



Australian Capital Territory

Domestic Animals Amendment Act 2014

A2014-39

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Offences against Act—application of Criminal Code etc Section 4A, note 1	2
5 New section 49A	2
6 Section 50	3
7 Section 50A heading	5
8 Section 50A (1) and (2)	6
9 New section 50A (5)	7

J2013-705

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

	Page
Schedule 1	
Magistrates Court (Domestic Animals Infringement Notices) Regulation 2005	8



Australian Capital Territory

Domestic Animals Amendment Act 2014

A2014-39

An Act to amend the *Domestic Animals Act 2000*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Domestic Animals Amendment Act 2014*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

This Act amends the *Domestic Animals Act 2000*.

Note This Act also amends the *Magistrates Court (Domestic Animals Infringement Notices) Regulation 2005* (see sch 1).

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

omit

- s 50A (Allowing dangerous dog to harass etc)

substitute

- s 49A (Dog attacks or harasses person or animal)
- s 50 (Dog attacks person or animal causing serious injury)
- s 50A (Dangerous dog attacks or harasses person or animal)

5 New section 49A

insert

49A Dog attacks or harasses person or animal

- (1) A person commits an offence if—
- (a) the person is the carer for a dog; and
 - (b) the dog attacks or harasses another person or animal.

Maximum penalty: 50 penalty units.

-
- (2) A person commits an offence if—
- (a) the person is the keeper of a dog; and
 - (b) the dog attacks or harasses another person or animal.
- Maximum penalty: 50 penalty units.
- (3) An offence against this section is a strict liability offence.
- (4) It is a defence to a prosecution for an offence against this section if the defendant proves that—
- (a) the person or animal provoked the dog; or
 - (b) the person or animal was attacked or harassed because the dog came to the aid of a person or animal the dog could be expected to protect; or
 - (c) if the attack or harassment was on premises occupied by the defendant—the person was on the premises without lawful excuse.
- (5) Also, it is a defence to a prosecution for an offence against subsection (2) if the defendant proves that someone else was, at the time of the offence, the carer for the dog.

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

6 Section 50

substitute

50 Dog attacks person or animal causing serious injury

- (1) A person commits an offence if—
- (a) the person is the carer for a dog; and
 - (b) the person does or omits to do something; and

- (c) the act or omission results in the dog attacking another person or animal; and
- (d) the attack causes serious injury to the other person or animal; and
- (e) the person intends the attack to cause, or is reckless about the attack causing, serious injury to the other person or animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if—
 - (a) the person is the keeper of a dog; and
 - (b) the person does or omits to do something; and
 - (c) the act or omission results in the dog attacking another person or animal; and
 - (d) the attack causes serious injury to the other person or animal; and
 - (e) the person intends the attack to cause, or is reckless about the attack causing, serious injury to the other person or animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that—
 - (a) the person or animal provoked the dog; or
 - (b) the person or animal was attacked or harassed because the dog came to the aid of a person or animal the dog could be expected to protect; or
 - (c) if the attack or harassment was on premises occupied by the defendant—the person was on the premises without lawful excuse.

- (4) Also, it is a defence to a prosecution for an offence against subsection (2) if the defendant proves that someone else was, at the time of the offence, the carer for the dog.

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

- (5) If a person charged with an offence under this section is convicted, or found guilty, of the offence—
- (a) the court must order the dog be destroyed, unless satisfied there are special circumstances that justify not doing so; or
 - (b) if the court is satisfied that there are special circumstances—
 - (i) declare the dog to be a dangerous dog; and
 - (ii) order the dog and its owner complete an approved course in behavioural or socialisation training for the dog.

- (6) In this section:

serious injury, of a person or animal, means any injury (including the cumulative effect of more than 1 injury) that—

- (a) endangers, or is likely to endanger, the person or animal's life; or
- (b) is, or is likely to be, a significant or longstanding injury.

7 Section 50A heading

substitute

50A Dangerous dog attacks or harasses person or animal

8 Section 50A (1) and (2)

substitute

- (1) A person commits an offence if—
- (a) the person is the keeper of a dangerous dog; and
 - (b) the person does or omits to do something; and
 - (c) the act or omission results in the dog attacking or harassing another person or animal.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if—
- (a) the person is a keeper of a dangerous dog; and
 - (b) the person does or omits to do something; and
 - (c) the act or omission results in the dog attacking another person or animal; and
 - (d) the attack causes serious injury to the other person or animal; and
 - (e) the person intends the attack to cause, or is reckless about the attack causing, serious injury to the other person or animal.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

- (2A) It is a defence to a prosecution for an offence against this section if the defendant proves that—
- (a) the person or animal provoked the dog; or
 - (b) the person or animal was attacked or harassed because the dog came to the aid of a person or animal the dog could be expected to protect; or

- (c) if the attack or harassment was on premises occupied by the defendant—the person was on the premises without lawful excuse.

Note The defendant has a legal burden in relation to the matters mentioned in s (2A) (see [Criminal Code](#), s 59).

9 New section 50A (5)

insert

- (5) In this section:

serious injury, of a person or animal—see section 50 (6).

Schedule 1 Magistrates Court (Domestic Animals Infringement Notices) Regulation 2005

(see s 3)

[1.1] Schedule 1, part 1.1, items 33 and 34

substitute

33	49A (1)	dog attacks or harasses person/animal—carer	50	350
34	49A (2)	dog attacks or harasses person/animal— keeper	50	350

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 5 June 2014.

2 Notification

Notified under the [Legislation Act](#) on 30 September 2014.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Domestic Animals Amendment Bill 2014, which was passed by the Legislative Assembly on 18 September 2014.

Acting Clerk of the Legislative Assembly

© Australian Capital Territory 2014