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

**DOMESTIC ANIMALS LEGISLATION AMENDMENT BILL 2022**

**EXPLANATORY STATEMENT  
and  
HUMAN RIGHTS COMPATIBILITY STATEMENT  
(*Human Rights Act 2004*, s 37)**

**Presented by  
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## **DOMESTIC ANIMALS LEGISLATION AMENDMENT BILL 2022**

The Bill is a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

### **OVERVIEW OF THE BILL**

The purpose of the Domestic Animals Legislation Amendment Bill 2022 (the Bill) is to introduce a requirement for newly acquired cats to be contained to the premises for their lifetime and all cats to be registered annually in the ACT. This gives effect to the ACT Cat Plan 2021-2031 (Cat Plan) and builds a more robust responsible cat ownership framework for the ACT.

### **CONSULTATION ON THE PROPOSED APPROACH**

This Bill seeks to implement a suite of actions committed to in the Cat Plan, released 28 May 2021. Comprehensive community consultation was undertaken during development of the Cat Plan between 6 April to 3 July 2019, which saw 4,087 survey responses, 17 community group written submissions and 103 individual written submissions received from both cat owners and non-cat owners. This feedback was overwhelmingly supportive of cat registration and stronger cat containment measures. The feedback was incorporated into the final Cat Plan and is reflected in this Bill.

Ongoing targeted consultation with animal welfare and management stakeholder groups has continued since the release of the draft Cat Plan in 2019 and of the final Cat Plan in 2021 to ensure its implementation is undertaken in accordance with community expectations.

In mid-2019, the ACT Government commissioned independent community research in the form of a Pet Census to better understand the nature of cat and dog ownership in the ACT in the absence of annual registration, which is the best-practice way to source accurate data on pet ownership. The census spoke to 2,783 households and undertook an additional 304 face to face surveys and estimated there were 32,405 cats in the ACT comprising 16% of households.

The Pet Census found the vast majority of cat owners had desexed (99%) and microchipped (93%) their cats and just over half of owners (56%) contained their cats at all times, with 34% containing them part of the time. Similar to the draft Cat Plan consultation, the majority of respondents (79%) supported cat registration. Cat ownership distribution across demographics showed approximately equal likelihood of cat ownership by gender, age and whether there are children in the household, similar to dog ownership.

## CONSISTENCY WITH HUMAN RIGHTS

During the development of the Bill due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004* (the HR Act).

### Rights engaged

The Bill may engage the right to privacy under section 12(a) of the HR Act, the right to be presumed innocent until proven guilty according to law under section 22(1) of the HR Act, and the right to equality and non-discrimination under section 8(3) of the HR Act.

#### Right to privacy

Section 12(a) of the HR Act provides individuals with protection from unlawful or arbitrary interference with privacy, family, home or correspondence. This includes protection of personal information from unlawful or arbitrary interference by government. Any law that permits interference with personal information should be succinct and to the point to ensure only the minimum amount to achieve the intended purpose.

#### Right to be presumed innocent until proven guilty

Section 22(1) of the HR Act provides that individuals who are charged with an offence maintain presumption of innocence until proven guilty according to law. For strict liability offences where authorities have the means to prove beyond reasonable doubt that the offence occurred, the right to presumption of innocence may be limited. As such, strict liability offences should only be used where there is certainty that the offence was made by the individual or entity.

#### Right to equality and non-discrimination

Section 8(3) of the HR Act provides that everyone is equal before the law and entitled to equal protection without discrimination. The inclusion of strict liability offences in the Bill may limit this right because the penalty may disproportionately impact vulnerable persons.

### ***Rights Limited***

#### ***1. Nature of the right and the limitation (ss 28(2)(a) and (c))***

#### Right to privacy

The nature of the right to privacy which may be limited under the Bill relates to communication and information privacy, where cat owners will be required to contribute information about their ownership of the cat to a register and renew this information annually. Contact information for new owners applying for ownership to be transferred is also required, which is already collected retrospectively under current operational process following a transfer of ownership. These provisions are

also reflected in consequential amendments to the existing annual dog registration for consistency between the frameworks.

The main provisions that engage the right to privacy are set out in new sections 84AA, 84AC and 84AE of the Bill, which require information by regulation to be provided upon application to register a cat and recorded by the registrar onto the register, and how the cat owner must confirm or update this information.

The specific information required is listed at new sections 9AA and 9AB of the Domestic Animals Regulation 2001 (the Regulation), similar to the existing annual dog registration framework. New section 9AC of the Regulation also sets out which of this information should be included on a cat registration certificate, which is provided to the registered keeper of the cat digitally or also in hard copy depending on the keeper's preference.

The Bill establishes a new annual cat registration framework that includes the requirement for cat owners to register each cat owned and renew this registration every 12 months thereafter until the cat is no longer kept by the person. These requirements involve the collection and storage on a register of basic information relating to the cat, including where it is kept and who it is kept by.

New sections 84AA, 84AC and 84AE may include the collection of the following information from a cat's keeper to register or renew registration of the cat:

- the name, address, email address or other contact details of the keeper, such as a contact number;
- the alternate address where the cat is kept if the cat is not kept at the keeper's address;
- details of any convictions or findings of guilty within the last ten years about an animal welfare offence or offence against the Act;
- details of the cat, such as if the registrar is satisfied it was born before 1 July 2022, its name if known, breed/description, microchip number and whether it is desexed;
- contact details of the previous keeper if known; and
- notification if the cat has died or changed ownership.

A new requirement to provide registration information when applying to register a dog has been introduced to the existing legislation at section 6, which aligns with the proposed process for cat registration and reflects current operational practice.

A new application process is also introduced for the new owner of a dog to apply to have its registration transferred to them, which amends existing section 12 and requires the new owner to provide the same basic registration details already required of owners who registered their dogs outright as opposed to through a transfer.

To renew the cat's registration each year, the cat keeper will receive a reminder notice at least 14 days before the 12 month anniversary of the registration and must

either update any of the information that has since changed or confirm that it has not changed. Section 84AE sets out the requirements for information that must be included on a reminder notice, including informing the cat keeper of the anniversary date for the registration, instructions on how to comply with the reminder notice and that it is an offence not to comply with the reminder notice.

Other sections of the Bill that may engage this right are:

- new section 84AI, which requires the name, address and, if known, email address or other contact information of the new keeper of a cat following change of ownership within 14 days from the day after ownership is transferred;
- new section 84AL, which requires the registered keeper of a cat to update their registration details within 14 days from the day after the change; and
- new section 135A, which expands on the existing section 135 where additional information on applications may be requested of a cat's or dog's keeper by the Registrar where it is reasonably necessary to carry out a function under the Act.

#### Right to be presumed innocent until proven guilty

The introduction of a suite of strict liability offences relating to annual cat registration and the expanded scope of the existing cat containment strict liability offence relate to human rights in criminal proceedings under section 22 of the HR Act. These offences place an evidential burden on the defendant. Recognising the right to the presumption of innocence until proven guilty, infringement notices may only be brought against an individual or entity if the authorised person believes beyond reasonable doubt that the offence occurred and it is established that the defendant was aware of and understood their legal obligations.

These strict liability offences are set out in the following new sections of the Bill:

- Section 84AF – subsection (1) keeper of a registered cat must comply with a reminder notice to renew registration – 10 penalty units - \$150 infringement.
- Section 84AI – subsection (2) former keeper of a registered cat fails to notify the Registrar of a change of ownership of the cat or subsection (3) new cat owner fails to apply as new registered keeper – 10 penalty units each - \$250 infringement each.
- Section 84AK – subsection (1) keeping an unregistered cat or subsection (2) keeping another keeper's registered cat for longer than 28 days without notifying the Registrar – 15 penalty units each – \$350 infringement each.
- Section 84AL – subsection (1) a registered cat keeper fails to notify the Registrar of a change of registration details within 14 days – 5 penalty units - \$150 infringement.
- Section 84AO – subsection (1) breach of cat containment in a declared area or subsection (2) breach of cat containment for any cat born from 1 July 2022 – 10 penalty units each - \$300 infringement each.

The new offence for expanded Territory-wide cat containment may limit the right to presumption of innocence as applying cat containment provisions outside of

declared cat containment areas is a new policy for the ACT introduced under the Cat Plan which impacts on a greater number of cat owners across the Territory from 1 July 2022 compared to the existing offence which only impacts residents within containment areas. The new offence relating to Territory-wide cat containment for cats born from 1 July 2022 is an expansion in scope from the existing cat containment area offence for declared cat containment areas, where the penalty amount remains the same. The existing cat containment area offence has been moved from repealed section 82 to new section 84AO.

Repealed section 81 has been moved to new section 84AN and revised to also allow an area to be declared a cat containment area on animal welfare grounds as well as biodiversity grounds, aligning with the purpose behind cat containment outlined in the Cat Plan.

The new offences relating to annual cat registration mirror the existing offences for annual dog registration in policy intent and penalty amount, with minor variations in wording and application due to standard drafting practice and the need to align more closely with the existing operations, policy and legislation.

The two existing strict liability offences at section 16(1) (keeper must notify of a change of address within 14 days) and section 16(2) (keeper must notify of a change of address where the registered dog is kept within 14 days) have been revised into one offence. Section 16(1) now applies to general registration details to assist with digital registrations, ensure a dog's registration details are current and align with overarching policy intent for dog registration.

### Right to equality and non-discrimination

The potential for infringement notices to be issued to cat keepers and carers under the Bill may limit the right to equality before the law and non-discrimination for vulnerable people in the community. If a person with a disability, a person living in unstable housing situations or otherwise experiencing financial hardship is unable to comply with the cat ownership requirements as a result, the offences could potentially be unduly applied to them where the breaches occurred for reasons beyond their control.

Laws will be discriminatory where they operate in a way that draws distinctions between persons based on prohibited grounds, such as on grounds of age, gender identity, accommodation status, or physical features. Indirect discrimination may arise where a law is neutral on its face (that is, there is no express intent to discriminate), but which may in its effect disproportionately affect certain groups whose members have one or more protected attributes. In this instance, vulnerable members of the ACT community who experience unstable accommodation, disability or unemployment for example, may find it more difficult to comply with new

requirements, particularly as the offences are framed as strict liability and carry fines. This may result in a disproportionate impact of the penalties on vulnerable groups.

For laws that may indirectly affect vulnerable groups disproportionately, the offences must be enforced in a non-discriminatory way. This means additional services should be provided and safeguards must be built into the internal policy and operational practices underpinning the legislative framework.

The new annual cat registration offences apply to all cat owners across the ACT, including for existing cats. The new cat containment offence for Territory-wide cat containment for all cats born from 1 July 2022 will affect a greater number of people across all ACT suburbs compared to the existing offence for breach of a declared cat containment area.

## **2. *Legitimate purpose (s 28(2)(b))***

### **Right to privacy**

The collection of information under the annual cat registration framework contributes to a safer, healthier and more environmentally sustainable city. Storing information from cat keepers about their cats on a register will reduce the number of roaming pet cats, reducing the risk of:

- nuisance to the community;
- infection or injury from cat attacks or contamination;
- injury, illness or death of cats;
- lost cats; and
- wildlife predation by cats.

Nationally and internationally, annual pet registration is a proven and growing means of improving responsible pet ownership and preventing animal welfare and management issues from affecting communities. Some of the benefits of obtaining information from cat owners as set out in sections 84AA, 84AC, 84AE, 84AI, 84AL and 135A include:

- successful reunification of lost pet cats with their keepers, as identification by microchip alone means the cat must first be impounded for rangers to search up to seven privately owned microchip databases to reach the keeper, with contact details often being out of date;
- a more engaged and responsible community of cat owners, meaning better animal welfare and management outcomes and less nuisance and less health risks to non-cat owners;
- accurate and reliable data on cat ownership in the ACT to inform decisions, policies and targeted services to where they are needed most;
- improved government support of responsible cat ownership and funding of cat management and welfare services to reduce the cost to non-cat owners as funds are sourced from those the services are provided to (cat owners); and

- improved compliance and enforcement of the Act and *Animal Welfare Act 1992* through more reliable government records and proof of ownership, including for issues such as addressing illegal breeding.

### Right to be presumed innocent until proven guilty

The purpose of the strict liability offences introduced in the Bill is to encourage Canberra's community of cat owners to engage with the new requirements and deter non-compliance to secure a safer, healthier and more environmentally sustainable future for the ACT.

The current practice of allowing pet cats to roam and hunt native wildlife is not sustainable and best-practice cat management calls for annual cat registration and containment measures to improve responsible cat ownership. The effectiveness of these initiatives is dependent on a simple escalating enforcement framework to promote cultural change around cat ownership. This will achieve improved welfare of cats and native wildlife and a safer and healthier community through the benefits of cat ownership and a reduction in roaming cats from interfering with households outside of where they are normally kept.

Improved compliance through the use of strict liability offences will bring the following benefits:

- improved biodiversity due to a gradual reduction in pet cat predation on wildlife;
- improved likelihood of reunification for lost cats that can be identified with up to date details and returned to the owner immediately;
- reduced instances of cat nuisance to other households and infection or illness caused by unwanted cats interfering in gardens;
- reduced instances of cat fights and attacks on people or other pets, and reduced dog attacks on cats when properly contained;
- reduced injuries or unnatural death of pet cats; and
- better compliance with all existing requirements around cat ownership due to the education and awareness the new offences will bring around expectations of cat owners.

### Right to equality and non-discrimination

The purpose of applying the annual cat registration strict liability offences to all cat owners and the Territory-wide cat containment offence to the owners of all new cats is to raise the standard for responsible cat ownership in the ACT. This will achieve the animal welfare and management, biodiversity and wellbeing benefits that come with responsible cat ownership. The current practice of only requiring microchipping of cats without registration and applying cat containment requirements only within declared areas is not well-aligned with standard practice in other Australian jurisdictions and results in an unclear and inconsistent approach to responsible cat ownership in the ACT.

Ensuring responsible cat ownership reforms apply across the Territory to all cats for annual cat registration and all new cats for cat containment will give a balanced

approach to achieving the benefits of the reforms without impacting unnecessarily on existing cat owners.

### **3. *Rational connection between the limitation and the purpose (s 28(2)(d))***

#### Right to privacy

The requirements in the Bill around providing information to the Registrar for the purposes of registering a cat and renewing registration enable the effective enforcement of all existing provisions in the Act relating to cats.

While pet cats are already regulated under the Act through requirements such as microchipping, desexing, cat containment areas, breeding licences, advertising requirements, and multiple cat licences, cat owners in the ACT are not yet required to register their cats with the ACT Government.

There are community expectations among cat owners and non-cat owners alike where it is expected that lost, injured, dangerous and nuisance pets can be managed by Domestic Animal Services through operations by rangers and through partnerships with non-profit organisations. These expectations cannot properly be met where cats are concerned as the Act currently stands, as a lack of information about the ownership of each cat presents barriers to managing them effectively.

Microchipping does not facilitate the same benefits to the community that annual pet registration guarantees and the unique identifying numbers and contact information stored on cat microchips cannot fulfil community expectations around domestic cat management alone. This is because microchipping databases are privately managed and there are several databases which can present barriers when accessing the information.

On an individual scale, annual cat registration allows for cats to be identified by authorised officers immediately with up to date information that is stored on a government managed register, meaning cats can be identified and reunited without the need for impoundment of the cat. On a larger scale, annual cat registration facilitates evidence based decision making by government where services and new initiatives can be targeted to where they are needed most.

#### Right to be presumed innocent until proven guilty

The biodiversity, animal welfare and management and health and wellbeing benefits of the Bill cannot be realised if the new requirements are not complied with by the vast majority of cat owners. For example, data-informed decision making through the annual registration register relies on up to date and accurate registration information, which relies on cat owners complying with the requirements to register their cat and renew the registration annually. Annual registration will then facilitate compliance

and enforcement where the owners of roaming cats that should be contained can be easily identified.

A significant aspect of the Bill's implementation involves education and awareness and a transitional approach whereby existing and prospective cat owners can adjust to the new annual cat registration and cat containment frameworks. Strict liability offences should only be established where the authorised person has the means of believing beyond reasonable doubt that the offence took place without reasonable excuse and where the individual was fully aware of their obligations and did not make reasonable effort to comply in their particular circumstances. The regulatory frameworks introduced in the Bill allow for this, particularly following an adjustment period and education and awareness activities.

As with many other regulatory frameworks involving licensing or registration, accompanying each framework with strict liability offences is essential to deter non-compliance and reach the intended purpose.

The strict liability offences coupled with annual renewals for registration are essential for achieving compliance with the new Territory-wide cat containment provisions while also ensuring people in breach of the provisions avoid having to face court time. The gradual implementation of the Bill's cat containment requirements where only cats born from 1 July 2022 are required to be contained outside of declared cat containment areas may present ambiguity for these suburbs where older cats can roam while younger cats cannot. This ambiguity is addressed by the inclusion of strict liability offences, which give the community confidence that cats can be clearly identified through annual registration due to high compliance rates and authorities can address those who choose not to comply despite having the means to do so.

#### Right to equality and non-discrimination

By applying the strict liability offences to cat owners across the ACT, including those who may be in vulnerable living situations, greater consistency with other jurisdictions and within the ACT itself can be achieved, meaning stronger culture around responsible cat ownership and better compliance with the reforms.

It is essential that Canberra's community of cat owners understand their obligations and, in turn, the impacts of their cat ownership on the environment and broader community. The Canberra Pet Census showed cat ownership spans across all types of dwellings in the ACT, and so differentiating between living situations may result in confusion and compromise the legitimacy of the reforms to achieve the purpose of the Bill for improved animal welfare and management, biodiversity and general wellbeing.

#### **4. *Proportionality (s 28(2)(e))***

##### Right to privacy

As the collection of contact details, ownership status, and details about the cat are fundamental to the functioning of an annual cat registration system, there are no less restrictive means of achieving the responsible cat ownership benefits that annual registration can bring.

The Bill is considered to be a reasonable and proportionate limitation on the right to privacy. Obtaining personal information that is already used by cat keepers for their cats' microchip data will achieve health and safety benefits for Canberrans, animal welfare and management benefits, better compliance and enforcement of all regulatory functions available for pet cats and considerable biodiversity benefits for a more sustainable natural environment. This ensures that the personal information collected under the Bill is not unlawful or arbitrary as the information required is clearly defined and set out by regulation and aligns with the same information already standardised and accepted as the basic minimum information necessary for annual dog registration and existing cat related regulatory functions.

Authorised officers from Domestic Animal Services and the RSPCA ACT are unable to effectively enforce the existing regulatory functions within the Act without a clear and reliable information register, as microchipping alone has proven unreliable and often out of date as a means of identifying a cat's keeper, meaning laws such as cat containment and desexing requirements are harder to enforce.

Less restrictive means have been attempted to regulate cat ownership in the ACT and are currently in place, yet these have been demonstrated to not fully achieve the purpose. These less restrictive means are the separate regulatory frameworks in the Act that have been relied on without a registration system; these being microchipping, desexing, cat containment areas, breeding licences, advertising requirements, and multiple cat licences. Each of these frameworks requires authorised officers to clearly identify ownership of the cat, meaning these frameworks cannot be effectively enforced or provide the total possible benefits to the community as intended due to a lack of an annual cat registration framework underpinning them.

The requirement to provide registration information when applying to register a dog or cat does not change the information already being collected operationally and better aligns the legislation with this process. Expressly requiring the existing basic registration information at the application stage is more transparent for the applicant.

The new transfer of ownership application process does not incur the registration fee and does not require any further information to what is already collected of new keepers following a transfer of ownership, meaning the existing requirements of new keepers do not change other than ensuring they provide the information upon application to transfer rather than retrospectively following the transfer.

Safeguards are in place to ensure only the minimum level of information required to effectively establish annual cat registration is collected, which is similar to the information collected in other jurisdictions for the same purpose. The Bill ensures the scope of information gathered is restricted to what is reasonably necessary for carrying out the relevant functions of the Act and this information cannot be misused or accessed by third parties or anyone who is not an authorised person administering the Act or the registered keeper themselves.

The information gives a basic level of understanding for authorised officers to identify a cat, contact the keeper and manage the cat appropriately for all relevant functions

under the Act and the *Animal Welfare Act 1992*, including reunification, compliance with existing regulatory frameworks, containment status and illegal breeding tracing.

For transfer of ownership applications, administrative safeguards are in place for assessing registration applications where there may be grounds for refusing an application, such as if the applicant is a disqualified keeper. In these circumstances, Domestic Animal Services makes contact with the applicant to offer the opportunity to provide further information around the issue of concern. For transfer of ownership applications, the grounds for refusing the transfer are in line with the existing grounds for cancellations. Introducing an application process allows for the registration to be refused prior to registering the person, while currently the Registrar would need to first register the applicant before cancelling the registration.

The proposed legislation also allows flexibility for the cat keeper to choose what information they are able to provide, such as options for contact details and allowing some information to be withheld if it is not readily known by the person. Email addresses are requested but not mandatory, as not all applicants have an email address or the infrastructure to use one. The legislation does specifically reference email addresses, however, as the majority of registration processes currently are carried out electronically.

The information required and the safeguards in place are aligned closely with the existing operational and administrative process for annual dog registration and the information gathered will be handled and stored in accordance with the safeguards established in the Territory Privacy Principles set out in the *Information Privacy Act 2014*.

#### Right to be presumed innocent until proven guilty

The success of the new annual cat registration and cat containment provisions presented in the Bill and the success of other existing regulatory functions relating to cats already in the Act are dependent on their enforceability, and there are no less restrictive means of achieving enforceability of the Act without the use of small and proportionate strict liability offences to deter and address noncompliance. This is the least restrictive means of establishing long-lasting cultural change around responsible cat ownership, as is the approach already in use for responsible dog ownership.

The Bill is considered to be a reasonable and proportionate limitation on the right to be presumed innocent until proven guilty due to the strong education and awareness focus preceding compliance work for the first few years following commencement, the small-scale nature of the offences and the administrative and internal policy safeguards in place. These small-scale offences will deter noncompliance to achieve significant benefits for the Territory's biodiversity, health and wellbeing, safety from cat attacks and contamination and animal welfare and management objectives.

Education and awareness activities around the new strict liability offences will be a priority following commencement of the Bill. This knowledge among cat owners that annual cat registration and containment offences are in place helps to keep the community engaged with their obligations and supports cat owners doing the right thing. Even with a gradual implementation of compliance and enforcement, the

establishment of these strict liability offences will form part of early education and awareness activities to ensure cat owners are well-informed of their responsibilities into the future.

The offences only apply where it is clear the person was aware of their obligations and had the means of complying but chose not to. As it is understood cat ownership may vary to a greater extent than dog ownership, as a cat can be owned, semi-owned and unowned, the offences in the Bill are also taken to only apply where ownership of the cat is clearly demonstrated. This ensures any limitation on the right to presumption of innocence can be made in the least restrictive way possible. This internal policy approach to applying the new registration and containment offences is to ensure that no person associated with a semi-owned cat or a cat where ownership is ambiguous will be considered the owner without clear proof. This is why enforcement of the Act is heavily dependent on annual cat and dog registration, whereby the owner of the cat or dog is clearly defined.

The existing breach of cat containment area strict liability offence at repealed section 82 of the Act is moved to new section 84AO and remains at 10 penalty units. The Bill proposes to expand the scope of this existing offence to also capture the new Territory-wide cat containment requirements outside of declared cat containment areas, maintaining the current enforcement approach for the existing Act containment requirements for predictability and ease of enforcement. The expanded scope is not intended to be enforced immediately following commencement of the Bill due to the gradual nature of the new containment requirements and the recognition that cat owners will require a lengthy adjustment period to facilitate cultural change and widespread understanding of responsible cat ownership. The transition from an educative enforcement approach to a compliance enforcement approach will take place over a number of years following commencement to ensure owners of contained cats under the new Territory-wide cat containment provisions are well informed and accustomed to the requirements.

The Bill establishes a simple escalating enforcement framework that is consistent with the existing enforcement framework of the Act for annual dog registration and the existing cat containment offence. The annual cat registration enforcement framework is used in conjunction with education and awareness to build a well-informed community of cat owners who understand the value in managing their cats responsibly and in accordance with the legislation.

Appropriate safeguards are included in the Bill to ensure these strict liability offences are only used in circumstances where it is clear that the offence took place and by the person in question. For circumstances where the cat containment or registration provisions have been breached at no fault of the cat's owner the offences do not apply. For example, safeguards are in place for the following offences contained in the Bill:

- The existing breach of a cat containment area offence at repealed section 82 that is proposed in the Bill to be moved to section 84AO and expanded to capture the Territory-wide cat containment requirements. This small strict liability offence does not apply where there is a reasonable excuse. The definition of 'premises' has also been expanded to ensure responsible cat

owners are not inadvertently affected, where a cat being walked on a harness and leash or a cat contained to the yard or courtyard of the premises is included to prevent misunderstanding of the containment requirements. This offence also does not apply to cats born before 1 July 2022 that are not kept in declared cat containment areas, which is consistent with messaging to the community following release of the Cat Plan.

- The strict liability offence in new section 84AF for failure to comply with a cat registration reminder notice has safeguards in place to ensure the onus is on the Registrar to not only send a reminder notice for the cat owner to comply with, but to also include specific information in the reminder notice, such as the date registration ends, how to comply with the notice and that failure to comply is an offence. If this reminder notice is not sent to the cat owner, the strict liability offence does not apply. The reminder notice also cannot request the cat owner comply with anything other than what is set out to be included in the reminder notice.
- The strict liability offences for keeping an unregistered cat and keeping a registered cat when you are not the registered keeper introduced in new section 84AK have numerous safeguards built into the legislation. These offences do not apply for cats under 56 days of age, where it cannot be determined that the cat has been kept by the person for longer than 28 days, or if the person has not been a resident of the ACT for longer than 28 days. The offence for keeping a cat when you are not the registered keeper also does not apply if the registered keeper is unable to care for the cat and so it is being kept by the person on a temporary basis.
- The strict liability offences for failure to notify the Registrar of a change of registration details, change of owner, and keeping a cat for longer than 28 days without telling the Registrar mirror the same offences for annual dog registration and serve as a deterrent to ensure registration details are kept up to date. Safeguards are in place for these offences as they primarily serve as deterrents and are unlikely to be evident to authorised officers in most circumstances. Where registration details are found to require updating upon receipt of a renewal reminder notice, these offences do not apply retrospectively. Instead, the keeper may update the registration details to comply with the notice and the date that the details changed is not known or investigated.

Application of the offence for failure to update registration details at new section 84AL(1) for cat registration and new section 16(1) for dog registration does not double up with other offences, such as failure to notify of transfer of ownership or failure to comply with a renewal reminder notice. The main purpose of this offence has not changed from the purpose of the existing two offences, which is to act as a deterrent to ensure people are aware of the need to update registration details. If a keeper finds out of date information when updating their registration to comply with a renewal reminder notice, the offence at new section 16(1) does not apply.

To ensure the right to the presumption of innocence is limited in the least possible way to achieve the purpose of the Bill, safeguards are also put in place in new section 84AP to prevent these offences from inadvertently affecting the current operations of animal welfare and management entities and volunteers. Cat ownership is generally less defined than dog ownership where stray and semi-owned

cats are concerned and it is not the policy intention of the responsible cat ownership measures introduced by the Bill to directly impact where ownership of a cat is not fully determined. The enforcement framework presented in the Bill is designed to only apply in instances where a cat's ownership status is clear.

Regarding the strict liability offences at new sections 84AF – failure to comply with a reminder notice and 84AK – keeping an unregistered cat, these offences do not cross-over and cannot be applied to the same person simultaneously. Operational process prevents these two offences from applying in conjunction with each other, as a 'lapsed' registration that is not renewed before the 12 month anniversary date is not automatically cancelled under new section 84AJ, which would create unnecessary administrative burden and inaccurate data by cancelling registrations for cats that may still be kept by the same person.

Lapsed registrations must be actioned by Domestic Animal Services to contact the keeper of the registered cat and determine the status of its registration, what information should be updated if any and how best to contact the keeper to facilitate renewals in future.

This means the Bill has been drafted to create an obligation for the Registrar of Domestic Animals to give a reminder notice to the cat's keeper at least 14 days before registration ends and to cancel a registration in certain circumstances, but not automatically due to a lapsed registration. The offence for not complying with a reminder notice only applies if the keeper has been provided with the reminder notice that contains the relevant information listed in section 84AE and does not comply with it. This is consistent with the legislation and operational process in place for annual dog registration.

If a reminder notice containing the required information under section 84AE is not sent to the cat's keeper and registration lapses past the 12 month anniversary date, the strict liability offence at new section 84AF does not apply as this offence only applies in circumstances where a reminder notice was sent accurately and not complied with.

If the Registrar has not sent a reminder notice and the cat's registration lapses, Domestic Animal Services cannot apply the strict liability offence for keeping an unregistered cat under new section 84AK of the Act. In these circumstances the purpose built registration database will flag the registration as 'lapsed' which triggers a manual investigation into the cause of the lapse and, if needed, a manual reminder notice. Consistent with the intention of the Bill, Domestic Animal Services will make every effort to contact the keeper for the registration to be renewed or cancelled if it is found there is reason to cancel the registration (e.g., if the cat is deceased).

The reminder notice must state that it is an offence under new section 84AF for the cat's keeper to fail to comply with the notice before the cat's registration ends. To comply with the notice relates only to the requirements set out in new section 84AE. The reminder notice is considered sufficient notice to the keeper that they have a legal obligation to renew their cat's registration. A warning or small infringement notice can be issued as an alternative to prosecution for this offence.

The strict liability offence may only apply to the reminder notice for registration renewal as outlined in section 84AE. Any notice provided by the Registrar for Domestic Animals to a keeper separate to registration renewal does not apply to the strict liability offence under section 84AF, as other requirements of responsible cat ownership relate to separate offences already provided for in the Act (e.g., keeping a non-desexed cat without a licence under existing section 74).

The offence under section 84AF has a maximum penalty of 10 penalty units and an infringement notice amount of \$150, similar to the same offence for the annual dog registration framework. The penalties are also consistent with other similar offences in the Act and are considered proportionate and an appropriate deterrent for non-compliance with a reminder notice to renew registration.

The use of infringement notices to underpin the annual cat registration and cat containment regulatory frameworks safeguards cat owners from facing unwanted court time. Paying a fixed amount from an infringement notice is not taken to be a plea of guilt; rather, it ensures that a person involved in a minor offence can avoid prosecution and conviction. If they refuse to pay the amount, the onus is on government to proceed with prosecution or drop the allegation.

Additionally, the defence of mistake of fact, which preserves the principle that a person is innocent until proven guilty, is available in response to the strict liability offence. That is for example if the registered keeper, upon receiving the reminder notice, took action to comply with the notice but failed to do so due to a technical error with their compliance method. In this instance, their conduct would not constitute an offence as they were under the reasonable and honest belief they had complied.

Finally, the right to be presumed innocent until proven guilty is safeguarded through the supporting operational and policy approach underpinning the Bill. Enforcement of the new offences will be delayed from commencement of the Bill in favour of a lengthy education and awareness period. It is also understood that as the new containment provisions are being grandfathered into place there will be a gradual increase in the number of cats being contained outside of declared containment suburbs, aligning with a gradual approach to enforcement.

#### Right to equality and non-discrimination

The Bill is considered to be a reasonable and proportionate limitation on the right to equality and non-discrimination due to the additional services available to people experiencing financial hardship and the internal policy safeguards in place that guide operations in how the offences are enforced. The intent of the offences accompanying the reforms is to support cat owners in exercising responsible cat ownership and to deter non-compliance. The offences are not intended to apply to situations where a cat owner would otherwise have been able to comply if it weren't for factors beyond their control, such as unstable accommodation or financial hardship.

In addition to general safeguards accompanying the new offences, such as allowing reasonable excuse for breaching cat containment and ensuring considerable transition time where education and engagement acts as the primary enforcement

approach immediately following commencement, additional safeguards are in place for people experiencing financial hardship or are otherwise in need of assistance in managing an infringement notice. For example, a person can request an extension to the payment due date, dispute the offence or request a payment plan. Domestic Animal Services currently manages these requests on a case by case basis where the payment plan is tailored to the needs and circumstances of the individual.

Where cat owners may temporarily be unable to comply with certain provisions in the Bill, such as not having an address to update their registration details with, not having the means to keep a cat contained due to unstable housing, not receiving or understanding reminder notices due to an inability to access emails, messages, calls or letters, or other means of being unable to comply, there are existing administrative and internal policy arrangements in place to ensure these cat owners are not unfairly issued with an infringement notice. For example:

- The cat containment offences at new section 84AO do not apply where there is a reasonable excuse.
- The offence for keeping a registered cat when you are not the registered keeper at new section 84AK(2) does not apply if the person is caring for the cat on a temporary basis due to the keeper being unable to care for it.
- Existing section 92 allows for fees to be waived where seized cats are being returned to the keeper in cases of financial hardship, and the cat may be housed by a provider for longer in these cases while the keeper is unable to care for the cat for financial reasons.
- Some of the offences rely on the Registrar to provide certain information and comply with certain provisions for the offence to be valid, such as the offence at new section 84AF, which requires the person to have successfully been given a reminder notice that contains all of the information required on the notice at new section 84AE. Not receiving the notice due to not having access to communications or receiving the notice that does not contain all of the required information would mean the offence does not apply.
- Where it is considered that an offence took place where the person was aware of their obligations and had the means of complying but chose not to, the infringement notice could be accompanied by a payment management plan in collaboration with Domestic Animal Services, who will establish a spreadsheet for the person to negotiate timeframes and payment instalments without further costs.

## Domestic Animals Legislation Amendment Bill 2022

### *Human Rights Act 2004 - Compatibility Statement*

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Domestic Animals Legislation Amendment Bill 2022**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly **is** consistent with the *Human Rights Act 2004*.

.....

Shane Rattenbury MLA  
Attorney-General

## CLAUSE NOTES

### PART 1 PRELIMINARY

#### Clause 1 Name of Act

This clause states that the name of the Act is the *Domestic Animals Legislation Amendment Act 2022*.

#### Clause 2 Commencement

This clause sets out that the Act commences on 1 July 2022.

#### Clause 3 Legislation amended

This clause sets out the legislation that is amended by this Act, being the *Domestic Animals Act 2000*, the Domestic Animals Regulation 2001 and the Magistrates Court (Domestic Animals Infringement Notices) Regulation 2005.

### PART 2 DOMESTIC ANIMALS ACT 2000

#### Clause 4 Sections 81 and 82

This clause removes existing sections 81 and 82, which relate to the existing cat containment measures and offence, to relocate these sections into new sections 84AN and 84AO. This brings the existing cat containment provisions into new Division 4.1B – Cat Containment, and also includes the new expanded cat containment provisions for Territory-wide cat containment for all cats born from 1 July 2022.

#### Clause 5 New Divisions 4.1A and 4.1B

This clause inserts new divisions and sections relating specifically to cat registration and cat containment. This is placed before existing Division 4.1, which relates to existing multiple cat licences. As cat registration and containment will now be the most significant regulatory requirements around cat ownership, new Divisions 4.1A and 4.1B will be placed first for existing Part 4 - Cats.

The individual new sections (including relocated sections 81 and 82 for cat containment) are listed below under headings.

#### New Division 4.1A – Registration of Cats

##### New section 84AA - Cat registration – applications

New section 84AA (Cat registration – applications) inserts a reference to requirements set out by regulation as to what information must be included in such an application.

The information to be required by regulation is new section 9AA of the Domestic Animals Regulation 2001 (the Regulation), which matches the information already required for the registrar to record for dog registrations with the addition of requiring an email address if known, to ensure people

willing to participate in digital registration processes as is existing procedure can be reached by email rather than hard copy mail.

This registration information is now expressly required at the application stage in the Act, where the equivalent for dogs was previously required indirectly by requiring the registrar to record certain information and request additional information if the application was missing details. This inclusion of cat registration information at the application stage is a drafting correction to make the Act more transparent around what information is required when registering a cat and ensures the cat registration application process aligns with current operational and system design for processing registrations.

New section 84AA sets out that a person under 16 years of age is not considered the owner of an animal as their parent or guardian is considered to be the owner under existing section 136. As such, new section 84AA includes a note referencing existing section 136 to ensure that a person who is under 16 years of age must have their parent or guardian register the cat to align with current operational practice for dog registrations.

#### New section 84AB - Cat registration – approval or refusal

New section 84AB (Cat registration – approval or refusal) inserts a requirement for the registrar to, by written notice to the applicant, register the cat or refuse to register the cat.

Registration of the cat must be refused if the applicant has been disqualified from owning an animal under existing section 138A and may be refused if the cat is not microchipped, not desexed, or if the registrar reasonably believes that the applicant has failed, or is unable, to exercise responsible cat management, care or control.

#### New section 84AC - Cat registration – records

New section 84AC (Cat registration – records) inserts a requirement that an approved cat registration must be recorded onto the register prescribed by regulation.

#### New section 84AD - Cat registration – duration

New section 84AD (Cat registration – duration) inserts a provision which states a cat's registration is 12 months from date of registration unless registration is sooner surrendered, cancelled or renewed.

#### New section 84AE - Cat registration – renewal reminder notice

New section 84AE (Cat registration – renewal reminder notice) inserts the requirements for a cat registration renewal reminder notice.

Similar to the equivalent for dogs at existing section 10, new section 84AE requires a cat registration renewal reminder notice to be sent at least 14 days before the day the cat's 12 month registration ends and must include:

- the date the cat's 12 month registration is due to end;
- that the keeper is required to confirm or update information about the cat's registration that is recorded or is required to be recorded on the register;

- what the information requiring confirmation or updating is or how the keeper can electronically access the information about the cat's registration;
- how the keeper can comply with the notice;
- that it is an offence to fail to comply with the notice before the cat's registration ends; and
- any other information prescribed by regulation.

#### New section 84AF – Cat registration – compliance with renewal reminder notice

New section 84AF (Cat registration – compliance with renewal reminder notice) includes a new strict liability offence if the registered cat keeper does not comply with a registration renewal reminder notice.

Matching the existing offence for dog registrations at existing section 10A, the registered keeper of a cat commits an offence if they are given a reminder notice under new section 84AE and fail to comply with the notice.

Similar to the equivalent dog-related offence, this only applies if the authorised person believes beyond reasonable doubt that the keeper of the cat did receive the reminder notice, which was compliant with the requirements set out in new section 84AE, and knowingly did not comply with the notice.

The new offence is set at 10 penalty units, as is the same for the dog-related equivalent offence.

#### New section 84AG – Cat registration – automatic renewal

New section 84AG (Cat registration – automatic renewal) inserts a provision for the 12 month registration of a cat to be automatically renewed if the keeper of the cat receives a renewal reminder notice under new section 84AE and complies with the notice by confirming or updating the cat's registration information.

#### New section 84AH – Cat registration numbers and certificates

New section 84AH (Cat registration numbers and certificates) inserts a provision requiring that, once registered, the registrar must give the keeper of the cat a registration number and a registration certificate. For registration renewals, the registrar must give the keeper a renewed certificate for the cat. Cat registration certificates must contain the information prescribed by regulation.

Cat registration certificates may be digital provided the keeper of the cat receives a digital copy or a link to the registration information. In the event the keeper of a cat wishes to receive a certified hard copy certificate, the registrar must give one to the keeper. The registrar may also give a new certified certificate if satisfied the previous one was stolen, lost or damaged.

#### New section 84AI – Cat registration – change of owner

New section 84AI (Cat registration – change of owner) includes two new strict liability offences and introduces a new requirement for a person seeking to be registered as the new keeper to apply as part of the transfer of ownership, which aligns more closely with the current policy and broader legislation around the existing power of the registrar to refuse registrations.

The strict liability offence at new section 84AI(2) relates to where registration of a cat is being transferred to a new keeper and states the current keeper seeking to transfer the cat to another person must notify the registrar in writing the name, address and, if known, email or other contact information of the new keeper within 14 days from the day after the transfer takes place. This strict liability offence is 10 penalty units and aligns with the dog registration equivalent offence at existing section 12(1), with the exception of also requiring an email or other contact details if known.

The strict liability offence at new section 84AI(3) states the new owner of the cat must apply to the registrar to be the new registered keeper within 14 days after the day ownership is transferred if it is likely to be longer than 28 days that the cat is owned by them. This strict liability offence is 10 penalty units and is an amended version of the equivalent offence for transfer of dog ownership at existing section 12(2), where the new keeper must notify the registrar in writing they are the new keeper within 14 days, with the same penalty amount if this is not done.

The drafting of existing section 12(2) for transfer of ownership of a dog does not meet the policy intention of the framework or align with the existing legislation allowing the registrar to refuse a dog's registration or cancel a dog's registration. If this were repeated for transfer of ownership of a cat, a disqualified keeper could potentially have a cat's registration transferred to them automatically, bypassing the registrar's powers to refuse a registration or cancel a registration. Upon receiving notification of the new keeper within 14 days, the registrar would then have to update the registration to record the disqualified keeper as the cat's new keeper before then cancelling the registration. By replacing the requirement to notify the registrar in writing with the requirement to apply to become the new registered keeper, the registrar's existing powers around refusing registration to disqualified keepers (and other unsuitable keepers) may be maintained.

The application process for transfer of ownership is the same as for general registration applications under sections 84AA and 84AB, although the registration fee will not be applied for transfers as is current practice for dog registration transfers.

A refused transfer of ownership application is taken to mean the registration should be cancelled. If the application is approved, the registrar must under new section 84AC update the register with the details of the new keeper of the cat.

#### New section 84AJ – Cat registration - cancellation

New section 84AJ (Cat registration - cancellation) inserts a requirement that the registrar must cancel the registration of a cat if the registrar is told in writing or otherwise becomes aware that the cat has died, has been destroyed under the Act, or if the keeper of the cat has been disqualified under existing section 138A.

Subsection (2) also states the registrar may cancel a cat's registration if:

- the keeper of the cat tells the registrar in writing that they are no longer the owner of the cat;
- the registrar reasonably believes the cat's keeper has failed, or is unable, to exercise responsible cat management, care or control;
- the cat is not microchipped as required under existing section 84 or desexed as required under existing section 74 of the Act; or

- the keeper fails to comply with a notice requesting information under new section 135A, which expands on the existing section 135 where additional information on applications may be requested of a cat's or dog's keeper by the Registrar where it is reasonably necessary for carrying out a function under the Act.

A note is also set out in new section 84AJ to clarify that registration of a cat may also be cancelled if the registrar refuses an application made under new section 84AI for transfer of registration to a new keeper.

#### New section 84AK – Offence – keeping unregistered cats etc

New section 84AK (Offence – keeping unregistered cats etc) includes two new strict liability offences relating to keeping a cat.

The strict liability offence at new section 84AK(1) states it is an offence for a person to keep an unregistered cat, which is set at 15 penalty units to match the equivalent offence for keeping an unregistered dog at existing section 14. This new offence does not apply if the cat is under 56 days (two months) of age or if the cat has not been kept by the person in the ACT for longer than 28 days. This means a person who is the keeper of a cat interstate may move to or stay within the ACT and not register the cat for up to 28 days from arrival.

The strict liability offence at new section 84AK(2) states it is an offence for a person to keep a registered cat when they are not the cat's registered keeper, which is also set at 15 penalty units to match the equivalent offence for a person keeping a registered dog when they are not the registered keeper at existing section 14. This new offence does not apply if the person keeping the cat is only caring for the cat temporarily due to the registered keeper being unable to care for the cat.

New section 84AK also may not apply to an entity exempted by the registrar at new section 84AP, provided the registrar is satisfied the entity carries out activities for the reasonable care and management of stray cats. This is to avoid the new annual cat registration requirements aimed at pet cats from preventing current operations by animal welfare and management organisations.

#### New section 84AL – Cat registration – change of registration details

New section 84AL (Cat registration – change of registration details) includes one new strict liability offence set at 5 penalty units that is an amended version of the existing dog registration equivalent at existing section 16(1), where the registered keeper of a dog must notify the registrar within 14 days of their new address after moving. The amended version for cat registrations at new section 84AL requires for a change in registration information provided under new section 84AA or new section 84AE to be updated within 14 days from the day after the change.

#### New section 84AM – Cat registration – evidence of registration

New section 84AM (Cat registration – evidence of registration) inserts provisions that state how cat registration certificates relate to the cat's registration status. The formatting and structure have been updated from the dog related equivalent provisions at existing section 17 in line with standard drafting practice.

New section 84AM(1) states a registration certificate (including on a digital platform) or a certified copy of a registration certification for a cat issued under new section 84AH is evidence that the cat

described on the certificate is, or was, registered for the period mentioned in the certificate or certified copy.

Subsection (2) states a registration certificate (including on a digital platform) or a certified copy of a registration certification for a cat issued under new section 84AH is evidence that the person listed as the registered keeper on the certificate is, or was, the registered keeper of the cat for a stated period mentioned in the certificate or certified copy.

Subsection (3) states that a document which appears to be a cat registration certificate or certified copy of the certificate is taken to be the certificate for the cat unless proven otherwise.

#### New Division 4.1B – Cat Containment

##### New section 84AN – Declaration of cat containment

New section 84AN (Declaration of cat containment) is relocated and revised from repealed section 81, which is the existing declared cat containment area policy in place for all new suburbs established in the ACT. This relocation is to combine the existing cat containment provisions with the new containment provisions and new cat registration provisions within Part 4 – Cats to make it easier for cat owners to identify the new and existing responsible cat ownership requirements.

New section 84AN amends the wording of repealed section 81 to remove the term ‘serious threat to native flora and fauna’ with ‘threat to native flora and fauna’, as the former requirement for the Minister to consider a threat as serious is not necessary noting the threat to native flora and fauna by cats is in itself a serious threat under the Cat Plan. The wording of this relocated section is also amended to include animal welfare as grounds for declaring a cat containment area, noting the fundamental purposes behind cat containment under the Cat Plan are for both protecting wildlife and the welfare of cats from injury, death, and disease. New subsections (5), (6) and (7) are added to incorporate all existing declarations made under repealed section 81 that are in force into new section 84AN.

##### New section 84AO – Breach of cat containment requirements

New section 84AO (Breach of cat containment requirements) includes the existing strict liability offence for breaching a declared cat containment area at subsection (1) from repealed section 82 and a new strict liability offence at subsection (2) that expands on the first to incorporate the new Territory-wide cat containment policy for all cats born from 1 July 2022.

Cat containment is defined as keeping a cat confined to the premises at all times, with exceptions. The definition of premises has been carried over from repealed section 82 and expanded on slightly to also clarify a backyard or courtyard can be used as a cat enclosure or part enclosure provided the cat cannot escape off the premises. Generally similar to dogs, cats in declared containment areas or cats born from 1 July 2022 must be contained to the premises at all times, which may include a house, apartment, balcony, backyard, or courtyard, unless under the direct effective control of a keeper or carer using a cage, vehicle or when being walked on lead.

Both strict liability offences are set at 10 penalty units, which the existing offence under repealed section 82 was also set at, and neither offence may apply if the keeper has a reasonable excuse or if the cat is effectively controlled by the keeper using a leash and harness.

A reasonable excuse may include where the cat has been released by another person without the knowledge of the keeper despite the keeper putting arrangements in place to keep the cat from escaping.

The use of a leash and harness has been incorporated into the exceptions for the offences to align more closely with the original policy intent of cat containment requirements, which is to promote responsible cat ownership and reduce pet cats roaming freely in the ACT. The intent of this amendment is not to actively encourage walking cats in public spaces more broadly, rather, the intent of this amendment is to ensure responsible cat owners whose cats are well-accustomed to being walked on a lead can continue these activities without risk of breaching cat containment requirements. The cat must remain under the effective control of a keeper or carer using a leash and harness.

The new strict liability offence at new section 84AO(2) also does not apply if the cat was born prior to 1 July 2022 or if the cat is registered in the ACT before 1 July 2022. Subsection (5)(c) links to any exemption for an entity made under new section 84AP and subsection (5)(d) also allows for further exemptions from the new cat containment requirements under subsection (2) to be set out by regulation to provide flexibility if required, though no further exemptions for pet cat owners are proposed in this Bill by regulation. Other evidence that a cat was born prior to 1 July 2022 is described in new section 84AN(5)(b) through the use of examples.

#### New section 84AP – Registrar may exempt entities from certain provisions

New section 84AP (Registrar may exempt entities from certain provisions) allows the registrar to exempt entities from certain provisions if satisfied they carry out activities for the reasonable care and management of stray cats. This is to avoid the new annual cat registration requirements aimed at pet cats from preventing existing operations by animal welfare and management organisations. Such an exemption would need to be in writing and in line with any direction set by the Minister by notifiable instrument under new subsection (3) and (4).

The provisions the registrar may choose to exempt an entity from are listed in new section 84AP. Any exemption from a provision issued by the registrar may be subject to conditions according to subsection (2) to ensure limit in scope can be applied if needed.

### **Clause 6      Multiple cat licences – requirement to be licensed** **New section 84A (2) (f)**

This clause incorporates an exemption given by the registrar under new section 84AP into the existing list of exemptions for multiple cat licences under existing section 84A. This is to align more closely with the purpose of multiple cat licences, which are required for individuals who keep four or more cats. These licences are not intended to apply to entities operating for animal welfare and management purposes for stray cat populations.

### **Clause 7      Seizure of cats** **Section 86**

This clause substitutes the current wording for existing section 86 to align these seizure powers by authorised persons with new and existing responsible cat ownership requirements.

Existing section 86 only allows for a cat to be seized if it is found off the premises in a declared cat containment area or if it is not microchipped.

To align more closely with seizure powers for dogs, with the new offences in this Act and with the broader policy intent of the Act to promote responsible cat ownership, this clause allows an authorised person to seize a cat if:

- the cat is not confined to the premises in a declared cat containment area and is not under the control of a person by leash and harness;
- the cat is born on or after 1 July 2022, is not confined to the premises and is not under the control of a person by leash and harness;
- the cat is on the premises of a person other than the keeper or carer of the cat and the person requests it to be removed and returned to its owner;
- the cat is not registered as required under new section 84AB;
- the cat is not microchipped under existing section 83;
- the cat is not desexed as required under existing section 74 and the keeper does not hold a permit for the cat to be non-desexed under existing section 75;
- the keeper or carer breeds a litter from the cat in breach of existing section 72 (the parent cats and kittens may be seized);
- the keeper of a cat fails to provide their name and address upon request under existing section 134;
- the registrar has refused to register the cat under new section 84AB(1)(b) or the registrar has cancelled the cat's registration under new section 84AJ(1)(c) or (2)(b); or
- the registrar reasonably believes the keeper or carer of the cat is not demonstrating responsible cat management, care or control in relation to the cat.

## **Clause 8      New section 135A**

This clause inserts new section 135A to expand on existing section 135, which is centred on applications and allows the registrar to request by written notice additional information from an applicant, which can be provided either orally or in writing. New section 135A builds on this provision by allowing the registrar to request information by written notice to the keeper of a dog or cat where it is reasonably necessary for carrying out a function under the Act.

The written notice must state the information required, how the keeper of the dog or cat can provide the information, the timeframe for providing the information which must be at least 28 days, and that their registration of the keeper's dog or cat may be cancelled if the keeper fails to comply with the notice in the given timeframe.

## **Clause 9      NEW PART 14**

### **PART 14      TRANSITIONAL – DOMESTIC ANIMALS LEGISLATION AMENDMENT ACT 2022**

This clause inserts transitional arrangements under new section 166 for any pre-existing cat registrations undertaken from 1 April 2022 prior to this Act commencing from 1 July 2022. If existing cat owners have registered their cat between 1 April 2022 and 30 June 2022, the registration is adopted under the new annual cat registration framework.

The 12 month duration of these early cat registrations commences from the day the registration was approved by the registrar between 1 April 2022 and 30 June 2022.

New section 167 determines that the transitional arrangements will no longer be in force from 12 months after commencement, as by this stage any early registrations will have been renewed under new section 84AG or otherwise cancelled under new section 84AJ.

**Clause 10 Dictionary, definition of *excluded offence*, paragraph (b) (ii)**

This clause substitutes the section name and title wording of the breach of cat containment offence under repealed section 82 in the list of excluded offences with new section 84AO (Breach of cat containment requirements), which includes both cat containment offences under that section.

**Clause 11 Dictionary, definition of *keeper*, paragraph (b)**

This clause adds the registered keeper of a cat to the existing definition of *keeper*, which previously only related to the registered keeper of a dog or the owner of any other animal. This makes the definition of keeper more specific to the new responsible cat ownership requirements.

**Clause 12 Dictionary, definition of *registered keeper***

This clause inserts a new dictionary definition for registered keeper to accompany the change in transfer of ownership process whereby the new owner of a dog or cat must apply to become the new registered keeper.

**PART 3 DOMESTIC ANIMALS REGULATION 2001**

**Clause 13 New sections 9AA to 9AC**

This clause inserts the new information requirements by regulation for registering a cat under new section 84AA. This includes the amendment to ensure the existing information required for annual dog registration is required upon application, rather than indirectly at a later stage. The information also requires an email address if available, which aligns more closely with the current annual dog registration application form and current operational practice of digital registrations for those who are able.

The information required with an application to register a cat under new section 84AA is set out in new section 9AA of the Regulation as being:

- the name, address, email address or other contact information of the cat's keeper;
- any conviction or finding of guilt of the cat's keeper within the last 10 years against an animal welfare offence or an offence against the Act (not including excluded offences);
- the address where the cat is kept, if different from the keeper's address;
- the cat's name, if known;
- the cat's breed, if known;
- the colour of the cat for identification purposes;
- the cat's microchip number (meaning the microchip must be implanted in the cat); and
- if the cat has been desexed, a statement to that effect.

Similarly, the information the registrar is required to record on the register under new section 9AB of the Regulation following approval of a cat registration application required with an application includes:

- the information provided by the registered keeper in their application under new section 9AA of the Regulation;
- the registration number for the cat;
- if ownership of the cat has changed, the name, address, email address or other contact information of the former owner;
- if the registrar becomes aware that the cat has died either by being informed in writing or through other means, a statement that the cat is deceased;
- if the registration of the cat is renewed, the date of renewal; and
- if the registrar is satisfied that the cat was born before 1 July 2022, a statement to that effect.

New section 9AC of the Regulation then sets out the information required for a cat registration certificate issued under new section 84AH of the Act as being:

- the registration number for the cat;
- the microchip number of the cat;
- the breed of the cat if recognisable;
- the colour of the cat;
- the name and address of the registered keeper of the cat;
- the date of the registration or renewal and the date registration ends; and
- if the registrar is satisfied that the cat was born before 1 July 2022, a statement to that effect.

The requirement for the registrar to include whether the cat is believed to have been born before 1 July 2022 is introduced to prevent double up when authorised officers encounter a cat that was born before 1 July 2022. This means if the keeper of a cat has already provided documentation to prove that the cat was born before 1 July 2022 under new section 84AO, the registered keeper will not have to provide this proof again if the cat is encountered by authorised officers in future.

## **Clause 14    Reviewable decisions**

### **Schedule 1, new items 31A and 31C**

This clause inserts three additional provisions to the existing list of reviewable decisions at Schedule 1. These provisions are new sections 84AB(1)(b) and 84AI where the registrar has refused to register a cat or transfer registration of a cat and new section 84AJ(2) where the registrar cancels the registration of a cat.

## **PART 4        MAGISTRATES COURT (DOMESTIC ANIMALS INFRINGEMENT NOTICES) REGULATION 2005**

### **Clause 15    Schedule 1, part 1.1, item 49**

This clause removes the offence from repealed section 82(1), cat in breach of cat containment, as this offence has been retitled and relocated to new section 84AO(1), breach of cat containment requirements.

## **Clause 16 Schedule 1, part 1.1, new items 51A to 51H**

This clause inserts the new offences introduced by this Act to the Magistrate's Court (Domestic Animals infringement Notices) Regulation 2005.

These offences are:

- a. New section 84AF(1) - keeper of a registered cat fails to comply with a reminder notice to renew registration – 10 penalty units - \$150 infringement amount.
- b. New section 84AI(2) - former keeper of a registered cat fails to notify the Registrar of a change of ownership of the cat – 10 penalty units - \$250 infringement amount.
- c. New section 84AI(3) - new cat owner fails to apply as new registered keeper – 10 penalty units - \$250 infringement amount.
- d. New section 84AK(1) - keeping an unregistered cat – 15 penalty units - \$350 infringement amount.
- e. New section 84AK(2) - keeping another keeper's registered cat for longer than 28 days without notifying the registrar – 15 penalty units – \$350 infringement amount.
- f. New section 84AL(1) – a registered cat keeper fails to notify the registrar of a change of registration details within 14 days – 5 penalty units - \$150 infringement amount.
- g. New section 84AO(1) - breach of cat containment in a declared cat containment area – 10 penalty units - \$300 infringement amount.
- h. New section 84AO(2) - breach of cat containment outside of a declared cat containment areas for any cat born from 1 July 2022 – 10 penalty units - \$300 infringement amount.

## **SCHEDULE 1 OTHER AMENDMENTS**

This schedule sets out the consequential amendments that are required to the existing annual dog registration framework and other amendments as a result of current drafting practice to modernise drafting and corrections to how annual pet registration is drafted to align more closely with current operational practice and policy.

### **PART 1.1 DOMESTIC ANIMALS ACT 2000**

#### **Clause 1.1 Section 4A, note 1**

This clause removes the current wording for the existing annual dog registration and cat containment offences from the note which states that other legislation applies in relation to offences in the Act.

The title wording for the existing offences at sections 10A, 12, 14, and 16 which relate to annual dog registration has been amended to ensure the titles are specific to dogs, avoiding confusion between dog and cat registration. The wording for repealed section 82 which relates to the existing cat containment offence has also been amended to capture both the existing and new cat containment provisions in the offence and the section has been changed from section 82 to section 84AO.

#### **Clause 1.2 Section 4A, note 1**

This clause inserts a note including listing certain offences into section 4A of the Act which states that other legislation applies in relation to offences in the Act.

These offences are the existing offences mentioned in Clause 4 reworded and new offences created under new sections 84AF, 84AI, 84AK and 84AL around annual cat registration that match the

existing offences for annual dog registration. Repealed section 82 has been moved to new section 84AO and now includes two separate offences due to the expanded scope of the existing breach of cat containment offence to cover Territory-wide cat containment for all cats born from 1 July 2022 outside of declared cat containment areas.

### **Clause 1.3 Section 5**

This clause relocates section 5 – Register from Part 2 - Dogs to Part 1 - Preliminary, as this section now applies to both a dog and cat register.

### **Clause 1.4 Section 6**

This clause replaces existing section 6(2) – requirement to provide written consent from a parent or guardian with a note referring to existing section 136, as subsection (2) is redundant considering existing section 136 recognises the parent or guardian as the registered keeper.

This amendment is a drafting correction to align more closely with the existing operational process for registering dogs owned by a person under 16 years of age. Existing process means a person under 16 years old is not recorded as the owner according to existing section 136, meaning there is no need to retain legislation regulating how a person under 16 years of age should apply to be a registered keeper if they are unable to be recognised as such. This ensures that the parent or guardian completes an application to register a dog considering they are the only recognised owner under the Act and this is current practice operationally.

### **Clause 1.5 Sections 7 to 10 headings**

This clause amends the wording of sections 7 through to 10 headings to distinguish existing annual dog registration provisions from new annual cat registration headings. The heading for dog registration renewal reminder notices has also been amended to suit the format of other headings in line with current standard drafting practice.

### **Clause 1.6 Section 10 (2) (b)**

This clause clarifies the keeper is the registered keeper.

### **Clause 1.7 Section 10 (2) (d)**

This clause removes the requirement for a registration renewal reminder notice to require a person under 16 years of age to provide written consent from a parent or guardian.

As is outlined in more detail against clause 1.4 above, this is to align with existing section 136 and with the current practical application of the existing annual dog registration system whereby the parent or guardian is recognised as the registered keeper.

### **Clause 1.8 Sections 10A and 10B headings**

This clause amends the title wording of sections 10A and 10B to distinguish existing annual dog registration provisions from new annual cat registration headings.

## **Clause 1.9 Sections 11 and 12**

This clause substitutes existing sections 11 – Dog registration numbers and certificates and 12 – Dog registration change of owner with updates to drafting structure and consequential amendments aligning with the new equivalent sections for cats at new sections 84AH and 84AI.

Stylistic changes in drafting have been made to existing section 11 to refer to the dog’s keeper rather than the keeper of the dog.

Consequential amendments to existing section 12 have been made to align the transfer of dog ownership provisions with the new transfer of cat ownership provisions at new section 84AI. These changes fulfil the policy intent of the Act allowing the registrar to approve or refuse a transfer of ownership of a dog.

## **Clause 1.10 Section 13 heading**

This clause amends the wording of the heading of existing section 13, registration cancellation to be specific to dog registration, distinguishing it from its cat registration equivalent.

## **Clause 1.11 Section 13**

This clause clarifies the keeper is the registered keeper.

## **Clause 1.12 Section 13 (2) (e)**

This clause removes reference to existing section 12A which sets out that the registrar may make a written request for information from Division 2.1 – Dogs to new section 135A in Division 2.8 – Miscellaneous to incorporate both dogs and cats.

## **Clause 1.13 Section 13, new note**

This clause inserts a new note to reference that if an application under section 12 to transfer ownership to a new keeper of a dog is refused by the registrar then the registrar may cancel the registration.

## **Clause 1.14 Section 14 heading**

This clause amends the wording for the existing heading to section 14 to be specific to dog registration, distinguishing it from its cat registration equivalent.

## **Clause 1.15 Sections 16 and 17**

This clause amends existing section 16 so that where the registration details of a dog change, the registered keeper of the dog must make these updates within 14 days of the day after the change.

This clause also makes stylistic changes to existing section 17 and removes the name of referenced section 11 (registration numbers and certificates) in line with current drafting practice, leaving the section number as reference.

### **Clause 1.16 Division 2.4 heading**

This clause amends the wording of the existing Division 2.4 heading to be specific to special dog licences.

### **Clause 1.17 Section 39E**

This clause removes the name of referenced sections 11 (registration numbers and certificates) and 17 (evidence of registration or non-registration) in line with current drafting practice, leaving the section numbers as reference.

### **Clause 1.18 Section 39F (1) (c)**

This clause removes the name of referenced section 13 (registration - cancellation) in line with current drafting practice, leaving the section number as reference.

### **Clause 1.19 Section 56 (1) (b)**

This clause makes stylistic changes in line with current drafting practice.

### **Clause 1.20 Dictionary, definition of *special licence***

This clause makes stylistic changes in line with current drafting practice.

## **PART 1.2 DOMESTIC ANIMALS REGULATION 2001**

### **Clause 1.21 Section 5**

This clause makes changes to annual dog registration application requirements to align them with existing operational procedure and information already required for a dog's registration under the Act. An application to register a dog under existing section 6 will require the same information the registrar is required to record, including the name, address, email address or other contact information for the dog's keeper.

The information required to be recorded by the registrar for the registration of a dog is updated to also include the name, address, email address or other contact information of the dog's keeper.

### **Clause 1.22 Section 6 (a)**

This clause makes stylistic changes in line with current drafting practice.

### **Clause 1.23 Section 6C (a) and (b)**

This clause makes stylistic changes in line with current drafting practice.

### **Clause 1.24 Schedule 1, new item 1A**

This clause inserts the new provision allowing the registrar to refuse to transfer registration to the person applying to become the new registered keeper at new section 12 into the existing list of reviewable decisions at Schedule 1.

## **PART 1.3    MAGISTRATES COURT (DOMESTIC ANIMALS INFRINGEMENT NOTICES) REGULATION 2005**

### **Clause 1.25   Schedule 1, part 1.1, items 1 to 3**

This clause substitutes the titles of existing annual dog registration offences in line with the consequential stylistic and technical drafting amendments made to sections 10A and 12.

### **Clause 1.26   Schedule 1, part 1.1, item 6**

This clause substitutes the amended strict liability offences at existing sections 16(1) and (2) whereby the registered keeper of a dog must update any changes in registration details within 14 days.

### **Clause 1.27   Schedule 1, part 1.1, item 7**

This clause removes a redundant offence for failure to update the address where a registered dog is kept, as this was combined into one single offence under new section 16(1).