

ภาคผนวก ข.



Dog Control Act 2000

An Act to provide for the control and management of dogs

[Royal Assent 20 December 2000]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - Preliminary

1. Short title

This Act may be cited as the *Dog Control Act 2000*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

In this Act –

"animal" means –

(a) any animal or bird kept for farming, breeding or other commercial purposes; or

(b) any domestic animal; or

(c) any native bird or native animal;

"appropriate fee", in relation to a fee, means a fee determined by the council under section 80;

"approved" means approved by the Director;

"at large" means at large as referred to in section 5;

"attack" includes bite, menace or harass;

"authorised person" means –

(a) a police officer; or

(b) a general manager; or

(c) a person appointed by a general manager to be an authorised person; or

(d) a person who is a ranger under the Nature Conservation Act 2002; or

(da) a person who is a ranger under the National Parks and Reserves Management Act 2002; or

(e) a person appointed as a bailiff of Crown lands under the Crown Lands Act 1976;

"built-up area" means an area in which –

(a) there are buildings on land next to the road; and

(b) there is street lighting at intervals not over 100 metres for a distance of at least 500 metres or, if the road is shorter than 500 metres, for the whole road;

"collar" means a collar of leather or other durable material;

"complaint" means a complaint referred to in section 47;

"dangerous dog" means a dog declared to be dangerous under section 29 or 30;

"declared area" means an area declared under Division 2 of Part 3;

"Director" means the Director of Local Government;

"dog" means an animal of the species *Canis familiaris* or *Canis familiaris dingo*;

"domestic animal" means an animal or bird kept as a domestic pet;

"effective control" means effective control as referred to in section 4;

"exercise area" means an area declared under section 20;

"general manager" means the general manager of a council appointed under the Local Government Act 1993;

"guide dog" means –

(a) a guide dog as defined by the Guide Dogs and Hearing Dogs Act 1967; or

(b) a dog training to be a guide dog;

"hearing dog" means –

(a) a hearing dog as defined by the Guide Dogs and Hearing Dogs Act 1967; and

(b) a dog training to be a hearing dog;

"hunting dog" means a dog used principally for hunting;

"infringement notice" means a notice referred to in Division 2 of Part 4;

"lead" means a lead, leash, cord or chain of sufficient strength to restrain a dog;

"licence" means a licence to keep on premises –

(a) more than 2 dogs over the age of 6 months; or

(b) more than 4 working dogs over the age of 6 months;

"occupier", in relation to premises, includes a person who has, or is entitled to, possession or control of the premises;

"owner of a dog" means a person referred to in [section 6](#);

"pound" means a pound established under the [Local Government Act 1993](#);

"premises" includes land or any part of any premises or land;

"prohibited area" means an area declared under [section 22](#);

"public notice" means a notice published in a daily newspaper;

"public place" means –

(a) a public place as defined by the [Police Offences Act 1935](#); and

(b) a road; and

(c) a road-related area;

"register" means a register kept under [section 15](#);

"registered dog" means a dog registered under this Act;

"registration disc" means a disc or tag referred to in [section 10\(1\)](#);

"restricted area" means an area declared under [section 23](#);

"road" means –

(a) an area that is developed for, or has as one of its main uses, the driving or riding of motor vehicles and is open to, or used by, the public; and

(b) a part of the kerb; and

(c) an unsealed part of a sealed road;

"road-related area" means –

- (a) an area that divides a road; or
- (b) a footpath or nature strip adjacent to a road; or
- (c) a footpath or track that –
 - (i) is not a road; and
 - (ii) is designed for use by cyclists or pedestrians; and
 - (iii) is open to the public;

"shopping centre" means a collection of shops in an enclosed area covered by a roof or forming a courtyard or square, excluding any area provided for the parking of vehicles;

"training area" means an area declared under [section 21](#);

"tranquilliser device" means any device that inserts a measured dosage of tranquillising drug into the body of an animal;

"veterinary surgeon" means a person registered as a veterinary surgeon under the [*Veterinary Surgeons Act 1987*](#);

"working day" means a day on which the public office of a council is open for business;

"working dog" means a dog used principally for –

- (a) droving or tending livestock; or
- (b) detecting illegal substances; or
- (c) searching, tracking or rescuing; or
- (d) working with police officers.

4. Dog under effective control

(1) A dog is under the effective control of a person in a public place if the dog is –

(a) off the lead and –

(i) in close proximity to the person; and

(ii) in sight of the person; and

(iii) the person is able to demonstrate to the satisfaction of an authorised person that the dog is immediately responsive to the person's commands; or

(b) secured and restrained by means of a lead not exceeding 2 metres long held by hand by a person of sufficient age and strength to control the dog; or

(c) tethered to a fixed object by a lead not exceeding 2 metres long for a period not exceeding 30 minutes.

(2) A dog is under effective control on a road or road-related area in a built-up area if the dog is secured and restrained by means of a lead not exceeding 2 metres long held by hand by a person of sufficient age and strength to control the dog.

(3) A person, at any one time, must not have, in his or her charge, more than –

(a) 2 dogs on a lead on a footpath; or

(b) 4 dogs in a public place.

Penalty:

Fine not exceeding 5 penalty units.

(4) A dog is under the effective control of a person on private premises if the dog is securely confined to those premises.

(5) A dog is under the effective control of a person while not on a lead if the dog is –

- (a) a working dog engaged in working; or
- (b) a hunting dog engaged in hunting; or
- (c) engaged in racing or showing; or
- (d) engaged in obedience or agility trials; or
- (e) engaged in training for any activity referred to in paragraph (a), (b), (c) or (d); or
- (f) engaged in training in a training area.

5. Dog at large

A dog is at large if –

- (a) it is not under the effective control of a person in a public place or in or on premises without the consent of the occupier; or
- (b) it is a dangerous dog in a public place and is –
 - (i) in the charge of a person under the age of 18 years; or
 - (ii) without a muzzle; or
 - (iii) not on a lead; or
 - (iv) without an approved collar.

6. Owner of dog

The person who is the owner of a dog is –

- (a) in the case of a registered dog, the person in whose name the dog is registered; or
- (b) in the case of an unregistered dog, the person who ordinarily keeps the dog; or
- (c) in the case of a child's pet, the child's parent or guardian.

7. Dog management policy

(1) A council is to develop and implement a policy relating to dog management in its municipal area.

(2) A dog management policy is to include the following:

- (a) a code relating to responsible ownership of dogs;
- (b) the provision of declared areas;
- (c) a fee structure;
- (d) any other relevant matter.

(3) A council is to –

- (a) invite public submissions relating to a proposed dog management policy; and
- (b) consult with any appropriate body or organisation; and
- (c) consider any submissions and results of any consultation before finalising the policy.

(4) A council is to review its dog management policy at least once every 5 years.

(5) In reviewing its dog management policy, a council is to take the actions referred to in subsection (3).

PART 2 - Registration and Identification

8. Registering dogs

(1) The owner of a dog that is over the age of 6 months must register the dog.

Penalty:

Fine not exceeding 5 penalty units.

(2) A person must not conceal, or dispose of, a dog to evade registration of the dog.

Penalty:

Fine not exceeding 5 penalty units.

9. Application for registration

(1) The owner of a dog required to be registered is to apply for registration to the general manager of the council in the municipal area in which –

(a) the owner resides; or

(b) if the dog is a guard dog, the premises guarded by the dog are situated.

(2) An application for registration is to be –

(a) in an approved form; and

(b) accompanied by the appropriate registration fee.

10. Registration disc

(1) On the registration of a dog, the general manager is to –

- (a) allocate a registration number to the dog; and
- (b) issue to the owner a disc or tag clearly and durably marked with –
 - (i) the name of the council; and
 - (ii) the registration number of the dog; and
 - (iii) the expiry date of registration.

(2) A registration disc is valid until the expiry date marked on the registration disc.

(3) A person must not –

- (a) use a registration disc that is not valid; or
- (b) use a registration disc issued for another dog; or
- (c) counterfeit a registration disc or knowingly use a counterfeit registration disc; or
- (d) remove a registration disc from a dog without just cause.

Penalty:

Fine not exceeding 3 penalty units.

11. Collars

(1) The owner or person in charge of a dog, other than a guide dog or hearing dog, must ensure that the dog, while in a public place, has a collar fastened around its neck to which is attached the dog's registration disc.

Penalty:

Fine not exceeding 1 penalty unit.

(2) This section does not apply to –

- (a) a working dog engaged in working; or
- (b) a hunting dog engaged in hunting; or
- (c) a dog engaged in racing; or
- (d) a dog engaged in showing; or
- (e) a dog engaged in obedience or agility trials; or
- (f) a dog engaged in training for any activity referred to in paragraph (a), (b), (c), (d) or (e).

(3) The owner or person in charge of a guide dog or a hearing dog must ensure that the dog, while in a public place, has its registration disc attached to its collar, lead or harness.

Penalty:

Fine not exceeding 1 penalty unit.

(4) A person, without just cause, must not remove a collar from a dog that is in a public place.

Penalty:

Fine not exceeding 2 penalty units.

12. Cancellation of registration

(1) The owner of a dog must notify the general manager in writing within 14 days of –

(a) the dog's death, loss or removal; or

(b) the transfer of the dog to another municipal area.

Penalty:

Fine not exceeding 1 penalty unit.

(2) The general manager, if satisfied of the truth of the notification, is to –

(a) cancel the registration of the dog; and

(b) in the case of a transfer to another municipal area, notify the general manager of the council of that municipal area.

13. Change of owner

(1) A person who becomes the owner of a dog that is already registered, within 14 days after becoming the owner, must notify the general manager in writing of the change of ownership.

Penalty:

Fine not exceeding 1 penalty unit.

(2) If a change of ownership of a registered dog occurs, the former owner of the dog, within 14 days after that change, must notify the general manager in writing of the change of ownership.

Penalty:

Fine not exceeding 1 penalty unit.

14. Change in address

The owner of a dog is to notify the general manager in writing within 14 days of the transfer of a dog to another address in the same municipal area for a period exceeding 60 days.

15. Register

(1) A general manager is to keep a register in respect of registered dogs.

(2) The register is to state –

(a) the name, age, sex and reproductive capacity of the dog; and

(b) the breed of the dog, if identifiable; and

(c) any identifiable feature of the dog; and

(d) whether the dog is a dangerous dog; and

(e) the owner's name and address; and

(f) the registration number of the dog; and

(g) any other information the general manager considers relevant.

(3) The register and its details may be recorded and retained in electronic form.

(4) A general manager may amend or cancel any item in the register in order to maintain the register.

PART 3 - Control of Dogs

*Division 1 - Controlling dogs***16. Control of dogs**

(1) The owner or person in charge of a dog must ensure that the dog is not at large.

Penalty:

Fine not exceeding 5 penalty units.

(2) The owner or person in charge of a bitch on heat must ensure that it is confined away from a public place.

Penalty:

Fine not exceeding 2 penalty units.

(3) The owner or person in charge of a dog must restrict the dog sufficiently while it is in or on a vehicle so that it is unable to leave the vehicle or attack any person or animal outside the vehicle.

Penalty:

Fine not exceeding 5 penalty units.

17. Chasing vehicles

(1) The owner or person in charge of a dog must ensure that while the dog is in a public place the dog does not rush at, or chase, a moving vehicle or bicycle in that public place.

Penalty:

Fine not exceeding 5 penalty units.

(2) A person must not urge a dog to rush at, or chase, a moving vehicle or bicycle in a public place.

Penalty:

Fine not exceeding 10 penalty units.

18. Greyhounds

(1) The owner or person in charge of a greyhound must ensure that the greyhound, while in a public place, is –

(a) muzzled; and

(b) secured and restrained by means of a lead not exceeding 2 metres long held by hand by a person of sufficient age and strength to control the dog.

Penalty:

Fine not exceeding 5 penalty units.

(2) This section does not apply if the greyhound is engaged in racing, trialing or showing.

19. Dogs attacking persons or animals

(1) If a dog attacks or chases any person, the owner or person in charge of the dog is guilty of an offence.

Penalty:

Fine not exceeding 20 penalty units.

(2) If a dog attacks an animal or chases a horse being ridden, the owner or person in charge of the dog is guilty of an offence.

Penalty:

Fine not exceeding 10 penalty units.

(3) The owner or person in charge of a dog must notify the council within 24 hours if the dog attacks a person.

Penalty:

Fine not exceeding 5 penalty units.

(4) In proceedings under this section, it is not necessary to prove that any actual injury was caused to any person.

(5) It is a defence in proceedings under subsection (1) to prove that –

- (a) the dog was being used in the reasonable defence of any person or property; or
- (b) the dog was being teased, abused or assaulted; or
- (c) the dog was a working dog engaged in working with police.

(6) It is a defence in proceedings under subsection (2) to prove that –

- (a) the dog was a working dog engaged in –
 - (i) working with police; or
 - (ii) droving or tending livestock; or

(b) the dog was a hunting dog engaged in hunting.

Division 2 - Declared areas

20. Exercise areas

A council may declare an area to be an area where dogs may be exercised subject to any specified conditions.

21. Training areas

A council may declare an area to be an area where dogs may be trained subject to any specified conditions.

22. Prohibited areas

(1) A council may declare an area containing sensitive habitat for native wildlife to be an area where dogs are prohibited from entering.

(2) A person must not take a dog that is not a guide dog or a hearing dog into a prohibited area.

Penalty:

Fine not exceeding 10 penalty units.

23. Restricted areas

(1) A council may declare an area to be an area where dogs, other than guide dogs or hearing dogs, are restricted from entering –

(a) during specified hours, days or seasons; or

(b) during specified hours, days or seasons unless they are on a lead.

(2) A person must not take a dog that is not a guide dog or a hearing dog into a restricted area otherwise than in accordance with the declaration.

Penalty:

Fine not exceeding 5 penalty units.

24. Public notice of intention to declare areas

Before a council resolves to make a declaration under this Division in relation to an area, it is to –

(a) notify, by public notice, the details of –

(i) the area; and

(ii) any condition relating to the use of that area; and

(iii) in the case of a restricted area or prohibited area, the reasons for the declaration;
and

(b) invite submissions to be lodged within 15 working days after the notice is published;
and

(c) consider any submissions lodged.

25. Date and period of declaration

A council, by public notice, is to notify –

(a) the date on which a declaration under this Division takes effect, being a date at least 20 working days after a notice under section 24 is published; and

(b) the period during which the declaration remains in force.

26. Review of declaration

(1) A declaration under this Division is to be reviewed at least once every 5 years.

(2) In reviewing a declaration, a council is to take the actions referred to in section 24.

27. Signs

A council is to erect and maintain signs sufficient to identify any exercise area, training area, prohibited area or restricted area.

28. Prohibited public areas

(1) A person must not take a dog into –

(a) any grounds of a school, preschool, kindergarten, creche or other place for the reception of children without the permission of a person in charge of the place; or

(b) any shopping centre or any shop; or

(c) the grounds of a public swimming pool; or

(d) any playing area of a sportsground on which sport is being played; or

(e) any area within 10 metres of a children's playground.

Penalty:

Fine not exceeding 5 penalty units.

(2) This section does not apply to –

- (a) a guide dog that is accompanying a wholly or partially blind person or is in training for that purpose; or
- (b) a hearing dog that is accompanying a wholly or partially deaf person or is in training for that purpose; or
- (c) a pet shop; or
- (d) the premises of a veterinary surgeon; or
- (e) a pet-grooming shop; or
- (f) any other premises related to the care and management of dogs.

Division 3 - Dangerous dogs

29. Declaration of particular dangerous dog

- (1) A general manager, by notice served on the owner of a dog –
 - (a) may declare that dog to be a dangerous dog if –
 - (i) the dog has caused serious injury to a person or another animal; or
 - (ii) there is reasonable cause to believe that the dog is likely to cause serious injury to a person or another animal; and
 - (b) is to give reasons for the declaration in the notice; and
 - (c) is to advise the owner of the right of appeal under section 31.
- (2) The owner of a dog declared to be a dangerous dog must ensure that the dog is implanted in an approved manner with an approved microchip within –

(a) 30 days after service of the notice, if an appeal is not made under section 31; or

(b) 14 days after an order is made under section 31(2)(a), if an appeal is made under that section and such an order is made.

Penalty:

Fine not exceeding 10 penalty units.

30. Guard dogs

(1) The owner of a dog used to guard premises that are not residential must notify the general manager, by notice in writing, that the dog is a guard dog.

Penalty:

Fine not exceeding 10 penalty units.

(2) On receipt of the notification, the general manager is to declare the dog to be a dangerous dog.

(3) If a dog ceases to be a guard dog, the owner of the dog may apply to the general manager to revoke the declaration that the dog is a dangerous dog.

(4) On receipt of the application, the general manager may revoke the declaration if satisfied that the dog –

(a) is no longer a guard dog; and

(b) is not a dangerous dog.

31. Appeal against declaration

(1) An owner of a dog declared to be a dangerous dog under section 29 may appeal

against the declaration to a magistrate within 14 days after service of the notice.

(2) A magistrate may order that –

(a) the declaration is confirmed; or

(b) the declaration be set aside.

(3) If a magistrate sets aside a declaration in respect of a dog, a general manager may only declare the dog to be a dangerous dog in respect of behaviour of the dog that occurs after the decision of the magistrate.

32. Dangerous dogs

The owner or person in charge of a dangerous dog must ensure that –

(a) the dog, when in a public place –

(i) is muzzled so as to be unable to bite a person or animal; and

(ii) is on a lead not exceeding 2 metres that is sufficient to control and restrain the dog;
and

(iii) is under the control of a person at least 18 years of age; and

(b) the dog, when not in a public place –

(i) is housed in a childproof enclosure; or

(ii) when not under adult supervision, is secured and restrained by a lead not exceeding 2 metres; and

(c) the dog wears an approved collar at all times; and

(d) the microchip implanted in the dog is not removed without the approval of the general manager.

Penalty:

Fine not exceeding 20 penalty units.

33. Warning signs

The owner or person in charge of a dangerous dog must ensure that signs of an approved type warning of the presence of the dog are displayed at every entrance to the premises on which the dog is kept.

Penalty:

Fine not exceeding 10 penalty units.

34. Missing dangerous dog

If a dangerous dog goes missing or dies, or is lost, sold or given away to another owner, the owner or a person on behalf of the owner of that dog must notify the general manager –

(a) of that fact as soon as practicable after becoming aware of that fact; or

(b) of the name and address of the new owner within 24 hours after the dog is sold or given away.

Penalty:

Fine not exceeding 20 penalty units.

Division 4 - Seizure of dogs

35. Seizure and detention of dogs at large

(1) An authorised person may seize and detain any dog at large.

(2) If a dog is seized and its owner is identifiable, the general manager is to notify in writing the owner of the dog that –

(a) the dog has been seized and detained; and

(b) the owner may reclaim the dog.

(3) If, after 5 working days after the notice has been given to the owner, the owner does not reclaim the dog, the general manager may sell, destroy or otherwise dispose of the dog.

(4) If a dog is seized and its owner is not identifiable, the general manager, not less than 3 working days after its seizure, may –

(a) sell, destroy or otherwise dispose of the dog if it is not a dangerous dog; or

(b) destroy the dog if it is a dangerous dog.

(5) The general manager is to take reasonable steps and make reasonable inquiries to identify the owner of a dog.

36. Payment of fees relating to seized dogs

(1) The owner of a dog seized under section 35 must pay, within 5 working days after the notice under section 35(2) has been given –

(a) any fees in relation to the seizure and detaining of the dog; and

(b) the reasonable cost of the dog's detention; and

(c) any other fees or charges relating to the dog that have not been paid under this Act;
and

(d) in the case of an unregistered dog, the appropriate registration fee.

Penalty:

Fine not exceeding 5 penalty units.

(2) On payment of any fees and charges under subsection (1) in respect of a dog, the general manager is to release the dog to its owner.

37. Seizure and detention of other dogs

(1) An authorised person may seize and detain any dog in respect of which the person has reasonable cause to believe that an offence under section 19 or 32 has been committed.

(2) A dog seized under subsection (1) is to be detained in any form of custody the authorised person directs until –

(a) if proceedings for an offence under section 19 or 32 are instituted within 7 working days after the day on which the dog was seized, the completion of those proceedings;
or

(b) if the proceedings are not instituted within that period of 7 working days, the expiration of that period.

38. Costs

(1) If a court orders the destruction of a dog seized and detained under section 37, the costs of detaining and destroying the dog are to be borne by the owner.

(2) If the costs of detaining a dog are borne by the council on behalf of the owner, the council may recover the costs in a court of competent jurisdiction as a debt due to the council by the owner.

(3) If the owner of a dog does not reclaim the dog, the council may recover the cost of destroying or otherwise disposing of the dog in a court of competent jurisdiction as a debt due to the council by the owner.

39. Release of dogs

The general manager is to release a dog to its owner –

(a) on payment of –

(i) any fines or costs ordered to be paid by a court if the court does not order the destruction of the dog; and

(ii) any registration fees if the dog is unregistered; or

(b) if a court so orders.

40. Interference with dogs in pounds

(1) A person must not –

(a) remove or interfere with any dog seized under this Division; or

(b) destroy or damage any structure, enclosure or pound in which dogs seized under this Division are detained.

Penalty:

Fine not exceeding 10 penalty units.

(2) An authorised person may –

- (a) seize a dog that is illegally removed; and
- (b) detain the dog until the fees and costs arising from its detention and retrieval are paid.

Division 5 - Destruction of dogs

41. Attacking dogs

(1) A person may restrain or destroy a dog if the person –

- (a) is being attacked by the dog; or
- (b) sees the dog attacking –
 - (i) another person; or
 - (ii) another animal; or
 - (iii) a guide dog or hearing dog.

(2) A person who restrains a dog under subsection (1) is to notify the general manager as soon as possible.

(3) A person carrying on primary production relating to livestock on rural land or any other person acting under his or her authority may destroy any dog at large found on that land.

(4) A person who destroys a dog under subsection (1) or (3), within 14 days after destroying the dog, must –

(a) notify the general manager; and

(b) return to the general manager any registration disc worn by the dog.

Penalty:

Fine not exceeding 5 penalty units.

42. Destruction of dog

(1) An authorised person or a veterinary surgeon may seize or destroy a dog if satisfied that the dog –

(a) is behaving in a manner and in such circumstances likely to cause injury to any person or death or serious bodily injury to any animal; or

(b) has caused injury to a person or death or serious bodily injury to an animal; or

(c) is found distressed or disabled to such an extent that its continued existence is likely to involve continued suffering.

(2) An authorised person or a veterinary surgeon may enter any premises in order to seize or destroy a dog under subsection (1).

(3) If a dog destroyed under subsection (1) was wearing a registration disc or any other means of identification, the general manager is to notify the dog's owner in writing of –

(a) the destruction of the dog; and

(b) the reasons for the destruction.

43. Destruction without suffering

A person who destroys a dog under this Act must destroy the dog quickly and without causing undue suffering.

Penalty:

Fine not exceeding 20 penalty units.

44. Immunity from liability

(1) Any action, claim or demand does not lie against a person for the destruction of a dog under this Act unless the person fails to destroy the dog quickly without causing undue suffering.

(2) The immunity from liability under this section does not apply to any associated negligence that may accompany the destruction of the dog.

Division 6 - Nuisances

45. Removal of faeces

(1) A person in charge of a dog must immediately remove and dispose of any faeces left by the dog in a public place or in a place not owned by the person.

Penalty:

Fine not exceeding 3 penalty units.

(2) This section does not apply in respect of a guide dog that is accompanying a wholly or partially blind person.

46. Dogs creating nuisance

(1) The owner or person in charge of a dog must not permit the dog to be, become

or create a nuisance in a public place.

Penalty:

Fine not exceeding 5 penalty units.

(2) The occupier of any premises must not permit a dog to be, become or create a nuisance on those premises.

Penalty:

Fine not exceeding 5 penalty units.

(3) A dog is a nuisance if –

(a) it behaves in a manner that is injurious or dangerous to the health of any person; or

(b) it creates a noise, by barking or otherwise, that persistently occurs or continues to such an extent that it unreasonably interferes with the peace, comfort or convenience of any person in any premises or public place.

47. Complaints relating to nuisance

(1) A person may make a complaint to the general manager in respect of a dog that is a nuisance.

(2) A complaint is to –

(a) be in an approved form; and

(b) be accompanied by any appropriate fee; and

(c) state the nature of the nuisance.

48. Investigation of complaint

(1) On receipt of a complaint, the general manager is to investigate the subject matter of the complaint.

(2) If the general manager considers that the complaint has substance, the general manager –

(a) may institute proceedings for an offence under section 46; and

(b) is to refund the fee that accompanied the complaint to the complainant.

49. Orders relating to nuisance

In determining proceedings relating to an offence under section 46, a court may make any of the following orders:

(a) an order that the owner or person in charge of the dog to which the proceedings relate have the dog destroyed;

(b) an order that the dog be removed from specified premises;

(c) any other order to abate the nuisance.

Division 7 - Licences

50. Keeping several dogs

A person, without a licence, must not keep or allow to be kept on any premises –

(a) more than 2 dogs over the age of 6 months; or

(b) more than 4 working dogs over the age of 6 months.

Penalty:

Fine not exceeding 5 penalty units.

51. Application for licences

(1) A person may apply to the general manager for a licence.

(2) An application for a licence is to be –

(a) in the approved form; and

(b) accompanied by the appropriate fee.

(3) If there is a right to object under section 52 or if a general manager so requires, an applicant, by public notice, must notify –

(a) the intention to apply for a licence; and

(b) the address and details of the premises and the number and breed of dogs to which the application relates.

Penalty:

Fine not exceeding 2 penalty units.

52. Objections to licence

(1) Any person residing or owning land within 200 metres of the boundary of the premises to which a licence relates may object to the general manager against the granting of the licence within 14 days after a notice is published under section 51(3).

(2) An objection is to –

- (a) be in writing; and
- (b) set out the reasons for the objection.

53. Consideration of application

(1) A general manager is not to consider an application for a licence until 28 days after a notice is published under section 51.

(2) A general manager is to take into account any objections received.

54. Refusing application

(1) A general manager may refuse to grant an application for a licence if of the opinion that –

- (a) the premises to which the licence relates are unfit for the purpose for which they are to be used; or
- (b) it is in the public interest that the licence not be issued.

(2) A general manager is to refuse to grant an application for a licence if not satisfied that the requirements of section 55(1) are likely to be met.

55. Granting application

(1) A general manager may grant an application for a licence if satisfied that –

- (a) adequate provisions for the health, welfare and adequate control of all dogs on the premises are provided or are likely to be provided; and
- (b) nuisance to any other persons is unlikely to occur; and
- (c) requirements under laws relating to public health and environmental protection are

likely to be satisfied.

(2) A general manager is to issue a licence specifying –

(a) the maximum number of dogs that may be kept on the premises; and

(b) the breed or kind of dog to which it applies; and

(c) any conditions as the general manager may determine; and

(d) the expiry date of the licence.

(3) A person must not keep or permit to be kept any dog over the age of 6 months of a breed or kind to which a licence applies otherwise than in accordance with the licence.

Penalty:

Fine not exceeding 5 penalty units.

(4) A person must not keep more than the maximum number of dogs specified in the licence.

Penalty:

Fine not exceeding 5 penalty units.

56. Period of licence

Unless it is earlier cancelled, a licence expires on the date specified in the licence.

57. Renewal of licence

(1) A licence is renewable on payment of the appropriate fee.

(2) A general manager may refuse to renew a licence if of the opinion that –

- (a) the provisions of this Act or any other relevant Act are not being complied with; or
- (b) the situation or condition of the premises is creating a nuisance; or
- (c) it is in the public interest that the licence not be renewed.

58. Cancellation of licence

(1) A general manager may cancel a licence if satisfied that –

- (a) the provisions of this Act or any other relevant Act are not being complied with; or
- (b) any condition of the licence is not being complied with; or
- (c) the situation or condition of the premises is creating a nuisance; or
- (d) it is in the public interest that the licence be cancelled.

(2) Before cancelling a licence, the general manager is to –

- (a) give to the holder of the licence one month's notice in writing to show cause why the licence should not be cancelled; and
- (b) give consideration to any representations which the holder may make in that respect.

(3) The cancellation of a licence is to be effected by the service of a notice on the holder of the licence notifying that the licence expires at the end of a period, not less than one month, specified in the notice, unless the normal expiry is first reached.

59. Appeals in respect of licence

(1) The applicant or the holder of a licence may apply to the Magistrates Court

(Administrative Appeals Division) for a review of –

(a) the refusal of a general manager to grant an application for a licence; or

(b) the refusal of a general manager to renew a licence; or

(c) the cancellation of a licence; or

(d) the decision of the general manager to cancel the licence.

(2)

(3)

(4) A council is to comply with any directions given by the Magistrates Court (Administrative Appeals Division).

(5)

PART 4 - Legal proceedings

Division 1 - Evidentiary and procedural matters

60. Evidence of ownership of dog

(1) In any proceedings for an offence against this Act –

(a) except as provided in section 13(2), a person shown in the register to be the owner of a dog is taken to be the owner of the dog at the material time unless the person proves that another person was the owner at the material time; and

(b) if the dog is proved to be in the apparent ownership of any person, that person is taken to be the owner of that dog.

(2) In any proceedings for an offence against this Act, the fact that the dog

immediately before the alleged offence was in company with, or closely following, a person is evidence that the person was the owner of that dog.

61. Other evidence

(1) In any proceedings for an offence against this Act –

(a) an averment in a complaint that a specified person was the owner of a dog or that any dog was at any specified time unregistered is evidence of those matters; and

(b) the onus of proving that a dog was registered at the material time or was under the age of 6 months is on the person making that assertion; and

(c) a microchip implanted in a dangerous dog is evidence of the identity of that dog.

(2) Except as provided in section 11(2), a dog without a collar bearing a registration disc is taken to be an unregistered dog.

(3) Proof that a person is the occupier of any premises where a dog is kept is evidence that the person is the owner of the dog.

(4) In any proceedings for an offence against this Act, a copy of, or extract from, any entry in a register certified by the general manager is evidence of the matters so certified.

62. Order for destruction of dog

(1) If a dog is shown to the satisfaction of a court to be a dog that has attacked a person or an animal or a dog that has killed another animal, the court may order that the dog be destroyed in accordance with this section.

(2) An order for the destruction of a dog is to state –

(a) to whom it is directed; and

(b) within what period it is to be put into effect.

(3) In addition to the order under subsection (1), or instead of such an order, a court may do one or more of the following:

(a) direct that an order be remitted in specified circumstances;

(b) order the seizure and detention of the dog;

(c) order the general manager to declare the dog to be a dangerous dog;

(d) order that the dog be disposed of;

(e) order an authorised person to give effect to the order;

(f) give any necessary directions to make the order effective;

(g) order that the owner of the dog pay –

(i) any costs incurred in making the order effective; and

(ii) compensation in respect of any animal or person who suffered any bodily injury or damage to property as a result of the actions of the dog; and

(iii) any costs incurred by the council in seizing and detaining the dog;

(h) make any other order it considers appropriate.

(4) An order is to be executed notwithstanding that the ownership of the dog has changed or is not known, unless the court, on application, is satisfied that the changed circumstances are such that the order may be varied.

(5) An authorised person may –

- (a) execute an order; and
- (b) for that purpose, enter on any premises where the dog to which the order relates is believed to be.

63. Additional orders

In imposing any penalty under this Act, a court may order that –

- (a) an authorised person may seize a dog if a person who is its owner has been convicted of an offence under this Act in relation to that dog; and
- (b) a general manager is to refuse an application for registration of any dog by that person for a specified period.

Division 2 - Infringement notices

64. Infringement notices

(1) An authorised person may serve an infringement notice on a person if of the opinion that the person has committed a prescribed offence against this Act.

(2) An infringement notice –

- (a) is not to relate to 4 or more offences; and
- (b) is not to be served on a person under the age of 16 years.

(3) An infringement notice is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*.

65.

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71. Payments

Any payment made in respect of an infringement notice is payable to the general manager.

PART 5 - Miscellaneous

72. Entering private premises

(1) An authorised person may enter and remain in or on any private premises at any reasonable time to determine –

- (a) the number of dogs on those premises; and
- (b) whether or not any dog on those premises is registered; and
- (c) any other relevant matter relating to any licence.

(2) An authorised person may require the occupier of the premises to produce for inspection by the authorised person on the premises –

- (a) all dogs of which the occupier is the owner; and
- (b) any other dogs kept on those premises; and

(c) evidence of the registration of dogs kept on those premises.

73. Entering land

(1) An authorised person who has reason to believe that the owner or person in charge of a dog has committed an offence against this Act may –

(a) enter onto land owned or occupied by that owner or person, but not any dwelling on that land; and

(b) search for and seize any dog on that land.

(2) An authorised person may apply to a magistrate for a warrant to enter any dwelling on that land to enforce any provision of this Act.

(3) A magistrate, by warrant, may empower an authorised person and any other person named in the warrant to enter a dwelling by force if –

(a) the dwelling is not occupied; or

(b) entry into the dwelling has been refused or is likely to be refused.

(4) A warrant continues in force until the purpose for which it was granted is satisfied.

74. Injured dogs cared for by organisations

(1) If a person authorised by the Royal Society for the Prevention of Cruelty to Animals or the Tasmanian Canine Defence League or any other prescribed organisation takes care of an injured or sick dog, the Society, League or organisation may recover the cost of transport and veterinary services provided for the dog in a court of competent jurisdiction as a debt due to that Society, League or organisation by the owner of the dog.

(2) If an injured or sick dog referred to in [subsection \(1\)](#), in the opinion of a veterinary surgeon, has to be destroyed –

(a) the veterinary surgeon may take any action necessary; and

(b) the owner of the dog is not entitled to any compensation for the loss of the dog.

75. Use of tranquilliser devices

A general manager may authorise a person, with the assistance of a veterinary surgeon where practicable, to use at any time a tranquilliser device or other device to subdue or apprehend a dog if, in the opinion of the person, it is necessary to do so in the public interest.

76. Dog property of council

A dog becomes the property of the council if –

(a) the owner does not reclaim the dog within 5 working days after notice has been given under [section 35\(2\)](#); or

(b) the dog is seized pursuant to an order under [section 63](#); or

(c) the owner of the dog is not identifiable and the dog has been detained under this Act for at least 3 working days.

77. Name and place of abode

(1) An authorised person may demand from a person his or her name and place of abode if the authorised person reasonably believes that the person is committing, has committed or attempted to commit an offence against this Act.

(2) A person must not –

(a) fail or refuse to state his or her name or place of abode; or

(b) give a false name or place of abode.

Penalty:

Fine not exceeding 5 penalty units.

78. Misleading information

A person, in making any application or giving any information under this Act, must not –

(a) make a statement knowing it to be false or misleading; or

(b) omit any matter knowing that without that matter the application or information is misleading.

Penalty:

Fine not exceeding 5 penalty units.

79. Obstruction

A person must not obstruct, hinder, delay, impede or threaten an authorised person in performing any function or exercising any power under this Act.

Penalty:

Fine not exceeding 10 penalty units.

80. Fees

(1) A council may determine any fees payable under this Act.

(2) A general manager may –

- (a) waive a fee; or
- (b) refund part or all of a fee; or
- (c) discount a fee.

81. Payment by instalments

A general manager may allow a fee to be paid by instalments or any other means the general manager may consider appropriate.

82. Delegation

The general manager may delegate to any person any of his or her functions or powers under this Act, other than this power of delegation.

83. Regulations

(1) The Governor may make regulations for the purposes of this Act.

(2) Regulations may be made so as to apply differently according to any matter, condition, limitation, restriction, exception or circumstance specified in the regulations.

84. Savings and transitional provisions

The savings and transitional provisions set out in Schedule 1 have effect.

85. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the Administrative Arrangements Act 1990 –

(a) the administration of this Act is assigned to the Premier; and

(b) the department responsible to the Premier in relation to the administration of this Act is the Department of Premier and Cabinet.

86. Dog Control Act 1987 repealed

The Dog Control Act 1987 is repealed.

87. Dog Control Regulations 1988 rescinded

The Dog Control Regulations 1988 are rescinded.

SCHEDULE 1 - Savings and Transitional Provisions

Section 84

1. Interpretation

In this Schedule –

"commencement day" means the day on which this Act commences;

"repealed Act" means the Dog Control Act 1987.

2. Proceedings

Any proceedings instituted but not yet determined under the repealed Act before the commencement day may, on and after that day, be determined under the repealed Act.

3. Infringement notices

Any infringement notice served under the repealed Act before the commencement day is, on that day, an infringement notice served under this Act.

4. Registered dog

Any dog registered under the repealed Act immediately before the commencement day is, on that day, a registered dog under this Act until 30 June following that day.

5. Dog control officer

A person who was a dog control officer under the repealed Act immediately before the commencement day is, on that day, an authorised person under this Act.

6. Registration disc

A registration disc issued under the repealed Act and in force immediately before the commencement day is, on that day, a registration disc under this Act until 30 June following that day.

7. Dog register

A register kept under the repealed Act before the commencement day is, on that day, a register kept under this Act.

8. Exercise area

An area identified under the repealed Act before the commencement day as an area within which dogs may be exercised off the leash within specific times is, on that day, an exercise area under this Act subject to those times.

9. Restricted area

An area declared under the repealed Act as an area into which dogs are not permitted to be taken is, on that day, a restricted area under this Act until the period specified in a resolution under section 31(5) or (7) of the repealed Act expires.

10. Licences

A kennel licence in force under the repealed Act immediately before the commencement day is, on that day, a licence under this Act until 30 June following that day.