

EXPOSURE DRAFT

Nicole Lawder

(Prepared by Parliamentary Counsel's Office)

Domestic Animals (Dangerous Dogs) Legislation Amendment Bill 2018

Contents

		Page
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2

		Page
Part 2	Domestic Animals Act 2000	
4	Offences against Act—application of Criminal Code etc Section 4A, note 1	3
5	Declarations—dangerous dogs Section 22 (1) (b)	3
6	Section 22 (2) (a)	3
7	Sections 53A to 53C	3
8	Section 56A	7
9	Sections 59 and 64	8
10	Section 65A	8
11	Selling or destroying dogs (other than dangerous dogs) generally Section 66 (1) (b)	9
12	Dictionary, new definition of <i>domestic animal</i>	9
Part 3	Domestic Animals Regulation 2001	
13	Section 6E heading	10
14	Reviewable decisions Schedule 1, items 17 to 19	10
Part 4	Magistrates Court (Domestic Animals Infringement Notices) Regulation 2005	
15	Domestic animals legislation infringement notice offences and penalties Schedule 1, part 1.1, item 36	11

EXPOSURE DRAFT

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Domestic Animals (Dangerous Dogs) Legislation Amendment Bill 2018

A Bill for

An Act to amend legislation about dangerous dogs

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

Part 1 Preliminary

1 Name of Act

This Act is the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2018*.

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 following legislation:

- [Domestic Animals Act 2000](#)
- [Domestic Animals Regulation 2001](#)
- [Magistrates Court \(Domestic Animals Infringement Notices\) Regulation 2005](#).

Part 2 Domestic Animals Act 2000

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

omit

- s 56A (6) (Seizure of dogs—investigation of complaints about attacking, harassing or menacing dogs)

5 Declarations—dangerous dogs Section 22 (1) (b)

substitute

- (b) the dog has attacked a person; or
- (ba) the dog has attacked and caused the death of or serious injury to a domestic animal; or

6 Section 22 (2) (a)

substitute

- (a) the dog has harassed a person or animal; or
- (aa) the dog has attacked an animal other than a domestic animal; or

7 Sections 53A to 53C

substitute

53A Investigation of attacking, harassing or menacing dogs

- (1) The registrar must investigate—
 - (a) an attack by a dog that caused the death of or serious injury to a person or domestic animal; and

EXPOSURE DRAFT

- (b) a written complaint about a menacing, aggressive or harassing dog, unless satisfied the complaint is frivolous or vexatious.

Note The dog must be seized and impounded until the investigation is completed (see s 56A).

- (2) Subsection (1) (a) applies regardless of how the registrar becomes aware of the attack.
- (3) The registrar must, within 14 days of completing an investigation, give written notice to the following people of the outcome of the investigation:
 - (a) the keeper and any carer of the dog;
 - (b) if a complaint was made—the complainant;
 - (c) people occupying property adjacent or nearby to premises where the dog is kept;
 - (d) the Minister.
- (4) The registrar must—
 - (a) keep a record of investigations conducted under this section; and
 - (b) at the end of each month, give a copy of the record to the Minister.
- (5) The registrar may make guidelines about how the registrar investigates complaints.
- (6) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

EXPOSURE DRAFT

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

- (1) This section applies if the registrar is reasonably satisfied that—
 - (a) a dog attacked a person or domestic 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 domestic animal.
- (2) The registrar must destroy the dog unless the registrar is reasonably satisfied that—
 - (a) 1 or more of the following applies:
 - (i) the person or domestic animal involved in the attack provoked the dog;
 - (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;
 - (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) the dog is not likely to be a danger to the public or another animal.
- (3) If the dog is not destroyed, the registrar must issue a control order for the dog to the dog's keeper or carer.

Note The registrar must also declare the dog to be a dangerous dog (see s 22).

EXPOSURE DRAFT

- (4) If the registrar issues a control order to a carer of the dog, the registrar must give a copy of the order to the dog's keeper.

53BA Dealing with attacking, harassing or menacing dogs generally

- (1) This section applies if the registrar is reasonably satisfied a dog—
- (a) attacked a person or animal and the attack caused—
 - (i) injury to the person; or
 - (ii) if the animal is a domestic animal—serious injury to the animal; or
 - (iii) if the animal is not a domestic animal—death or serious injury to the animal; or
 - (b) harassed a person or animal; or
 - (c) is aggressive or menacing.
- (2) The registrar may destroy the dog.
- (3) In making a decision under subsection (2), the registrar—
- (a) must consider if the dog is likely to be a danger to the public or another animal; and
 - (b) may consider any other relevant matter.
- (4) If the registrar decides not to destroy the dog, the registrar must issue a control order for the dog to the dog's keeper or carer.
- Note* The registrar must also declare the dog to be a dangerous dog if the dog attacked a person or domestic animal and may, in any other case, declare the dog to be a dangerous dog (see s 22).
- (5) If the registrar issues a control order to a carer of the dog, the registrar must give a copy of the order to the dog's keeper.

EXPOSURE DRAFT

53C Notice of destruction of dog

- (1) The registrar may only destroy a dog under section 53B or section 53BA 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.
- (2) However, subsection (1) does not apply if the registrar is reasonably satisfied that, because of the viciousness of the dog, the dog must be destroyed immediately.

Note Section 116 provides that if an animal is so vicious it cannot be impounded or seized it may be destroyed without notifying the keeper.

8 Section 56A

substitute

56A Seizure of dogs—attacking, harassing or menacing dogs

- (1) An authorised person must seize a dog if—
- (a) reasonably satisfied the dog—
 - (i) attacked a person or an animal and the attack caused—
 - (A) the death of or injury to the person; or

EXPOSURE DRAFT

- (B) serious injury to the person or animal; or
 - (ii) harassed a person or animal; or
 - (iii) is aggressive or menacing; or
- (b) a matter involving the dog is investigated under section 53A.
- (2) If an authorised person seizes a dog under this section, the authorised person must impound the dog until an investigation under section 53A is completed.

9 Sections 59 and 64*omit*

10 Section 65A*substitute***65A Releasing dogs seized because of investigation of attacking, harassing or menacing dog**

- (1) This section applies if a dog is seized under section 56A (Seizure of dogs—attacking, harassing or menacing dogs).
- (2) The registrar must not release the dog to a person claiming its release unless—
 - (a) the investigation under section 53A is completed; and
 - (b) the registrar is reasonably satisfied of the matters mentioned in section 62 (2) (excluding paragraph (d)).

EXPOSURE DRAFT

11 Selling or destroying dogs (other than dangerous dogs) generally
Section 66 (1) (b)

substitute

- (b) section 56A (Seizure of dogs—attacking, harassing or menacing dogs); or

12 Dictionary, new definition of *domestic animal*

insert

domestic animal means—

- (a) a dog or cat; or
(b) any other animal kept on premises by a person.

EXPOSURE DRAFT

Part 3 Domestic Animals Regulation 2001

13 Section 6E heading

substitute

6E Home impoundment prescribed conditions—Act, s 60 (4) (a)

14 Reviewable decisions Schedule 1, items 17 to 19

substitute

17	Act , 53B (3)	issue control order	keeper of dog
18	Act , 53BA (2)	destroy dog	keeper of dog
19	Act , 53BA (4)	issue control order	keeper of dog

omit

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