

**EXPLANATORY STATEMENT**  
**AUSTRALIAN CAPITAL TERRITORY**  
**PREVENTION OF CRUELTY TO ANIMALS**  
**(AMENDMENT) ORDINANCE 1986**

No. 26, 1986.

Under the Prevention of Cruelty to Animals Ordinance 1959 ("the Principal Ordinance") a permit from the Secretary of the Department of Territories is required to set a mechanical trap on Commonwealth land, and the permission of the occupier is required for the setting of a mechanical trap on non-Commonwealth land.

The main purpose of the Prevention of Cruelty to Animals (Amendment) Ordinance is to prohibit the use of a gin trap (a mechanical trap capable of trapping an animal by metal jaws closing against each other) on Commonwealth land, or on private land in the built-up area of the Territory. This is in recognition of the fact that a gin trap can inflict serious injuries on a person. The amending Ordinance also modifies slightly the provisions concerning the setting of other mechanical traps, and increases monetary penalties for offences.

The Ordinance was agreed to by the ACT House of Assembly.

Details of the Ordinance are set out in the attachment.

Section 1 cites the short title of the Ordinance.

Section 2 defines the 'Principal Ordinance' as the Prevention of Cruelty to Animals Ordinance 1959.

Section 3 amends section 4 of the Principal Ordinance by removing the now unnecessary definition of 'Department' and inserting new definitions of 'Court' and 'Tribunal' consequent on the amendment of section 12 of the Principal Ordinance.

Section 4 increases the fine for an act of cruelty from \$200 to \$1,000 and section 5 increases the fine for acts of aggravated cruelty from \$400 to \$5,000. Section 6 increases the fine for an offence against section 10 of the Principal Ordinance, which prohibits certain offenders against other sections from keeping animals, from \$200 to \$1,000. The Principal Ordinance provides for terms of imprisonment of 6 months (acts of cruelty and offences against section 10) and of two years (acts of aggravated cruelty). These remain unchanged, but may now be imposed in addition to, rather than as an alternative to, a fine.

Section 7(a) amends section 12 of the Principal Ordinance to provide that a person shall not:

- (1) set a gin trap on Commonwealth land;
- (2) except in accordance with a permit, set any other mechanical trap on Commonwealth land;
- (3) set a gin trap within a built-up area;
- (4) set any other mechanical trap in a built-up area, unless the person
  - (a) occupies the land; or
  - (b) has the consent of the occupier of the land; or
- (5) set a mechanical trap out-side a built-up area unless the person:
  - (a) occupies the land; or
  - (b) has the consent of the occupier of the land.

The amending Ordinance provides for a penalty of a fine of \$1,000, imprisonment for six months, or both, for offences against this section.

Section 7(b) defines "built-up area" for the purposes of section 12 of the Principal Ordinance to be the area declared by the Minister to be a built-up area for the purposes of the Careless Use of Fire Ordinance 1936.

Section 7(c) defines "gin trap" for the purposes of section 12 of the Principal Ordinance as a mechanical trap which is fitted with metal jaws, a pressure plate and a spring operated mechanism.

Section 8 inserts into the Principal Ordinance three new sections, 12A, 12B and 12C. Section 12A provides that the Minister may issue a permit for a person to set a trap (except a gin trap) upon Commonwealth land where the Minister is satisfied that it will be used to trap animals:

- (a) which are causing a nuisance in a built-up area,
- (b) which are required for scientific investigation, or
- (c) for the killing or trapping of which a permit or licence under the Nature Conservation Ordinance 1980 has been granted.

The new section 12B provides for the Administrative Appeals Tribunal to review decisions by the Minister to refuse to grant a permit, or to grant a permit on conditions.

Section 12C provides that the Minister must notify a person who has been adversely affected by a decision under section 12A of the reasons for that decision and the person's right to apply to the Administrative Appeals Tribunal for a review of Minister's decision.

Ord 60/84