

2015

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Territory and Municipal Services)

# Domestic Animals (Breeding) Legislation Amendment Bill 2015

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# **Domestic Animals (Breeding) Legislation Amendment Bill 2015**

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## **A Bill for**

An Act to amend legislation about domestic animals, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Domestic Animals (Breeding) Legislation*  
4 *Amendment Act 2015*.

5 **2 Commencement**

6 This Act commences on a day fixed by the Minister by written  
7 notice.

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

10 *Note 2* A single day or time may be fixed, or different days or times may be  
11 fixed, for the commencement of different provisions (see [Legislation](#)  
12 [Act](#), s 77 (1)).

13 *Note 3* If a provision has not commenced within 6 months beginning on the  
14 notification day, it automatically commences on the first day after that  
15 period (see [Legislation Act](#), s 79).

16 **3 Legislation amended**

17 This Act amends the following legislation:

- 18 • [Animal Welfare Act 1992](#)  
19 • [Domestic Animals Act 2000](#)  
20 • [Domestic Animals Regulation 2001](#).

## Part 2                      Animal Welfare Act 1992

### 4                      New section 4A

*insert*

#### 4A                      Objects of Act

The objects of this Act are to—

- (a) promote and protect the welfare, safety and health of animals;  
and
- (b) ensure the proper and humane care and management of  
animals; and
- (c) reflect the community's expectation that people who keep or  
care for animals will ensure that they are properly treated.

### 5                      New section 15B

*insert*

#### 15B                      Intensive breeding of cats or dogs

(1) For this section, the Minister may determine a standard for the  
breeding of cats or dogs (a *breeding standard*).

(2) A determination is a disallowable instrument.

*Note*                      A disallowable instrument must be notified, and presented to the  
Legislative Assembly, under the [Legislation Act](#).

(3) A breeding standard may provide for any matter that the Minister  
reasonably considers is appropriate to protect the welfare, safety or  
health of fertile cats and dogs in relation to breeding.

#### **Examples**

- 1     the minimum age for a dog before first mating
- 2     the age at which, or number of litters after which, a dog must be retired from  
breeding

1                   3    the maximum number of litters a cat may have in a 12-month period, or in  
2                            her lifetime

3                   *Note*    An example is part of the Act, is not exhaustive and may extend, but  
4                            does not limit, the meaning of the provision in which it appears (see  
5                            [Legislation Act](#), s 126 and s 132).

6                   (4) A person commits an offence if the person—

7                           (a) is in charge of a female cat or dog; and

8                           (b) allows the cat or dog to breed; and

9                           (c) is reckless as to whether the breeding contravenes a breeding  
10                           standard.

11                   Maximum penalty: 50 penalty units.

12                   (5) A person commits an offence if the person—

13                           (a) is in charge of a female cat or dog; and

14                           (b) allows the cat or dog to breed in a way that contravenes a  
15                           breeding standard; and

16                           (c) does so with the intention of making a profit or commercial  
17                           gain.

18                   Maximum penalty: 100 penalty units.

19                   (6) Subsections (4) and (5) do not apply if the person allows the cat or  
20                           dog to breed in accordance with the written approval of a veterinary  
21                           surgeon.

22                   **6                   Contents**  
23                            **Section 21, new paragraph (ea)**

24                            *insert*

25                           (ea) the breeding and selling of cats or dogs with heritable defects;

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## Part 3 Domestic Animals Act 2000

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

*insert*

- s 72 (Breeding dogs and cats—requirement to be licensed)
- s 72I (Breeding licensee—change of address)
- s 72K (Breeding—advertising requirements)
- s 72L (Breeding—surrender of licence)

### 8 Multiple dog licences—approval or refusal Section 20 (2) (c)

*after*

approved

*insert*

or mandatory

### 9 Seizure of dogs—general New section 56 (ea)

*insert*

(ea) the court has ordered the dog be destroyed under section 50A (4) (Dangerous dog attacks or harasses person or animal); or

**10        Releasing dogs seized under attacking and harassing power**  
**Section 64 (2) (c)**

*substitute*

(c) the court has not ordered the dog be destroyed under—

(i) section 50 (5) (Dog attacks person or animal causing serious injury); or

(ii) section 50A (4) (Dangerous dog attacks or harasses person or animal); and

**11        New division 3.1 and division 3.2 heading**

*insert*

**Division 3.1                    Controlling breeding**

**72            Offence—breeding dog or cats without licence**

(1) A person commits an offence if the person—

(a) is a keeper or carer of a female dog or cat; and

(b) breeds a litter from the dog or cat for profit or commercial gain; and

(c) does not hold a breeding licence.

Maximum penalty: 50 penalty units.

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

**72A          Breeding licence—applications**

A person may apply to the registrar for a licence to breed a dog or cat (a ***breeding licence***).

*Note*        If a form is approved under s 147 for this provision, the form must be used.



**72B Breeding licence—approval or refusal**

- (1) If an application for a breeding licence is made under section 72A, the registrar must—
- (a) issue the licence; or
  - (b) refuse to issue the licence.
- (2) The registrar must refuse to issue a breeding licence unless satisfied that the applicant can comply with the requirements of the *Animal Welfare Act 1992* and any approved or mandatory code of practice under that Act.
- (3) In making a decision under this section, the registrar must consider the following:
- (a) the number and kind of animals kept by the applicant at the premises to which the application relates;
  - (b) the size and nature of the premises to which the application relates;
  - (c) the suitability of facilities on the premises for keeping and breeding dogs or cats;
  - (d) the potential impact on the occupiers of neighbouring premises;
  - (e) whether the applicant is a member of a recognised breeding organisation;
  - (f) any conviction or finding of guilt of the applicant within the last 10 years against a law of a State or Territory for an offence relating to the welfare, keeping or control of an animal.
- (4) Subsection (3) does not limit the matters the registrar may consider.

**72C Breeding licence—duration**

A breeding licence is in force unless it is surrendered or cancelled.

1     **72D       Breeding licence—form**

- 2             (1) A breeding licence must—
- 3                 (a) be in writing; and
- 4                 (b) state the following information:
- 5                     (i) the name of the licensee;
- 6                     (ii) the address or location of the premises to which the
- 7                         licence relates;
- 8                     (iii) the conditions on the licence;
- 9                     (iv) the unique licence number relating to the licence;
- 10                  (v) anything else prescribed by regulation.
- 11             (2) A licence may include anything else the registrar considers relevant.

12     **72E       Breeding licence—conditions**

- 13             (1) The registrar may issue a breeding licence on conditions stated in
- 14                 the licence.
- 15             (2) A breeding licence is subject to the condition that the licensee
- 16                 complies with any relevant breeding standard determined under the
- 17                 *Animal Welfare Act 1992*, section 15B (Intensive breeding of cats or
- 18                 dogs).
- 19             (3) In making a decision whether or not to impose a condition on a
- 20                 breeding licence, the registrar must consider the following:
- 21                 (a) the number and kind of animals kept by the applicant at the
- 22                     premises to which the application relates;
- 23                 (b) the size and nature of the premises to which the application
- 24                     relates;
- 25                 (c) the potential impact on the occupiers of neighbouring
- 26                     premises.

- 1           (4) Subsection (3) does not limit the matters the registrar may consider.

2       **72F       Breeding licence—variation**

- 3           (1) On application by the holder of a breeding licence, the registrar may  
4           vary the licence.

5           *Note*       If a form is approved under s 147 for this provision, the form must be  
6                       used.

- 7           (2) The registrar may vary a breeding licence on the registrar's own  
8           initiative if the registrar is satisfied that it is in the public interest to  
9           do so.

- 10          (3) Before varying a breeding licence on the registrar's own initiative,  
11          the registrar must give the licensee a written notice—

- 12               (a) stating how the registrar proposes to vary the licence; and  
13               (b) stating the reasons why the registrar proposes to vary the  
14               licence; and  
15               (c) telling the licensee that the licensee may give a written  
16               response to the registrar about the matters stated in the notice  
17               within 14 days beginning on the day after receiving the notice.

18          *Note*       For how documents may be given, see the [Legislation Act](#), pt 19.5.

- 19          (4) In making a decision under subsection (1) or (2), the registrar must  
20          consider—

- 21               (a) the matters mentioned in section 72B (3) (Breeding licence—  
22               approval or refusal); and  
23               (b) any breach of the conditions of the licence.

- 24          (5) In making a decision whether to vary the breeding licence on the  
25          registrar's own initiative, the registrar must consider any response  
26          given to the registrar in accordance with subsection (3) (c).

- 27          (6) Subsections (4) and (5) do not limit the matters the registrar may  
28          consider.

- 1           (7) The registrar must refuse to vary a breeding licence if the registrar  
2           must refuse under section 72B (2) (Breeding licence—approval or  
3           refusal) to issue the licence as varied.
- 4           (8) The registrar must give the licensee written notice of the registrar’s  
5           decision.
- 6           (9) A variation of a breeding licence takes effect on the day notice of  
7           the variation is given to the licensee or, if the notice provides for a  
8           later day, that day.

9       **72G       Breeding licence—cancellation**

- 10          (1) The registrar may cancel a breeding licence if—
- 11               (a) the registrar becomes aware of circumstances that, if the  
12               registrar had been aware of them at the time of the application  
13               for the licence, would have resulted in the application being  
14               refused; or
- 15               (b) the licensee contravenes a condition of the licence; or
- 16               (c) the licence was obtained by a false or misleading statement.
- 17          (2) Before cancelling a breeding licence, the registrar must give the  
18          licensee a written notice—
- 19               (a) stating the grounds on which the registrar proposes to cancel  
20               the licence; and
- 21               (b) stating the facts that, in the registrar’s opinion, establish the  
22               grounds; and
- 23               (c) telling the licensee that the licensee may give a written  
24               response to the registrar about the matters in the notice, within  
25               14 days beginning on the day after receiving the notice.

26          *Note*       For how documents may be given, see the [Legislation Act](#), pt 19.5.

- 1           (3) In deciding whether to cancel the licence, the registrar must consider  
2           any response given to the registrar in accordance with  
3           subsection (2) (c).
- 4           (4) The registrar must give the licensee written notice of the registrar's  
5           decision.
- 6           (5) Cancellation of a breeding licence takes effect on the day notice of  
7           the cancellation is given to the licensee or, if the notice provides for  
8           a later day, that day.

9       **72H       Breeding licence—cancellation or disqualification from**  
10       **holding**

- 11           (1) If a person is convicted or found guilty of an animal welfare offence  
12           or an offence against this Act (other than an excluded offence), the  
13           court may—
- 14               (a) cancel a breeding licence held by the person; or
- 15               (b) disqualify the person from holding a breeding licence for a  
16               period decided by the court.
- 17           (2) In making a decision under subsection (1), the court must  
18           consider—
- 19               (a) the acts or omissions of the person constituting the offence;  
20               and
- 21               (b) any conviction or finding of guilt of the person within the last  
22               10 years for an offence against a law of a State or Territory  
23               relating to the welfare, keeping or control of an animal.
- 24           (3) Subsection (2) does not limit the matters that the court may  
25           consider.
- 26           (4) If the court cancels or disqualifies a person from holding a breeding  
27           licence, the court must give particulars of the cancellation or  
28           disqualification to the registrar.

- 1     **72I           Offence—licensee change of address**
- 2           A person commits an offence if the person—
- 3           (a) holds a breeding licence; and
- 4           (b) changes address; and
- 5           (c) does not tell the registrar of the change in address within
- 6                 30 days after the change.
- 7           Maximum penalty: 1 penalty unit.
- 8     **72J           Breeding—recognised breeding organisation**
- 9           (1) The registrar may declare that a breeding organisation is a
- 10                 recognised breeding organisation.
- 11           (2) A declaration is a notifiable instrument.
- 12           *Note*       A notifiable instrument must be notified under the [Legislation Act](#).
- 13     **72K           Offence—advertising requirements**
- 14           (1) A person who holds a breeding licence commits an offence if the
- 15                 person—
- 16           (a) breeds a dog or cat; and
- 17           (b) publishes a statement that either—
- 18                 (i) constitutes an invitation to buy the dog or cat from the
- 19                         person; or
- 20                 (ii) could reasonably be understood to constitute an invitation
- 21                         to buy the dog or cat from the person; and
- 22           (c) does not include in the publication the breeding licence
- 23                 number.
- 24           Maximum penalty: 10 penalty units.
- 25           (2) An offence against this section is a strict liability offence.

1     **72L       Offence—surrender of breeding licence**

2             A person commits an offence if the person—

- 3             (a) holds a breeding licence; and
- 4             (b) ceases to operate a business to breed under the licence; and
- 5             (c) fails to surrender the licence to the registrar within 30 days of
- 6                 ceasing to operate the business.

7             Maximum penalty: 1 penalty unit.

8     **Division 3.2           Controlling dogs and cats**

9     **12       Multiple cat licences—approval or refusal**

10     **Section 84C (2)**

11             *after*

12             approved

13             *insert*

14             or mandatory

15     **13       Entry and exercise of powers in emergency situations**

16     **Section 130 (1) (a)**

17             *substitute*

- 18             (a) reasonably believes that an offence under 1 of the following
- 19                 provisions has been, is being or will be committed:

- 20                 (i) section 49A (Dog attacks or harasses person or animal);
- 21                 (ii) section 50 (Dog attacks person or animal causing serious
- 22                     injury);

1 (iii) section 50A (Dangerous dog attacks or harasses person or  
2 animal);

3 (iv) section 51 (Encouraging dogs to attack or harass); and

4 **14 Dictionary, definition of *animal welfare offence*, new**  
5 **paragraph (oa)**

6 *insert*

7 (oa) section 15B (Intensive breeding of cats or dogs);

8 **15 Dictionary, new definitions**

9 *insert*

10 *breeding licence*—see section 72A.

11 *recognised breeding organisation* means an organisation declared  
12 as a recognised breeding organisation under section 72J.



## Part 4 Domestic Animals Regulation 2001

### 16 Reviewable decisions Schedule 1, new items 13A to 13E

*insert*

13A	<a href="#">Act</a> , 72B (1) (b)	refuse to issue breeding licence	applicant for licence
13B	<a href="#">Act</a> , 72E (1)	impose condition on breeding licence	licensee
13C	<a href="#">Act</a> , 72F (1)	refuse to vary breeding licence	licensee
13D	<a href="#">Act</a> , 72F (2)	vary breeding licence on registrar's initiative	licensee
13E	<a href="#">Act</a> , 72G (1)	cancel a breeding licence	person whose licence cancelled

### 17 Dictionary, definition of *corresponding law*, paragraph (b)

*substitute*

(b) [Companion Animals Regulation 2008](#) (NSW);

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 19 February 2015.

**2 Notification**

Notified under the [Legislation Act](#) on 2015.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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