

2017

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**DOMESTIC ANIMALS (DANGEROUS DOGS) LEGISLATION
AMENDMENT BILL 2017**

EXPLANATORY STATEMENT

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DOMESTIC ANIMALS (DANGEROUS DOGS) LEGISLATION AMENDMENT BILL 2017

Introduction

This explanatory statement relates to the Domestic Animals (Dangerous Dogs) Legislation Amendment Bill 2017 (the Bill) as presented to the Legislative Assembly. It has been prepared to assist the reader of the Bill to understand the policy rationale and the scope of the amendments and to help inform debate. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

The Statement must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Background

The death of a Canberra woman on 25 October 2017 in an attack by a dog previously known to authorities has sadly highlighted long standing and widely held public concerns about the threat posed by dangerous dogs. From the most recent figures provided by the Government three people every week present to hospital emergency departments in Canberra because of dog attacks. The total number of dog attacks on people is far higher. In addition, many conscientious and responsible dog owners have seen their own dogs attacked and, in some cases, killed by uncontrolled and dangerous dogs.

Public discussion, responses to the *Have Your Say* public website, and information received from members of the public have highlighted significant inadequacies in the existing law and its administration.

Overview of the Bill

This Bill toughens up the law to protect the public from dangerous dogs.

The Bill seeks to provide clearer direction on the handling of complaints about dog attacks and harassment by dogs. The spectrum of harassment, injury, serious injury and death of a person is addressed in sections 53A to 53C. In each case the Registrar of Domestic Animal Services is given clear instructions to investigate complaints and to give written notice of decisions to the complainant, the keeper of the dog, and neighbours.

A dog must be seized and impounded during an investigation into complaints of injury, serious injury or death of a person. In cases where it is found that a dog has attacked, causing serious injury or death, the Registrar must destroy the dog.

For lower levels of injury to a person the Registrar may destroy the dog or, if not, must issue a control order to the keeper of the dog. The Registrar must also declare the dog to be dangerous. Applications for a dangerous dog licence will require the payment of a significant annual fee by the licence holder. The Registrar may also issue control orders in the case of harassment.

Exceptions to these actions are clearly prescribed.

Comparable direction is given to the Registrar for handling complaints about dog attacks causing serious injury or the death of an animal.

Human Rights Implications

This Bill provides stronger protections for fundamental human rights, notably the right to life, protection of the family and children, freedom of movement, and the right to liberty and security of the person. In protecting these rights there may be restrictions placed on the property rights of others.

The property rights implications of this Bill are to remove property (in this case, a dog) or to restrict the way in which that property is kept or used. This right only becomes limited after a dog has attacked or harassed a person or attacked an animal.

In the case where a dog kills or seriously injures a person, or kills an animal, the dog's owner forfeits the right to continue to own the dog and the dog is destroyed in order to protect the public from further attacks. The solution is necessary and proportionate to the severity of the attack and the threat to the right to life, protection of the family and children, freedom of movement, and the right to liberty and security of the person. This proportionality is maintained for lower levels of injury from dog attacks and harassment.

Climate Change Impacts

The Bill has no identifiable climate change impacts.

CLAUSE NOTES

Part 1 **Preliminary**

Clause 1 **Name of Act**

This clause names this Act the *Domestic Animals (Dangerous Dogs) Legislation Amendment Act 2017*.

Clause 2 **Commencement**

This clause provides for the commencement of this Act on the day after its notification day.

Clause 3 **Legislation amended**

This clause provides that this Act amends the *Domestic Animals Act 2000* and the *Domestic Animals Regulation 2001*.

Part 2 **Domestic Animals Act 2000**

Clause 4 **Declarations—dangerous dogs**

New section 22 (1) (aa)

This clause sets out an additional definition of a dangerous dog.

Clause 5 **Dangerous dog licences—applications**

New section 24 (3)

This clause introduces an increased application fee for a dangerous dog licence.

Clause 6 **Special licences—renewals**

New section 32 (3)

This clause introduces an increased application fee for the renewal of a dangerous dog license.

Clause 7 Dog attacks person or animal causing serious injury
Section 50 (5) and (6)

This clause omits section 50 (5) and (6).

Clause 8 Dangerous dog attacks or harasses person or animal
Section 50A (4) to (6)

This clause omits section 50A (4) to (6).

Clause 9 New sections 53A to 53C

This clause creates three new sections.

Section 53A enables a person to make a written complaint about an attack by a dog causing the death or serious injury of a person or the death of an animal. The Registrar is then required to investigate the attack and, if it is found that the dog committed the attack, must destroy the dog. The Registrar must give written notice of the decision to the complainant and the keeper of the dog. The Bill sets out exceptions when the Registrar may decide not to destroy the dog.

Section 53B enables a person to make a written complaint about an attack by a dog causing the injury of a person or the serious injury of an animal. The Registrar is then required to investigate the attack and, if it is found that the dog committed the attack, must issue a control order and may destroy the dog. The Registrar must give written notice of the decision to the complainant, the keeper of the dog and neighbours. The Bill sets out exceptions when the Registrar may decide not to issue a control order or destroy the dog. Some control orders are specified including secure fencing, fence inspections, training courses for the dog and keeper, and any other conditions as the Registrar considers appropriate.

Section 53C enables a person to make a written complaint about harassment of a person by a dog. The Registrar is then required to investigate the harassment and, if it is found that the dog committed the harassment, may issue a control order. The Registrar must give written notice of the decision to the complainant, the keeper of

the dog and neighbours. The Bill sets out exceptions when the Registrar may decide not to issue a control order.

Clause 10 New section 56A

This clause requires an authorised person to seize a dog subject to a complaint under sections 53A and 53B. An authorised person may seize a dog under section 53C. Dogs seized under this section must be impounded until the end of the investigation.

**Clause 11 Seizure—dangerous dogs
Section 57**

This clause states the circumstances in which an authorised person must seize a dangerous dog.

Clause 12 Section 57 (a)

This clause substitutes contravention of a condition of a dangerous dog licence as grounds for seizure of a dangerous dog for the existing section 57 (a).

**Clause 13 Seizure—attacking and harassing dogs
Section 59, new note**

This clause is a new note referring to seizure of a dog subject to a complaint.

Clause 14 Section 63 heading

This clause substitutes a new heading for section 63.

Clause 15 Section 63 (1) and note

This clause substitutes a new section 63 (1) and note regarding seizure under section 58 (Seizure—contravention of multiple dog licence).

Clause 16 New section 65A

This clause inserts a new section on releasing dogs seized under section 56A (Seizure of dogs—complaints about dogs attacking or harassing).

Clause 17 **Dictionary, new definition of *serious injury***

This clause inserts a new definition of serious injury.

Part 3 **Domestic Animals**
 Regulation 2001

Clause 18 **Schedule 1, new items 11A to 11D**

This clause inserts a new table of items.