

Animal Welfare (Advisory Committee) Establishment 2026

Disallowable instrument DI2026-190

made under the

Animal Welfare Act 1992, section 109 (Establishment and functions)

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the instrument, *Animal Welfare (Advisory Committee) Establishment 2026* as made by the Minister for City and Government Services and presented to the Legislative Assembly (the *Assembly*). It has been prepared to assist the reader of the instrument. It does not form part of the instrument and has not been endorsed by the Assembly. The statement must be read in conjunction with the instrument. It is not, and is not meant to be, a comprehensive description of the instrument.

Overview

Section 109 of the *Animal Welfare Act 1992* (the *AW Act*) requires the Minister to establish an Animal Welfare Advisory Committee (the *AWAC*). The committee is to be constituted in accordance with a disallowable instrument that establishes it.

Section 109 (3) of the *AW Act* sets out the functions of the *AWAC*. This instrument amends the previous *AWAC* establishment instrument, the *Animal Welfare (Advisory Committee) Establishment 2020 (No 1)* (DI2020-147) to change the membership composition of the *AWAC* (see Advisory committee membership below).

Regulatory Impact Statement (RIS)

Section 34 of the *Legislation Act 2001* provides that if a proposed disallowable instrument is likely to impose appreciable costs on the community, or part of the community, then, before the proposed disallowable instrument is made, the Minister administering the authorising law must arrange for a RIS to be prepared for the proposed law.

This disallowable instrument establishes and sets out the composition and procedures of the *AWAC* and does not impose appreciable costs on the community, or part of the community. Therefore, a RIS is not required.

Further, section 36 (1) (b) (i) of the Legislation Act provides that a RIS is unnecessary if the proposed disallowable instrument does not operate to the disadvantage of anyone by adversely affecting the person's rights. While the instrument changes the composition of the AWAC by removing specified members, it does not adversely affect a person's rights. The members of the AWAC are representatives of organisations, amending the instrument means that some organisations will not have representatives as members of the AWAC.

Consistency with human rights

This instrument engages with rights under the *Human Rights Act 2004* (the **HRA**).

This instrument promotes the right to a healthy environment under section 27C of the HRA through the establishment of the AWAC and the performance of its functions.

Under section 109 (3) of the AW Act, the functions of the AWAC are:

- to advise the Minister about animal welfare legislation;
- to advise the Animal Welfare Authority about matter in relation to animal welfare;
- to participate in the development of approved codes of practice and mandatory codes of practice;
- to provide advice to other Territory authorities, and to community bodies, about programs for the improvement of community awareness about animal welfare;
- to advise the Minister about any other matters relating to animal welfare;
- to report annually to the Minister on the activities of the committee.

By promoting the welfare of native animals and endangered species, the AWAC promotes the right to a healthy environment.

Section 5 of the disallowable instrument amends the previous instrument by removing specified members of the AWAC as well as changing membership from a person being *nominated by* to *representing* an organisation. This may be viewed as engaging the right to take part in public life (s 17 *Human Rights Act 2004* (HR Act)). However, the members of the AWAC are *representatives of organisations* and therefore do not affect the individual's human rights. It means that some organisations will not have representatives as members of the AWAC. Therefore, the human right to take part in public life is not limited.

Scrutiny Committee terms of reference

This instrument is consistent with the Standing Committee on Legal Affairs (Legislative Scrutiny Role) terms of reference.

In particular, the instrument:

1. Is in accordance with the general objects of the AW Act by establishing the AWAC and providing for its membership and procedures.
2. Does not unduly trespass on rights previously established by law.
3. Does not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions.

Section Notes

Section 1 Name of instrument

This section names the instrument.

Section 2 Commencement

This section specifies that the instrument commences on the day after its notification day.

Section 3 Establishment

This section establishes the AWAC.

Section 4 Appointment of committee members

This section specifies that the Minister must appoint members of the AWAC. Appointments are not to be longer than 3 years. This section also requires each member to sign a deed of confidentiality before participating in a meeting of AWAC.

Section 5 Committee members

This section amends the previous instrument to change the composition of the AWAC. These changes have been made in response to stakeholder feedback and to ensure that the AWAC can better provide an advisory function to government.

First, this section changes the number of members in the AWAC from 11 members, to requiring a minimum of 6 and a maximum of 7 members in total.

Secondly, this section changes the composition of the AWAC to mandate requirements for 4 members; and providing that at least 2, but no more than 3 members may represent at least one of 4 listed areas in section 5 (e).

In doing so, this section creates 1 new required category for membership of the AWAC: a representative of the Animal Defenders Office ACT, who is a registered legal practitioner; and removes the following previously required categories for members of the AWAC:

- a person who is an authorised officer under the AW Act;
- a person with experience in teaching or research in the field of animal sciences, nominated by the CSIRO or an ACT tertiary institution; and
- a person nominated by the administrative unit with responsibility for the *Nature Conservation Act 2014*.

The transition from a nomination-based to a representative membership model is intended to strengthen the committee's effectiveness by ensuring members are appointed based on the expertise, experience and perspectives needed to support its functions. This approach will improve governance, reduce process inefficiencies and enhance the committee's ability to provide strategic, well-informed advice on animal welfare matters.

Section 6 Deputy chair

This section requires the AWAC to elect a member to be the deputy chair of the committee.

Section 7 Presiding at meetings

This section provides that the chair presides at all meetings at which the chair is present. When the chair is absent, the deputy chair presides. If both the chair and deputy chair are absent, a member chosen by the members present presides.

Section 8 Quorum for meetings

This section requires at least half the AWAC's members to be present for business to be carried on.

Section 9 Voting at meetings

This section specifies that at a meeting of the AWAC, each member has a vote on each question to be decided. A question is decided by a majority of votes of the members present.

If votes are equal, the chair has a casting vote. If the chair is not present at the meeting, the deputy chair has a casting vote. If both the chair and deputy chair are absent at the meeting, the presiding member has the casting vote.

Section 10 General procedure

This section specifies that the chair must call a meeting at least 4 times per calendar year. The chair must give the other members of the committee at least 5 working days written notice of a meeting. The AWAC must keep minutes of its meetings.

Section 11 Committee may form subcommittees

This section allows the AWAC to form subcommittees to deal with particular matters. The formation of a subcommittee must be decided by the AWAC. The recommendation of a subcommittee may only be taken to be a recommendation of the AWAC if the recommendation has been endorsed by the AWAC.

Section 12 Secretariat services

This section allows the AWAC to request secretariat services from the administrative unit responsible for the *Animal Welfare Act 1992*.

Section 13 Ending appointment of committee members

This section requires the Minister end the appointment of a member of AWAC if the Minister becomes aware that the member has failed to sign a deed mentioned in section 4, has been declared bankrupt, has been convicted of an offence punishable by 12 months' imprisonment in Australia, or is satisfied that the member is no longer qualified to be appointed to the member's position.

This section also provides that the Minister may end the appointment of a member of AWAC if the member is absent for 3 consecutive meetings (other than approved leave), contravenes a Territory law, for misbehaviour or for physical or mental incapacity, if the incapacity substantially affects the exercise of the member's functions.

Section 14 Transitional

This section provides that the appointments of the committee's chair and specified members made under the repealed establishment instrument are to be taken to have been made under section 4 of this instrument and the chair's and members'

appointments continue in force until the end of the term of the appointment unless ended earlier.

Section 15 Revocation

This section revokes the *Animal Welfare (Advisory Committee) Establishment 2020* (DI2020-147) and specified appointments made under that instrument.