet Board to include residents of the ACT and surrounding region, instead of just being limited to within the ACT; and
- Allowing the Vet Board to meet quorum requirements if the president and deputy president cannot attend, such as due to conflict of interest.

For the Veterinary Practice Regulation 2018, specifically the restricted acts of veterinary science, the amendments are as follows:

- Introducing a prescribed circumstance as per section 10(4) of the *Veterinary Practice Act 2018* of minimum qualification requirements for tooth cleaning procedures on animals other than horses;
- Removing tooth cleaning¹ as an exemption for animals other than horses from being a restricted act of veterinary science, considering the seriousness of the procedure where animals should be anaesthetised; and
- Adding the following as restricted acts of veterinary science:
 - use of power tools for horse dental work,
 - insertion of a tube into the oesophagus or stomach of a horse,
 - ultrasound pregnancy diagnosis in cattle,
 - artificial insemination of horses and camelids (camels, llamas and alpacas),
 - taking tissue samples from live animals,
 - spaying cattle by flank and dropped-ovary method, and
 - certifying animal disease status.

Use of power tools for horse dental work was already restricted to an extent by only allowing a person to perform this act if the horse had been adequately sedated under the immediate and direct supervision of a registered veterinary practitioner.

Tooth cleaning on animals other than horses was already indirectly restricted prior to these amendments through the inclusion of any treatment, procedure or test that, by current standards, involves anaesthetising, sedating or tranquilising the animal as a

¹ In the context of veterinary science, tooth cleaning should be performed under anaesthesia as it involves scaling and polishing teeth below the gum line. Tooth cleaning does not include basic home dental hygiene maintenance such as use of tooth brushes, animal toothpastes, or dental chews.

restricted act. For animals other than horses, current standards are for tooth cleaning to occur under anaesthesia.

CONSULTATION ON THE PROPOSED APPROACH

Rather than progressing the amendments using existing centrally led processes for omnibus bills, the Bill was led by TCCS to maintain active oversight during the drafting process in direct collaboration with internal TCCS business units. Due to the highly operational nature of these business units and their existing relationships with external stakeholders, active engagement with subject matter experts was required to inform the development of the Bill.

The internal business units engaged in the identification and development of the amendments are Canberra Memorial Parks, City Operations Licensing and Compliance, ACT NoWaste, and TCCS Boards and Committees.

External stakeholders engaged throughout the drafting process are the ACT Cemeteries and Crematoria Authority Governing Board and the ACT Veterinary Practitioners Board.

These internal and external stakeholders provided information on operational, administrative and policy matters to ensure the legislation accurately reflects on-the-ground service delivery and best-practice.

For the restricted acts of veterinary science in the Veterinary Practice Regulation 2018, consultation was undertaken through the Vet Board in 2019 to determine how the restricted acts should be updated and included a submission from the Australian Veterinary Association. Membership on the Vet Board includes four registered veterinary practitioners and two non-veterinary members, at least one of whom must be a community representative.

CONSISTENCY WITH HUMAN RIGHTS

During the development of the Bill due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004* (the HR Act), noting the Bill is not a Significant Bill and does not engage human rights to a significant extent.

Rights engaged

The Bill may promote the right to privacy under section 12(a) and the right to take part in public life under section 17 of the HR Act. The Bill may limit the right to be presumed innocent until proven guilty under section 22(1).

Rights promoted

Cemeteries and Crematoria Act 2020

The amendments to the *Cemeteries and Crematoria Act 2020* to remove the requirement for personal information of a family member who collects cremated remains being searchable on the public register will support and promote the right to privacy under section 12(a) of the HR Act. This amendment is also reflective of current operational practice.

Veterinary Practice Act 2018

The expansion of Veterinary Practitioners Board membership from allowing only ACT residents to allowing the surrounding region promotes the right to participation in public life under section 17 of the HR Act. It was not the intention of original the legislation to prevent residents of the surrounding ACT region from applying for membership considering many people who work and participate in public life in the ACT may have a residential address over the border.

Rights Limited

The following human rights analysis relates to limitations on the right to be presumed innocent until proven guilty by law under section 22(1) of the HR Act.

1. Nature of the right and the limitation (ss 28(2)(a) and (c))

Section 22(1) of the HR Act provides that everyone charged with a criminal offence has the right to be presumed innocent until proven guilty according to law. Strict liability offences contain no fault elements for all, or some, of the physical elements of an offence. Strict liability offences engage and limit the right to be presumed innocent until proven guilty as the absence of a fault element generally places a burden upon the defendant to challenge the prosecution case. Strict liability offences are only made in a context where the person knows, or ought to know, their legal obligations.

Cemeteries and Crematoria 2020

The amendment to remove the requirement for personal information of a family member who collects cremated remains being searchable on the public register results in consequential amendments to update the corresponding strict liability offences which may engage the right to presumption of innocence until proven guilty.

The existing offence at section 64(1) about a licensee of a facility's failure to keep a relevant register is amended to specifically capture the failure to a keep register concerning cremation collection (section 63A). This amendment is the result of section 63(3)(d) being relocated to separate section 63A. As this offence was previously captured under section 64(1)(b)(ii) it is not considered to pose a new

limitation on the right to presumption of innocence and is purely technical in nature.

However, the offence at section 64(2) has two components relating to the register kept by a licensee, the first being that the register must be kept in a secure ICT database and the second that the register must be searchable to members of the public. As the personal information of those collecting cremated remains as set out at relocated section 63(3)(d) will no longer be made publicly searchable through the Bill, the existing strict liability offence at section 64(2) is split to insert a new strict liability offence at section 64(2A) so that only the first component relating to a secure ICT database applies to new section 63A.

Litter Act 2004

The Bill proposes to clarify existing exemptions to strict liability offences set out in sections 8, 9, 9A and 9B of the *Litter Act 2004* relating to litter and illegal dumping, and to clarify an existing offence set out in section 11(2) relating to securing loads on vehicles. Specifically, the exemptions to sections 8, 9, 9A and 9B currently only refer to depositing materials at public landfills or waste facilities in general, rather than at the prescribed locations within these landfills or facilities. The vehicle load offence does not clarify that the vehicle load or any part of it is included, despite another similar offence doing so. By specifying the exact meaning of the exemptions and of an offence, these amendments expand the scope therefore engaging the right to be presumed innocent until proven guilty.

Veterinary Practice Regulation 2018

The Bill also proposes to expand the existing list of restricted acts of veterinary science in Schedule 1, Part 1.2 of the *Veterinary Practice Regulation 2018*, which sits under the *Veterinary Practice Act 2018*. As a strict liability offence exists under section 10 of the *Veterinary Practice Act 2018* for carrying out a restricted act of veterinary science on an animal without being a registered veterinarian, amending the list of restricted acts will expand the scope of this offence, engaging the right to be presumed innocent until proven guilty.

2. *Legitimate purpose (s 28(2)(b))*

Cemeteries and Crematoria Act 2020

The purpose of inserting the new strict liability offence at section 64(2A) is to provide an effective means of deterring non-compliance with record keeping requirements while also protecting the right to privacy of family members who collected cremated remains.

Family member's personal information was not intended to be publicly accessible and is not currently made publicly searchable as part of standard practice.

However, it is necessary for this information to be kept on a secure database, as is currently done. The inclusion of the new strict liability offence at section 64(2A) ensures that adequate records are in place to assist in locating cremated remains and in investigations, without releasing personal or private information to the community.

Litter Act 2004

The existing exemptions relating to the legal depositing of materials at public landfills and waste facilities and the offence relating to drivers securing loads on their vehicles under the *Litter Act 2004* are ambiguous. The amendments seek to achieve the legitimate purpose of providing a clear and robust regulatory framework that supports community wellbeing, positive environmental outcomes and safety standards. This purpose reflects the legislation's original policy intent, operational policy and general community expectations.

It is generally well-known in the community that litter and illegal dumping and allowing contents of vehicles to fall or to be likely to fall are subject to fines. Litter and illegal dumping pose risks to the amenity of a place and to the quality of the environment. Furthermore, allowing items to fall from vehicles on public roads, particularly high-speed roads, is a serious risk to other drivers as well as impacting on the surrounding environment.

The exemptions at sections 8, 9, 9A and 9B when read within the broader context of the Act imply that the depositing of materials should be in accordance with the facility's requirements. The current wording of the offence is ambiguous and therefore needs to be amended to make it clear that depositing materials at waste and recycling management facilities must be done in accordance with the facility's requirements. In addition, while the offence at section 11(2) when interpreted with reference to the Act's intent and purpose suggests that the securing of a vehicle load includes any part of the load, there is potential that the provision may be interpreted differently. The Bill proposes to align these subsections with the clear intent of the broader sections of the Act to remove ambiguity in the interpretation and enforcement of these provisions.

To uphold these expectations and to support the ongoing operations of TCCS City Rangers, the Bill removes the ambiguity in how the offences relating to these issues are structured. This brings consistency to the legislation to align with policy intent, operations, and community understandings.

Veterinary Practice Regulation 2018

The purpose of restricting acts of veterinary science is set out at section 7 of the *Veterinary Practice Act 2018* as preventing unacceptable harm or suffering to animals, preventing adverse effects to human health, and preventing adverse effects on domestic or international trade.

The amendments to the list of restricted acts of veterinary science aim to protect animals and the people responsible for managing them and to maintain the ACT's animal welfare standards. This is done by ensuring that procedures that pose significant risks are only undertaken by trained professionals, students in training under supervision, or in emergency situations. High-risk procedures potentially being carried out by unqualified individuals risks harm to both individuals and animals and can result in preventable costs to individuals or businesses who manage animals.

The Vet Board consulted with relevant industry bodies and individuals on the existing list of restricted acts of veterinary science in 2019 to identify aspects of the list that are considered out of date and not reflective of current practice. The amendments were proposed with the aim of maintaining current practice where certain acts are only carried out by registered veterinary practitioners. This is current practice as these procedures and acts require expertise to prevent harm to people and injury, disease and suffering of animals.

3. *Rational connection between the limitation and the purpose (s 28(2)(d))*

Cemeteries and Crematoria Act 2020

The limitation posed by the strict liability offence on the right to presumption of innocence is rationally connected to the legitimate purpose of protecting the right to privacy of family members as it provides a measure for ensuring family members' sensitive personal information is not accessible to the public while also deterring inappropriate record management.

The current practice of protecting family members' personal details after they collect cremated remains from being publicly searchable means licensees currently only adhere to one component of the existing strict liability offence at section 64(2). The Bill addresses this inconsistency by extracting the secure database component of the offence into a separate offence at new section 64(2A) that does not include the requirement for this information to be publicly accessible and extracting the personal information requirements from existing section 63 to form new section 63A separately, thus removing it from the scope of the offence at existing section 64(2).

This ensures the requirement for the personal information at repealed section 63(3)(d), now new section 63A, continues to be recorded on a register while protecting this information from the requirement to be publicly accessible.

Litter Act 2004

Like other regulatory frameworks, the inclusion of strict liability offences in litter and waste management are considered an effective and important mechanism for deterring non-compliance. The limitation posed by the amendments on the right to presumption of innocence is rationally connected to the legitimate

purpose as it will deter illegal dumping and littering and encourage the appropriate disposal of materials.

The amendments remove any ambiguity about securing loads and appropriate disposal of waste within waste facilities and reflect the overall policy intent of the legislation and community expectations. The amendments also clarify existing operations by City Rangers, as there is no longer uncertainty in the application of the offences and the legislation is clear, direct, and consistent throughout.

Veterinary Practice Regulation 2018

There is a clear connection between the limitation and the legitimate purpose of protecting animals and the people responsible for managing them and upholding high animal welfare standards. Expanding the strict liability offence at section 10 of the *Veterinary Practice Act 2018* facilitates the enforcement of animal welfare protections and deters unqualified people from conducting dangerous activities.

The amendments to the restricted acts of veterinary science also reflect both developments in veterinary science and research and developments in animal welfare standards and expectations. By updating the list of restricted acts with corrections and expanded procedures, the *Veterinary Practice Regulation 2018* will accurately reflect the expectations and standards of industry and of the general community and support the enforcement of strong animal welfare standards in the ACT.

4. Proportionality (s 28(2)(e))

Cemeteries and Crematoria Act 2020

The new strict liability offence at new section 64(2A) is considered to be a reasonable and proportionate limitation on the right to be presumed innocent until proven guilty .

Firstly, the strict liability offence at section 64(2A) is considered proportionate as its scope does not exceed the scope of the existing offence and so does not change the extent to which the legislation limits the right to presumption of innocence.

The strict liability offence is also considered proportionate as it retains the existing penalty of 50 penalty units, which is within the prescribed maximum for strict liability offences in the ACT Guide to Framing Offences.

There is no less restrictive means of achieving the legitimate purpose of protecting family members' right to privacy. It is a reasonable community expectation that personal information collected by the licensee of a facility would be kept private and confidential and there is no policy rationale for requiring personal contact information to be available on a publicly searchable register. It is not sufficient to address this issue through policy alone as this approach would

place licensees in conflict with the existing offence at section 64(2). The inclusion of a new offence which does not require personal information to be included on a searchable register will provide a deterrent against non-compliance with record keeping requirements without significantly limiting the right to privacy.

Litter Act 2004

The expansion in scope of the strict liability offences at sections 8, 9, 9A, 9B and 11(2) is considered to be a reasonable and proportionate limitation on the right to the presumption of innocence based on the following:

- a. General community expectations - It is widely accepted by the community that there are direct disincentives for littering and illegal dumping on public land or at waste facilities and for allowing objects to fall or be likely to fall from vehicles.
- b. Clear waste facility procedures - It is clear to the community where public landfills and waste facilities permit the depositing of materials. For example, there is clear and easy-to-follow signage directing visitors on where to deposit different materials, and staff on-site to assist visitors in following procedure.
- c. National consistency in road rules - It is clear to the community that vehicle loads must be secured to prevent items from falling, with road signage and enforcement on this issue seen across Australia.
- d. Mistake of fact – the defence of mistake of fact is available as an inherent safeguard against the limitation on the right to the presumption of innocence.

There are no less restrictive means of achieving the legitimate purpose. The existing penalties of 50 penalty units are within the prescribed maximum for strict liability offences in the ACT Guide to Framing Offences, with the exception of subsections 9A(2) and 9A(4) which are 100 penalty units. Retaining these higher penalties is considered proportionate having regard to the fact that strict liability applies to only one element of the offence – the volume of the litter, which is a clear yes/no question. Further, the defendant may rely on any of the section 9A(7) exemptions.

Clarifying the ambiguity through policy alone is not effective considering existing policy, operations and community expectations already reflect the proposed construction of the offences. The amendments provide a clear and robust regulatory framework that supports community wellbeing, positive environmental outcomes and safety standards.

Veterinary Practice Regulation 2018

There are no less restrictive means to achieving the objectives of the amendments to the restricted acts, as the Regulation will remain inconsistent with current practice if the amendments are not made. As standards, expectations, research, evidence and best practice methods develop, it is essential the

subordinate legislation under the *Veterinary Practice Act 2018* reflects these developments.

Policy alternatives, such as education and awareness carried out by the Vet Board and broader veterinary industry, are not adequate or necessary given these acts are already expected to be undertaken by registered veterinarians only. Without regulatory enforcement frameworks reflecting these expectations, the Vet Board would be unable to take compliance action in the event harm was caused to an animal.

Furthermore, the expansion of the strict liability offence is considered to be reasonable and proportionate for the following reasons. Firstly, the penalty for the relevant offence remains unchanged at 50 penalty units. This penalty is within the normal range for strict liability offences under the ACT Guide to Framing Offences and is proportionate to the seriousness of the conduct captured by these amendments.

Secondly, an additional safeguard against the limitation on the right to the presumption of innocence is that exemptions for students or emergency situations are available under section 10 of the *Veterinary Practice Act 2018*. These exemptions ensure that the updated restricted acts of veterinary science do not unduly impact on those individuals.

Finally, education and awareness are the primary strategies for enforcing the legislation. Appropriate education and awareness activities on the changes to the restricted activities will be carried out to ensure that the industry is aware prior to commencement; however, it is already understood that the amendments reflect standard practice currently.

Transport Canberra and City Services Legislation Amendment Bill 2022

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Transport Canberra and City Services Legislation Amendment Bill 2022**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly **is** consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA
Attorney-General

CLAUSE NOTES

PART 1 PRELIMINARY

Clause 1 Name of Act

This clause states that the name of the Act is the *Transport Canberra and City Services Legislation Amendment Act 2022*.

Clause 2 Commencement

This clause sets out that the Act commences on the 7th day after its notification day.

Clause 3 Legislation amended

This clause sets out the legislation that is amended by this Act, being the *Cemeteries and Crematoria Act 2020*, the *Litter Act 2004*, the *Plastic Reduction Act 2021*, the *Veterinary Practice Act 2018*, the *Veterinary Practice Regulation 2018*, and the *Magistrates Court (Litter Infringement Notices) Regulation 2004*.

PART 2 CEMETERIES AND CREMATORIA ACT 2020

Clause 4 Burial at cemetery – application Section 17 (7) (c) and (d)

This clause requires the licensee to inform the person, in writing, of the licensee's agreement to burial. The licensee must provide to the person, in writing, the day and time of the scheduled burial. The licensee must also provide to the person, in writing, a unique identifying number which must be allocated for the burial.

This clause gives flexibility in when the unique identifying number must be provided so that it may be provided to the person as soon as practicable. This is because the unique identifying number may not be generated until closer to the service.

Clause 5 New section 17 (9)

This clause inserts a provision which allows for any information that must be provided to the person who has applied for the burial to instead be provided by the licensee to a funeral director or undertaker who is acting on behalf of the person.

Clause 6 Cremation – application Section 22 (6) (b) and (c)

This clause requires the licensee to inform the person, in writing, of the licensee's agreement to cremation. The licensee must provide to the person, in writing, the day of the scheduled cremation. The licensee must also provide to the person, in writing, a unique identifying number which must be allocated for the cremation.

This clause gives flexibility in when the unique identifying number must be provided so that it may be provided to the person as soon as practicable. This is because the unique identifying number may not be generated until closer to the service.

Clause 7 New section 22 (8)

This clause inserts a provision which allows for any information that must be provided to the person who has applied for the cremation to instead be provided by the licensee to a funeral director or undertaker who is acting on behalf of the person.

Clause 8 Offence – collection of cremated remains Table 25, item 3, column 3

This clause corrects a technical error at Table 25, item 3, column 3(a) by replacing ‘and’ with ‘or’ to allow the licensee of a crematorium to make contact with either the applicant or other suitable person, not both. This will align with current practice and with item 3(b).

The offence exists to ensure family members are notified if cremated remains are collected from a crematorium after two years of internment. Distinction is made between the applicant for the cremation and a suitable person. The intent of the offence is not for both the applicant for the cremation and another person to be contacted when cremated remains are collected. In most cases, only the details of the applicant are known for the collection of cremated remains.

Clause 9 Register – burial, cremation, internment etc Section 63 (3) (d)

This clause omits the list of information to be recorded for the collection of cremated remains from section 63(3) and relocates it to new section 63A for the purposes of excluding this information from the offence at section 64(2). This offence requires information kept on a register under sections 62 and 63 to be both stored on a secure electronic database and searchable to the public, whereas the information at repealed section 63(3)(d) or new section 63A should not be accessible to the public.

Clause 10 New section 63A

This clause sets out the list of information to be recorded on a register for the collection of cremated remains that was previously set out at repealed section 63(3)(d).

Clause 11 Offences – keeping registers Section 64 (1) (b) (ii)

This clause inserts new section 63A into the offence for failure to keep a register by the licensee of a facility. Previously the offence listed only sections 62 and 63 as the sections the licensee is required to keep a register under. As subsection 63(3)(d) is removed from section 63 and relocated into new section 63A, this clause incorporates this new section into the offence at section 64(1) to ensure that the information at new section 63A continues to be kept on a register.

Clause 12 Section 64 (2) (c) (i)

This clause is a technical amendment which substitutes the term ‘secure ICT database’ for ‘secure electronic database’ in line with standard drafting practice.

Clause 13 New section 64 (2A)

This clause inserts a new offence for failure of the licensee of a facility keeping a register under new section 63A to keep the register on a secure electronic database.

The existing offence at section 64(2) has two components for how registers should be kept; the ‘secure electronic database’ component and the ‘searchable by the public’ component. By extracting the information set out at section 63(3)(d) to be new section 63A, this information is no longer included in the existing offence at section 64(2). Instead, the new offence at new section 64(2A) is created to maintain the ‘secure electronic database’ component of the existing offence for new section 63A.

Clause 14 New sections 118A and 118B

This clause inserts two new sections. New section 118A requires the Chief Executive Officer of the Cemeteries and Crematoria Authority (the Authority) to be a public servant. New section 118B allows the Chief Executive Officer to employ staff for the Authority under the *Public Sector Management Act 1994*.

Clause 15 Dictionary New definition of *chief executive officer*

This clause provides the definition for chief executive officer as meaning the Chief Executive Officer of the Authority.

PART 3 LITTER ACT 2004

Clause 16 Littering Section 8 (6) (d)

This clause clarifies the exception to littering offences by specifying that depositing litter at a waste management facility must be done in accordance with the requirements of the facility. For example, where instructed by signage.

Clause 17 Aggravated littering Section 9 (4) (c) (ii)

This clause clarifies the exception to aggravated littering offences by specifying that depositing litter at a waste management facility must be done in accordance with the requirements of the facility. For example, where instructed by signage.

**Clause 18 Dumping litter
 Section 9A (7) (d)**

This clause clarifies the exception to illegal dumping offences by specifying that depositing litter at a waste management facility must be done in accordance with the requirements of the facility. For example, where instructed by signage.

**Clause 19 Dumping litter – strict liability
 Section 9B (6) (d)**

This clause clarifies the exception to illegal dumping offences by specifying that depositing litter at a waste management facility must be done in accordance with the requirements of the facility. For example, where instructed by signage.

**Clause 20 Offences about vehicle loads
 Section 11 (2) (b)**

This clause clarifies the offence for a driver or rider of a moving vehicle failing to secure the contents of the vehicle to prevent any items or materials from falling during transit. This is to create consistency between subsections 11(1) and (2) by providing that an offence occurs when a person fails to secure a load *or any part of it*.

PART 4 PLASTIC REDUCTION ACT 2021

**Clause 21 Meaning of *prohibited plastic product*
 Section 7 (2), definition of *compostable***

This clause clarifies the definition of compostable to include plastic products as designated by Australian Standards. This amends the current definition that refers to plastic bags rather than plastic products. The purpose of this amendment is to provide clarity on how plastics are defined in the Act.

**Clause 22 Details of search warrant to be given to occupier etc
 Section 37 (a) (ii)**

This clause corrects a typographical error where section 34 (5) was incorrectly referenced instead of section 35 (5).

PART 5 VETERINARY PRACTICE ACT 2018

**Clause 23 Board membership
 Section 93 (4)**

This clause extends the criteria for board membership to allow for members to live in the ACT and the surrounding region. This allows for representation to better reflect the community the board members are appointed to represent.

Clause 24 Quorum at board meetings New section 100 (2)

This clause clarifies the quorum requirements for the ACT Veterinary Practitioners Board (the Vet Board). There may be circumstances where the president and deputy president are unable to be present but wish for meetings to continue in their absence, such as due to leave or conflict of interest. For example, as the Vet Board consists of members from the veterinary industry and community that it represents, there may be circumstances where board members, including the president and deputy president, have a conflict of interest as specified under section 97, requiring disclosure by the board member. This clause allows for the Vet Board to meet quorum requirements where four members are present if the president and deputy president are unable to be present, provided these members agree to appoint a member to preside over the meeting in their absence.

This ensures meetings may proceed as scheduled in special circumstances to provide advice to the directorate on ongoing matters of importance requiring veterinary expertise without the need to delay discussions or initiate unplanned out-of-session work.

PART 6 Veterinary Practice Regulation 2018

Clause 25 New section 5A

This clause introduces new section 5A as a prescribed circumstance. The regulation power of the exception to section 10 of the Act has been used to introduce this section, which allows prescribed people or prescribed circumstances in which restricted acts may be done.

Section 5A specifies that the restricted act of veterinary science of animal tooth cleaning procedures may only be performed under anaesthetic and by a person holding a Certificate IV qualification in veterinary nursing.

Clause 26 Restricted acts of veterinary science Schedule 1, part 1.2, item 15, column 2

This clause removes the insertion of a tube into the oesophagus of a horse from the exemptions, as this is made a restricted act of veterinary science at clause 29, and inserts a new exemption for the topical application of medication into the eye or ear cavity.

Clause 27 Schedule 1, part 1.2, item 17, column 2

This clause removes the exemption for animal tooth cleaning other than on horses, making it a restricted act of veterinary science. Animal tooth cleaning refers to the scaling and polishing of teeth below the gum line, which requires for the animal (other than a horse) to be anaesthetised.

Clause 28 Schedule 1, part 1.2, item 18, column 2, new paragraph (aa)

This clause inserts use of a power tool for carrying out a dental procedure on a horse as a restricted act of veterinary science.

Clause 29 Schedule 1, part 1.2, item 18, column 2, paragraph (g)

This clause removes use of a power tool for carrying out a dental procedure on a horse from the list of exemptions.

Clause 30 Schedule 1, part 1.2, new items 19 to 24

This clause inserts new restricted acts of veterinary science as provided below:

- 19 insertion of a tube into the oesophagus or stomach of a horse
- 20 diagnosing pregnancy in cattle by ultrasound
- 21 artificial insemination of, or embryo transfer into, horses and camelids (camels, llamas and alpacas)
- 22 taking tissue samples from live animals
- 23 cattle spaying by flank and dropped-ovary method
- 24 certifying animal disease status

These new restricted acts of veterinary science have been determined by the ACT Veterinary Practitioners Board following consultation in 2019 and are intended to align with current accepted practice for the purposes of preventing unacceptable harm and suffering to animals and maintaining the safety of people managing them.

Schedule 1 Magistrates Court (Litter Infringement Notices) Regulation 2004 – other amendment

Clause 1.1 Schedule 1, item 13, column 2

This clause amends a typographical error where a reference was incorrectly made to subsection 21(7) instead of (5).