

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

DOMESTIC ANIMALS BILL 2000

EXPLANATORY MEMORANDUM

Circulated with the authority of
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Minister for Urban Services

EXPLANATORY MEMORANDUM

Outline

This Bill amalgamates the requirements of the *Dog Control Act 1975* and the *Animal Nuisance Act 1975* and effects a major overhaul of the laws concerning domestic animals to ensure that it is comprehensive, efficient and easily enforceable.

The Bill is based on a review conducted by the Law Reform Unit. The aims of the review were to simplify the current law by removing technical information to subordinate legislation, to consolidate relevant laws in one Act, and to recommend changes to improve the efficiency of administration of the law. The review recommended combining the dog control and animal nuisance legislation and making a number of policy and technical changes in the consolidated Act to bring it to best practice standards for similar legislation in Australia.

The purpose of the Bill is to outline the legislative requirements for the registration of dogs, the keeping of four or more dogs, the declaration of dangerous dogs, the control of dogs, dog attacks, infringement notices, trained assistance animals, animal nuisance control, animal destruction, identification of both dogs and cats, compulsory de-sexing of both dogs and cats (with exemptions allowed upon approval of an application) and general miscellaneous and administrative provisions for the Australian Capital Territory.

This Bill has been drafted in a way that would enable it to be administered by a service provider other than a public servant.

The existing laws were generally out of date and had a number of gaps. Specifically:

Registration - The renewal of a dog registration is unable to be achieved under the *Dog Control Act 1975* as there is no provision for such an action. Upon registration, a yellow registration tag is issued which is to last for the whole of the dog's life. A dog registration can be invalid after one year and an authorised officer would need to look physically at the registration number on the registration tag and contact the Domestic Animal Services office (formerly known as the Dog Control Unit) to establish whether the registration was current.

Keeping 4 or more dogs - Under the *Dog Control Act 1975* keepers of more than three dogs must be licenced annually. To administer this scheme, an officer from Domestic Animal Services conducts a full inspection of the establishment each year, even if no alterations had occurred to the facilities since the last inspection. There is also no provision under the *Dog Control Act 1975* for the registrar to consider the views of any of the neighbours of the proposed licensee.

Dangerous Dogs - Under the *Dog Control Act 1975* the requirements for keeping a dangerous dog are covered by both legislation and guidelines. Certain requirements, that are now considered reasonable steps to be taken by a keeper of such a dog, were not covered by either the legislation or the guidelines.

Control of Dogs - Under the *Dog Control Act 1975* a person is unable to go into a "prohibited place", as defined under the Bill, if they are accompanied by a dog. The inability to allow exceptions to this has caused problems.

Dog Attacks - Presently a person may destroy a dog forthwith if it is found attacking a person, animal, stock or wildlife. However, there is no provision for a person to destroy a dog that is chasing and/or harassing other animals. A person must wait until the dog physically contacts the animal before the dog can be legally destroyed.

Under the *Dog Control Act 1975* it is not an offence for a person to encourage a dog to attack a person or an animal.

On-the-spot fines - At present around 26,000 dogs are registered with Domestic Animal Services, from an estimated dog population of 55,000 dogs. Compliance with the legislative requirements is poor. A significant problem also exists with straying dogs and in 1995/96 over 1,500 stray dogs were impounded. A straying dog has a greater opportunity to attack a person or other animal than a properly restrained dog.

An authorised officer does not have the ability to issue a final infringement notice if no action has been forth-coming on an original infringement notice. The matter then requires formal prosecution through the Court system.

Trained Assistance Animals - There is no provision under the *Dog Control Act 1975* to recognise animals other than dogs that are trained to assist people with disabilities.

Animal Nuisance - Domestic Animal Services has been subject to community criticism over its apparent inability to effectively penalise dog owners who disregard the law. Administration of the *Animal Nuisance Control Act 1975* has also been criticised, reflecting this law's lack of provision for quick and effective resolution of nuisance animal problems. A decision by the Magistrates' Court on application by the registrar of Dogs is required to issue an order to direct that the nuisance cease. Only four applications have been brought to Court over the past three years.

Destruction of Animals - Under the *Dog Control Act 1975* there is no provision for an authorised officer to request a police officer or a veterinary surgeon to destroy an animal. There is also no provision for an authorised officer to destroy an animal that is too vicious to be seized.

Identification – Owners of companion animals have long had concerns regarding the timely return of their animal should it become stray or injured. Technology has progressed to such an extent that microchip identification is commonly available to the public and readily acceptable by the public. Unfortunately, there are currently four suppliers of microchip technology in Australia and not all available microchip scanners will effectively read a microchip implant supplied by a different maker. This Bill has provisions to include the identification of cats and dogs by microchip implant once Standards Australia have agreed on the acceptable ISO standard for this country.

De-sexing – Thousands of unwanted cats and dogs are euthanased in the ACT every year. The most effective method to ensure that the numbers of euthanased animals decreases is to require owners to compulsorily de-sex their animal. This Bill has included provisions requiring owners to de-sex their dogs and cats unless they have applied for, and been granted, a permit to keep their animal sexually entire.

Revenue/Cost Implications

There is no additional cost involved in the Bill as all infrastructure is in place under the existing regime. Additional time will be required in the consultation phase prior to approving a licence application. This assessment time will be recouped with the ability to renew the licence without any additional inspection. The common expiry date for all dog registrations and multiple dog licences will provide an opportunity to educate owners of dogs through media campaigns to increase the current registration rate for dogs which remains around fifty percent. The cost of issuing of annual registration tags to owners of registered dogs will be recovered by the ability of rangers to effectively sight spot a dog whose owner has not ensured that it has remained validly registered.

Formal Clauses

Part 1- Preliminary:

Clauses 1 and 2 are formal requirements. They deal with the short title of the Bill, commencement provisions.

Clause 3 provides for a dictionary of terms used within the Bill and notifies that the dictionary is located at the end of the Bill.

Clause 4 advises that the Notes included within the Bill are explanatory and do not form part of the Act.

Part 2 - Dogs

Division 2.1 – Registration of Dogs

Clause 5 and 6 are based on Sections 8, 9, 10, and 12 of the *Dog Control Act 1975* and set out the requirements for people to register their dogs and for the registrar to maintain a register.

Clause 7 requires the Registrar to make a decision on a registration application, by either accepting or rejecting the application.

Clause 8 is based on Section 8 of the *Dog Control Act 1975* and sets out the details that must be maintained in the dog registration records.

Clauses 9 and 10 allow for a common expiry date for registrations and for renewal of registrations to be enacted. Under the *Dog Control Act 1975* there was no provision for a registration of a dog to be renewed, and the originally issued yellow registration tag lasted for the whole of the dog's life. Under the new provisions the registration tags will last the whole of the dogs life but a different coloured tag will be provided annually to signify different registration years. This will allow authorised officers to sight whether a registration is still current for a dog or whether it has previously expired.

Clause 11 is based on of Sections 1, 18 and 36 of the *Dog Control Act 1975* and sets out the requirements relating to dog registration numbers, registration certificates and registration tags.

Clauses 12, 13 and 14 are based on Sections 15, 16, 17, and 19 of the *Dog Control Act 1975*. They set out what action is to be taken in relation to a change of keeper of a dog, the procedure that occurs with a cancellation of dog registration by the Registrar, and that it is an offence for a person to keep an unregistered dog. The penalty for committing an offence under these sections is 5 penalty units.

It should be noted that the age of registration of a dog has decreased from three months of age to eight weeks of age. This will allow for a dog to be registered under this legislation from the point of leaving its mother. Breeders and sellers of dogs will be required to register all puppies prior to sale.

Clauses 15, 16 and 17 are based on Sections 15, 18E, 18R, 20, 26 and 37 of the *Dog Control Act 1975*. They set out what constitutes a registration tag offence and the penalties that apply, what a registered keeper must do when they change their address and the evidentiary nature of a registration certificate or certified copy of the registration certificate.

Division 2.2 - Keeping 4 or more dogs

It should be noted that the licence required under this Division has been renamed. The *Dog Control Act 1975* referred to this licencing requirement as a "keeper's licence". Under this Bill the licence is known as a 'multiple dog licence'. This licence is required by all people who keep 4 or more dogs with the exception of dogs housed at boarding kennels, dogs held on leases granted for agricultural or grazing purposes, dogs held at the ACT Pound or any animal refuge shelter.

Clauses 18, 19, 20 and 21 are based on of Sections 18A, 18B, 18C and 18E of the *Dog Control Act 1975*. They provide:

- That a person shall not keep four or more dogs on any single residential premises other than in accordance with a multiple dog licence;
- Exclusions from the requirements of this provision;
- The requirements to be included within an application for a multiple dog licence;
- The application requirements for keeping four or more dogs within a residential premises. Administratively, the applicant will be required to lodge submissions from "fence-line" neighbours to assess the impact of granting a multiple dog licence. The status of the neighbours' endorsements will be to show consultation and degree of consent. An endorsement will not prevent a neighbour from making a complaint concerning nuisance at any stage concerning the dogs at the adjoining residence and non-consent will not necessarily prevent the registrar from granting a licence;
- The process of granting or refusing to grant a multiple dog licence. In assessing a multiple dog licence the registrar must consider the amount of room available for each dog, whether there is adequate shelter available, whether the yard and facilities are properly ventilated and constructed as to permit the facilities to be kept in a sanitary condition, and whether proper arrangements exist for the sanitary disposal of waste; and
- The conditions that the Registrar can impose on a licence.

Division 2.3 – Dangerous dogs

This Division contains requirements covering:

- The declaration of certain dogs to be dangerous dogs;
- The de-sexing of any dangerous dog that is kept;
- The muzzling of all dangerous dogs in public places in addition to all other requirements of the Bill relating to dogs in public places;
- The requirements for sufficient notification to be displayed on premises where dangerous dogs are kept to inform any approaching member of the public;
- The licencing of dangerous dog keepers;
- Consultation with adjoining lessees prior to the granting of a dangerous dog licence or a variation of a dangerous dog licence;
- The power for the registrar to cancel a dangerous dog licence; and

- The power for the Court to disqualify a person from being licenced.

The criteria for declaring a dog to be dangerous are:

- The dog has been trained as a guard dog or is kept for a guard dog for the purpose of guarding non-residential premises;
- Under the law of a State or another Territory, a decision has been made regarding the dog, the effect of which is comparable to a declaration under this section; or
- The dog has attacked a person or animal.

Clause 22 is based on Section 39A of the *Dog Control Act 1975*. This provision sets out the conditions on which the registrar *must* declare a dog to be dangerous and the conditions on which the registrar *may* declare a dog to be dangerous.

Clause 23, 24 and 25 are based on Sections 18J, 18K and 18L of the *Dog Control Act 1975*. These clauses stipulate:

- That a person must be licenced to keep a dangerous dog;
- The process for applying for a dangerous dog licence; and
- Matters to be considered by the registrar in deciding to grant or refuse a dangerous dog licence.

With respect to the last of these points, the relevant clause requires that the registrar shall base his or her decision upon:

- The type of dog specified within the application;
- The size and nature of the premises;
- The security of the premises;
- The adequacy of the facilities on the premises;
- The risk or likelihood of harm occurring to members of the public; and
- The likelihood of any nuisance to surrounding neighbouring premises.

A decision under this clause is appealable to the Administrative Appeals Tribunal. A penalty of 50 penalty units applies for keeping a dangerous dog without a licence.

Clause 26 provides for conditions that the registrar can place on an approved dangerous dog licence. One condition may be that the Registrar requires the keeper and the dog to complete an approved course in behavioural or socialisation training.

Clause 27 stipulates the prohibitions on taking a dangerous dog in public places. The penalty for not complying with this provision is 10 penalty units.

Clause 28 is based on the Dangerous Dog Guidelines that are followed by Domestic Animal Services. This clause provides that all keepers of dangerous dogs are to display a sign on the premises specified in the licence. The sign will be supplied by

Domestic Animal Services and is required to be displayed in such a manner as to be readily visible to a person about to enter the premises where the dangerous dog is kept through a gate or door. The penalty for not complying with this provision is 5 penalty units.

Division 2.4 – General provisions about multiple dog and dangerous dog licences

This division is about both dangerous dog and multiple dog licences.

Clause 29 defines the term special licence to allow both kinds of licence to be conveniently referred to at once.

Clause 30 outlines the form that a licence for either a multiple dog licence or a dangerous dog licence is to take.

Clause 31 is based on Section 18D and 18P of the *Dog Control Act 1975* that deals with the duration of both a multiple dog licence and a dangerous dog licence. No further inspection of the facilities will be required unless there has been a change in circumstances.

Clause 32 is a new provision stipulating the renewal process of licences issued under this Division. Under the *Dog Control Act 1975* there was no provision to renew a licence to keep four or more dogs. Upon the expiry of such a licence, a full inspection was required by an authorised officer prior to a new licence being issued. Under this clause, a multiple dog licence will be renewed automatically once the renewal has been submitted as long as no variation to the licence has occurred since the last licence was issued. This provision stipulates that a dangerous dog licence is in force for a period no longer than one year at any given time.

Clause 33, 34 and 35 allow a holder of either a multiple dog licence or a dangerous dog licence to apply to vary the licence, return the licence for endorsement and surrender the licence. The registrar is also able to initiate a licence variation in the public interest. These sections also specify the grounds upon which the registrar must base his or her decision. Consultation with occupiers of adjoining leases is included within this process. Variations in respect to the licence include substituting one dog for another or including additional dogs as well as making structural changes to holding facilities. There is a penalty of 5 penalty units for breaching the requirement to return a licence for endorsement.

Clause 36 is based on Sections 18F, 18G and 18U of the *Dog Control Act 1975* and sets out the requirements for the cancellation of a multiple dog licence or a dangerous dog licence by the registrar. The clause sets out grounds on which the registrar initiates such action as well as the process to be completed by the registrar to effect the cancellation. The clause allows a fourteen day period for the licensee to dispute the proposed grounds of cancellation.

Clause 37 is a new provision that requires a holder of a *multiple dog licence* or a *dangerous dog licence* to return that licence when it has been cancelled by the registrar. This clause provides an offence of 10 penalty units should the licence not be returned.

Clause 38 is a new provision allows a Court to consider whether a licence should be cancelled or a person should be disqualified from holding a *multiple dog licence* or a *dangerous dog licence* when finding that person guilty of an offence against the Bill. Minor offences (defined in the Bill) do not count for this provision. The provision sets out the matters the Court must consider, and the conditions on which the disqualification can be made.

Clause 39 provides for an offence for obtaining a licence whilst disqualified from doing so by the Court. A penalty of 50 penalty units or 6 months imprisonment or both is applicable upon conviction.

Division 2.5 – Control of dogs

Clause 40 is based on Section 7C of the *Dog Control Act 1975*. This clause allows the Minister to declare an area of land or water as an exercise area for the purposes of this Bill.

Clause 41 allows the Minister to define by sign an area in which dogs are prohibited.

Clause 42 is based on Section 23 of the *Dog Control Act 1975*. The clause prevents a person from taking a dog onto the grounds of a child care centre, preschool or primary school without permission from the principal or the person in charge. The provisions further stipulate that a person shall not take a dog onto the grounds of a high school or secondary college during school hours or when there is an organised school activity occurring. It is also required that a person shall not take a dog:

- Within 10 metres of an area designed for play by children;
- Within 10 metres of an area designed for cooking in a public place;
- To an area designated by sign under the *Lakes Act 1976* to be a swimming area; and
- Onto a field or playing area on which organised sport is being played or on which training for sport is being conducted.

Nothing within this provision will prevent a person with a disability from being accompanied by a trained assistance animal - see Part 5 – Assistance Animals. The penalty for non-compliance with this clause is 10 penalty units.

Clause 43 allows the registrar to permit a person to take a specified dog into a specified prohibited area. For example residents of Tharwa may apply for a permit to walk their dogs near the Murrumbidgee River which is a declared nature reserve.

Where the specified prohibited place is public land the registrar must consult with the Conservator of Flora and Fauna. The permit would stay in force for a period of one year.

Clauses 44 and 45 are based on Subsections 21(4) to (6) of the *Dog Control Act 1975*. These provisions require a dog to be restrained by a leash when in a public place, or on private premises where the occupier has not consented to the dog being unleashed. The penalty for failing to restrain the dog in a public place by means of a leash is 5 penalty units.

Clause 46 is based on Section 22 of the *Dog Control Act 1975*. This clause provides that should a dog drop faeces in a public place, the carer of the dog must remove the faeces. The provision also requires that a carer carries sufficient equipment to hygienically dispose of faeces dropped by the dog. The penalty for non-compliance with this provision is 1 penalty units.

Clause 47 is based on Sub-sections 21(1) to (3) of the *Dog Control Act 1975*. This clause provides for an offence should a keeper of a female dog allow the dog to enter or remain in a public place while the dog is on heat. The clause provides for several exceptions. The penalty for committing such an offence is 5 penalty units.

Clause 48 is based on Section 24 of the *Dog Control Act 1975*. It provides that it is an offence for the carer of a greyhound to be with the dog to be in a public place without the dog wearing a muzzle. The keeper of the greyhound must not allow the dog to be in public without a carer and a muzzle. A given carer must not be in a public place holding 4 or more greyhounds on leashes. The keepers of the dogs also commit an offence in these circumstances. The penalty for all of these offences is 5 penalty units.

Division 2.6 Attacking or harassing dogs

Clause 49 is based on Section 25 of the *Dog Control Act 1975* and sets out that a dog has taken to have harassed a person if, because of the dog's behaviour, the person reasonably fears that the dog is about to attack him or her without provocation. This clause further outlines that a dog has taken to have harassed an animal if the dog hunts or torments the animal. The clause differs from the original provision in that it does not differentiate domestic, farm or native animals.

Clause 50 is based on Section 25 of the *Dog Control Act 1975* and creates offences punishable on conviction of a fine not exceeding 50 penalty units should the carer allow a dog to attack or harass a person or an animal, or where the dog attacks or harasses while unaccompanied.

Clause 51 is a new provision providing an offence of encouraging a dog to attack a person or an animal. The penalty for committing this offence is 50 penalty units. An exemption to the provisions of encouraging a dog to attack an animal has been

allowed for occupiers of premises on land that is the subject of a lease for agricultural or grazing purposes. This exemption is included to allow the use of dogs on such leases for feral animal control.

Clause 52 sets out who is responsible for the costs of impounding a dog when court proceedings have been instituted.

Clause 53 is based on Section 34 of the *Dog Control Act 1975* and allows for the destruction of an attacking dog. Unlike Section 34, this clause applies to a dog that is harassing a person or attacking an animal.

Clause 54 is based on Section 28 of the *Dog Control Act 1975*. The clause allows for an authorised officer to request that a keeper of a dog produce the dog for an inspection should the authorised officer suspect that the dog has been involved in an attack. There is a prescribed penalty of 50 penalty units for breaching this requirement.

Clause 55 is based on Section 40 of the *Dog Control Act 1975* and sets out rights to compensation for injuries caused by a dog.

Division 2.7 – Seizing dogs and dealing with them

This Division has been entirely altered from the existing Part IV – Seizure and destruction of dogs under the *Dog Control Act 1975*.

Clause 56 is based on Sections 18M and 28 of the *Dog Control Act 1975* with new inclusions. This clause sets out the circumstances in which an authorised officer may seize a dog for a general offence.

Clause 57 relates solely to the procedure to be followed when seizing a dangerous dog.

Clause 58 relates solely to the procedure to be followed when seizing a dog being kept with three or more others in contravention of a multiple dog licence.

Clause 59 relates solely to the procedure to be followed when seizing an attacking or harassing dog.

Clause 60 specifies the actions to be taken by it Registrar in relation to impounding a seized dog.

Clause 61 provides for the matters to be included on a notice of seizure of a dog.

Clause 62 is a provision that outlines the circumstances in which a dog must be returned to its keeper. Reasons for a dog to be returned to its keeper include that an infringement notice has not been served on a person within 7 days of the offence or that the infringement notice has been withdrawn. Other reasons for a dog to be returned to its keeper are that a prosecution for the offence has not begun within 28 days after the commission of the offence or that the prosecution had started and has been withdrawn or the offence is not proven.

Clause 63 allows the Registrar to release a dangerous dog or a "multiple" dog to its keeper. It also outlines the circumstances where the Registrar can refuse to return the dog.

Clause 64 is a new provision that allows the Registrar to release a dog that has been seized under the attacking and harassing provisions of this Bill. This provision also identifies the circumstances where the Registrar can refuse to return the dog.

Clause 65 requires the Registrar to release a declared dangerous dog under certain circumstances.

Clause 66 allows for the sale and destruction of dogs (other than dangerous dogs) seized under general or attacking and harassing provisions.

Clause 67 is a provision that allows the Registrar to sell or destroy dogs (other than dangerous dogs) that have been seized in for a contravention of a provision of the multiple dog licence.

Clauses 68 and 69 allows the Registrar to sell or destroy dangerous dogs that have been seized under a provision of this Bill.

Clause 70 is a new provision that allows for an owner to relinquish ownership of a dog.

Subdivision 2.8 – Miscellaneous

Clause 71 is a general return power allowing the Registrar to return dogs if it is in the public interest to do so.

Clause 72 allows the Court to disqualify a person from keeping an animal for a specified period when they have been convicted of an offence under this Bill. Minor offences are excluded from this, as are offences not related to keeping animals. (Any offence for which the maximum fine is 5 penalty units is defined as a minor offence in the dictionary at the back of the Bill.) The clause also allows the Court to order an animal destroyed or given to another person.

PART 3 – DOGS AND CATS

This is a new part to the Bill. This part includes provisions specifically relating to cats that have been identified within the ACT *Urban Cat Management Strategy* (the Strategy). The proposals of the Strategy that have been incorporated within the Bill to give effect to three key policies are:

- Compulsory de-sexing of cats, with exemptions for a limited number of purposes;
- Compulsory identification of cats by a microchip implant; and
- Declaration of an area where, or a time when, a cat must be confined to its owners premises in recognition of a serious nature conservation threat.

The Bill has also included provisions relating to the compulsory de-sexing and identification of dogs.

Clause 73 defines terms used within this part.

Clause 74 is a new provision that creates an offence for a person to keep a cat or a dog that is not de-sexed without a reasonable excuse. The penalty for committing this offence is 50 penalty units. Exemptions to this clause are given for various government organisations or businesses. Exemptions are also given for dogs and cats that have not attained a specified age or that have been owned for less than a specified period. There is also an exemption for when the registrar is satisfied that undergoing a de-sexing procedure would be detrimental to the health of the animal.

Clause 75 is a new provision that allows an owner of a dog or cat to apply for a permit to keep their dog or cat sexually entire.

Clause 76 outlines the procedures to be followed by the registrar for an approval or refusal for a permit to keep a dog or cat sexually entire. This clause outlines the categories of dogs or cats that will be considered by the registrar to be kept sexually entire.

Clause 77 is a new provision that allows the registrar to revoke a permit to keep a dog or cat sexually entire.

Clause 78 is a new provision that delineates the period of time that a permit to keep a dog or cat sexually entire remains in force.

Clause 79 is a new provision that requires a keeper or owner of a sexually entire dog or cat to produce a permit for inspection by a ranger when requested to do so. A penalty of 5 penalty units applies for a breach of this provision.

Clause 80 is a new provision requiring a veterinary surgeon to not de-sex a dog or a cat unless he or she marks the ear of the dog or cat with a tattoo. A penalty of 5 penalty units applies for a breach of this provision. A certificate signed by a

veterinary surgeon will be accepted as evidence that the dog or cat has been de-sexed.

Clause 81 is a new provision that allows the Minister to declare an area where, or a time when, cats must be confined to their keeper's and carer's premises.

Clause 82 is a new offence for allowing a cat in a declared area in contravention of a Ministerially declaration for a curfew.

Clause 83 is a new clause requiring a person to ensure that any dog or cat that they own is wearing a form of identification specified in the regulations. The form of identification specified in the regulations may be a microchip implant. A penalty of 5 penalty units applies for a breach of this provision.

PART 4 - INFRINGEMENT NOTICES FOR CERTAIN OFFENCES

This Part of the Bill allows for the issuing of infringement notices for defined offences.

Division 4.1 - Interpretation

Clause 84 defines terms used within this Part of the Bill.

Division 4.2 – Service of documents under Part 4 generally

Clause 85 outlines the service of documents.

Division 4.3 – Infringement and reminder notices

Clause 86 outlines the purpose and effect of this Division and among other things, provides that the division does not affect the penalty a Court could impose if the matter were prosecuted.

Clause 87 details the methods of serving infringement notices.

Clause 88 outlines the contents that are required to be included within an infringement notice.

Clause 89 details additional information that can be included within an infringement notice.

Clause 90 sets out the time allowable for the payment of an infringement notice.

Clause 91 allows for an extension of time for a person to pay a penalty.

Clause 92 details the effect of payment of a penalty notice.

Clauses 93 and 94 allows a person to apply to the registrar for a withdrawal of an infringement notice and outlines the procedures to be followed by the registrar to withdraw the infringement notice.

Clauses 95, 96, 97 and 98 provide for a reminder notice to be served on a person who has failed to pay an original infringement notice when that notice has not been withdrawn. The information required to be included on the reminder notice is outlined within these provisions.

Division 4.4 – Disputing liability

Clauses 99 and 100 allows a person to dispute the liability for an infringement notice offence as well as apply for an extension of time to dispute liability.

Clause 101 outlines the procedure to be followed if liability for an infringement notice offence is disputed.

Division 4.5 – Miscellaneous

Clause 102 allows the registrar to delegate any of his or her powers under this Part to an authorised person as prescribed under the regulations.

Clause 103 allows for an evidentiary certificate to be issued by the registrar where a proceeding for an infringement notice offence has commenced and outlines the information that can be included within the certificate.

PART 5 – ASSISTANCE ANIMALS

Clauses 104 and 105 are based on Sections 35C and 35D of the *Dog Control Act 1975*. These clauses establish the right of a person with a disability to be accompanied by a trained assistance animal in public places and provide for an offence should someone deny a person with a disability that right. The penalty for committing such an offence is 10 penalty units.

Clause 106 is based on Sections 35E and 35F of the *Dog Control Act 1975*. It prevents a person from charging an additional cost to a person with a disability accompanied by a trained assistance animal. The penalty for committing such an offence is 10 penalty units.

PART 6 – ANIMAL NUISANCE

This Part replaces the *Animal Nuisance Control Act 1975* but takes a completely different approach to that Act.

Clauses 107 and 108 exempt certain types of industry and business from the requirements of this Part, and defines terms used within this Part.

Clause 109 is based on Section 3 of the *Animal Nuisance Control Act 1975*. This clause outlines what may constitute an animal nuisance.

Clause 110 provides for an offence of causing or permitting an animal nuisance. The Court imposed penalty for committing such an offence is 10 penalty units for a person. On conviction the Court may order the return, sale, destruction or other disposal of the animal concerned.

Clause 111 specifies the procedures to be taken to instigate a complaint about animal nuisance. It also specifies that the registrar must investigate any complaint.

Clauses 112 and 113 relate to nuisance notices. These provisions will allow the registrar, on reasonable grounds, to issue a nuisance notice to the keeper of an animal the registrar believes is causing a nuisance. The penalty for contravening a nuisance notice is 5 penalty units.

The nuisance notice must:

- State the animal nuisance that must be reduced or stopped;
- State the place where the nuisance exists or from which it emanates; and
- Indicate that, unless the animal nuisance is reduced or stopped, proceedings may be instituted for an offence against subsection 100(1).

The nuisance notice may also specify steps that can be taken to prevent the recurrence of the animal nuisance.

Clause 114 sets out the procedures for seizing, impounding and returning seized animals.

PART 7 - DESTRUCTION OF ANIMALS

Clauses 115 and 116 deal with the destruction of animals. These clauses take into account the issue of public safety of onlookers by allowing an authorised officer to request that a police officer or a veterinary surgeon destroy an animal under the provisions of this Bill. Provision is also made for the safety of authorised officers, or police officers, by allowing them to destroy an animal that is too vicious to be seized under the provisions of this Bill.

Clause 117 is based on Sections 33 and 35 of the *Dog Control Act 1975*. These provisions allow an authorised officer, or a police officer, to destroy an injured or diseased animal if:

- That animal is dangerous to people or other animals; or
- Destruction is the humane course of action in the circumstances.

This clause also requires that the registrar must tell the keeper of a destroyed animal should the registrar have access to information that identifies the owner of that animal.

PART 8 – REVIEW AND APPEALS

Clause 118 sets out the decisions that are reviewable under this part.

Clauses 119 and 120 are provisions that list all decisions of the Bill that are reviewable by the Administrative Appeals Tribunal. Whenever the registrar makes a decision that is reviewable by the Administrative Appeals Tribunal, he or she must notify the decision to the person in accordance with the Code of Practice under Section 25B(1) of the *Administrative Appeals Tribunal Act 1989*.

PART 9 – ADMINISTRATION

Division 9.1 - Officers

Clauses 121, 122, 123, 124 and 125 are derived from Sections 6, 6A, 7 and 7A of the *Dog Control Act 1975* and Section 15 of the *Animal Nuisance Control Act 1975*. These clauses allow for the creation and filling of positions of registrar, Deputy registrar and Rangers and the issuing of identity cards for the holders of those positions.

There is a significant difference between these drafted provisions and those from both the *Dog Control Act 1975* and the *Animal Nuisance Control Act 1975*. It is proposed that the only position that must be filled by a public servant is the position of registrar. All other positions now have the ability to be filled by either a public servant or another person appointed by the Chief Executive of Urban Services. This ability will allow for the market testing of the functions of Domestic Animal Services.

Division 9.2 – Powers of authorised officers

Clause 126 sets out the interpretation of various terms used within this Division.

Clause 127 identifies what things can be connected with an offence within this Division of the Bill.

Clauses 128, 129, 130, 131, 132, 133 and 134 stipulate the requirements under various circumstances for an authorised officer to enter premises:

- For a routine inspection;

- With a search warrant; or
- In an emergency situation.

The provisions set out the powers of an authorised officer to inspect the premises after producing their identity card. The procedure for obtaining a search warrant is prescribed as well as the power of the authorised officer to require a person to give their name and address if reasonably suspected of committing an offence under the Bill.

PART 10 – MISCELLANEOUS

Clause 135 outlines the age requirements for a person to attain to legally be considered the owner of an animal.

Clause 136 stipulates the age requirement to be obtained before a person can be considered the lawful keeper of a dog.

Clause 137 identifies the act of returning a dog to a person.

Clause 138 identifies the authorisation of the registrar to sell or destroy animals under this Bill.

Clause 139 and 140 allows the registrar to renew a registration or a licence after that registration or licence has expired. Clause 129 requires a person who tendered a cheque that was dishonoured to return to the registrar any certificate, tag or licence that was issued in reliance of the purported payment. The penalty for paying by a dishonoured cheque is 10 penalty units for a person or 50 penalty units for a body corporate.

Clause 141 creates an offence of hindering or obstructing an authorised officer in the performance of the officer's functions for the purposes of this Act. The penalty for breaching this clause is a penalty of 50 penalty units, or imprisonment for 6 months or both.

Clauses 142 and 143 are provisions that allow for the Minister to determine fees and the Executive to make regulations for the purposes of this Bill.

Clause 144 determines that determines the requirement to pay determined fees and charges.

Clause 145 allows for the regulation to make provision concerning fees and charges required to be paid under this Bill.

Clause 146 allows for the Registrar to approve forms for use under this Bill.

Clause 147 allows for the executive to make regulations for this Bill.

Clause 148 repeals the Acts that are specified in the Bill.

Clause 149 repeals the Regulations that are specified in the Bill.

PART 11 – SAVINGS AND TRANSITIONAL

Clause 150 provides for definitions concerning this Part of the Bill.

Clause 151 ensures that existing applications, registrations and licences are continued from one piece of legislation to the other.

Clause 152 allows for the continuation of the register kept under that section under the *Dog Control Act 1975*.

Clause 153, 154, 155, and 156 provide for applications, registrations, licences, dangerous dog declarations and declared exercise areas under the *Dog Control Act 1975* to be continued under this Bill.

Clause 157 contains a consequential amendment to the *Lakes Act 1976*.

Clause 158 determines the time frame that this Part of the Bill remains in force.

Dictionary – defines the terms used within this Bill.