

# EXPOSURE DRAFT

**Minister for City Services**

(Prepared by Parliamentary Counsel's Office)

## **Animal Welfare Legislation Amendment Bill 2019**

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**Minister for City Services**

(Prepared by Parliamentary Counsel's Office)

## **Animal Welfare Legislation Amendment Bill 2019**

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### **A Bill for**

An Act to amend legislation about animal welfare, and for other purposes

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Animal Welfare Legislation Amendment Act 2019*.

### 2 Commencement

- (1) This Act (other than the following provisions) commences on the 7th day after its notification day:
- section 4
  - section 28
  - section 36
  - section 72
  - section 74
  - section 76
  - section 77
  - section 79
  - sections 104 and 105
  - section 132
  - part 4
  - sections 143 to 149
  - part 6.

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

- (2) The provisions mentioned in subsection (1) commence 6 months after this Act's notification day.

**3 Legislation amended**

This Act amends the following legislation:

- *Animal Welfare Act 1992*
- *Animal Welfare Regulation 2001*
- *Discrimination Act 1991*
- *Domestic Animals Act 2000*.

**4 Legislation repealed**

The *Discrimination Regulation 2016* (SL2016-23) is repealed.

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## Part 2 Animal Welfare Act 1992

### 5 Section 4A

*substitute*

#### 4A Objects of Act

- (1) The main objects of this Act are to recognise—
  - (a) that animals are sentient beings with intrinsic value; and
  - (b) that animals deserve to be treated with compassion and have a quality of life that reflects their intrinsic value; and
  - (c) that people have a duty to care for animals.
- (2) This is to be achieved particularly by—
  - (a) promoting and protecting the welfare of animals; and
  - (b) providing for the proper and humane care, management and treatment of animals; and
  - (c) deterring and preventing animal cruelty and the abuse and neglect of animals; and
  - (d) enforcing laws about the matters mentioned in paragraphs (a), (b) and (c).

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**6 Section 6A**

*substitute*

**6A Definitions—pt 2**

In this part:

***confine***, in relation to an animal, includes the following:

- (a) impair or injure the animal for the purpose of hindering, impeding or preventing the animal's freedom of movement;
- (b) use a device to hinder, impede or prevent the animal's freedom of movement;
- (c) tie up the animal.

***cruelty***, in relation to an animal, includes the following:

- (a) causing pain or injury to the animal that is unjustifiable, unnecessary or unreasonable in the circumstances;
- (b) hitting that causes pain or injury to the animal;
- (c) abusing, terrifying or tormenting the animal.

***poison*** includes glass or anything else that, if ingested by an animal, is likely to kill or injure the animal.

**7 Section 6B**

*substitute*

**6B Failure to provide appropriate care**

- (1) A person in charge of an animal commits an offence if the person fails to give the animal—
  - (a) appropriate food; or

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- (b) appropriate water; or
- (c) appropriate treatment for illness, disease or injury; or
- (d) appropriate shelter or accommodation; or
- (e) a clean and hygienic living environment; or
- (f) appropriate grooming and maintenance; or
- (g) appropriate exercise; or
- (h) appropriate opportunities to display behaviour that is normal for the animal; or
- (i) care that is appropriate for the animal's wellbeing.

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

- (2) It is a defence to a prosecution for an offence for a failure to give an animal a thing mentioned in subsection (1) (a) to (i) if the defendant proves that the defendant took reasonable steps to give the animal the thing.

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

- (3) If an inspector or authorised officer reasonably believes that a person in charge of an animal has failed to give an animal a thing mentioned in subsection (1), the inspector or authorised officer may give the person a written direction to do a reasonable stated thing within a reasonable stated time to rectify the failure.
- (4) A person commits an offence if the person—
- (a) is given a direction under subsection (3); and
  - (b) fails to comply with the direction.

Maximum penalty: 50 penalty units.

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(5) An offence against subsection (4) is a strict liability offence.

(6) In this section:

*appropriate* means suitable for the needs of the animal having regard to the species, environment and circumstances of the animal.

*treatment* includes veterinary treatment, including preventative treatment, if a reasonable person would expect veterinary treatment to be sought in the circumstances.

### **6C Failure to provide animal with water or shelter**

(1) A person in charge of an animal commits an offence if—

- (a) the person keeps an animal on premises; and
- (b) at any time when the person is not at the premises, the animal does not have access to water or shelter.

Maximum penalty: 25 penalty units.

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

### **6D Failure to provide animal with hygienic environment**

(1) A person in charge of an animal commits an offence if—

- (a) the person keeps an animal on premises; and
- (b) the premises where the animal is kept are unhygienic for the animal.

Maximum penalty: 25 penalty units.

#### **Examples**

faeces not removed, vermin infestation

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

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**6E Failure to properly groom and maintain animal**

- (1) A person in charge of an animal commits an offence if—
- (a) the person fails to groom or maintain the animal; and
  - (b) the failure causes, or is likely to cause, injury, pain or stress to the animal.

Maximum penalty: 25 penalty units.

**Examples**

- 1 skin irritation caused by flea infestation
- 2 impairment caused by unclipped nails
- 3 eye infection caused by hair growing over eyes

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

**6F Failure to exercise dog**

- (1) A person in charge of a dog commits an offence if—
- (a) the dog is closely confined for a continuous period of 24 hours; and
  - (b) the dog is not exercised, or allowed to exercise itself, for—
    - (i) the next 2 hours; or
    - (ii) the next 1 hour and for another hour in the next 24 hour period.

Maximum penalty: 25 penalty units.

- (2) In deciding if a dog is closely confined, regard must be had to the dog's age, physical condition and size.
- (3) Subsection (1) does not apply if the person has a reasonable excuse.
- (4) An offence against this section is a strict liability offence.

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**6G Abandoning an animal**

A person in charge of an animal commits an offence if the person—

- (a) leaves the animal at a place; and
- (b) either—
  - (i) knows no other person is able to care for, and consents to caring for, the animal; or
  - (ii) is reckless about whether another person is able to care for, and consents to caring for, the animal.

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

**8 Cruelty  
Section 7, penalty**

*substitute*

Maximum penalty: 100 penalty units, imprisonment for 2 years or both.

**9 Aggravated cruelty  
Section 7A (1), penalty**

*substitute*

Maximum penalty: 200 penalty units, imprisonment for 3 years or both.

**10 Section 7A (2), penalty**

*substitute*

Maximum penalty: 200 penalty units, imprisonment for 3 years or both.

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**11 New section 7C**

*insert*

**7C Hitting or kicking animal**

- (1) A person commits an offence if—
- (a) the person—
    - (i) hits an animal; or
    - (ii) kicks an animal; or
    - (iii) throws, or otherwise projects, something at an animal and hits the animal; and
  - (b) the action causes, or is likely to cause, the animal injury, pain or stress.

Maximum penalty: 25 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to a jockey using a whip on a horse in accordance with a rule of racing.

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

- (4) In this section:

***rule of racing*** means a rule made under the [Racing Act 1999](#), section 19 or section 25.

**12 Section 9***substitute***9 Unlawful confinement of animals**

- (1) A person commits an offence if—
- (a) the person confines an animal; and
  - (b) the confinement causes, or is likely to cause, the animal injury or pain.

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

- (2) A person in charge of an animal commits an offence if—
- (a) the person confines an animal; and
  - (b) the animal is not able to move in a way that is appropriate for the animal because of the confinement.

Maximum penalty: 50 penalty units.

**Example**

an animal in a crate that cannot stand or turn around

- (3) Subsection (2) does not apply if the person has a reasonable excuse.

**Example**

an animal needs to be confined, on veterinary advice, after a surgical procedure

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- (4) A person in charge of an animal commits an offence if—
- (a) the person confines an animal in a vehicle; and
  - (b) the confinement causes, or is likely to cause, the animal injury or pain.

Maximum penalty: 20 penalty units.

- (5) An offence against subsections (2) or (4) is a strict liability offence.

**13 Alleviation of pain  
Section 10 (1)**

*omit*

(other than a person in charge of an animal)

**14 Section 10 (2) and example and note**

*substitute*

- (2) A person commits an offence if—
- (a) the person injures a mammal; and
  - (b) the person knows, or ought to know because of the circumstances, the animal is injured; and
  - (c) the person is not a person in charge of the animal; and
  - (d) the person fails to tell a relevant person, within 2 hours after the injury, that—
    - (i) the animal is injured; and

- (ii) the location where the animal was injured.

Maximum penalty: 20 penalty units.

**Example—circumstances**

if a car hits a mammal—the size of the animal, witness accounts that the driver swerved or braked to avoid the animal or stopped after hitting the animal

**15 New section 10 (4)**

*insert*

- (4) In this section:

*Access Canberra* means the business unit known as Access Canberra.

*relevant person* means—

- (a) if a domestic animal was injured—a person in charge of the animal; or
- (b) the authority; or
- (c) an inspector; or
- (d) Access Canberra.

**16 Section 11**

*substitute*

**11 Unlawful release of animal**

- (1) A person commits an offence if the person—
- (a) releases an animal from another person's custody or control; and

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- (b) the person does not have the other person's consent to release the animal.

Maximum penalty: 50 penalty units.

**Examples—par (a)**

- 1 takes a dog off its lead
- 2 leaves the gate for a yard of cattle open
- 3 takes a reptile from a tank

- (2) A person in charge of an animal commits an offence if the person—
  - (a) keeps the animal on premises; and
  - (b) fails to take reasonable precautions to stop the animal escaping the premises.

Maximum penalty: 50 penalty units.

**Example—par (b)**

an animal is kept in a garden with broken fencing

- (3) An offence against this section is a strict liability offence,
- (4) This section does not apply if the person has a reasonable excuse.
- (5) This section does not apply to a domestic cat if—
  - (a) the cat is not required to be contained under territory law; and
  - (b) the release of the cat is consistent with the reasonable management and control of the cat.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) and (5) (see [Criminal Code](#), s 58).

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**17 Laying poison  
Section 12A (3) to (5)**

*substitute*

- (3) A person commits an offence if—
- (a) the person lays a poison; and
  - (b) the poison could kill or injure a domestic or native animal.

Maximum penalty: 20 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.

**18 Electrical devices  
New section 13 (2)**

*insert*

- (2) A person commits an offence if—
- (a) the person places a device on, or attaches a device to, an animal;  
and
  - (b) the device is intended to administer an electric shock to the animal.

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

**19 Use or possession of prohibited item  
Section 14 (1)**

*omit*

a prohibited item

*substitute*

an item prescribed by regulation (a *prohibited item*)

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**20 New section 14 (2A)**

*insert*

(2A) An offence against subsection (2) is a strict liability offence.

**21 Section 14 (4)**

*omit*

**22 Section 15**

*substitute*

**15 Transport and containment**

A person commits an offence if the person transports or contains an animal in a way that causes, or is likely to cause, the animal unnecessary injury, pain or stress.

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

**23 Transport of dogs  
Section 15A (1), penalty**

*substitute*

Maximum penalty: 50 penalty units.



**24 Intensive breeding of cats or dogs  
Section 15B (4) to (7)**

*substitute*

- (4) A person in charge of a female cat or dog commits an offence if the person allows the cat or dog to breed in a way that contravenes a breeding standard.

Maximum penalty: 50 penalty units.

- (5) An offence against subsection (4) is a strict liability offence.

**25 Sections 16 and 17**

*substitute*

**16 Using unfit animals**

- (1) A person commits an offence if—
- (a) the person uses an animal; and
  - (b) the animal is unfit for the use; and
  - (c) the person—
    - (i) knows the animal is unfit for the use; or
    - (ii) is negligent about whether the animal is fit for the use.

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

- (2) A person in charge of an animal commits an offence if—
- (a) the person authorises the use of the animal; and
  - (b) the person—
    - (i) knows the animal is unfit for the use; or

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(ii) is negligent about whether the animal is fit for the use.

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

(3) A person commits an offence if—

- (a) the person uses an animal; and
- (b) the animal is unfit for the use.

Maximum penalty: 50 penalty units

**Examples**

- the animal has recently given birth
- the animal is sick or injured
- the animal is used in a children’s petting zoo and is distressed by the contact

(4) An offence against subsection (3) is a strict liability offence.

(5) In this section:

**display**, an animal—

- (a) means to put an animal in a prominent place for the purposes of making the animal visible to people; and
- (b) includes display an animal—
  - (i) for sale; or
  - (ii) in an exhibition.

**show**, an animal, means to enter the animal in a show, sport, contest or competition.

**use**, an animal, includes display, drive, ride, show or work the animal.

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**17 Violent animal activities**

- (1) A person commits an offence if the person takes part in a violent animal activity.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

- (2) A person commits an offence if the person—

- (a) attends a violent animal activity; or
- (b) is at a place where a violent animal activity occurs within 2 hours before the activity occurring.

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

- (3) It is a defence to a prosecution for an offence against—

- (a) subsection (2), if the defendant proves that the defendant did not know, and could not reasonably have been expected to have known, that the activity was occurring in the place; and
- (b) subsection (2) (b), if the defendant proves that the defendant left the place before the activity started.

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

- (4) In this section:

***live baiting*** means using an animal, whether alive or dead, to train another animal to chase real or simulated animals when racing or hunting.

***takes part in***—a person ***takes part in*** an activity if the person does 1 or more of the following:

- (a) organises or conducts the activity;

**EXPOSURE DRAFT**

- (b) promotes the activity;
- (c) allows the activity to occur on premises, or in a place, owned or occupied by the person;
- (d) provides an animal or thing to be used in relation to the activity;
- (e) undertakes any other activity relating to the activity.

**use**, an animal, includes capture, contain or release the animal.

**violent animal activity**—

- (a) means the use of an animal—
  - (i) to hunt or catch another animal; or
  - (ii) to fight another animal; or
  - (iii) to injure another animal; or
  - (iv) to kill another animal; and
- (b) includes—
  - (i) an organised animal fight or match; and
  - (ii) a hunting competition; and
  - (iii) live baiting; and
  - (iv) training an animal to do any of the things mentioned in paragraph (a).

**26****Rodeos and game parks  
Section 18 (3), new definition of *rodeo***

*insert*

**rodeo** means a public exhibition, including a competition, of activities derived from work on a cattle station including riding horses or steers bareback and roping calves.

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**27 Medical and surgical procedures—people other than veterinary surgeons  
Section 19 (2) (c)**

*before*

an animal ethics committee

*insert*

the authority or

**28 Exception—conduct in accordance with approved code of practice or mandatory code of practice  
Section 20 (e)**

*omit*

(Matches, competitions etc)

*substitute*

(Violent animal activities)

**29 Contents  
New sections 21 (ta) to (tc)**

*insert*

- (ta) the operation of pet shops and other businesses that buy or sell animals as pets;
- (tb) the operation of businesses that board animals;
- (tc) the operation of any other business that deals with pets;

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**30 Failure to comply with mandatory code of practice  
Section 24B (2)**

*omit*

**31 Direction to comply with mandatory code  
Section 24C (1)**

*omit*

must

*substitute*

may

**32 Section 24C (1) (b)**

*omit*

**33 New section 24C (2) (aa)**

*insert*

(aa) if appropriate, state what must be done to rectify the breach, and, if reasonable, who must do it; and

**34 Section 24C (2) (c)**

*after*

section 24B

*insert*

or section 24D

**35 New section 24D**

*in part 3, insert*

**24D Failure to comply with direction to comply with mandatory code**

- (1) A person commits an offence if—
  - (a) an inspector or authorised officer gives the person a direction under section 24C; and
  - (b) the person fails to comply with the direction.Maximum penalty: 20 penalty units.
- (2) An offence against this section is a strict liability offence.

**36 New part 3A**

*insert*

**Part 3A Pet businesses****Division 3A.1 Preliminary****24E Definitions—pt 3A**

In this part:

*board*, an animal, includes board the animal during the day or overnight.

*pet business*—

- (a) means—
  - (i) a pet shop; or

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- (ii) a business that boards an animal; or
  - (iii) a business prescribed by regulation; but
- (b) does not include—
- (i) a veterinary practice that boards an animal; or
  - (ii) an entity that sells or boards an animal for an animal welfare or benevolent purpose; or
  - (iii) an entity prescribed by regulation.

**Example—par (b) (ii)**

RSPCA, a foster carer for guide dogs

*pet shop* means a business that buys or sells animals to be kept as pets.

## **Division 3A.2      Pet business licensing**

### **24F      Pet business licence application**

- (1) A person may apply to the authority for a licence to operate a pet business.
- (2) The application must—
  - (a) be in writing; and
  - (b) state—
    - (i) the applicant's name; and
    - (ii) the applicant's contact details; and
    - (iii) the applicant's trading name; and
    - (iv) the applicant's proposed trading address or addresses; and
    - (v) the nature of the pet business; and

## **EXPOSURE DRAFT**



- (c) describe the premises from which the business will operate; and
- (d) include any information prescribed by regulation.

*Note* A fee may be determined under s 110 for this provision.

## **24G Issue of pet business licence**

- (1) If a person applies for a pet business licence, the authority must, within 30 days—
  - (a) issue the licence; or
  - (b) refuse to issue the licence.

*Note* A pet business licence may be issued subject to a condition (see s 24I).

- (2) The authority may issue the pet business licence to the person only if the authority is satisfied—
  - (a) about the identity of the applicant, or, if the applicant is a corporation, of each relevant person; and
  - (b) that the person—
    - (i) intends to carry out the business on suitable premises; and
    - (ii) meets any requirements for a pet business prescribed by regulation.
- (3) In this section:

***related corporation*** means a related body corporate under the [Corporations Act](#).

***relevant person***, for a corporation, means any of the following:

- (a) an executive officer (however described) of the corporation;
- (b) a person who may exercise a relevant power in relation to the corporation;

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- (c) a related corporation;
- (d) an executive officer (however described) of a related corporation.

*relevant power*, for a corporation, means a power—

- (a) to take part in a directorial, managerial or executive decision for the corporation; or
- (b) to elect or appoint a person as an executive officer (however described) in the corporation; or
- (c) to exercise a significant influence in relation to the conduct of the corporation.

#### **24H Pet business licence term and form**

- (1) A pet business licence may be issued for up to 5 years.
- (2) A pet business licence must state, in writing—
  - (a) a unique identifying number for the licence; and
  - (b) the licensed pet business's name; and
  - (c) the licensed pet business's trading name; and
  - (d) the nature of the pet business; and
  - (e) the date the licence expires; and
  - (f) any condition that applies to the licence.

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**24I Conditions for pet business licence**

- (1) A pet business licence is subject to any condition—
  - (a) imposed by the authority when issuing the licence; and
  - (b) by written notice given to the licensed pet business at any other time; and
  - (c) prescribed by regulation.
- (2) It is also a condition of a pet business licence that the pet business comply with any relevant mandatory code of practice.
- (3) The authority may only impose a condition on a licence if satisfied on reasonable grounds the condition is in the interest of animal welfare.

**24J Transfer application**

- (1) A licensed pet business may apply to the authority to transfer a pet business licence to another person (the *transferee*).
- (2) An application must—
  - (a) be in writing; and
  - (b) include evidence to show that the licensed pet business and transferee agree to the transfer; and
  - (c) state—
    - (i) the transferee's name; and
    - (ii) the transferee's trading name; and
    - (iii) the transferee's proposed trading address or addresses; and
    - (iv) the applicant's proposed trading address or addresses; and
    - (v) the nature of the pet business; and

**EXPOSURE DRAFT**

- (d) describe the premises from which the business will operate; and
- (e) include any information prescribed by regulation.

**24K Transfer decision**

- (1) If a licensed pet business applies to transfer a pet business licence, the authority must, within 30 days—
  - (a) approve the transfer; or
  - (b) refuse to approve the transfer.
- (2) The authority may approve the transfer to the transferee only if the authority is satisfied—
  - (a) about the identity of the applicant, or, if the applicant is a corporation, of each relevant person; and
  - (b) that the person—
    - (i) intends to carry out the business on suitable premises; and
    - (ii) meets any requirement for a pet business prescribed by regulation.
- (3) A transfer is subject to any condition imposed by the authority when approving the transfer.
- (4) The authority may only impose a condition on a licence if satisfied on reasonable grounds the condition is in the interest of animal welfare.

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(5) In this section:

*relevant person*—see section 24G (3).

#### **24L Renewal application**

- (1) A licensed pet business may apply, in writing, to the authority to renew the pet business licence up to 6 months before the licence expires.
- (2) The application must—
  - (a) be in writing; and
  - (b) state—
    - (i) the applicant's name; and
    - (ii) the applicant's contact details; and
    - (iii) the applicant's trading name; and
    - (iv) the applicant's proposed trading address or addresses; and
    - (v) the nature of the pet business; and
  - (c) describe the premises from which the business will operate; and
  - (c) include any information prescribed by regulation.
- (3) If a licensed pet business applies to renew a licence, the licence remains in force until the application is decided.

#### **24M Renewal decision**

- (1) If a licensed pet business applies to renew a licence, the authority must, within the 30 days—
  - (a) renew the licence; or
  - (b) refuse to renew the licence.

## **EXPOSURE DRAFT**

- (2) However, if the authority has asked the licensed pet business to do a thing in relation to being a licensed pet business, and the licensed pet business has not yet done the thing, the authority must not renew the licence until the thing is done.

**Examples—thing to be done**

- pay a fee
  - provide information
  - condition of licence met
- (3) A licence may be renewed for up to 5 years.
- (4) The renewal of a licence—
- (a) starts immediately after the licence would have expired if it had not been renewed; and
  - (b) if there is a condition imposed on the licence—does not affect the condition.
- (5) A renewal is subject to any condition imposed by the authority when approving the renewal.
- (6) The authority may only impose a condition on a licence if satisfied on reasonable grounds the condition is in the interest of animal welfare.

**24N Amendment of pet business licence**

The authority may amend a licensed pet business's pet business licence if—

- (a) the authority believes on reasonable grounds that the amendment is in the interest of animal welfare; or
- (b) to reflect a change to any of the following:
  - (i) the licensed pet business's name;

**EXPOSURE DRAFT**

- (ii) the licensed pet business's trading name;
- (iii) the nature of the pet business;
- (iv) a trading address for the licensed pet business;
- (v) a condition that applies to the licence.

**240 Authority may request more information**

- (1) This section applies to—
  - (a) an application for a licence under section 24F; and
  - (b) an application to transfer a licence under section 24J; and
  - (c) an application to renew a licence under section 24L.
- (2) The authority may ask the applicant to give the authority, within a stated reasonable period, information about the application that the authority reasonably needs to decide the application.
- (3) The period within which the authority must make a decision under the provisions mentioned in subsection (1) is extended by the period mentioned in subsection (2).
- (4) If the applicant does not comply with a requirement in the request, the authority may refuse to consider the application further.

## **EXPOSURE DRAFT**

**Division 3A.3      Pet business offences****24P      Meaning of *licensed*—div 3A.3**

For this division, a person is not *licensed* if the person's licence is suspended, cancelled or expired.

**24Q      Pet shops—failure to keep records**

- (1) A person commits an offence if the person—
- (a) operates a pet shop; and
  - (b) buys or sells an animal in the course of operating the pet shop; and
  - (c) does not keep a record of—
    - (i) the full name, address and contact details of the person who sold or bought the animal; and
    - (ii) for each animal sold—the premises at which the animal will live.

Maximum penalty: 25 penalty units.

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

**24R      Pet shops—failure to share records**

- (1) A person commits an offence if—
- (a) the person operates a pet shop; and
  - (b) the authority asks to inspect a record required under section 24Q (1) (c); and

**EXPOSURE DRAFT**



- (c) within 7 days after the day the request is made, the person does not allow the authority to inspect the record.

Maximum penalty: 25 penalty units.

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

#### **24S Operating pet business without pet business licence**

- (1) A person commits an offence if the person—
  - (a) operates a pet business; and
  - (b) the person is not licensed to operate the pet business.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is an absolute liability offence.

#### **24T Breach of pet business licence**

- (1) A person commits an offence if the person—
  - (a) is a licensed pet business; and
  - (b) fails to comply with a condition of the person's pet business licence.

Maximum penalty: 50 penalty units.

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

## **EXPOSURE DRAFT**

**37 Licence conditions  
New section 28 (2) and (3)**

*after the notes, insert*

- (2) A licensee commits an offence if the licensee fails to comply with a condition of the licence.

Maximum penalty: 50 penalty units.

- (3) An offence against subsection (2) is a strict liability offence.

**38 New section 35A**

*in division 4.2, insert*

**35A Definitions—div 4.2**

In this division:

*authorised staff member*, of a corporation—see section 37 (2).

*authorising entity* means—

- (a) the animal ethics committee; or  
(b) the authority.

**39 Application for authorisation  
Section 37 (1)**

*omit*

An individual may apply to the animal ethics committee

*substitute*

A person may apply to an authorising entity

**40 Section 37 (2)**

*substitute*

- (2) If the applicant is a corporation, the application must include the name and contact details of each individual employed or engaged by the corporation to conduct a program of research or teaching using or breeding animals on behalf of the corporation (an ***authorised staff member***).
- (2A) The authorising entity may, in writing, require the applicant to give the authorising entity additional information in writing the authorising entity reasonably needs to decide the application.

**41 Sections 37 (3) and 38 (1) and (2)**

*omit*

animal ethics committee

*substitute*

authorising entity

**42 Decision about authorisation application  
Section 38 (2) (a)**

*substitute*

- (a) the experience and competency in caring for and handling animals of—
- (i) for an applicant that is an individual—the applicant; or
  - (ii) for an applicant that is a corporation—each authorised staff member; and

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**43 Section 38 (2) (d)**

*substitute*

- (d) within the 3 years immediately before the date of the application, whether —
- (i) for an applicant that is an individual—the applicant has been convicted or found guilty of a defined offence; or
  - (ii) for an applicant that is a corporation—an authorised staff member has been convicted or found guilty of a defined offence; and

**44 Section 38 (3)**

*omit*

animal ethics committee

*substitute*

authorising entity

**45 Authorisation conditions  
Section 39 (b), except examples and notes**

*substitute*

- (b) put on the authorisation by the authorising entity that the entity believes on reasonable grounds is in the interest of animal welfare.

**46 Section 39, notes**

*substitute*

*Note* The authorising entity may amend an authorisation (including by putting a condition on the authorisation, or amending or removing a condition of the authorisation) at any time (see s 46).

## EXPOSURE DRAFT

**47 New section 39 (2) and (3)**

*insert*

- (2) A person commits an offence if the person—
- (a) is an authorisation holder; and
  - (b) fails to comply with a condition of the authorisation.
- Maximum penalty: 50 penalty units.
- (3) An offence against subsection (2) is a strict liability offence.

**48 Form of authorisation  
New section 40 (aa)**

*insert*

- (aa) state why the authorisation is required; and

**49 Section 40 (e)**

*omit*

animal ethics committee

*substitute*

authorising entity

**EXPOSURE DRAFT**

**50 Sections 42 and 43***substitute***42 Identity card for authorisation holders**

- (1) If an authorising entity grants an authorisation, the entity must give—
  - (a) if the authorisation holder is an individual—the individual an identity card stating the individual's name; or
  - (b) if the authorisation holder is a corporation—each authorised staff member an identity card stating the staff member's name and the corporation's name.
- (2) The identity card must show—
  - (a) if the authorisation holder is an individual—a recent photograph of the individual; and
  - (b) if the authorisation holder is a corporation—a recent photograph of the authorised staff member; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person is given an identity card under subsection (1); and
  - (b) an authorised officer asks to see the person's identity card; and
  - (c) the person does not show the officer the card.

Maximum penalty: 5 penalty units.

- (4) A person commits an offence if—
  - (a) the person is given an identity card under subsection (1); and
  - (b) either—
    - (i) the relevant authorisation ends; or

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- (ii) if the identity card relates to more than 1 authorisation—  
all authorisations end; and
- (c) the person does not return the person's identity card to the  
relevant authorising entity within 7 days after the day the  
authorisation ends.

Maximum penalty: 5 penalty unit.

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

#### **43 Authorisation holders—request for information and documents**

An authorising entity may, in writing, require an authorisation holder to give the authorising entity any information that the authorising entity reasonably needs to exercise its functions under this Act in relation to the authorisation.

##### **Example**

information about the mortality rates of animals in the program of research in relation to which the authorisation is granted

#### **51 Authorisation renewal Section 44 (3)**

*omit*

the animal ethics committee

*substitute*

an authorising entity

## **EXPOSURE DRAFT**

**52 Authorisation holder to notify change of name or address  
Section 45 (1)**

*omit*

animal ethics committee

*substitute*

authorising entity that granted the authorisation

**53 Amendment of authorisation  
Section 46 (1) and (2)**

*omit*

The animal ethics committee

*substitute*

An authorising entity that granted an authorisation

**54 Section 46 (3)**

*omit everything before paragraph (a), substitute*

- (3) The authorising entity that granted an authorisation may amend an authorisation that is granted on its own initiative only if the authorising entity has—

**55 Section 46 (4) (a)**

*omit*

animal ethics committee's

*substitute*

authorising entity's



**56 Section 46 (4) (b)**

*omit*

committee

*substitute*

authorising entity

**57 Section 46 (5), note**

*omit*

the animal ethics committee

*substitute*

an authorising entity

**58 Section 46 (7)**

*omit*

animal ethics committee

*substitute*

authorising entity

**59 Surrender of authorisations  
Section 48 (1)**

*omit*

animal ethics committee

*substitute*

authorising entity that granted the authorisation

**EXPOSURE DRAFT**

**60 Section 48 (2) (a)**

*omit*

animal ethics committee

*substitute*

authorising entity

**61 Interstate researchers' authorisation in the ACT  
Section 49B (3)**

*substitute*

- (3) The authority may decide to end the application of subsection (1) to an interstate researcher if satisfied on reasonable grounds—
- (a) the researcher has contravened this Act; or
  - (b) the researcher has contravened, in the ACT, an approved code of practice, a mandatory code of practice or a protocol or condition which applies to the researcher's interstate research authorisation; or
  - (c) the researcher has failed to comply, in the ACT, with the proposal for carrying out the researcher's activities set out in a submission on which the grant of the authorisation is based; or
  - (d) it is not appropriate for the researcher to use or breed animals in the ACT in the same way, to the same extent and for the same purposes as the researcher is permitted to use or breed animals in the State where the researcher's interstate research authorisation is granted.

*Note* **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

**EXPOSURE DRAFT**

**62 Circus or travelling zoo permit conditions  
New section 56 (2) to (4)**

*after the notes, insert*

- (2) A person commits an offence if the person—
- (a) is a circus permit-holder; and
  - (b) fails to comply with a condition of the permit.
- Maximum penalty: 50 penalty units.
- (3) A person commits an offence if the person—
- (a) is a travelling zoo permit-holder; and
  - (b) fails to comply with a condition of the permit.
- Maximum penalty: 50 penalty units.
- (4) An offence against subsection (2) or (3) is a strict liability offence.

**63 Steel-jawed traps and prohibited traps  
Section 60 (1)**

*substitute*

- (1) A person commits an offence if—
- (a) the person sets a steel-jawed trap or a prohibited trap; and
  - (b) an animal is killed or injured by the trap.
- Maximum penalty: 100 penalty units, imprisonment for 1 year or both.
- (1A) A person commits an offence if the person sets a steel-jawed trap or a prohibited trap.
- Maximum penalty: 50 penalty units.

**EXPOSURE DRAFT**

**64 Section 60 (2), penalty**

*substitute*

Maximum penalty: 15 penalty units.

**65 Section 60 (5), new definition of *steel-jawed trap***

*insert*

*steel-jawed trap* means an animal trap fitted with metal jaws, a pressure plate and a spring-operated mechanism, designed so that the metal jaws close against each other when the trap is activated by the application of weight to the pressure plate.

**66 Restricted traps  
Section 61**

*omit*

**67 Trapping—general  
Section 62 (1)**

*omit*

with the intention of catching an animal

**68 Section 62 (1), penalty**

*substitute*

Maximum penalty: 50 penalty units.

**69 New section 62 (1A)**

*insert*

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

**70 New section 62 (4)**

*insert*

- (4) In this section:

*trap* means a device used or designed to catch an animal.

**71 Trapping permit conditions  
New section 65 (2) and (3)**

*after the notes, insert*

- (2) A person commits an offence if the person—
- (a) is a trapping-permit holder; and
  - (b) fails to comply with a condition of the trapping permit.
- Maximum penalty: 50 penalty units.
- (3) An offence against subsection (2) is a strict liability offence.

**72 Definitions—pt 6A  
Section 73A, definition of *approval*, new paragraph (ca)**

*insert*

- (ca) a pet business licence; or

**EXPOSURE DRAFT**

**73 Section 73A, definition of *regulatory body***

*substitute*

*regulatory body* means—

- (a) for a circus permit-holder, licensee, trapping permit-holder or travelling zoo permit-holder—the authority; and
- (b) for an authorisation holder—
  - (i) the authority; or
  - (ii) the animal ethics committee.

**74 Section 73A, definition of *regulatory body***

*after*

licensee,

*insert*

licensed pet business,

**75 Grounds for regulatory action  
New section 73B (1) (aa)**

*insert*

- (aa) the regulatory body becomes aware of a circumstance that, if the regulatory body had been aware of it when the application for approval was decided, would have resulted in the application being refused;

**76 Section 73B (2), definition of *relevant provision*, new paragraph (aa)**

*before paragraph (a), insert*

- (aa) for a licensed pet business—section 24N (Amendment of pet business licence); or

**77 Section 73B (2), definition of *relevant section*, new paragraph (aa)**

*before paragraph (a), insert*

- (aa) for a licensed pet business—section 24G (2) (Issue of licence); or

**78 New section 73CA**

*insert*

**73CA Direction before taking regulatory action**

- (1) The regulatory body may, before taking regulatory action in relation to an approved person, give the approved person written notice—
- (a) directing the approved person to do a stated thing within a stated time; and
  - (b) stating that if the person does not do the stated reasonable thing within the stated reasonable time—
    - (i) the regulatory body may take regulatory action; and
    - (ii) the approved person commits an offence against this section.

**EXPOSURE DRAFT**

- (2) An approved person commits an offence if the person—
- (a) is given written notice under subsection (1) to do a stated thing within a stated time; and
  - (b) fails to comply with the notice.
- Maximum penalty: 50 penalty units.
- (3) An offence against subsection (2) is a strict liability offence.

**79 Return of amended, suspended or cancelled approvals  
New section 73G (3)**

*insert*

- (3) An approved person may return an approval by giving the regulatory body—
- (a) for an approval given electronically—a written statement that the approved person surrenders the approval; or
  - (b) in any other case—the approval.

**80 Action by regulatory body in relation to amended or suspended approval  
Section 73H (4), definition of *relevant section*, new paragraph (aa)**

*before paragraph (a), insert*

- (aa) for a licensed pet business—section 24N (Amendment of pet business licence); or

## EXPOSURE DRAFT



**81 Public access  
Section 75A**

*omit*

him or her

*substitute*

the authority

**82 Section 77**

*substitute*

**77 Authorised officers**

- (1) The director-general may appoint a public servant who is a veterinary surgeon as an authorised officer.

*Note 1* For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207)

- (2) The authority is also an authorised officer if the authority is—
- (a) accompanied by a veterinary surgeon; or
  - (b) following the written advice of a veterinary surgeon.

**83 Identity cards  
Section 78 (4), penalty**

*substitute*

Maximum penalty: 5 penalty units.

**EXPOSURE DRAFT**

**84 Powers of inspectors  
Section 82 (1)**

*omit*

he or she

*substitute*

the inspector

**85 Section 82 (1) (f) to (h)**

*substitute*

(f) seize anything (including a document), that the inspector believes on reasonable grounds to be connected with an offence;  
or

**86 Section 82 (1) (i)**

*omit*

his or her

*substitute*

the inspector's

**87 Section 82 (1) (j)**

*omit*

him or her

*substitute*

the inspector

**88 New section 82 (2) (d)**

*insert*

- (d) give any information obtained under subsection (1) to someone else (other than the authority).

**89 New section 81A**

*insert*

**81A Power to seize animals—inspectors**

An inspector may—

- (a) seize any animal that the inspector believes on reasonable grounds to be connected with an offence; or
- (b) seize any dependant offspring of an animal seized under paragraph (a); or
- (c) seize any animal that the inspector believes on reasonable grounds is kept by, or in the care or control of, a person in contravention of—
  - (i) a temporary prohibition order under section 86C (2) (Temporary prohibition on animal ownership etc); or
  - (ii) an interim order under section 100A (2) (Animal offences—court orders (interim)); or
  - (iii) an order under section 101 (3) (Animal offences—court orders (general)); or
  - (iv) an order under section 101A (2) (Animal offences—permanent prohibition on animal ownership etc); or
  - (v) an order under section 101C (Prohibition order in special circumstances).

**EXPOSURE DRAFT**

**90 Section 82A heading**

*substitute*

**82A Direction to give personal details—inspector**

**91 New section 82A (2) (c)**

*before the note, insert*

- (c) the person's date of birth.

**92 Section 82A (3)**

*substitute*

- (3) However, before asking the person for any personal details under subsection (2), the inspector must show the person the inspector's identity card.

**93 New section 82A (6) and (7)**

*insert*

- (6) A person commits an offence if—
  - (a) an inspector shows the person the inspector's identity card; and
  - (b) the inspector directs the person under subsection (2) to give the inspector the person's personal details; and
  - (c) the person does not give the inspector the personal details.

Maximum penalty: 15 penalty units.

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

**94 Section 83 (1) (a)**

*omit*

he or she

*substitute*

the officer

**95 Section 84 (1)**

*omit*

he or she

*substitute*

the officer

**96 Section 84 (1) (g) to (j)**

*substitute*

(g) seize anything (including a document), that the officer believes on reasonable grounds to be connected with an offence; or

**97 Section 84 (1) (k)**

*omit*

him or her

*substitute*

the officer

**EXPOSURE DRAFT**

**98 New section 84AAA**

*before section 84AA, insert*

**84AAA Power to seize animals—authorised officers**

An authorised officer may—

- (a) seize any animal that the officer believes on reasonable grounds to be connected with an offence; or
- (b) seize any dependant offspring of an animal seized under paragraph (a); or
- (c) seize any animal that the officer believes on reasonable grounds is kept by, or in the care or control of, a person in contravention of—
  - (i) a temporary prohibition order under section 86C (2) (Temporary prohibition on animal ownership etc); or
  - (ii) an interim order under section 100A (2) (Animal offences—court orders (interim)); or
  - (iii) an order under section 101 (3) (Animal offences—court orders (general)); or
  - (iv) an order under section 101A (2) (Animal offences—permanent prohibition on animal ownership etc); or
  - (v) an order under section 101C (Prohibition order in special circumstances).

**EXPOSURE DRAFT**

**99 Powers of veterinary surgeons regarding seized animals and carcasses**  
**Section 84A (1)**

*substitute*

- (1) A veterinary surgeon may take a sample of tissue, blood, urine or other bodily material from an animal or carcass seized under this Act.

**100 Inspectors and authorised officers**  
**Section 85 (2) (c)**

*omit*

he or she

*substitute*

the inspector or officer

**101 New division 7.6A**

*insert*

**Division 7.6A Dealing with seized animals**

**86A Accommodation of seized animals**

- (1) The authority must accommodate a seized animal by—
- (a) impounding the animal; or
  - (b) placing the animal in the care of an entity declared by the Minister; or
  - (c) if the authority is reasonably satisfied that the animal can be kept under suitable care by the person in charge of the animal—returning the animal to the care of the person under stated written conditions.

**EXPOSURE DRAFT**

- (2) A condition mentioned in section (1) (c) may include—
- (a) a condition prescribed by regulation; and
  - (b) any other condition the authority considers appropriate.
- (3) A person commits an offence if—
- (a) an animal is returned to the person's care under stated written conditions; and
  - (b) the person fails to comply with a condition.
- Maximum penalty: 25 penalty units.
- (4) An offence against subsection (3) is a strict liability offence.
- (5) A declaration under subsection (1) (b) is a notifiable instrument.

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

### **86B Selling or rehoming seized animals**

- (1) The authority may—
- (a) sell a seized animal; or
  - (b) give a seized animal to a declared entity for selling or rehoming.
- (2) Before selling or rehoming an animal, the authority must—
- (a) if the identity of the person in charge of the animal is not known—make reasonable enquires to find out who the person in charge is; or
  - (b) if the identity of the person in charge of the animal is known—give the person written notice of the authority's intention to sell or rehome the animal.

## **EXPOSURE DRAFT**



- (3) The authority may only sell or rehome an animal if—
- (a) the authority is satisfied on reasonable grounds it is in the best interest of the welfare of the seized animal; and
  - (b) if the authority knows the identity of the person in charge of the animal and has given notice to the person under subsection (2)—
    - (i) does not, within 7 days after the day the notice is given (the *application period*), apply to the ACAT under section 108 for review of the decision; or
    - (ii) applies to the ACAT under section 108 for review of the decision within the application period and the authority's decision to sell or rehome the animal is confirmed.
- (4) In this section:
- declared entity* means an entity declared under section 86A (1) (b).

### **86C Temporary prohibition on animal ownership etc**

- (1) This section applies if—
- (a) a domestic animal is seized under this Act; and
  - (b) a proceeding (a *relevant proceeding*) has not been started in a court against a person in charge of the animal for an offence against part 2 (Animal welfare offences); and
  - (c) the authority reasonably believes that an animal's welfare is, or would be at serious risk, if the person were to own, keep, care for or control the animal.
- (2) The authority may, in writing, prohibit (a *prohibition order*) the person from—
- (a) purchasing or acquiring an animal within the period stated in the order; or

## **EXPOSURE DRAFT**

- (b) keeping, caring for or controlling an animal within the period stated in the order.
- (3) In making a prohibition order, the authority—
  - (a) must consider—
    - (i) the welfare of the seized animal and any other animal owned, kept, cared for or controlled by the person; and
    - (ii) the likelihood the person has, or will, commit an offence against this Act; and
    - (iii) any conviction or finding of guilt of the person against an offence under a territory law, or the law of a State, in relation to animal welfare; and
      - Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).
    - (iv) if the person uses an animal for assistance with disability; and
  - (b) may state that the order ends if stated conditions are met by the person.
- (4) The prohibition order ends on the earlier of—
  - (a) the day a relevant proceeding starts; or
  - (b) the day stated by the authority in the prohibition order; or
  - (c) if a condition is stated under subsection (3) (b)—the day the authority confirms in writing that the condition has been met; or
  - (d) 6 months after the day the prohibition is made.

## EXPOSURE DRAFT

- (5) A person commits an offence if the person fails to comply with a prohibition order.

Maximum penalty: 50 penalty units.

- (6) An offence against subsection (5) is a strict liability offence.

**102**      **Consent to entry**  
**Section 88 (2) and (3)**

*omit*

he or she

*substitute*

the occupier

**103**      **Section 88 (4)**

*omit*

his or her

*substitute*

the officer's

**104**      **Certificate evidence**  
**Section 98 (1) (a)**

*before*

licensee

*insert*

licensed pet business,

## EXPOSURE DRAFT

**105 Section 98 (1) (b) to (d)**

*before*

licence

*insert*

pet business licence,

**106 Section 98 (2)**

*before*

chairperson of an animal ethics committee

*insert*

authority or

**107 Section 98 (2) (a) to (d)**

*omit*

that committee

*substitute*

the authority or committee

**108 Animal offences—court orders (interim)  
Section 100A (1) (a)**

*omit*

section 82 (1) (f) or section 84 (1) (g)

*substitute*

this Act

**109 Section 100A (2)**

*after*

must not

*insert*

, individually or jointly with another person

**110 New section 100A (2A)**

*insert*

(2A) In making an interim order, the court must consider—

- (a) the welfare of the seized animal and any other animal owned, kept, cared for or controlled by the person; and
- (b) the likelihood the person has, or will, commit an offence against this Act; and
- (c) any conviction or finding of guilt of the person against an offence under a territory law, or the law of a State, in relation to animal welfare; and

*Note* **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

- (d) if the person uses an animal for assistance with disability.

**111 Section 100A (3) (b)**

*omit*

6 months

*substitute*

12 months

**EXPOSURE DRAFT**

**112 New section 100A (3A)**

*insert*

- (3A) The interim order ends if a seized animal is returned to the person in charge of the animal and the proceeding for an offence against the person is withdrawn.

**113 Section 100A (4)**

*after*

about to end

*insert*

(other than under subsection (3A))

**114 Animal offences—court orders (general)  
Section 101 (1)**

*substitute*

- (1) This section applies if a court has convicted or found guilty a person in charge of an animal of an offence against—
- (a) part 2 (Animal welfare offences); or
  - (b) section 86C (Temporary prohibition on animal ownership etc);  
or
  - (c) section 100A (Animal offences—court orders (interim)); or
  - (d) section 101C (Prohibition order in special circumstances).

**115 Section 101 (2) (b)**

*omit everything before subparagraph (i), substitute*

- (b) the payment of expenses incurred by the Territory, a declared entity or another person of—

**116 New section 101 (3A)**

*insert*

- (3A) In making an order under subsection (3), the court must consider—
- (a) the offence committed by the person; and
- (b) any other conviction or finding of guilt of the person against an offence under a territory law, or the law of a State, in relation to animal welfare; and

*Note* **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

- (c) if the person uses an animal for assistance with disability.

**117 Section 101 (5), new definition of *declared entity***

*insert*

***declared entity*** means an entity declared under section 86A (1) (b) (Accommodation of seized animals).

**118 Section 101 (5), definition of *expenses incurred***

*omit*

by, or on behalf of, the Territory

**EXPOSURE DRAFT**

**119 New sections 101A to 101C**

*insert*

**101A Animal offences—permanent prohibition on animal ownership etc**

- (1) This section applies if—
  - (a) a court has convicted or found guilty a person of an offence against section 7A (Aggravated cruelty); and
  - (b) the court believes that it is reasonably likely the person will contravene part 2 (Animal welfare offences) if the person were to own, keep, care for or control an animal.
- (2) The court may, in addition to any penalty which it may otherwise impose, make an order that the person must not—
  - (a) purchase or acquire an animal; or
  - (b) own, keep, care for or control an animal.
- (3) In making an order the court must consider—
  - (a) the offence committed by the person; and
  - (b) any other conviction or finding of guilt of the person against an offence under a territory law, or the law of a State, in relation to animal welfare; and

*Note* **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

  - (c) if the person uses an animal for assistance with disability.

**EXPOSURE DRAFT**



- (4) A person commits an offence if the person fails to comply with an order made under subsection (2).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**101B Animal offences—setting aside permanent prohibition order**

- (1) On application by a person against whom an order under section 101A is made, the court may set aside the order.
- (2) An application may only be made if the person has not made an application under this section in the previous 12 month period.
- (3) Before making an order, the court must—
- (a) notify the authority, in writing, about the person’s application; and
  - (b) allow the authority to make a written or oral submission to the court about the application.
- (4) In making an order, the court must consider—
- (a) any submission made by the authority; and
  - (b) the public interest; and
  - (c) the length of time since the order under section 101A was made; and;
  - (d) any relevant rehabilitation or remedial action undertaken by the person; and
  - (e) the risk to the welfare of animals; and
  - (f) the matters considered by the court when making the order under section 101A.

## EXPOSURE DRAFT

**101C Prohibition order in special circumstances**

- (1) This section applies if—
  - (a) an animal has been seized under this Act; and
  - (b) the authority believes—
    - (i) the person in charge of the animal has committed an offence in relation to an animal against part 2 (Animal welfare offences); and
    - (ii) it is not in the public interest to bring proceedings against the person; and
    - (iii) the person is likely to engage in conduct in relation to an animal that requires the seizure of an animal under this Act.
- (2) The authority may apply to the court for an order that the person must not individually or jointly with another person—
  - (a) purchase or acquire any animal within the period stated in the order; or
  - (b) keep, care for or control any animal within the period stated in the order.
- (3) The court may make an order after considering—
  - (a) the welfare of the seized animal and any other animal owned, kept, cared for or controlled by the person; and
  - (b) the likelihood the person has, or will, commit an offence against this Act; and

**EXPOSURE DRAFT**

- (c) any conviction or finding of guilt of the person against an offence under a territory law, or the law of a State, in relation to animal welfare; and

*Note* **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

- (d) if the person uses an animal for assistance with disability; and
- (4) The duration of an order under subsection (2) must be stated in the order.
- (5) If an order made under this section has ended or is about to end, the court may make a further order if satisfied the person remains likely to engage in conduct in relation to an animal that requires the seizure of an animal under this Act.
- (6) A person must not engage in conduct that contravenes an order under this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**120 Establishment and functions**  
**New section 109 (3) (aa)**

*insert*

- (aa) to advise the authority about matters in relation to animal welfare, including animal welfare legislation;

**121 Regulation-making power**  
**New section 112 (2) (i)**

*insert*

- (i) a qualification a person must hold, or experience a person must have, to do a thing mentioned in paragraphs (a) to (h).

## EXPOSURE DRAFT

**122 New section 113**

*insert*

**113 Rescuing distressed animal in locked vehicle**

- (1) A person does not incur criminal or civil liability if, acting honestly and without recklessness, the person forcibly enters a locked motor vehicle, or assists another person to forcibly enter a locked motor vehicle, to release an animal in the motor vehicle which is apparently—
- (a) distressed, injured, or at risk of being injured; or
  - (b) in need of emergency veterinary assistance.
- (2) However, subsection (1) does not apply if the person’s capacity to exercise appropriate care and skill was, at the relevant time, significantly impaired by a recreational drug.
- (3) In this section:

*recreational drug* means a drug consumed voluntarily for non-medicinal purposes, and includes alcohol.

**123 Reviewable decisions  
Schedule 1, new items 1A to 1J**

*before item 1, insert*

|    |                     |  |                       |
|----|---------------------|--|-----------------------|
| 1A | 6B (3)              | direction to do stated thing               | person directed       |
| 1B | 24C                 | direction to to comply with mandatory code | person directed       |
| 1C | 24G (1) (b)         | refuse to issue licence                    | applicant for licence |
| 1D | 24I (1) (a) and (b) | put condition on licence                   | licensee              |

**EXPOSURE DRAFT**

|    |             |                              |   |
|----|-------------|------------------------------|---|
| 1E | 24K (1) (b) | refuse to approve transfer   | <ul style="list-style-type: none"> <li>licensee</li> <li>transferee</li> </ul>                    |
| 1F | 24K (3)     | put condition on transfer    | transferee  |
| 1G | 24M (1) (b) | refuse to renew licence      | licensee  |
| 1H | 24M (5)     | put condition on renewal     | licensee  |
| 1I | 24N (a)     | amend licence                | licensee  |
| 1J | 24O (4)     | refuse further consideration | <ul style="list-style-type: none"> <li>applicant</li> <li>licensee</li> <li>transferee</li> </ul> |

#### 124 Schedule 1, new item 24A

*insert*

|     |      |                              |                 |
|-----|------|------------------------------|-----------------|
| 24A | 73CA | direction to do stated thing | approved person |
|-----|------|------------------------------|-----------------|

#### 125 Schedule 1, new items 26A to 26C

*insert*

|     |     |                               |                            |
|-----|-----|-------------------------------|----------------------------|
| 26A | 86A | condition on home impoundment | person in charge of animal |
| 26B | 86B | sell or rehome seized animal  | person in charge of animal |
| 26C | 86C | prohibit animal ownership     | person prohibited          |

#### 126 Dictionary, note 2

*insert*

- fail

## EXPOSURE DRAFT

**127 Dictionary, definitions of *authorisation holder* and *circus permit-holder***

*substitute*

***authorisation holder*** means a person granted a research authorisation or a teaching authorisation under section 38 (1) (a).

***circus permit-holder*** means a person granted a circus permit under section 55 (1) (a).

**128 Dictionary, definition of *commercial trapping permit***

*omit*

**129 Dictionary, definition of *confine***

*substitute*

***confine***, in relation to an animal, for part 2 (Animal welfare offences)—see section 6A.

**130 Dictionary, new definitions**

*insert*

***disability***—see the [Discrimination Act 1991](#), section 5AA.

***licensed pet business*** means a person issued a pet business licence under section 24G (1) (a).

**131 Dictionary, definition of *licensee***

*substitute*

***licensee*** means a person granted a licence under section 27 (1) (a).

**EXPOSURE DRAFT**

**132 Dictionary, new definition of *pet business licence***

*insert*

*pet business licence* means a licence issued under section 24G.

**133 Dictionary, definition of *poison***

*substitute*

*poison*, for part 2 (Animal welfare offences)—see section 6A.

**134 Dictionary, definitions of *private trapping permit* and *steel-jawed trap***

*omit*

**135 Dictionary, definitions of *trapping permit* and *trapping permit-holder***

*substitute*

*trapping permit* means a permit granted under section 64 (Decision about trapping permit application) for—

- (a) domestic or private purposes; or
- (b) the purposes of a commercial trapping operation.

*trapping permit-holder* means a person granted a trapping permit under section 64 (1) (a).

**136 Dictionary, definition of *travelling zoo permit-holder***

*substitute*

*travelling zoo permit-holder* means a person granted a travelling zoo permit under section 55 (1) (a).

**EXPOSURE DRAFT**

## Part 3 Animal Welfare Regulation 2001

### 137 New section 5A

*in part 2, insert*

#### 5A Prescribed prohibited items—Act, s 14

- (1) The following items are prescribed:
  - (a) a shock collar;
  - (b) a spur with a sharpened or fixed rowel;
  - (c) a cockfighting spur;
  - (d) any other device or other thing made or adapted to be attached to an animal for a violent animal activity.
- (2) In this section:

*violent animal activity*—see the [Act](#), section 17 (4).

## EXPOSURE DRAFT



## Part 4                      Discrimination Act 1991

### **138            Meaning of *disability* Section 5AA (3), definition of *assistance animal***

*substitute*

*assistance animal*—see the [Domestic Animals Act 2000](#), section 94.

### **139            Liability of person relying on assistance animal etc Section 5AB (3), definition of *assistance animal***

*substitute*

*assistance animal*—see the [Domestic Animals Act 2000](#), section 94.

## EXPOSURE DRAFT

## Part 5 Domestic Animals Act 2000

### 140 Prohibited places Section 42 (6), new definitions

*insert*

*assistance animal*—see section 94.

*disability*—see the *Discrimination Act 1991*, section 5AA.

### 141 Dogs in public places must be controlled New section 44 (3A)

*insert*

- (3A) A person commits an offence if the person—
- (a) is in a public place with more than 3 dogs; and
  - (b) is the sole carer of the dogs.

Maximum penalty: 15 penalty units.

### 142 Multiple cat licences—requirement to be licensed New section 84A (3)

*insert*

- (3) In this section:

*assistance animal*—see section 94.

**143 Part 5***substitute***Part 5 Assistance animals****Explanatory note**

The amendment to part 5 of the *Domestic Animals Act 2000* introduces a regulatory scheme for assistance animals. There are currently laws providing protections for people with disability using an assistance animal in the *Domestic Animals Act 2000*, the *Discrimination Act 1991* and the *Discrimination Regulation 2016*. Those protections will rely on declared assistance animal standards and a new definition of *assistance animal* that is consistent with Commonwealth discrimination law. The regulatory scheme requires an assistance animal to be accredited as having been trained by a registered trainer in accordance with the assistance animal standards, accredited under a corresponding law, or assessed (for example, after training by an individual) as meeting the assistance animal standard.

The amendments introducing the new scheme for assistance animals have a delayed commencement of 6 months.

**Division 5.1 Preliminary—pt 5****94 Definitions—pt 5**

In this part:

*animal welfare*—see the *Animal Welfare Act 1992*, dictionary.

*assistance animal* means a guide dog, hearing dog, service dog or any other animal that is accredited—

- (a) by an assistance animal trainer as having completed training required under the assistance animal standard; or
- (b) by the registrar or an assistance animal assessor as having met the assistance animal standard; or
- (c) under a corresponding law as an assistance animal.

**EXPOSURE DRAFT**

**assistance animal assessor** means a person registered as an assistance animal assessor under section 98.

**assistance animal standard** means a standard determined under section 95.

**assistance animal trainer** means a person registered as a trainer under section 99.

**corresponding law**, of a State, means a law of a State about the registration of assistance animal trainers.

*Note* **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

**disability**—see the [Discrimination Act 1991](#), section 5AA.

**guide dog** means a working dog that guides a person who is blind or vision impaired.

**hearing dog** means a working dog that alerts a person who is deaf or hearing impaired to sounds.

**service dog** means a working dog that assists a person with physical disability by undertaking physical tasks.

## 95 Assistance animal standard

- (1) The Minister may determine the minimum standard of—
  - (a) training and behaviour an assistance animal must have to effectively assist a person with disability to alleviate the effect of the disability; and
  - (b) hygiene and behaviour an assistance animal must have in a public place or public premises.
- (2) A determination is a disallowable instrument.

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

## EXPOSURE DRAFT

(3) The Minister may make guidelines about the accreditation of assistance animals.

(4) A guideline is a disallowable instrument.

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

(5) In this section:

*public premises*—see section 106A.

## **Division 5.2 Registration of assistance animals**

### **96 Register of assistance animals**

The registrar must set up and keep a register of assistance animals for this Act.

### **97 Registration of assistance animal**

(1) The owner of an assistance animal may apply to the registrar for registration of the assistance animal.

(2) The application must include—

(a) evidence that the animal is accredited as an assistance animal; and

(b) if the applicant is less than 16 years old and lives with a parent or guardian—written consent to the registration by the applicant’s parent or guardian; and

(c) anything else prescribed by regulation.

(3) The registrar must register an assistance animal if the application for registration has been made in accordance with subsection (2).

## **EXPOSURE DRAFT**

- (4) If the registrar registers an assistance animal, the registrar must—
  - (a) give the applicant written notice that the assistance animal has been registered; and
  - (b) record in the register of assistance animals the information prescribed by regulation.
- (5) The registration of an assistance animal remains in force for the period for which the animal is accredited as an assistance animal.
- (6) The applicant must tell the registrar if the animal is no longer accredited as an assistance animal.

Maximum penalty: 25 penalty units.
- (7) An offence against subsection (6) is a strict liability offence.

**98 Registration of assistance animal numbers and certificates**

- (1) If the registrar registers an assistance animal, the registrar must—
  - (a) give a registration number to the assistance animal; and
  - (b) give to the owner of the assistance animal a registration certificate for the assistance animal; and
  - (c) tell the owner, in writing, about any identification of the assistance animal required under section 106D.
- (2) A registration certificate for an assistance animal must include any information prescribed by regulation.

## EXPOSURE DRAFT

### Division 5.3 Assistance animal trainers and assessors

#### 99 Registrar may register assistance animal trainer

- (1) A person may apply to the registrar—
  - (a) to be registered as an assistance animal trainer; or
  - (b) for a registered assistance animal trainer—to renew the assistance animal trainer’s registration.

*Note* A fee may be determined under s 144 for this provision.

- (2) An application must—
  - (a) be in writing; and
  - (b) include any information prescribed by regulation.
- (3) Within 30 days of receiving the application, the registrar must—
  - (a) register the applicant for a stated period; or
  - (b) register the applicant for a stated period subject to stated conditions; or
  - (c) refuse to register the applicant.

*Note* Failure to register the applicant within the required time is taken to be a decision not to register the applicant (see *ACT Civil and Administrative Tribunal Act 2008*, s 12).

- (4) The registrar may only register the applicant if satisfied the applicant—
  - (a) has the skills and experience to train an animal to meet the requirements set out under the assistance animal standard; and
  - (b) is registered to engage in a regulated activity under the *Working with Vulnerable People (Background Checking) Act 2011*; and

## EXPOSURE DRAFT

- (c) has not, within 2 years before the application was made, been convicted or found guilty of an offence under this Act, a corresponding law of a State or the *Animal Welfare Act 1992*; and
  - (d) meets any requirement prescribed by regulation.
- (5) The registrar must, as soon as practicable after deciding whether to register the applicant, give the applicant written notice of the decision under subsection (3).

**100 Registrar may suspend registration of assistance animal trainer**

- (1) The registrar may suspend a person's registration as an assistance animal trainer if satisfied on reasonable grounds—
- (a) the person no longer has the skills and experience to train an animal to meet the requirements set out under the assistance animal standard; or
  - (b) the person's registration under the *Working with Vulnerable People (Background Checking) Act 2011* is suspended, cancelled or expired; or
  - (c) if the person's registration is subject to a condition—the person fails to comply with the condition; or
  - (d) the suspension is necessary in the interest of animal welfare.
- (2) If the registrar suspends a person's registration, the registrar must give the approved person written notice—
- (a) directing the person to do a stated thing within a stated time; and
  - (b) stating that if the person does not do the stated thing within the stated time the registrar may cancel the person's registration.

## EXPOSURE DRAFT



**101 Registrar may cancel registration of assistance animal trainer**

The registrar may cancel a person's registration as an assistance animal trainer if satisfied on reasonable grounds—

- (a) the person was given written notice under section 100 (2) and failed to comply with the notice; or
- (b) the person is convicted or found guilty of an offence under this Act, a corresponding law or the *Animal Welfare Act 1992*; or
- (c) the suspension is necessary in the interest of animal welfare.

**102 Unregistered assistance animal trainers**

- (1) A person commits an offence if the person—
  - (a) carries on a business as an assistance animal trainer; and
  - (b) is not registered as an assistance animal trainer.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if the person—
  - (a) accredits an animal as an assistance animal; and
  - (b) is not registered as an assistance animal trainer.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

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

*not registered*—a person is not registered if the person's registration is suspended, cancelled or expired.

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**103 Registrar may register assistance animal assessor**

- (1) A person may apply to the registrar—
  - (a) to be registered as an assistance animal assessor; or
  - (b) for a registered assistance animal assessor—to renew the assistance animal trainer’s registration.

*Note* A fee may be determined under s 144 for this provision.

- (2) An application must—
  - (a) be in writing; and
  - (b) include any information prescribed by regulation.
- (3) Within 30 days of receiving the application, the registrar must—
  - (a) register the applicant for a stated period; or
  - (b) register the applicant for a stated period subject to stated conditions; or
  - (c) refuse to register the applicant.

*Note* Failure to register the applicant within the required time is taken to be a decision not to register the applicant (see *ACT Civil and Administrative Tribunal Act 2008*, s 12).

- (4) The registrar may only register the applicant if satisfied the applicant—
  - (a) has the skills and experience to assess whether an animal meets the requirements set out under the assistance animal standard; and
  - (b) is registered to engage in a regulated activity under the *Working with Vulnerable People (Background Checking) Act 2011*; and

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- (c) has not, within 2 years before the application was made, been convicted or found guilty of an offence under this Act, a corresponding law of a State or the *Animal Welfare Act 1992*; and
  - (d) meets any requirement prescribed by regulation.
- (5) The registrar must, as soon as practicable after deciding whether to register the applicant, give the applicant written notice of the decision under subsection (3).

**104 Registrar may suspend registration of assistance animal assessor**

- (1) The registrar may suspend a person's registration as an assistance animal assessor if satisfied on reasonable grounds—
- (a) the person no longer has the skills and experience to assess whether an animal meet the requirements set out under the assistance animal standard; or
  - (b) the person's registration under the *Working with Vulnerable People (Background Checking) Act 2011* is suspended, cancelled or expired; or
  - (c) if the person's registration is subject to a condition—the person fails to comply with the condition; or
  - (d) the suspension is otherwise necessary for the protection of animal welfare.
- (2) If the registrar suspends a person's registration, the register must give the person written notice—
- (a) directing the person to do a stated thing within a stated time; and
  - (b) stating that if the person does not do the stated thing within the stated time the registrar may cancel the person's registration.

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**105 Registrar may cancel registration of assistance animal assessor**

The registrar may cancel a person's registration as an assistance animal assessor if satisfied on reasonable grounds—

- (a) the person was given written notice under section 103 (2) and failed to comply with the notice; or
- (b) the person is convicted, or found guilty of, an offence under this Act, a corresponding law or the *Animal Welfare Act 1992*; or
- (c) the suspension is otherwise necessary for the protection of animal welfare.

**106 Unregistered assistance animal assessor**

- (1) A person commits an offence if the person—
  - (a) carries on business as an assistance animal assessor; and
  - (b) is not registered as an assistance animal assessor.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if the person—
  - (a) accredits an animal as an assistance animal; and
  - (b) is not registered as an assistance animal assessor.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

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

*not registered*—a person is not registered if the person's registration is suspended, cancelled or expired.

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## Division 5.4 Using an assistance animal

### 106A Definitions—div 5.4

In this division:

*accompanied by an assistance animal*—a person is *accompanied by an assistance animal* if the person—

- (a) is a person with disability; and
- (b) is accompanied by an assistance animal that is working to assist the person alleviate the effect of the disability.

*public premises* means any premises that the public or a section of the public is entitled or allowed to enter or use (whether for payment or not).

#### Examples

- 1 business premises, including professional, trade and commercial premises
- 2 a cinema or theatre
- 3 a club, hotel or motel
- 4 a community centre, hall or public library
- 5 government premises
- 6 a hostel or nursing home
- 7 a place of worship
- 8 a public passenger vehicle
- 9 a restaurant or cafeteria
- 10 a school, college or university
- 11 a shopping centre, mall or plaza
- 12 sporting or recreational premises

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**106B Rights of people accompanied by assistance animals**

A person with disability does not commit an offence by taking an assistance animal onto or into, or allowing the animal to enter, a public place or public premises.

**106C Assistance animal allowed in public places and premises**

- (1) A person commits an offence if the person denies a person accompanied by an assistance animal access to, or the use of, a public place or public premises.

Maximum penalty: 25 penalty units.

- (2) A person commits an offence if the person excludes or removes from a public place or public premises—

- (a) a person accompanied by an assistance animal; or
- (b) an assistance animal that is accompanying a person.

Maximum penalty: 25 penalty units.

- (3) A person commits an offence if the person imposes a fee or charge on a person accompanied by an assistance animal for bringing the assistance animal into a public place or public premises.

Maximum penalty: 25 penalty units.

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

**106D Using unaccredited animal for assistance**

- (1) A person commits an offence if—
- (a) the person is accompanied by an animal in public; and
  - (b) the person represents (orally or in some other way) that the animal is an assistance animal; and

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(c) the animal is not an assistance animal.

*Note* An assistance animal must be accredited (see s 94, def *assistance animal*).

Maximum penalty: 20 penalty units.

**Example—par (b)**

the animal is wearing assistance animal identification

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

**144 Dictionary, new definitions**

*insert*

*accompanied by an assistance animal*, for division 5.4 (Using an assistance animal)—see section 106A.

*animal welfare*, for part 5 (Assistance animals)—see section 94.

**145 Dictionary, definition of *assistance animal***

*substitute*

*assistance animal*, for part 5 (Assistance animals)—see section 94.

**146 Dictionary, new definitions**

*insert*

*assistance animal assessor*, for part 5 (Assistance animals)—see section 94.

*assistance animal standard*, for part 5 (Assistance animals)—see section 94.

*assistance animal trainer*, for part 5 (Assistance animals)—see section 94.

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*corresponding law*, of a State, for part 5 (Assistance animals)—see section 94.

**147 Dictionary, definition of *disability***

*substitute*

*disability*, for part 5 (Assistance animals)—see section 94.

**148 Dictionary, definition of *excluded offence*, paragraph (b) (iii) and (iv)**

*substitute*

(iii) section 106C (Assistance animal allowed in public places and premises);

**149 Dictionary, new definitions**

*insert*

*guide dog*, for part 5 (Assistance animals)—see section 94.

*hearing dog*, for part 5 (Assistance animals)—see section 94.

*public premises*, for division 5.4 (Using an assistance animal)—see section 106A.

*service dog*, for part 5 (Assistance animals)—see section 94.



## Part 6 Domestic Animals Regulation 2001

### 150 Schedule 1, new items 34A to 34I

*insert*

|     |                                  |   |                            |
|-----|----------------------------------|---|----------------------------|
| 34A | <a href="#">Act, 97</a>          | refuse to register assistance animal              | applicant for registration |
| 34B | <a href="#">Act, 99 (3) (b)</a>  | register assistance animal trainer on conditions  | applicant for registration |
| 34C | <a href="#">Act, 99 (3) (c)</a>  | refuse to register assistance animal trainer      | applicant for registration |
| 34D | <a href="#">Act, 100 (1)</a>     | suspend assistance animal trainer registration    | assistance animal trainer  |
| 34E | <a href="#">Act, 101</a>         | cancel assistance animal trainer registration     | assistance animal trainer  |
| 34F | <a href="#">Act, 103 (3) (b)</a> | register assistance animal assessor on conditions | applicant for registration |
| 34G | <a href="#">Act, 103 (3) (c)</a> | refuse to register assistance animal assessor     | applicant for registration |
| 34H | <a href="#">Act, 104 (1)</a>     | suspend assistance animal trainer assessor        | assistance animal assessor |
| 34I | <a href="#">Act, 105</a>         | cancel assistance animal trainer assessor         | assistance animal assessor |

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2018.

**2 Notification**

Notified under the [Legislation Act](#) on 2018.

**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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