



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2016–2017

MINUTES OF PROCEEDINGS

No 42

WEDNESDAY, 29 NOVEMBER 2017

1 The Assembly met at 10 am, pursuant to adjournment. The Speaker (Ms Burch) took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 **CANBERRA—ACHIEVEMENTS AND FUTURE INITIATIVES**

Mr Pettersson, pursuant to notice, moved—That this Assembly:

- (1) notes the achievements of the ACT Government and the ACT community over the past year, including:
 - (a) achieving the lowest unemployment rate of any jurisdiction at 3.8 percent and creating 6700 jobs over the past 12 months;
 - (b) achieving the highest economic growth in the country of 4.6 percent;
 - (c) increasing international visits by 9 percent to a total of 221 000 visitors and being recognised by *Lonely Planet* as one of the top three cities in the world to visit;
 - (d) sourcing 30 percent of ACT's electricity supply from renewable sources, with approximately 75 percent of this achieved through generation secured as part of the Government's reverse auction program;
 - (e) leading a delegation to the 2017 International Astronautical Congress in Adelaide and promoting Canberra as the nation's leader in space and spatial technologies;
 - (f) supporting Canberra's Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning (LGBTIQ) community with the establishment of the Office of LGBTIQ Affairs; and



- (g) achieving the highest turn out rate and the highest “Yes” vote of any jurisdiction in the Australian Marriage Law Postal Survey;
- (2) further notes that these achievements provide a strong foundation for initiatives planned for 2018, including:
 - (a) the opening of the University of Canberra Public Hospital with capacity for 140 inpatient beds and 75 day places;
 - (b) commencing construction of a Gungahlin nurse-led Walk-in Centre;
 - (c) further investment in public transport with more and better bus services and the completion of stage one of the light rail network;
 - (d) continuing to work towards the ACT Government’s target of having 100 percent electricity supplied from renewable sources by 2020;
 - (e) continuing to engage with the community on project specifics surrounding the Memorandum of Understanding with the University of New South Wales Canberra regarding a possible new campus for up to 10 000 students; and
 - (f) the commencement of international flights from Qatar Airways as the ACT Government continues to work towards its goal of growing the visitor contribution to the ACT economy to \$2.5 billion by 2020; and
- (3) calls on this Assembly to, where appropriate:
 - (a) promote Canberra’s achievements and highlight the range of opportunities that exist for private investment; and
 - (b) inform itself of positive economic data and other indicators to avoid inadvertently and incorrectly risking investment and confidence in our city’s performance.

Debate ensued.

Question—put and passed.

3 DOMESTIC ANIMALS (DANGEROUS DOGS) LEGISLATION AMENDMENT BILL 2017

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Question—That this Bill be agreed to in principle—put and passed.

Detail Stage

Clause 1 to 3, by leave, taken together and agreed to.

New clauses—

Ms Fitzharris (Minister for Transport and City Services) moved her amendment No 1 (see [Schedule 1](#)), which would insert new clauses 3A to 3W in the Bill.

Paper: Ms Fitzharris presented a supplementary explanatory statement to the Government amendments.

Debate continued.

Ordered—That the question be divided.

New clauses 3A to 3F agreed to.

New clause 3G—

Question—put.

The Assembly voted—

AYES, 13		NOES, 10	
Mr Barr	Ms Orr	Mr Coe	Mr Milligan
Ms Burch	Mr Pettersson	Mrs Dunne	Mr Parton
Ms Cheyne	Mr Ramsay	Mr Hanson	Mr Wall
Ms Cody	Mr Rattenbury	Mrs Jones	
Ms Fitzharris	Mr Steel	Mrs Kikkert	
Mr Gentleman	Ms Stephen-Smith	Ms Lawder	
Ms Le Couteur		Ms Lee	

And so it was resolved in the affirmative.

New clauses 3H to 3W agreed to.

Clause 4—

Ms Fitzharris moved her amendment No 2 (*see* [Schedule 1](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 13		NOES, 10	
Mr Barr	Ms Orr	Mr Coe	Mr Milligan
Ms Burch	Mr Pettersson	Mrs Dunne	Mr Parton
Ms Cheyne	Mr Ramsay	Mr Hanson	Mr Wall
Ms Cody	Mr Rattenbury	Mrs Jones	
Ms Fitzharris	Mr Steel	Mrs Kikkert	
Mr Gentleman	Ms Stephen-Smith	Ms Lawder	
Ms Le Couteur		Ms Lee	

And so it was resolved in the affirmative.

Clause 4, as amended, agreed to.

New clauses—

On the motion of Ms Fitzharris, new clauses 4A and 4B (her amendment No 3—*see* [Schedule 1](#)) were inserted in the Bill.

Clause 5—

On the motion of Ms Fitzharris, her amendment No 4 (*see* [Schedule 1](#)) was made, after debate.

Clause 5, as amended, agreed to.

New clauses—

Ms Fitzharris moved her amendment No 5 (see [Schedule 1](#)), which would insert new clauses 5A to 5H in the Bill.

Debate continued.

Ordered—That the question be divided.

New clause 5A agreed to.

New clauses 5B to 5H agreed to.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

4 QUESTIONS

Questions without notice were asked.

5 STANDING ORDER 118(C)—STATEMENT BY SPEAKER

The Speaker made a statement concerning the application of standing order 118(c), which provides for a Member to seek leave of the Speaker to respond to an answer to a question without notice that was in the form of a ministerial statement.

6 DOMESTIC ANIMALS (DANGEROUS DOGS) LEGISLATION AMENDMENT BILL 2017

The Assembly, according to order, resumed consideration at the detail stage.

Detail Stage

Clause 6—

On the motion of Ms Fitzharris (Minister for Transport and City Services), her amendment No 6 (see [Schedule 1](#)) was made, after debate.

Clause 6, as amended, agreed to.

New clauses—

On the motion of Ms Fitzharris, new clauses 6A to 6N (her amendment No 7—see [Schedule 1](#)) were inserted in the Bill, after debate.

Clause 7—

On the motion of Ms Fitzharris, her amendment No 8 (see [Schedule 1](#)), which also inserts new clauses 7A and 7B, was made, after debate.

Clause 7, as amended, agreed to.

Clause 8—

Ms Fitzharris moved her amendment No 9 (see [Schedule 1](#)), which would also insert new clauses 8A to 8E in the Bill.

Debate continued.

Ordered—That the question be divided.

Clause 8 and new clauses 8A to 8D agreed to.

New clause 8E agreed to.

Clause 8, as amended, agreed to.

Clause 9—

On the motion of Ms Fitzharris, by leave, her amendment No 1 (see [Schedule 2](#)), that had not been circulated in accordance with standing order 178A, was made, after debate.

Clause 9, as amended, agreed to.

New clauses—

On the motion of Ms Fitzharris, new clauses 9A to 9F (her amendment No 11—see [Schedule 1](#)) were inserted in the Bill, after debate.

Clause 10—

On the motion of Ms Fitzharris, her amendment No 12 (see [Schedule 1](#)) was made.

Clause 10, as amended, agreed to.

Clause 11 agreed to.

Clause 12—Debated and negatived.

New clause—

On the motion of Ms Fitzharris, new clause 12A (her amendment No 14—see [Schedule 1](#)) was inserted in the Bill, after debate.

Clause 13—

On the motion of Ms Fitzharris, her amendment No 15 (see [Schedule 1](#)), which also inserts new clauses 13A to 13F, was made, after debate.

Clause 13, as amended, agreed to.

Clauses 14 and 15, by leave, taken together and agreed to.

New clauses—

On the motion of Ms Fitzharris, new clauses 15A to 15N (her amendment No 16—see [Schedule 1](#)) were inserted in the Bill.

Clause 16—

On the motion of Ms Fitzharris, her amendment No 17 (see [Schedule 1](#)) was made.

Clause 16, as amended, agreed to.

New clauses—

On the motion of Ms Fitzharris, new clauses 16A to 16ZS (her amendment No 18—see [Schedule 1](#)) were inserted in the Bill, after debate.

Clause 17 agreed to.

New clauses—

On the motion of Ms Fitzharris, new clauses 17A to 17E (her amendment No 19—see [Schedule 1](#)) were inserted in the Bill.

Clause 18—

On the motion of Ms Fitzharris, her amendment No 20 (see [Schedule 1](#)) was made, after debate.

Clause 18, as amended, agreed to.

Title agreed to.

Question—That this Bill, as amended, be agreed to—

Mr Coe (Leader of the Opposition), Mr Hanson and Ms Fitzharris, by leave, addressed the Assembly.

Question—put and passed.

7 CRIMES (CRIMINAL ORGANISATION CONTROL) BILL 2017

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Question—That this Bill be agreed to in principle—put.

The Assembly voted—

AYES, 9		NOES, 12	
Mr Coe	Ms Lee	Ms Burch	Ms Orr
Mrs Dunne	Mr Milligan	Ms Cheyne	Mr Pettersson
Mr Hanson	Mr Wall	Ms Cody	Mr Ramsay
Mrs Jones		Ms Fitzharris	Mr Rattenbury
Mrs Kikkert		Mr Gentleman	Mr Steel
Ms Lawder		Ms Le Couteur	Ms Stephen-Smith

And so it was negatived.

8 MARRIAGE EQUALITY LAW REFORM AND DISCRIMINATION

Mr Steel, pursuant to notice, moved—That this Assembly:

- (1) calls on the Commonwealth of Australia, and the Commonwealth Parliament to:
 - (a) respect the democratically constituted Legislative Assembly for the Australian Capital Territory and through it the self-determination of the people of the Australian Capital Territory to determine our own laws;
 - (b) respect the Legislative Assembly for the Australian Capital Territory's right to make laws for the peace, order and good government of ACT residents; and
 - (c) commit to maintain national protections against discrimination that support, rather than undermine, State and Territory protections against discrimination;

- (2) commends the ACT Government for its submission to the Senate Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill, which highlighted the strong protections against discrimination in place in the ACT, and emphasised the ACT's support for marriage equality law reform as a process of removing barriers for the participation of Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning people within their communities; and
- (3) calls on ACT Legislative Assembly party leaders and the Speaker to sign a joint letter to the Prime Minister, Opposition Leader, the Speaker of the House of Representatives and the President of the Senate, communicating the wish of the Assembly in this motion, and:
 - (a) affirming the ACT Government's position in its submission to the Senate Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill; and
 - (b) calling on the Commonwealth Parliament to take no steps that would undermine the ACT's anti-discrimination framework.

Debate ensued.

Question—put and passed.

9 ALEXANDER MACONOCHIE CENTRE—POLICIES AND PROCEDURES

Mrs Jones, pursuant to notice, moved—That this Assembly:

- (1) notes:
 - (a) the Minister for Corrections has been responsible for the Alexander Maconochie Centre for five years;
 - (b) that, after five years, the Minister has not taken effective action to prevent deaths, bashings and escapes of inmates of the Alexander Maconochie Centre;
 - (c) the following took place inside the Alexander Maconochie Centre in 2017:
 - (i) one inmate died while in custody, with the initial toxicology report showing a mixture of methamphetamine, buprenorphine and other drugs in the inmate's system;
 - (ii) two indigenous brothers were bashed so severely that they were hospitalised, and the inmates' mother found out of their bashings via a friend on Facebook and not ACT Corrective Services;
 - (iii) 59 percent of male inmates and 69 percent of women inmates were unemployed and not engaged in any formal work or study arrangements as at 28 August 2017; and
 - (iv) 45 women were detained while the Alexander Maconochie Centre only had 29 dedicated beds for women, resulting in the repurposing of the management unit, which deprived prison officers of a facility for strict supervision of certain inmates;

- (d) the follow events took place involving inmates of the Alexander Maconochie Centre in 2017:
 - (i) an inmate escaped custody after being admitted to The Canberra Hospital and was not found until three days later in Boorowa, NSW; and
 - (ii) within three weeks, another inmate escaped custody after being admitted to The Canberra Hospital and was not found until 12 days later in Campbell, ACT;
 - (e) *The Canberra Times*, in November 2017, reported that an “anomaly” had been identified in the AMC Detainee Trust Fund and that KPMG had undertaken a forensic investigation into the matter; and
 - (f) that the Minister has taken effective action to address the lack of accommodation for women detainees, by moving them to an existing facility within the Alexander Maconochie Centre and thereby allowing the management unit to be used for its proper purpose; and
- (2) calls on the Government to:
- (a) conduct a full review of the policies and procedures pertaining to the transportation, accommodation and supervision of inmates who are receiving healthcare outside of the Alexander Maconochie Centre;
 - (b) report back to the Assembly on the results and recommendations of the review by the first sitting in 2018;
 - (c) develop a daily routine and comprehensive employment and education strategy to achieve full employment;
 - (d) advise the Assembly by the first sitting in 2018 of the total cost to taxpayers of the search, apprehension and litigation of the two inmates who escaped The Canberra Hospital; and
 - (e) advise the Assembly of the trust accounting policy at the Alexander Maconochie Centre, and what policies or procedures have changed since the identification and investigation of the “anomaly”.

Mrs Jones addressing the Assembly—

Adjournment negatived: It being 6 pm—The question was proposed—That the Assembly do now adjourn.

Mr Gentleman (Manager of Government Business) requiring the question to be put forthwith without debate—

Question—put and negatived.

Mrs Jones continued.

Mr Rattenbury (Minister for Corrections) moved the following amendment: Omit all words after (1), substitute:

“(1) notes:

- (a) the ACT has a relatively young corrections system, with the first jail commissioned in 2009;
- (b) that there has been a significant increase in the number of detainees since this time; and
- (c) over the past five years significant progress has been made to develop and improve the system, including:
 - (i) investing in prison industries such as the bakery, the laundry and recycling industry;
 - (ii) introducing recreational facilities such as the gym;
 - (iii) expanding the accommodation when required, including moving all female detainees to free up the Crisis Support and Management units;
 - (iv) undertaking recruitment aimed at securing a diverse team of correctional officers, targeted in particular at women and Aboriginal and Torres Strait Islander recruits;
 - (v) providing access to programs, employment opportunities, and vocational education to improve rehabilitation and reduce recidivism; and
 - (vi) introducing and improving the Extended Throughcare as a significant platform for improving opportunities for detainees re-entering the community;

(2) further notes that:

- (a) the independent Moss Review and Morison Security Review have provided a strong framework for improvements in the management of detainees and operations of the Alexander Maconochie Centre (AMC). This has resulted in significant changes to policies, procedures and operations at the AMC;
- (b) a new high-level arrangement between the Directors-General of the Justice and Community Safety Directorate (JACS) and ACT Health has enabled improved collaboration between the two Directorates to deliver improved health service outcomes to detainees;
- (c) the AMC Detainee Trust Account Fraud Risk Assessment undertaken by KPMG Forensic was presented to the JACS Audit and Performance Improvement Committee on 28 September 2017, who were satisfied that ACTCS had put in place strong controls to mitigate the risks identified; and
- (d) there is a culture and commitment to continuous improvement in ACT Corrections which is being led by a new executive director; and

(3) calls on the ACT Government to continue to update the Assembly on developments in ACT Corrections.”.

Debate continued.

Amendment agreed to.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
 - (a) the ACT has a relatively young corrections system, with the first jail commissioned in 2009;
 - (b) that there has been a significant increase in the number of detainees since this time; and
 - (c) over the past five years significant progress has been made to develop and improve the system, including:
 - (i) investing in prison industries such as the bakery, the laundry and recycling industry;
 - (ii) introducing recreational facilities such as the gym;
 - (iii) expanding the accommodation when required, including moving all female detainees to free up the Crisis Support and Management units;
 - (iv) undertaking recruitment aimed at securing a diverse team of correctional officers, targeted in particular at women and Aboriginal and Torres Strait Islander recruits;
 - (v) providing access to programs, employment opportunities, and vocational education to improve rehabilitation and reduce recidivism; and
 - (vi) introducing and improving the Extended Throughcare as a significant platform for improving opportunities for detainees re-entering the community;
- (2) further notes that:
 - (a) the independent Moss Review and Morison Security Review have provided a strong framework for improvements in the management of detainees and operations of the Alexander Maconochie Centre (AMC). This has resulted in significant changes to policies, procedures and operations at the AMC;
 - (b) a new high-level arrangement between the Directors-General of the Justice and Community Safety Directorate (JACS) and ACT Health has enabled improved collaboration between the two Directorates to deliver improved health service outcomes to detainees;
 - (c) the AMC Detainee Trust Account Fraud Risk Assessment undertaken by KPMG Forensic was presented to the JACS Audit and Performance Improvement Committee on 28 September 2017, who were satisfied that ACTCS had put in place strong controls to mitigate the risks identified; and

- (d) there is a culture and commitment to continuous improvement in ACT Corrections which is being led by a new executive director; and
- (3) calls on the ACT Government to continue to update the Assembly on developments in ACT Corrections.”—

be agreed to—put and passed.

10 ADJOURNMENT

Mr Gentleman (Manager of Government Business) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 7.05 pm, adjourned until tomorrow at 10 am.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting.

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

DOMESTIC ANIMALS (DANGEROUS DOGS) LEGISLATION AMENDMENT BILL 2017

Amendments circulated by the Minister for Transport and City Services

1

Proposed new clauses 3A to 3W

Page 3, line 1—

insert

3A Offences against Act—application of Criminal Code etc Section 4A, note 1

omit

- s 15 (Tag offences)

3B Section 4A, note 1, new dot points

insert

- s 18 (Requirement to be licensed if multiple dogs)
- s 21 (5) (Multiple dog licences—conditions)
- s 28 (Signs on premises about dangerous dogs)
- s 44 (Dogs in public places must be controlled)
- s 50B (Obligations of keeper or carer if dog attacks)
- s 51A (Provoking dog to attack)
- s 53E (Offence—failure to comply with control order)
- s 56A (5) (Seizure of dogs—investigation of complaints about attacking, harassing or menacing dogs)
- s 60 (5) (Impounding of dogs seized)

3C Section 4A, note 1

omit

- s 72K (Offence—advertising requirements)

substitute

- s 72K (Offence—selling and advertising requirements)

3D Section 4A, note 1

omit

- s 74A (Sale of older dogs and cats to be notified if not de-sexed)

substitute

- s 74A (Sale of older dogs and cats not de-sexed)

3E Section 4A, note 1, new dot points*insert*

- s 79 (Production of permits)
- s 134A (2) (Inspection of animals)

3F New section 4B*in part 1, insert***4B Criteria for considering responsible dog or cat management, care or control**

For this Act, the registrar in considering whether a person has failed, or is unable, to exercise responsible dog or cat management, care or control—

- (a) must consider—
- (i) any conviction or finding of guilt of the person within the last 10 years against a law of a Territory or State for an offence relating to the welfare, keeping or control of an animal; and
 - (ii) any non-compliance with—
 - (A) a special licence held by the person; or
 - (B) a control order issued to the person; and
- (b) may consider any other relevant matter.

3G Section 7*substitute***7 Registration—approval or refusal**

- (1) If an application for registration has been made in accordance with section 6, the registrar must, by written notice to the applicant—
- (a) register the dog; or
 - (b) refuse to register the dog.
- (2) For subsection (1) (b), the registrar—
- (a) must refuse to register the dog if the applicant is disqualified from keeping a dog or any other animal; or
- Note* Section 138A deals with the disqualification of a person from keeping an animal.
- (b) may refuse to register the dog if—
 - (i) the dog is not implanted with an identifying microchip as required under this Act; or
 - (ii) the dog is not de-sexed as required under this Act; or

- (iii) the registrar reasonably believes that the applicant has failed, or is unable, to exercise responsible dog management, care or control.

3H Section 11 heading

substitute

11 Registration numbers and certificates

3I Section 11 (1) (b)

omit

and registration tag

3J Section 11 (3)

omit

3K Section 11 (4)

omit

or tag

**3L Change of keeper
Section 12 (1) and (2), penalty**

omit

5 penalty units

substitute

10 penalty units

3M Section 13

substitute

13 Registration—cancellation

- (1) The registrar must cancel the registration of a dog if—
- (a) the keeper of the dog tells the registrar in writing that the dog has died; or
 - (b) the dog is destroyed under this Act; or
 - (c) the keeper of the dog is disqualified from keeping a dog or any other animal.

Note Section 138A deals with the disqualification of a person from keeping an animal.

- (2) The registrar may cancel the registration of a dog if—
- (a) the keeper of the dog tells the registrar in writing that the person is no longer the owner of the dog; or

- (b) the registrar reasonably believes that the dog's keeper has failed, or is unable, to exercise responsible dog management, care or control.

**3N Unregistered dogs
Section 14 (1), penalty**

omit

5 penalty units

substitute

15 penalty units

**3O Tag offences
Section 15**

omit

**3P Evidence of registration or non-registration
Section 17 (1)**

omit

(Registration numbers, certificates and tags)

substitute

(Registration numbers and certificates)

3Q Section 18

substitute

18 Requirement to be licensed if multiple dogs

- (1) A person commits an offence if—
- (a) the person keeps a dog on residential premises; and
 - (b) 3 or more other dogs are kept on the premises by the person or another person; and
 - (c) there is no multiple dog licence held by any person to keep the dogs on the premises.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) Subsection (1) does not apply to—
- (a) a dog under 84 days old if the person holds a breeding licence; or
 - (b) a dog kept by the person for less than 28 days; or
 - (c) a person resident in the ACT for less than 28 days; or

- (d) a dog kept on land that is under a lease granted for agricultural or grazing purposes; or
- (e) a dog kept on land that is under a lease that allows for an animal care facility.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

**3R Multiple dog licences—approval or refusal
Section 20 (1)**

omit

section 18 (Requirement to be licensed)

substitute

section 19

3S New section 20 (2) (d)

insert

- (d) the applicant is able to exercise responsible dog management, care and control.

3T New section 20 (3) (g)

insert

- (g) the safety of the public and other animals.

**3U Multiple dog licences—conditions
New section 21 (2) (d)**

insert

- (d) the safety of the public and other animals.

3V New section 21 (5)

insert

- (5) A person commits an offence if the person fails to comply with a condition of a multiple dog licence.

Maximum penalty: 50 penalty units.

**3W Declarations—dangerous dogs
Section 22 (1) (a)**

omit

other than residential premises

2

Clause 4**Proposed new section 22 (1) (aa)**

Page 3, line 5—

omit

injury to a person or serious injury to an animal

substitute

the death of or serious injury to a person

3

Proposed new clauses 4A and 4B

Page 3, line 6—

*insert***4A Section 22 (2)***substitute*

- (2) The registrar may declare a dog to be a dangerous dog if—
- (a) the dog has attacked or harassed a person or animal; or
 - (b) the registrar reasonably believes the dog—
 - (i) is aggressive or menacing; and
 - (ii) without being kept in accordance with a dangerous dog licence, would be an unacceptable risk to the safety of the public or other animals.

**4B Licensing of keepers of dangerous dogs
Section 23 (1), penalty***omit*

50 penalty units

substitute

100 penalty units

4

Clause 5

Page 3, line 7—

*omit clause 5, substitute***5 Dangerous dog licences—applications
New section 24 (3) and (4)***insert*

- (3) The registrar may waive any application fee for a licence to keep a dangerous dog if reasonably satisfied—

- (a) the dog was declared to be a dangerous dog only for the reason mentioned in section 22 (1) (a); and
 - (b) if the dog is kept in accordance with a dangerous dog licence, it will not be an unacceptable risk to the safety of the public and other animals.
- (4) A fee determined under section 144 for an application for a licence to keep a dangerous dog declared under section 22 (1) (aa) or (b) or section 22 (2) must be at least 10 times the application fee (if any) for registration of a dog under section 6.

5

Proposed new clauses 5A to 5H

Page 3, line 16—

insert

5A Dangerous dog licences—approval or refusal
New section 25 (1A)

insert

(1A) The registrar—

- (a) must refuse to approve the issue of a licence if—
 - (i) the applicant is disqualified from keeping a dog or any other animal; or
 - (ii) the dog is not implanted with an identifying microchip as required under this Act; or

Note Section 138A deals with the disqualification of a person from keeping an animal.
- (b) may refuse to approve the issue of a licence if the registrar reasonably believes—
 - (i) there would be an unacceptable risk to the safety of the public or other animals if the licence were issued; or
 - (ii) the applicant has failed, or is unable, to exercise responsible dog management, care or control.

5B Section 25 (2) (f)

substitute

- (f) the safety of the public and other animals.

5C Section 25 (3)

omit

**5D Dangerous dog licences—conditions
New section 26 (1A)**

insert

- (1A) In making a decision whether or not to impose a condition on a dangerous dog licence, the registrar must consider the safety of the public and other animals.

5E Section 26 (2) (b)

substitute

- (b) requirements about the dog leaving the premises;

5F Section 26 (2) (c)

omit

an approved course

substitute

a course approved in writing by the registrar

**5G Dangerous dogs in public places
Section 27 (1) and (2), penalty**

omit

10 penalty units

substitute

20 penalty units

5H Section 28

substitute

28 Signs on premises about dangerous dogs

- (1) The keeper of a dangerous dog must ensure that a warning sign is displayed on all gates and doors at the premises where the dog is kept so that it can be readily seen by a person about to enter the premises through any gate or door.

Maximum penalty: 5 penalty units.

- (2) In this section:

door, of a premises, means any door that a visitor to the premises would ordinarily be expected to use to enter the premises.

warning sign, for premises, means—

- (a) a sign warning people entering the premises that a dangerous dog is on the premises; or

- (b) if a regulation prescribes requirements for a sign—a sign that is in accordance with the requirements.

6

Clause 6

Page 3, line 17—

omit clause 6, substitute

6

Special licences—renewals
Section 32 (2)

substitute

- (2) The registrar—
- (a) must refuse to renew the licence if the holder is disqualified from keeping a dog or any other animal; or
- Note* Section 138A deals with the disqualification of a person from keeping an animal.
- (b) may refuse to renew the licence if the registrar reasonably believes—
- (i) there would be an unacceptable risk to the safety of the public and other animals if the licence were renewed; or
- (ii) the holder has failed, or is unable, to exercise responsible dog management, care or control.
- (3) In making a decision under this section, the registrar—
- (a) must consider any matter the registrar was required to consider when deciding whether or not to issue the original licence; and
- (b) may consider any other relevant matter.
- (4) The registrar may waive any application fee to renew a dangerous dog licence if reasonably satisfied—
- (a) the dog was declared to be a dangerous dog only for the reason mentioned in section 22 (1) (a); and
- (b) if the dog is kept in accordance with a dangerous dog licence— it will not be an unacceptable risk to the safety of the public and other animals.
- (5) A fee determined under section 144 for an application to renew a licence to keep a dangerous dog declared under section 22 (1) (aa) or (b) or section 22 (2) must be at least 10 times the application fee (if any) for registration of a dog under section 6.
-

7

Proposed new clauses 6A to 6N

Page 3, line 26—

*insert***6A Variation of special licences
Section 33 (3) (c)***omit*

14 days

substitute

7 days

6B Section 33 (7)*substitute*

(7) The registrar must refuse to vary—

- (a) a multiple dog licence if the registrar would be obliged under section 20 (2) to refuse to issue the licence as varied; or
- (b) a dangerous dog licence if the registrar would be obliged under section 25 (1A) to refuse to issue the licence as varied.

**6C Cancellation of special licences
Section 36 (1)***substitute*

(1) The registrar—

- (a) must cancel a special licence if the licensee is disqualified from keeping a dog or any other animal; or

Note Section 138A deals with the disqualification of a person from keeping an animal.

(b) may cancel a special licence if—

- (i) the registrar becomes aware of circumstances that, if the registrar had been aware of them at the time of the application for the licence, would have resulted in the application being refused; or
- (ii) the licensee contravenes a condition of the licence; or
- (iii) the licence was obtained by a false or misleading statement; or
- (iv) the registrar reasonably believes there would be an unacceptable risk to the safety of the public or other animals if the licence were not cancelled; or

- (v) the registrar reasonably believes that the licensee has failed, or is unable, to exercise responsible dog management, care or control.

6D Section 36 (2) (c)

omit

14 days

substitute

7 days

**6E Prohibited areas
Section 42 (1), penalty**

omit

5 penalty units

substitute

15 penalty units

6F Section 42 (2), (3) and (4), penalty

omit

5 penalty units

substitute

10 penalty units

6G Section 44

substitute

44 Dogs in public places must be controlled

- (1) A person commits an offence if—
- (a) the person is the keeper or carer of a dog; and
 - (b) the person is with the dog in a public place; and
 - (c) the dog is not restrained by a leash.
- Maximum penalty: 15 penalty units.
- (2) A person commits an offence if—
- (a) the person is the keeper or carer of a dog; and
 - (b) the person is with the dog in a public place; and
 - (c) the dog is not under the effective control of the person.
- Maximum penalty: 15 penalty units.

- (3) The keeper of a dog commits an offence if the dog—
- (a) is in a public place; and
 - (b) is not with a carer.
- Maximum penalty: 15 penalty units.
- (4) Subsection (1) does not apply to a dog that is under the control of a person and is—
- (a) in an exercise area declared under section 40 (Declaration—exercise areas); or
 - (b) a working dog working livestock; or
 - (c) taking part in—
 - (i) a dog show, field trial or obedience trial; or
 - (ii) a dramatic performance or other entertainment.
- (5) In a prosecution for an offence against subsection (3), it is a defence if the defendant proves that the defendant took reasonable steps to prevent a contravention of the subsection.

**6H Dogs on private premises to be restrained
Section 45 (1) and (3), penalty**

omit

5 penalty units

substitute

10 penalty units

6I Section 45 (5), penalty

omit

5 penalty units

substitute

15 penalty units

**6J Removal of faeces
Section 46 (2), penalty**

omit

1 penalty units

substitute

5 penalty units

**6K Female dogs on heat
Section 47 (1), penalty**

omit

5 penalty units

substitute

15 penalty units

6L Division 2.6 heading

substitute

**Division 2.6 Attacking, harassing and menacing
dogs**

**6M Dog attacks or harasses person or animal
Section 49A (4) (c)**

after

person

insert

or animal

6N Section 49A (5) and note

substitute

(5) Also, it is a defence to a prosecution for an offence against subsection (2) if the defendant proves that—

- (a) the defendant asked or told another person to be the carer for the dog; and
- (b) that person was, at the time of the offence, the carer for the dog; and
- (c) the defendant had taken reasonable measures to ensure that the carer was able to exercise responsible dog management, care and control of the dog.

Examples—par (c)

- telling the carer about the dog, including about any control order or nuisance notice
- ensuring the carer was experienced enough and physically able to manage, care and control the dog
- ensuring the carer had a leash and secure premises for the dog

Note 1 The defendant has a legal burden in relation to the matters mentioned in s (4) and s (5) (see Criminal Code, s 59).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (6) If a person is convicted or found guilty of an offence against this section, the court may—
- (a) order that the dog be destroyed; or
 - (b) make any other order the court considers necessary to ensure the safety of the public and other animals.

8

Clause 7

Page 4, line 1—

omit clause 7, substitute

**7 Dog attacks person or animal causing serious injury
Section 50 (1) (e) and (2) (e)**

after

reckless

insert

or negligent

7A Section 50 (3) (c)

after

person

insert

or animal

7B Section 50 (4), (5) and (6)

substitute

- (4) Also, it is a defence to a prosecution for an offence against subsection (2) if the defendant proves that—
- (a) the defendant asked or told another person to be the carer for the dog; and
 - (b) the person was, at the time of the offence, the carer for the dog; and
 - (c) the defendant had taken reasonable measures to ensure that the carer was able to exercise responsible dog management, care and control of the dog.

Examples—par (c)

- telling the carer about the dog including about any control order or nuisance notice
- ensuring the carer was experienced enough and physically able to manage, care and control the dog
- ensuring the carer had a leash and secure premises for the dog

Note 1 The defendant has a legal burden in relation to the matters mentioned in s (3) and s (4) (see Criminal Code, s 59).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) If a person is convicted or found guilty of an offence against this section, the court may—
- (a) order that the dog be destroyed; or
 - (b) make any other order the court considers necessary to ensure the safety of the public and other animals.

9

Clause 8

Page 4, line 4—

omit clause 8, substitute

**8 Dangerous dog attacks or harasses person or animal
Section 50A (2) (e)**

after

reckless

insert

or negligent

8A Section 50A (3) (c)

after

person

insert

or animal

8B Section 50A (4), (5) and (6)

substitute

- (4) If a person is convicted or found guilty of an offence against this section, the court may—
- (a) order that the dog be destroyed; or
 - (b) make any other order the court considers necessary to ensure the safety of the public.

8C New section 50B*insert***50B Obligations of keeper or carer if dog attacks**

- (1) This section applies if—
- (a) a keeper or carer of a dog is with the dog; and
 - (b) the dog attacks a person or a person's animal (the **affected person**).
- (2) The keeper or carer must, if asked by the affected person, give the affected person—
- (a) reasonable assistance as requested; and
 - (b) the keeper or carer's name, address and contact details.

Maximum penalty: 50 penalty units.

- (3) If the attack caused serious injury to a person or animal, the keeper or carer must tell the registrar about the attack as soon as practicable after the attack.

Maximum penalty: 50 penalty units.

8D New section 51A*insert***51A Provoking dog to attack**

A person commits an offence if—

- (a) the person provokes a dog; and
- (b) the provocation caused the dog to attack the person, another person or an animal.

Maximum penalty: 50 penalty units.

**8E Costs of impounding dogs
Section 52 (3)***omit***10****Clause 9****Page 4, line 7—***omit clause 9, substitute***9 New sections 53A to 53E***insert*

53A Complaints about attacking, harassing or menacing dogs

- (1) A person may complain in writing to the registrar about a dog if the dog—
 - (a) attacked or harassed a person or an animal; or
 - (b) is aggressive or menacing.
- (2) The registrar—
 - (a) must investigate the complaint if it is about an attack that caused the death of, or serious injury to, a person; and
 - (b) in any other case—may investigate the complaint.

Note The dog may be seized and impounded by an authorised person until the end of the investigation (see s 56A).

- (3) The registrar must tell the complainant in writing—
 - (a) whether or not the registrar investigated the complaint; and
 - (b) if an investigation was conducted—the outcome of the investigation.

53B Dealing with attacking dogs—death or serious injury to person or death of animal

- (1) This section applies if the registrar is reasonably satisfied, because of a complaint or otherwise, that—
 - (a) a dog attacked a person or an animal; and
 - (b) the attack caused—
 - (i) the death of the person; or
 - (ii) serious injury to the person; or
 - (iii) the death of the animal.
- (2) The registrar must destroy the dog.
- (3) However, the registrar may decide not to destroy the dog if reasonably satisfied the dog is not likely to be a danger to the public or another animal.
- (4) For subsection (3), the registrar may consider—
 - (a) the circumstances of the attack including whether—
 - (i) the person or animal provoked the dog; or
 - (ii) the person or animal was attacked because the dog came to the aid of a person or animal the dog could be expected to protect; or
 - (iii) if the attack was on premises occupied by the keeper of the dog—the person or animal was on the premises without lawful excuse; and

- (b) whether reasonable steps can be taken to reduce the risk of the dog endangering the public and other animals; and
 - (c) any other relevant matter.
- (5) The registrar may destroy the dog if—
- (a) the registrar gives the dog’s keeper written notice of the decision to destroy the dog; and
 - (b) the dog’s keeper—
 - (i) does not, within 7 days after the day the notice is given (the **application period**), apply to the ACAT under section 120 for review of the decision; or
 - (ii) applies to the ACAT under section 120 for review of the decision within the application period and the registrar’s decision to destroy the dog is confirmed.
- (6) If the registrar decides not to destroy the dog, the registrar may issue a control order for the dog to the dog’s keeper.

Note 1 The registrar may declare a dog to be a dangerous dog if the dog attacked a person or animal—see s 22 (2).

Note 2 The registrar must give a reviewable decision notice for s (2) and s (6) to the keeper and must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see s 119 and *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

53C Dealing with attacking, harassing or menacing dogs generally

- (1) This section applies if the registrar is reasonably satisfied, because of a complaint or otherwise, that a dog—
- (a) attacked a person or an animal and the attack caused—
 - (i) an injury (other than a serious injury) to the person; or
 - (ii) serious injury to the animal; or
 - (b) harassed a person or an animal; or
 - (c) is aggressive or menacing.
- (2) The registrar may decide to destroy the dog.
- (3) In making a decision under subsection (2), the registrar—
- (a) must consider—
 - (i) the safety of the public and other animals; and
 - (ii) if the dog attacked a person or animal—the circumstances of the attack including whether—
 - (A) the person or animal provoked the dog; or

- (B) the person or animal was attacked because the dog came to the aid of a person or animal the dog could be expected to protect; or
 - (C) if the attack was on premises occupied by the keeper of the dog—the person or animal was on the premises without lawful excuse; and
- (b) may consider any other relevant matter.
- (4) If the registrar decides not to destroy the dog, the registrar may issue a control order for the dog to the dog's keeper.

Note 1 The registrar may declare a dog to be a dangerous dog if the dog attacked a person or animal—see s 22 (2).

Note 2 The registrar must give a reviewable decision notice for s (2) and s (4) to the keeper and must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see s 119 and *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

53D Revocation of control order

- (1) The registrar may revoke a control order if reasonably satisfied, after carrying out an inspection, that—
- (a) the order has been complied with; and
 - (b) adequate steps have been taken so that there is not an unacceptable risk to the safety of the public from the control order being revoked.
- (2) The registrar must give written notice of the revocation, and a statement of reasons for the revocation, to each person to whom notice of the control order was given.

53E Offence—failure to comply with control order

A person commits an offence if the person—

- (a) is a keeper of a dog; and
- (b) is issued with a control order in relation to the dog; and
- (c) does not comply with the control order.

Maximum penalty: 50 penalty units.

**9A Inspection of attacking or harassing dogs
Section 54**

omit

9B New section 55B

in division 2.6, insert

55B Notice to affected neighbours

- (1) This section applies if—
- (a) a dog is declared to be a dangerous dog; or
 - (b) a control order is issued to a keeper of a dog; or
 - (c) a nuisance notice is issued to a keeper of a dog.
- (2) 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 the dangerous dog declaration, control order or nuisance notice to people occupying property adjacent or nearby to premises where the dog is kept.

**9C Seizure of dogs—general
New section 56 (aa) and (ab)**

before paragraph (a), insert

- (aa) the dog is not registered under section 7; or
- (ab) the dog is not identified by implanted microchip as required under this Act; or

9D Section 56 (b)

omit

(Dogs in public places to be restrained)

substitute

(Dogs in public places must be controlled)

9E Section 56 (f) and (g)

substitute

- (f) the keeper or carer fails to give an authorised person the person's name and address if required by the authorised person under section 134.

9F New section 56 (2) and (3)*insert*

- (2) Also, an authorised person may seize a dog if—
- (a) the registrar refuses to register the dog under section 7 (1) (b); or
 - (b) the dog's registration is cancelled under section 13 (1) (c) or (2) (b); or
 - (c) the keeper has not complied with a control order issued to the keeper in relation to the dog; or
 - (d) the keeper breeds a litter from the dog without a breeding licence; or
 - (e) the dog is at least 6 months old and not de-sexed and the keeper does not hold a permit under part 3 for the dog; or
 - (f) the authorised person reasonably believes that—
 - (i) the keeper or carer of the dog is not demonstrating responsible dog management, care or control in relation to the dog; or
 - (ii) the safety of the public or other animals are at risk because of the keeper or carer's actions.
- (3) If subsection (2) (d) applies, the authorised person may seize the parent dogs and pups.

12**Clause 10****Page 9, line 1—***omit clause 10, substitute***10 New section 56A***insert***56A Seizure of dogs—investigation of complaints about attacking, harassing or menacing dogs**

- (1) This section applies if the registrar investigates a complaint about a dog under section 53A (Complaints about attacking, harassing or menacing dogs).
- (2) An authorised person—
- (a) must seize the dog if the complaint is that—
 - (i) the dog attacked the complainant or another person; and
 - (ii) the attack caused the death of or serious injury to a person; or

- (b) in any other case—may seize the dog.
- (3) If an authorised person seizes a dog, the authorised person must—
- (a) impound the dog on Territory premises until the investigation is completed; or
 - (b) if the authorised person is reasonably satisfied that the dog can be kept by the keeper on suitable and secure premises—impound the dog by directing the keeper orally, or in writing, to keep the dog on the premises in accordance with any stated conditions until the investigation is completed.
- (4) If the authorised person gives an oral direction under subsection (3) (b), the authorised person must confirm the direction in writing as soon as practicable.
- (5) A person commits an offence if the person fails to comply with a direction under subsection (3) (b).

Maximum penalty: 50 penalty units.

13

Clause 12

Page 9, line 22—

[oppose the clause]

14

Proposed new clause 12A

Page 9, line 25—

insert

12A Section 58

substitute

58 Seizure—multiple dog licence

An authorised person may seize a dog if—

- (a) the dog is being kept in contravention of section 18 (Requirement to be licensed if multiple dogs); or
- (b) the dog's keeper has not complied with a condition of a multiple dog licence held by the keeper in relation to the dog.

15

Clause 13

Page 10, line 1—

omit clause 13, substitute

13 Sections 59 and 60

substitute

59 Seizure—attacking, harassing or menacing dogs

An authorised person—

- (a) must seize a dog if the authorised person reasonably suspects—
 - (i) the dog attacked a person; and
 - (ii) the attack caused the death of or serious injury to a person; or
- (b) may seize a dog if the authorised person reasonably suspects the dog—
 - (i) attacked a person or an animal and the attack caused—
 - (A) an injury (other than a serious injury) to the person; or
 - (B) serious injury to the animal; or
 - (ii) harassed a person or an animal; or
 - (iii) is aggressive or menacing.

60 Impounding of dogs seized

- (1) An authorised person—
 - (a) may impound a seized dog; and
 - (b) if a dog is impounded—
 - (i) if the dog's keeper's identity is not known—must make reasonable inquiries to find out who is the keeper; or
 - (ii) if the dog's keeper's identity is known—must give oral or written notice to the keeper in accordance with section 61 about the dog's seizure.
- (2) The authorised person may give the notice by telephone.
- (3) For subsection (1) (a), if the authorised person is reasonably satisfied that the dog can be kept by the keeper on suitable and secure premises, the authorised person may impound the dog by directing the keeper orally, or in writing, to keep the dog on the premises in accordance with any stated conditions until the investigation is completed.
- (4) If the authorised person gives an oral direction under subsection (3), the authorised person must confirm the direction in writing as soon as practicable.

- (5) A person commits an offence if the person fails to comply with a direction under subsection (3).

Maximum penalty: 50 penalty units.

**13A Information to be given in notice of dog's seizure
Section 61**

omit everything before paragraph (a), substitute

If a dog is seized under this part, the notice of seizure under section 60 (1) (b) (ii) must give the following information, if relevant:

**13B Releasing dogs seized under general seizure power
Section 62 (2) (d)**

omit

section 56 (a) or (b)

substitute

section 56 (1) (a), (aa), (ab) or (b)

13C New section 62 (2) (g) and (h)

insert

- (g) the keeper is able to exercise responsible dog management, care and control in relation to the dog; and
- (h) there is not an unacceptable risk to the safety of the public and other animals from the dog being released.

13D Section 62 (3) (a)

omit everything before subparagraph (i), substitute

- (a) the holding period has ended and—

13E Section 62 (3) (c)

omit everything before subparagraph (i), substitute

- (c) a prosecution for the offence was started before the end of the holding period and—

13F New section 62 (4)

insert

- (4) In this section:

holding period, in relation to a seized dog, means—

- (a) 28 days after the day the dog was seized (the ***original period***);
or

- (b) if the registrar gives written notice to the dog's keeper before the end of the original period—the original period plus an additional stated period.

16

Proposed new clauses 15A to 15N

Page 10, line 18—

insert

15A Section 63 (2) (d)

omit

15B Section 63 (2) (e)

omit

if the dog was seized under section 58—

15C Section 63 (2) (f)

after

seized

insert

under section 58

15D New section 63 (2) (i) and (j)

insert

- (i) the keeper is able to exercise responsible dog management, care and control in relation to the dog; and
- (j) there is not an unacceptable risk to the safety of the public or other animals from the dog being released and kept in accordance with the conditions of the keeper's multiple dog licence.

15E Section 63 (2), note

omit

15F Section 63 (3) (a)

omit everything before subparagraph (i), substitute

- (a) the holding period has ended and—

15G Section 63 (3) (c)

omit everything before subparagraph (i), substitute

- (c) a prosecution for the offence was started before the end of the holding period and—

15H New section 63 (4)*insert*

(4) In this section:

holding period, in relation to a seized dog—see section 62 (4).**15I Releasing dogs seized under attacking and harassing power
Section 64 (1)***omit*

(Seizure—attacking and harassing dogs)

substitute

(Seizure—attacking, harassing or menacing dogs)

15J New section 64 (2) (g) and (h)*insert*

(g) the keeper is able to exercise responsible dog management, care and control in relation to the dog; and

(h) there is not an unacceptable risk to the safety of the public or other animals from the dog being released and kept in accordance with the conditions of any control order.

15K Section 64 (3) (a)*omit everything before subparagraph (i), substitute*

(a) the holding period has ended and—

15L Section 64 (3) (c)*omit everything before subparagraph (i), substitute*

(c) a prosecution for the offence was started before the end of the holding period and—

15M New section 64 (4)*insert*

(4) In this section:

holding period, in relation to a seized dog—see section 62 (4).**15N Section 65***substitute*

65 Releasing dogs declared dangerous after seizure for offence

- (1) This section applies if—
 - (a) a dog is seized under this Act; and
 - (b) after the seizure, the dog is declared to be a dangerous dog.
- (2) The registrar must release the dog to a person claiming its release if, but only if, satisfied that—
 - (a) the person claiming its release is the dog’s keeper; and
 - (b) a dangerous dog licence is in force for the dog; and
 - (c) the keeper is able to exercise responsible dog management, care and control in relation to the dog; and
 - (d) there is not an unacceptable risk to the safety of the public or another animal from the dog being released and kept in accordance with the conditions of a dangerous dog licence; and
 - (e) any fee payable under section 144 for the release of the dog has been paid.

17**Clause 16****Page 10, line 19—***omit clause 16, substitute***16 New section 65A***insert***65A Releasing dogs seized because of complaint**

- (1) This section applies if a dog is seized under section 56A (Seizure of dogs—investigation of complaints about attacking, harassing or menacing dogs).
- (2) The registrar must release the dog to a person claiming its release if—
 - (a) the registrar is reasonably satisfied of the matters mentioned in section 62 (2) (excluding paragraph (d)); and
 - (b) the investigation is completed.
- (3) The registrar may release the dog under subsection (2) only if satisfied that—
 - (a) the keeper is able to exercise responsible dog management, care and control in relation to the dog; and

- (b) there is not an unacceptable risk to the safety of the public and other animals from the dog being released and kept in accordance with the conditions of any dangerous dog licence and control order; and
- (c) any fee payable under section 144 for the release of the dog has been paid.

18

Proposed new clauses 16A to 16ZS

Page 11, line 14—

*insert***16A Section 66 heading***substitute***66 Selling or destroying dogs (other than dangerous dogs) generally****16B Section 66 (1) and note***substitute*

- (1) This section applies to a dog, other than a dangerous dog, seized under—
- (a) section 56 (Seizure of dogs—general); or
 - (b) section 59 (Seizure—attacking, harassing or menacing dogs); or
 - (c) section 114 (Seizure, impounding and return of nuisance animals).

Note Section 68 deals with the selling and destruction of dangerous dogs.**16C Section 66 (2) (c)***omit*

section 60 (1) (c)

substitute

section 60 (1) (b) (ii) or section 114 (2) (b) (ii)

**16D Selling or destroying dogs (other than dangerous dogs) seized under multiple dog licence power
Section 67 (2) (c)***omit*

section 60 (1) (c)

substitute

section 60 (1) (b) (ii)

16E New section 67A*insert***67A Selling dogs (other than dangerous dogs) if keeper unfit**

- (1) This section applies if—
- (a) a dog is seized under this Act; and
 - (b) the dog is not a dangerous dog; and
 - (c) the registrar is reasonably satisfied that—
 - (i) the dog’s keeper is unable to exercise responsible dog management, care or control in relation to the dog; or
 - (ii) there would be an unacceptable risk to the safety of the public or other animals if the dog were released to the keeper; and
 - (d) the registrar is reasonably satisfied that the dog would not be an unacceptable risk to the safety of the public or other animals if the dog were kept by someone who was able to exercise responsible dog management, care or control in relation to the dog.
- (2) The registrar may decide to sell the dog.
- (3) The registrar may sell the dog if—
- (a) the registrar gives the dog’s keeper written notice of the decision to sell the dog; and
 - (b) the dog’s keeper—
 - (i) does not, within 7 days after the day the notice is given (the **application period**), apply to the ACAT under section 120 for review of the decision; or
 - (ii) applies to the ACAT under section 120 for review of the decision within the application period and the registrar’s decision to sell the dog is confirmed.

Note The registrar must give a reviewable decision notice for s (2) to the keeper and must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see s 119 and *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

**16F Selling or destroying dangerous dogs generally
Section 68 (2) (c)***substitute*

- (c) not later than 7 days after the day notice under section 60 (1) (b) (ii) was given to the dog’s keeper, the keeper does not tell the registrar, in writing, that the keeper wishes to claim the dog and—

16G New section 68A*insert***68A Destroying dogs—public safety concerns**

- (1) This section applies if the registrar reasonably believes that a dog—
- (a) is an unacceptable risk to the safety of the public or other animals; and
 - (b) cannot be reasonably rehoused, retrained or otherwise rehabilitated so that the dog is no longer an unacceptable risk to the safety of the public or other animals.
- (2) The registrar may decide to destroy the dog.
- (3) The registrar may destroy the dog if—
- (a) the registrar gives the dog's keeper written notice of the decision to destroy the dog; and
 - (b) the dog's keeper—
 - (i) does not, within 7 days after the day the notice is given (the **application period**), apply to the ACAT under section 120 for review of the decision; or
 - (ii) applies to the ACAT under section 120 for review of the decision within the application period and the registrar's decision to destroy the dog is confirmed.

Note The registrar must give a reviewable decision notice for s (2) to the keeper and must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see s 119 and *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

**16H Relinquishing ownership of dogs
Section 69 (1)***omit*

division

substitute

Act

**16I Returning seized dog to its keeper
Section 70 (4)***substitute*

- (4) The registrar may return the dog to its keeper and issue the keeper with a control order for the dog.

**16J Offence—breeding dogs or cats without licence
Section 72 (1) (b)**

omit

for profit or commercial gain

**16K Breeding licence—approval or refusal
Section 72B (2)**

substitute

(2) The registrar—

(a) must refuse to issue the licence if the applicant is disqualified from keeping a dog or any other animal; or

Note Section 138A deals with the disqualification of a person from keeping an animal.

(b) may refuse to issue the licence if the registrar reasonably believes—

(i) there would be an unacceptable risk to the safety of the public and other animals if the licence were issued; or

(ii) the applicant has failed, or is unable, to exercise responsible dog management, care or control; or

(iii) the applicant cannot comply with the requirements of the *Animal Welfare Act 1992* and any approved or mandatory code of practice under that Act.

16L New section 72B (3) (g)

insert

(g) the safety of the public and other animals.

16M Section 72C

substitute

72C Breeding licence—duration

A breeding licence remains in force for 2 years unless sooner surrendered or cancelled.

**16N Breeding licence—conditions
New section 72E (1A)**

insert

(1A) A condition may limit the number of litters a dog or cat may breed.

16O Breeding licence—cancellation
Section 72G (1)

substitute

- (1) The registrar—
- (a) must cancel a breeding licence if the licensee is disqualified from keeping a dog or any other animal; or
- Note* Section 138A deals with the disqualification of a person from keeping an animal.
- (b) may cancel a breeding licence if—
- (i) the registrar becomes aware of circumstances that, if the registrar had been aware of them at the time of the application for the licence, would have resulted in the application being refused; or
 - (ii) the licensee contravenes a condition of the licence; or
 - (iii) the licence was obtained by a false or misleading statement; or
 - (iv) there would be an unacceptable risk to the safety of the public or other animals if the licence were not cancelled; or
 - (v) the registrar reasonably believes that the licensee has failed, or is unable, to exercise responsible dog management, care or control; or
 - (vi) it is otherwise appropriate to do so.

16P Section 72K

substitute

72K Offence—selling and advertising requirements

- (1) A person commits an offence if the person—
- (a) breeds a dog or cat; and
 - (b) sells the dog or cat; and
 - (c) does not hold a breeding licence.
- Maximum penalty: 50 penalty units.
- (2) A person who holds a breeding licence commits an offence if the person—
- (a) breeds a dog or cat; and
 - (b) publishes a statement that either—
 - (i) constitutes an invitation to buy the dog or cat from the person; or

- (ii) could reasonably be understood to constitute an invitation to buy the dog or cat from the person; and
- (c) does not include in the publication the breeding licence number.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

**16Q Offence—surrender of breeding licence
Section 72L**

omit

**16R Dogs and cats to be de-sexed if over certain age
New section 74 (5) (c)**

insert

- (c) a veterinary surgeon certifies in writing that de-sexing the dog or cat would be a serious health risk to the animal.

16S Section 74A

substitute

74A Sale of older dogs and cats not de-sexed

- (1) A person commits an offence if—
 - (a) the person sells a dog or cat that has not been de-sexed; and
 - (b) either—
 - (i) for a dog—the dog is 6 months old or older; or
 - (ii) for a cat—the cat is 3 months old or older; and
 - (c) the person does not hold a permit for the dog or cat.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is strict liability offence.
- (3) Subsection (1) does not apply to a dog or cat if a veterinary surgeon certifies in writing before the dog was sold that de-sexing the animal would be a serious health risk to the animal.

**16T Approval or refusal of applications
Section 76 (2)**

substitute

- (2) In making a decision under subsection (1), the registrar—
 - (a) may consider the following:
 - (i) whether the animal is kept for breeding or used, bred or bought for show;

- (ii) whether it would be detrimental to the health of the animal if it were to be de-sexed;
- (iii) any other relevant matter; and
- (b) must consider the safety of the public.
- (3) The registrar may issue a permit—
 - (a) for a stated period; and
 - (b) on any other condition.

**16U Term of permits
Section 78**

omit

**16V Production of permits
Section 79 (1)**

substitute

- (1) A keeper or owner of a dog or cat commits an offence if—
 - (a) an authorised person asks the keeper or owner to show a permit for the dog or cat; and
 - (b) the keeper or owner fails to show the permit to the authorised person within 24 hours after being asked.

Maximum penalty: 5 penalty units.

- (1A) An offence against this section is strict liability offence.

**16W Identification of dogs and cats—requirement
Section 84 (1) and (2), penalty**

omit

5 penalty units

substitute

15 penalty units

16X Section 109

substitute

109 Meaning of *animal nuisance*—pt 6

For this part, an animal causes an *animal nuisance* if—

- (a) the animal causes, solely or in part—
 - (i) damage to property owned by a person other than the keeper; or

- (ii) excessive disturbance to a person other than the keeper because of noise; or
- (iii) an unacceptable risk to the public or another animal; or
- (b) for a dog—there are repeated occurrences of the dog—
 - (i) not being kept under control by the dog’s keeper or carer; or
 - (ii) the dog is not restrained in contravention of section 44 (1) or (3) (Dogs in public places must be controlled) or section 45 (1) or (3) (Dogs on private premises to be restrained).

**16Y Offence of animal nuisance
Section 110 (1), penalty**

omit

10 penalty units

substitute

15 penalty units

**16Z Complaints about animal nuisance
Section 111 (2)**

omit

must

substitute

may

**16ZA Issue of nuisance notices
Section 112 (1)**

omit

animal nuisance exists

substitute

animal is causing an animal nuisance

16ZB Section 112 (1) (b)

omit

the nuisance exists, or from which it emanates

substitute

the animal is causing the nuisance

16ZC Section 112 (4) (a) (ii)

substitute

- (ii) state where the nuisance is being caused; and

16ZD Sections 114, 114A and 114B

substitute

114 Seizure, impounding and return of nuisance animals

- (1) An authorised person may seize an animal if—
 - (a) the authorised person reasonably believes the animal is causing an animal nuisance, after considering—
 - (i) the extent of the animal nuisance; and
 - (ii) the likelihood of the keeper of the animal reducing or stopping the nuisance or complying with steps mentioned in a nuisance notice to prevent its recurrence; or
 - (b) the keeper does not comply with a nuisance notice issued to the keeper in relation to the animal.
- (2) If an animal is seized under subsection (1), the registrar must—
 - (a) impound the animal until it is returned to its keeper, or sold or destroyed; and
 - (b) either—
 - (i) if the animal's keeper's identity is not known—make reasonable inquiries to find out who is the keeper; or
 - (ii) if the animal's keeper's identity is known—give oral or written notice to the keeper in accordance with section 114A about the animal's seizure.
- (3) The registrar may give the notice by telephone.
- (4) The registrar must release the animal to a person claiming its release if reasonably satisfied that—
 - (a) the animal nuisance is not likely to happen again if the animal is returned to the keeper; and
 - (b) for a dog—there is not an unacceptable risk to the safety of the public or other animals from the dog being released to the keeper.
- (5) If the registrar releases a dog, the registrar may issue the keeper with a control order in relation to the dog.
- (6) Any costs or expenses incurred by the Territory in seizing or impounding an animal under this section are a debt payable to the Territory by the keeper of the animal.

114A Information to be given in notice of animal's seizure

If an animal is seized under section 114, the notice of seizure must give the following information, if relevant:

- (a) when and where the animal was seized;
- (b) the reason the animal was seized;
- (c) where the animal may be claimed;
- (d) the fee payable for the release of the animal;
- (e) that the animal may be sold or destroyed if it is not claimed;
- (f) the period in which the animal may be claimed before it can be sold or destroyed;
- (g) that the keeper may relinquish ownership of the animal.

**16ZE Destruction of vicious animals
Section 116 (1)**

after

seize

insert

or impound

16ZF Section 116 (2)

after

safety of

insert

people exercising functions under this Act,

16ZG Sections 128, 129 and 130

substitute

128 Power to enter premises

- (1) For this Act, an authorised person may—
- (a) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or
 - (b) at any time when business premises are open for business, enter the premises; or
 - (c) at any time, enter premises with the occupier's consent; or
 - (d) enter premises in accordance with a search warrant; or

- (e) at any time without a warrant, enter premises if the authorised person—
- (i) reasonably believes that the circumstances are so serious and urgent that immediate entry to the premises without the authority of a search warrant is necessary; or
 - (ii) reasonably suspects that an offence (other than an excluded offence) has been, or is being, committed on the premises; or
 - (iii) is authorised under this Act to seize an animal kept on the premises.
- (2) However, subsection (1) (a) and (b) do not authorise entry into a part of premises that is being used only for residential purposes.
- (3) An authorised person may, without the consent of the occupier of premises, enter land around the premises to ask for consent to enter the premises.
- (4) An authorised person may enter premises under subsection (1) with necessary and reasonable assistance and force.
- (5) A police officer may help an authorised person in exercising the authorised person's powers under this section if asked by the authorised person to do so.
- (6) To remove any doubt, an authorised person may enter premises under subsection (1) without payment of an entry fee or other charge.
- (7) In this section:
- at any reasonable time*** includes at any time when the public is entitled to use the premises, or when the premises are open to or used by the public (whether or not on payment of money).

16ZH Inspection of premises
Section 131

omit

section 128 (1) (Entry of premises—routine inspections) or
 section 129 (2) (Entry of premises—search warrants)

substitute

section 128

**16ZI Consent to entry
Section 132 (1)**

omit

section 114A (2) (Entry to premises for nuisance animal) or section 128 (1) (Entry of premises—routine inspections)

substitute

section 128

16ZJ Section 132 (4) and (5)

omit

section 114A (2) or

**16ZK Search warrants
Section 133 (6), definition of *related thing*, paragraph (b)**

substitute

- (b) a thing in relation to which the authorised person is reasonably satisfied it is necessary to exercise any of the powers mentioned in section 128 (1) (e) (i) to prevent the committing, continuing or repeating of an offence under this Act.

**16ZL Power to require name and address
Section 134 (3), penalty**

omit

5 penalty units

substitute

15 penalty units

16ZM New section 134A

in division 9.2, insert

134A Inspection of animals

- (1) An authorised person or police officer may ask a keeper or carer of an animal to produce an animal for inspection if—
- (a) the authorised person or police officer reasonably suspects the keeper or carer has contravened this Act; or
 - (b) for a dog—
 - (i) a special licence is held by the keeper; or
 - (ii) the keeper holds a breeding licence; or
 - (iii) a control order or nuisance notice applies to the dog.

- (2) A person commits an offence if the person fails to comply with a request under subsection (1).

Maximum penalty: 50 penalty units.

**16ZN Dishonoured cheques and credit transactions
Section 142**

omit

certificate, tag or licence

substitute

certificate or licence

**16ZO Transitional provisions
Part 11**

omit

16ZP Dictionary, note 2

insert

veterinary surgeon

16ZQ Dictionary, new definition of *control order*

insert

control order, for a dog, means an order issued to the dog's keeper by the registrar requiring 1 or more of the following:

- (a) the property where the dog is kept to have secure fencing to properly confine the dog to the premises;
- (b) fencing at the property where the dog is kept to be inspected by the registrar every 6 months;
- (c) the keeper and the dog to complete a course approved by the registrar in writing in behavioural or socialisation training for the dog;
- (d) any other thing the registrar considers appropriate.

16ZR Dictionary, definition of *registration tag*

omit

16ZS Dictionary, new definition of *sell*

insert

sell, a seized cat or dog, includes give the animal to an entity responsible for animal welfare or rehousing abandoned or seized animals.

19**Proposed new clauses 17A to 17E**

Page 12, line 2—

*insert***17A Dog registration information—Act, s 8
New section 5 (ca)***insert*

(ca) the unique identification number for the microchip implanted in the dog;

**17B Information on dog registration certificates—Act s 11 (2)
New section 6 (aa)***insert*

(aa) the unique identification number for the microchip implanted in the dog;

**17C Requirement to be licensed
Section 6A***omit***17D How dogs must be identified—Act, s 83
Section 7 (6)***omit*

subsection (3)

substitute

subsection (1)

**17E Reviewable decisions
Schedule 1, new item 1A***insert*

1A	Act, 13 (1) (c)	cancel registration of dog	keeper of dog
----	-----------------	----------------------------	---------------

20**Clause 18**

Page 12, line 3—

*omit clause 18, substitute***18 Schedule 1, new items 11A to 11D***insert*

11A	Act, 53B (2)	destroy dog	keeper of dog
11B	Act, 53B (6)	issue control order	keeper of dog
11C	Act, 53C (2)	destroy dog	keeper of dog
11D	Act, 53C (4)	issue control order	keeper of dog

19 Schedule 1, new items 13A and 13B

insert

13A	Act, 67A (2)	sell seized dog	keeper of dog
13B	Act, 68A (2)	destroy dog	keeper of dog

20 Schedule 1, item 28, column 2

omit

or (5)

21 Dictionary, note 3

omit

- registration tag
-

Schedule 2

DOMESTIC ANIMALS (DANGEROUS DOGS) LEGISLATION AMENDMENT BILL 2017

Amendment circulated by the Minister for Transport and City Services

1

Clause 9

Page 4, line 7—

omit clause 9, substitute

9 New sections 53A to 53E

insert

53A Complaints about attacking, harassing or menacing dogs

- (1) A person may complain in writing to the registrar about a dog if the dog—
 - (a) attacked or harassed a person or an animal; or
 - (b) is aggressive or menacing.
- (2) The registrar—
 - (a) must investigate the complaint if it is about an attack that caused the death of, or serious injury to, a person; and
 - (b) in any other case—may investigate the complaint.

Note The dog may be seized and impounded by an authorised person until the end of the investigation (see s 56A).
- (3) The registrar must tell the complainant in writing—
 - (a) whether or not the registrar investigated the complaint; and
 - (b) if an investigation was conducted—the outcome of the investigation.
- (4) The registrar may make guidelines about how the registrar investigates complaints.
- (5) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

53B Dealing with attacking dogs—death or serious injury to person or death of animal

- (1) This section applies if the registrar is reasonably satisfied, because of a complaint or otherwise, that—

- (a) a dog attacked a person or an animal; and
 - (b) the attack caused—
 - (i) the death of the person; or
 - (ii) serious injury to the person; or
 - (iii) the death of the animal.
- (2) The registrar must destroy the dog.
- (3) However, subsection (2) does not apply if, and only if, the registrar is reasonably satisfied the dog is not likely to be a danger to the public or another animal.
- (4) For subsection (3), the registrar may consider—
- (a) the circumstances of the attack including whether—
 - (i) the person or animal provoked the dog; or
 - (ii) the person or animal was attacked because the dog came to the aid of a person or animal the dog could be expected to protect; or
 - (iii) if the attack was on premises occupied by the keeper of the dog—the person or animal was on the premises without lawful excuse; and
 - (b) whether reasonable steps can be taken to reduce the risk of the dog endangering the public and other animals; and
 - (c) any other relevant matter.
- (5) The registrar may destroy the dog if—
- (a) the registrar gives the dog’s keeper written notice of the decision to destroy the dog; and
 - (b) the dog’s keeper—
 - (i) does not, within 7 days after the day the notice is given (the **application period**), apply to the ACAT under section 120 for review of the decision; or
 - (ii) applies to the ACAT under section 120 for review of the decision within the application period and the registrar’s decision to destroy the dog is confirmed.
- (6) If the registrar decides not to destroy the dog, the registrar may issue a control order for the dog to the dog’s keeper.

Note 1 The registrar may declare a dog to be a dangerous dog if the dog attacked a person or animal—see s 22 (2).

Note 2 The registrar must give a reviewable decision notice for s (2) and s (6) to the keeper and must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see s 119 and *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

53C Dealing with attacking, harassing or menacing dogs generally

- (1) This section applies if the registrar is reasonably satisfied, because of a complaint or otherwise, that a dog—
 - (a) attacked a person or an animal and the attack caused—
 - (i) an injury (other than a serious injury) to the person; or
 - (ii) serious injury to the animal; or
 - (b) harassed a person or an animal; or
 - (c) is aggressive or menacing.
- (2) The registrar may decide to destroy the dog.
- (3) In making a decision under subsection (2), the registrar—
 - (a) must consider—
 - (i) the safety of the public and other animals; and
 - (ii) if the dog attacked a person or animal—the circumstances of the attack including whether—
 - (A) the person or animal provoked the dog; or
 - (B) the person or animal was attacked because the dog came to the aid of a person or animal the dog could be expected to protect; or
 - (C) if the attack was on premises occupied by the keeper of the dog—the person or animal was on the premises without lawful excuse; and
 - (b) may consider any other relevant matter.
- (4) If the registrar decides not to destroy the dog, the registrar may issue a control order for the dog to the dog's keeper.

Note 1 The registrar may declare a dog to be a dangerous dog if the dog attacked a person or animal—see s 22 (2).

Note 2 The registrar must give a reviewable decision notice for s (2) and s (4) to the keeper and must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see s 119 and *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

53D Revocation of control order

- (1) The registrar may revoke a control order if reasonably satisfied, after carrying out an inspection, that—
 - (a) the order has been complied with; and
 - (b) adequate steps have been taken so that there is not an unacceptable risk to the safety of the public from the control order being revoked.

- (2) The registrar must give written notice of the revocation, and a statement of reasons for the revocation, to each person to whom notice of the control order was given.

53E Offence—failure to comply with control order

A person commits an offence if the person—

- (a) is a keeper of a dog; and
- (b) is issued with a control order in relation to the dog; and
- (c) does not comply with the control order.

Maximum penalty: 50 penalty units.
