

# **Animals Legislation (Responsible Ownership) Act 2001**

## **Act No. 83/2001**

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Victoria

No. 83 of 2001

# **Animals Legislation (Responsible Ownership) Act 2001<sup>†</sup>**

[Assented to 11 December 2001]

**The Parliament of Victoria enacts as follows:**

## **PART 1—PRELIMINARY**

### **1. *Purposes***

The purposes of this Act are—

- (a) to amend the **Prevention of Cruelty to Animals Act 1986** to insert new offences and to make further provision for enforcement powers and regulation-making powers; and

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- (b) to amend the **Domestic (Feral and Nuisance) Animals Act 1994** to increase penalties, to make further provision in relation to enforcement powers and money collected by Councils and to make provision for further controls on certain breeds of dogs.

**2. Commencement**

- (1) This Act, except Part 3, comes into operation on the day after the day on which it receives the Royal Assent.
- (2) Subject to sub-section (3), Part 3 comes into operation on a day or days to be proclaimed.
- (3) If a provision of Part 3 does not come into operation before 1 November 2002, it comes into operation on that day.
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**PART 2—AMENDMENTS TO THE PREVENTION OF  
CRUELTY TO ANIMALS ACT 1986**

**3. *Insertion of an offence to attend an animal fight***

In section 13 of the **Prevention of Cruelty to Animals Act 1986**, after sub-section (3) insert—

"(4) A person must not attend an event at which an animal is encouraged to fight another animal.

Penalty: 60 penalty units."

**4. *Insertion of new sections 21A, 21B and 21C***

After section 21 of the **Prevention of Cruelty to Animals Act 1986** insert—

**"21A. *Search warrants for dwellings***

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to a person's dwelling, if the inspector believes on reasonable grounds that there is in the dwelling—
  - (a) an abandoned, diseased, distressed or disabled animal; or
  - (b) an animal, in respect of which a contravention of section 9 is occurring or has occurred.
- (2) If a magistrate is satisfied, by the evidence, on oath or by affidavit, of the inspector that there is reasonable grounds to believe that there is in the dwelling—
  - (a) an abandoned, diseased, distressed or disabled animal; or
  - (b) an animal in respect of which a contravention of section 9 is occurring or has occurred—

the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**.

- (3) A search warrant issued under this section may authorise an inspector named in the warrant, together with any member of the police force or any other person or persons named or otherwise identified in the warrant and with any necessary equipment—
- (a) to enter the dwelling specified in the warrant, if necessary by force; and
  - (b) to search for an animal or an animal of a particular class of animals referred to in the warrant; and
  - (c) to examine and inspect any such animal found in the dwelling to determine if the animal requires treatment by a veterinary practitioner; and
  - (d) to feed and water any such animal found in the dwelling; and
  - (e) to free any such animal from an entanglement or tether in the dwelling.
- (4) A search warrant issued under this section must state—
- (a) the purpose for which the search is required and the nature of any alleged contravention of section 9; and
  - (b) any conditions to which the warrant is subject; and
  - (c) whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and
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- (d) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.
- (5) Except as provided by this Act, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

**21B. *Announcement before entry under search warrant***

- (1) On executing a warrant issued under section 21A, the inspector executing the warrant—
  - (a) must announce that he or she is authorised by the warrant to enter the dwelling; and
  - (b) if the inspector has been unable to obtain unforced entry, must give any person at the dwelling an opportunity to allow entry to the dwelling.
- (2) An inspector need not comply with subsection (1) if he or she believes, on reasonable grounds that immediate entry to the dwelling is required to ensure that the effective execution of the warrant is not frustrated.

**21C. *Details of search warrant to be given to occupier***

- (1) If the occupier is present at the dwelling where a warrant under section 21A is being executed, the inspector must—
  - (a) identify himself or herself to the occupier; and



- (b) give a copy of the warrant to the occupier.
- (2) If the occupier is not present at the dwelling where a warrant under section 21A is being executed, the inspector must—
  - (a) identify himself or herself to a person at the dwelling; and
  - (b) give a copy of the warrant to the person."

#### ***5. Power of Minister to authorise seizure***

In section 24A of the **Prevention of Cruelty to Animals Act 1986**, for sub-section (1) **substitute—**

- "(1) If the Minister believes on reasonable grounds that any animal is in such a condition or circumstances that it is likely to become distressed or disabled the Minister may give notice in writing to—
- (a) the owner of the animal; or
  - (b) if the identity of the owner cannot be readily established or the owner cannot be readily contacted, the person who has possession or custody of the animal—

that, unless the Minister is satisfied that action has been or is being taken to remove the likelihood of the animal becoming distressed or disabled, the Minister intends, not less than 7 days after the giving of the notice, to authorise a specialist inspector to seize and dispose of the animal in accordance with this Division."

#### ***6. Insertion of new sections 24E to 24J***

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After section 24D of the **Prevention of Cruelty to Animals Act 1986** insert—

**"24E. Warrants to seize animals**

- (1) An inspector, with the written approval of the Secretary, may apply to a magistrate for the issue of a warrant allowing the inspector to seize an animal from a premises, including a person's dwelling, if the inspector believes on reasonable grounds that the welfare of the animal is at immediate risk.
- (2) If a magistrate is satisfied, by the evidence, on oath or by affidavit, of the inspector that there is reasonable grounds to believe that the welfare of an animal believed to be in or on the premises specified in the warrant is at immediate risk, the magistrate may issue a warrant, in accordance with the **Magistrates' Court Act 1989**.
- (3) A warrant issued under this section may authorise an inspector named in the warrant, together with any member of the police force or any other person or persons named or otherwise identified in the warrant and with any necessary equipment—
  - (a) to seize any animal specified in the warrant and to take that animal to any place that the inspector thinks fit; and
  - (b) to retain possession of any such animal for the period of time necessary for the animal to be adequately cared for or treated, but for no longer than the period of time specified in the warrant.
- (4) A warrant issued under this section must state—

- (a) the purpose for which the warrant is required; and
  - (b) any conditions to which the warrant is subject; and
  - (c) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.
- (5) Except as provided by this Act, the rules to be observed with respect to warrants to seize property under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

**24F. *Details of seizure warrant to be given to occupier***

- (1) If the occupier is present at the dwelling or premises where a warrant under section 24E is being executed, the inspector must—
- (a) identify himself or herself to the occupier; and
  - (b) give a copy of the warrant to the occupier.
- (2) If the occupier is not present at the dwelling or premises where a warrant under section 24E is being executed, the inspector must—
- (a) identify himself or herself to a person at the dwelling or premises; and
  - (b) give a copy of the warrant to the person.

**24G. *Seizure of animal not mentioned in the warrant***

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In addition to the seizure of any animal described in a warrant issued under section 24E or any animal of a class described in the warrant, the warrant authorises an inspector executing it to seize an animal that is not described in the warrant or that is not of a class described in the warrant, if the inspector believes, on reasonable grounds that the welfare of the animal is at immediate risk.

**24H. *Retention and return of seized animal***

If an inspector seizes an animal under a warrant under section 24E, the inspector must take reasonable steps to return the animal to the person from whom it was seized within the time specified in the warrant.

**24I. *Magistrates' Court may extend period of warrant***

- (1) An inspector may apply to the Magistrates' Court, before the expiration of the time specified in a warrant under section 24E for the return of an animal, for an extension of the period for which the inspector may retain the animal.
- (2) The Magistrates' Court may order such an extension if it is satisfied that the retention of the animal is necessary for its welfare.
- (3) The Magistrates' Court may adjourn an application to enable notice of the application to be given to any person.

**24J. *Notice to comply***

- (1) If an inspector reasonably believes that an animal is in a situation where an offence

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under section 9 is being or is about to be committed the inspector may issue a notice to—

- (a) the owner of the animal; or
- (b) if the identity of the owner cannot be readily established or the owner cannot be readily contacted, the person who has possession or custody of the animal—

requiring that person to ensure that the offence is not committed or that the commission of the offence ceases (as the case requires).

- (2) A person must comply with a notice issued to him or her under sub-section (1).

Penalty: 60 penalty units.

- (3) A notice issued under sub-section (1) must—
  - (a) be in writing; and
  - (b) state that it is an offence to not comply with the notice; and
  - (c) set out the maximum penalty for the offence."

**7. *Repeal of reference to section 4 of the Wildlife Act 1975***

In the definition of "scientific procedure" in section 25 of the **Prevention of Cruelty to Animals Act 1986**, in paragraph (i) **omit** "or anything done under section 4 of that Act".

**8. *Insertion of new regulation making powers***

In section 42(1) of the **Prevention of Cruelty to Animals Act 1986**, after paragraph (n) **insert**—

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- “(na) prohibiting the procedure of the firing of horses;
  - (nb) prohibiting the possession of any implement or thing of any of the following classes—
    - (i) dog or cock fighting implements;
    - (ii) any other similar fighting implements or things;
  - (nc) prohibiting or regulating the use of an implement or thing of any of the following classes—
    - (i) pronged collars;
    - (ii) electronic dog training collars;”.
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**PART 3—AMENDMENTS TO THE DOMESTIC (FERAL AND  
NUISANCE) ANIMALS ACT 1994 TO MAKE PARTICULAR  
PROVISION FOR CERTAIN BREEDS OF ANIMALS**

**9. Definitions**

In section 3(1) of the **Domestic (Feral and Nuisance) Animals Act 1994** insert the following definitions—

'**restricted breed dog**' means a dog of a breed whose importation into Australia is prohibited under the Customs (Prohibited Imports) Regulations 1956 of the Commonwealth;

'**recognised organisation**' means an organisation declared to be a recognised organisation by the Minister under section 5A;'

**10. Recognised organisations**

- (1) **Insert** the following heading to section 5A of the **Domestic (Feral and Nuisance) Animals Act 1994**—

*"Applicable organisations and recognised organisations"*.

- (2) In section 5A of the **Domestic (Feral and Nuisance) Animals Act 1994**, after subsection (1) **insert**—

"(1A) The Minister may declare, by notice published in the Government Gazette, that an organisation is a recognised organisation if—

- (a) the organisation has applied to the Minister to be declared a recognised organisation; and

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- (b) the organisation represents the owners of restricted breed dogs; and
  - (c) the Minister is satisfied that the organisation meets the criteria set out in the relevant guidelines."
- (3) In section 5A(2) of the **Domestic (Feral and Nuisance) Animals Act 1994**, after "applicable organisation" **insert** "or a recognised organisation".

**11. *Minister's powers to delegate***

In section 6 of the **Domestic (Feral and Nuisance) Animals Act 1994**, after paragraph (a) **insert**—

"(aa) his or her power to make appointments to review panels under section 98E(1);".

**12. *Declaration of breed of dog to be made with application for registration or renewal***

In section 10 of the **Domestic (Feral and Nuisance) Animals Act 1994**, after sub-section (2) **insert**—

"(3) If a person is making an application under sub-section (1) or (2) in relation to a dog, that person must include with the application a declaration as to whether or not the dog in respect of which the application is made is a restricted breed dog.

Penalty: 5 penalty units."

**13. *Insertion of reference in registration provision***

In section 16 of the **Domestic (Feral and Nuisance) Animals Act 1994**, after "dangerous dog" **insert** "or a restricted breed dog".



**14. Powers of Council to register restricted breed dogs**

In section 17 of the **Domestic (Feral and Nuisance) Animals Act 1994**—

- (a) in sub-section (1), after "dangerous dog" **insert** "or a restricted breed dog";
- (b) in sub-section (2), after "dangerous dog" **insert** "or a restricted breed dog";
- (c) in sub-section (4), after "dangerous dog" **insert** "or a restricted breed dog".

**15. Requirement for restricted breed dogs to be permanently identified**

In section 19 of the **Domestic (Feral and Nuisance) Animals Act 1994**, for sub-section (2) **substitute**—

"(2) If a person is the owner of a dangerous dog or a restricted breed dog, that person must ensure that the dog is permanently identified in the manner prescribed by the regulations.

Penalty: 5 penalty units."

**16. Exemption from requirement to have identification marker outside owner's premises**

In section 20(2) of the **Domestic (Feral and Nuisance) Animals Act 1994**, after paragraph (d) **insert**—

"(da) a dog while it is being exhibited for show purposes at a fixture conducted by a recognised organisation; or".

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**17. Insertion of new Division 3B in Part 3**

In Part 3 of the **Domestic (Feral and Nuisance) Animals Act 1994**, after Division 3A insert—

**"Division 3B—Particular provisions for the control of restricted breed dogs**

**41F. Notifications**

- (1) The owner of a restricted breed dog must notify the Council that registered the dog, within 24 hours, if—
  - (a) the dog is missing; or
  - (b) the ownership of the dog changes.

Penalty: 5 penalty units.

- (2) If the owner of a restricted breed dog proposes to sell the dog or give the dog to another person or otherwise transfer the ownership of the dog to another person, the owner must, before doing so advise the person in writing that the dog is a restricted breed dog.

Penalty: 5 penalty units.

**41G. Restraint of restricted breed dogs on owner's premises**

- (1) When a restricted breed dog is on its owner's premises, the owner must keep the dog securely confined in a manner that complies with sub-section (2).

Penalty: 5 penalty units.

- (2) The enclosure must—
  - (a) be childproof; and

- (b) be constructed so that the dog cannot escape from it; and
- (c) comply with the regulations.

**41H. *Warning signs for restricted breed dogs***

The owner of a restricted breed dog must display warning signs, which comply with the regulations, at all entrances to the premises where the dog is kept, warning people that a restricted breed dog is kept at the premises.

Penalty: 5 penalty units.

**41I. *Restraint of restricted breed dogs off the owner's premises***

If a restricted breed dog is outside the premises of its owner and is not—

- (a) muzzled in a manner which is sufficient to prevent it causing injury by biting; and
- (b) under the effective control of some person by means of a chain, cord or leash—

the owner of that dog and any person for the time being in charge of the dog are guilty of an offence and liable, on conviction, to a penalty of not more than 5 penalty units.

**41J. *Limitation on ownership of restricted breed dogs***

- (1) A person must not own more than 2 restricted breed dogs unless that person has a permit from the Council of the municipal district in which the dogs are kept to do so.

Penalty: 5 penalty units.

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- (2) A Council may issue a permit to own more than 2 restricted breed dogs to any person who has applied to the Council for such a permit.
  - (3) An application for a permit must be—
    - (a) in writing in the form approved by the Council; and
    - (b) accompanied by the fee determined by the Council for such an application.
  - (4) A permit—
    - (a) is subject to any terms and conditions determined by the Council; and
    - (b) remains in force for the period not exceeding 2 years determined by the Council; and
    - (c) may be renewed on application to the Council.
  - (5) The holder of a permit must comply with the terms and conditions of the permit.

Penalty: 5 penalty units.

**41K. *Prohibition on transfer of ownership of restricted breed dogs to minors***

The owner of a restricted breed dog must not sell, give or otherwise transfer ownership of the dog to another person who is less than 17 years of age.

Penalty: 5 penalty units.

**41L. *Prohibition on minor having control of dog outside owner's premises***

If a person who is less than 17 years of age is in charge of a restricted breed dog outside the premises of the dog's owner, the owner is

guilty of an offence and liable, on conviction, to a penalty of not more than 5 penalty units."

**18. *Seizure of restricted breed dogs***

In section 77(1) of the **Domestic (Feral and Nuisance) Animals Act 1994**—

- (a) in paragraph (b), after "dangerous dog" **insert** "or a restricted breed dog";
- (b) after paragraph (c) **insert**—  
"(ca) if the dog is a restricted breed dog and—
  - (i) the owner has been found guilty of an offence under Division 3B of Part 3 with respect to that dog; or
  - (ii) the authorised officer reasonably suspects that the owner is guilty of an offence under Division 3B of Part 3 with respect to that dog; or"

**19. *Warrants for search and seizure***

In section 77A of the **Domestic (Feral and Nuisance) Animals Act 1994**—

- (a) in sub-section (1), after "(c)" **insert** ", (ca)";
- (b) in sub-section (2), after "(c)" **insert** ", (ca)".

**20. *Powers to sell or destroy seized restricted breed dogs***

In section 80 of the **Domestic (Feral and Nuisance) Animals Act 1994**—

- (a) in sub-section (1)(b), after "a dangerous dog" **insert** "or a restricted breed dog";
- (b) in sub-section (2), after "(c)(i)" **insert** ", (ca)(i)";

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- (c) in sub-section (3), after "(c)(ii)" **insert**  
", (ca)(ii)";
- (d) in sub-section (4), after "(c)(ii)" **insert**  
", (ca)(ii)".

**21. Evidentiary provision**

At the end of section 94 of the **Domestic (Feral and Nuisance) Animals Act 1994** **insert**—

"(2) In any proceedings for an offence under this Act related to a restricted breed dog, it is a defence to an allegation that the dog in respect of which the offence was committed was a restricted breed dog, if the owner reasonably believed the dog was not a restricted breed dog."

**22. Power to apply for review of a decision to refuse to register a restricted breed dog**

In section 98(2)(b) of the **Domestic (Feral and Nuisance) Animals Act 1994**, after "dangerous dog" **insert** "or a restricted breed dog".

**23. Insertion of new Division 7 of Part 7**

In Part 7 of the **Domestic (Feral and Nuisance) Animals Act 1994**, after Division 6 **insert**—

**"Division 7—Procedures for identifying restricted breed dogs**

**98A. Power of authorised officers to make declarations as to breed of dogs**

If an authorised officer is of the opinion that a dog is a restricted breed dog, the authorised officer may make a declaration to the effect that the dog is a restricted breed dog.

**98B. Service of notice of declaration**

- (1) An authorised officer who has made a declaration under section 98A must serve written notice of that declaration on the owner of the dog, either personally or by registered post, within 7 days of the making of the declaration.
- (2) A notice under sub-section (1) must—
  - (a) set out that the owner has a right to apply for a review of the decision to make the declaration under this Division; and
  - (b) set out how to make an application for such a review; and
  - (c) set out the requirements of the Act as to restricted breed dogs that must be complied with immediately.

**98C. *Application of certain offences at the time of the making of a declaration***

Sections 19(2), 41G and 41H are to be taken not to apply to the owner of a dog which has been declared to be a restricted breed dog by an authorised officer until—

- (a) in the case of a declaration in respect of which an application to the panel has not been made within 30 days of the service of the notice of the declaration, 60 days after the service of the notice of the declaration; or
  - (b) in the case of a declaration in respect of which—
    - (i) an application has been made to the panel within 30 days of the service of the notice of the declaration; and
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(ii) the panel has affirmed the making of the declaration—

30 days after the decision to affirm the making of the declaration.

**98D. *Right to apply for review of decision to make declaration***

- (1) The owner of a dog in respect of which a declaration has been made under this Division may apply for that decision to be reviewed by a review panel.
- (2) An application under sub-section (1) must—
  - (a) be made to the Minister; and
  - (b) be made within 30 days of the service of the notice; and
  - (c) be accompanied by the fee prescribed by the regulations.

**98E. *Review panel***

- (1) A review of a declaration made under this Division must be heard by a review panel consisting of a chairperson and 2 other persons appointed by the Minister for the purposes of that review.
- (2) A review panel must be constituted from a pool of persons appointed by the Minister because of their knowledge of or experience in the identification of dog breeds.

**98F. *Procedure and decisions of review panels***

- (1) A review panel—



- (a) must consider the application for review of the declaration which is before it; and
  - (b) may affirm or set aside that declaration.
- (2) A decision of a review panel must be determined by a majority of the members of the panel.
  - (3) Subject to sub-section (2), a review panel may regulate its own procedure.

**98G. *Terms and conditions of appointment of members of the pool and of panels***

- (1) Subject to this section, the members of—
    - (a) any review panel appointed by the Minister under section 98E(1); and
    - (b) the pool of persons appointed by the Minister under section 98E(2)—are appointed on the terms and conditions determined by the Minister.
  - (2) A member of a review panel who is not a public servant is entitled to receive the fees and travelling and other allowances, if any, fixed by the Minister.
  - (3) The **Public Sector Management and Employment Act 1998** does not apply to any member of the pool or a panel in respect of that office of member."
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**PART 4—FURTHER AMENDMENTS TO THE DOMESTIC  
(FERAL AND NUISANCE) ANIMALS ACT 1994**

**24. *Offence to set on dog to attack—Increase in Penalty***

In section 28 of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "5 penalty units" **substitute** "120 penalty units or imprisonment for 6 months".

**25. *Liability for dog attack—Increase in penalty***

- (1) In section 29 of the **Domestic (Feral and Nuisance) Animals Act 1994**, for sub-section (1) **substitute—**

"(1) If a dangerous dog, that is not a guard dog guarding non-residential premises, attacks or bites any person or animal, the owner is guilty of an offence and liable, on conviction, to a term of imprisonment not exceeding 6 months or to a fine not exceeding 120 penalty units.

(1AA) If a dog that is not a dangerous dog, attacks or bites any person or animal, the owner is guilty of an offence and liable to a fine not exceeding 10 penalty units."

- (2) In section 29(2) of the **Domestic (Feral and Nuisance) Animals Act 1994**, after "(1)" **insert** ", (1AA)".
- (3) In section 29(3) of the **Domestic (Feral and Nuisance) Animals Act 1994**, after "(1)" **insert** ", (1AA)".
- (4) In section 29(4) of the **Domestic (Feral and Nuisance) Animals Act 1994**, after "(1)" **insert** ", (1AA)".
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**26. Notification of Council**

In section 37(2) of the **Domestic (Feral and Nuisance) Animals Act 1994**, paragraph (a) is **repealed**.

**27. Payments to the Treasurer**

(1) In section 69(1) of the **Domestic (Feral and Nuisance) Animals Act 1994**—

(a) in paragraph (a) **omit** "dog or";

(b) after paragraph (a) **insert**—

"(aa) \$2.50 in respect of each registration fee collected by it in each financial year for the registration or renewal of registration of a dog; and".

(2) In section 69(2) of the **Domestic (Feral and Nuisance) Animals Act 1994**, after paragraph (a) **insert**—

"(aa) research into domestic animal management; and".

**28. Powers of authorised officers**

In section 74(2) of the **Domestic (Feral and Nuisance) Animals Act 1994**—

(a) in paragraph (a), for "land, vehicle or building not occupied as a place of residence" **substitute** "building not occupied as a place of residence or any land or vehicle";

(b) for paragraph (b) **substitute**—

"(b) search the whole or any part of any building, land or vehicle entered under paragraph (a); or".

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**29. Warrants for search and seizure**

- (1) In section 77A(1) of the **Domestic (Feral and Nuisance) Animals Act 1994**—
  - (a) for "any premises" **substitute** "any building occupied as a place of residence";
  - (b) for "on the premises" **substitute** "in the building".
- (2) In section 77A(2) of the **Domestic (Feral and Nuisance) Animals Act 1994**—
  - (a) for "on the premises" **substitute** "in the building";
  - (b) in paragraph (a), for "the premises" **substitute** "the building".

**30. Amendment of references to premises**

- (1) In section 77B of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "the premises" (wherever occurring) **substitute** "the building".
  - (2) In section 77C of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "the premises" (wherever occurring) **substitute** "the building".
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**ENDNOTES**

† *Minister's second reading speech—*

*Legislative Assembly: 1 November 2001*

*Legislative Council: 28 November 2001*

The long title for the Bill for this Act was "to amend the **Prevention of Cruelty to Animals Act 1986** and the **Domestic (Feral and Nuisance) Animals Act 1994** and for other purposes."