



Western Australia

## **Dog Act 1976**



# Dog Act 1976

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**Defined terms**



Western Australia

## **Dog Act 1976**

**An Act to amend and consolidate the law relating to the control and registration of dogs, the ownership, breeding and keeping of dogs, the supply of dogs to and by relevant pet shop businesses and the obligations and rights of persons in relation thereto, and for incidental and other purposes.**

*[Long title amended: No. 29 of 2021 s. 6.]*

## **Part I — Preliminary**

### **1. Short title**

This Act may be cited as the *Dog Act 1976*.

### **2. Commencement**

- (1) Except as provided in subsection (2), this Act, or this Act less such provisions as are specified in any such proclamation, shall come into operation on a date to be fixed by proclamation.
- (2) The Governor may, by proclamation made pursuant to subsection (1) or by any subsequent proclamation, fix a date for the coming into operation of any provision of this Act on a date other than the date fixed in relation to the provisions of the Act generally.

### **3. Terms used**

- (1) In this Act, unless the context otherwise requires —  
*approval to breed* has the meaning given in section 26I(1);  
*attack*, in relation to the behaviour of a dog, does not include behaviour which was an immediate response to, and was induced by, provocation, but includes —
  - (a) aggressively rushing at or harassing any person or animal; or
  - (b) biting, or otherwise causing physical injury to, a person or an animal; or
  - (c) tearing clothing on, or otherwise causing damage to the property of, the person attacked; or
  - (d) attempting to attack, or behaving in such a manner toward a person as would cause a reasonable person to fear physical injury,unless the owner establishes that the behaviour was justified by a reasonable cause;

**authorised person** means —

- (a) a person appointed under the *Local Government Act 1995* section 9.10(2) to be an authorised person for the purposes of this Act; or
- (b) a person designated as an authorised officer under the *Public Health Act 2016* section 24(1) for the purposes of this Act;

**centralised registration system** has the meaning given in section 13A(1);

**CEO** means the chief executive officer of the Department;

**commercial security dog** means a dog that is kept primarily for the purpose of guarding or protecting premises that are not dwellings and that are not the premises of the dog's owner, whether or not accompanied by a dog handler;

**convicted person** means a person who has, within the previous 5 years, been convicted of —

- (a) an offence against —
  - (i) this Act; or
  - (ii) the *Cat Act 2011*; or
  - (iii) the *Animal Welfare Act 2002*;

or

- (b) an offence against a law of the Commonwealth, another State or a Territory that is substantially the same as an offence referred to in paragraph (a);

**dangerous dog** means a dog that is —

- (a) a dangerous dog (declared); or
- (b) a dangerous dog (restricted breed); or
- (c) a commercial security dog;

**dangerous dog (declared)** means an individual dog that under section 33E(1) is declared to be a dangerous dog (declared);

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***dangerous dog (restricted breed)*** means a dog that —

- (a) is of a breed prescribed by the regulations to be a restricted breed; or
- (b) is a mix of 2 or more breeds, one being a breed prescribed by the regulations to be a restricted breed;

***Department*** means the department of the Public Service principally assisting the Minister in the administration of this Act;

***designated person*** has the meaning given in section 9B(1);

***district*** means an area of the State that has been declared to be a district under the *Local Government Act 1995*, and includes for certain purposes provided for in this Act other areas which although not being within the boundaries of a district are regarded for those purposes as being part of the district;

***dog management facility*** means —

- (a) a facility operated by a local government that is, or may be, used for keeping dogs; or
- (b) a facility for keeping dogs that is operated by a person or body prescribed; or
- (c) a facility for keeping dogs that is operated by a person or body approved in writing by a local government;

***dog owner number*** has the meaning given in section 13B(1);

***dog supply approval*** has the meaning given in section 38O(1);

***dwelling*** means a place or a part of a place that is ordinarily used for human habitation and it does not matter that it is from time to time uninhabited;

***effectively confined*** —

- (a) in relation to keeping a dog in premises comprising a mobile home, means the mobile home is designed and constructed in a way that enables an occupant to prevent the dog from escaping the mobile home; and

- (b) in relation to keeping a dog in or at other premises, or in any outdoor area of those premises, means the premises or area is bounded by a fence or barrier of a standard sufficient to prevent the dog from escaping;

**health certificate** has the meaning given in section 38N(2)(a);

**metropolitan region** has the meaning given to that term in the *Planning and Development Act 2005* section 4;

**microchip** means an identification device of a prescribed type that —

- (a) is capable of being implanted in a dog; and
- (b) is designed to record information in a way that can be electronically retrieved;

**microchip database** means a database —

- (a) of records containing information about a dog (which may include information about its breeder or its owner); and
- (b) kept by a microchip database company;

**microchip database company** means —

- (a) a person or body —
  - (i) that keeps a microchip database; and
  - (ii) that is prescribed as a microchip database company for the purposes of this definition;
- and
- (b) in relation to a particular dog, means the microchip database company that keeps, or has agreed to keep, records containing information about that dog;

**microchip implanter** means —

- (a) a prescribed person; or
- (b) a person holding the prescribed qualifications for a microchip implanter;

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**microchipped** means implanted with a microchip in a prescribed manner;

**mobile home** means a caravan or campervan —

- (a) that is ordinarily used for human habitation; and
- (b) that is permanently or semi-permanently stationary in a single location;

**non-profit organisation** means a body corporate, society, club or association formed otherwise than for the purpose of profit or gain to its individual members;

**offer**, in relation to transfer of ownership, sale or supply, includes advertise, expose or display for transfer of ownership, sale or supply;

**owner** in relation to a dog means —

- (a) the person by whom the dog is ordinarily kept; or
- (b) a person who is deemed by subsection (2) to be the owner of the dog;

**owner's delegate**, in relation to a registered owner, means a person appointed under section 16AA as the dog owner's delegate;

**person liable for the control of the dog** means each of the following —

- (a) the registered owner of the dog; or
- (b) the owner of the dog; or
- (c) the occupier of any premises where the dog is ordinarily kept or ordinarily permitted to live; or
- (d) a person who has the dog in his possession or under his control,

but does not include —

- (e) a veterinarian, or a person acting on a veterinarian's behalf, in the course of the veterinarian's professional practice; or



- (f) a police officer or other person acting under a statutory duty or in the administration of this Act;

**pet shop**, in relation to a relevant pet shop business, means the shop at, in or from which the relevant pet shop business is conducted;

**pet shop approval** has the meaning given in section 38C(1)(a);

**pet shop certificate** means a certificate given under section 54D to a person who holds a pet shop approval;

**pet shop number** has the meaning given in section 54D(1)(b);

**police officer** means a person appointed —

- (a) under the *Police Act 1892* Part I to be a member of the Police Force of Western Australia; or
- (b) under the *Police Act 1892* section 35 to be a special constable; or
- (c) under the *Police Act 1892* section 38B(1) to be an Aboriginal police liaison officer;

**premises** shall, for the purpose of determining who is the occupier, be taken to refer to any land or building, or part of any land or building, that is or is intended to be occupied as a separate residence from any adjacent tenement, and includes a mobile home;

**prescribed** means prescribed under regulations made under this Act;

**provocation**, in relation to the behaviour of a dog, includes —

- (a) on the part of a person, other than a person liable for the control of the dog —
  - (i) any teasing, tormenting, or abuse of the dog; or
  - (ii) any assault on, or act of cruelty towards, the dog; or
  - (iii) entry without lawful excuse on any land or premises of which the owner of the dog is an occupier or where the dog is ordinarily kept; or

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- (iv) any intrusion into or upon any vehicle in or on which the dog is present; or
- (v) any threat to, or attack upon, another person or animal towards whom the dog could reasonably be expected to be protective;

or

- (b) on the part of another animal —
  - (i) an attack on the dog made by any other animal; or
  - (ii) the entry of that other animal on any land or premises of which the owner of the dog is an occupier or where the dog is ordinarily kept; or
  - (iii) any threat to, or attack upon, another person or animal towards whom the dog could reasonably be expected to be protective,

but does not include an intentional provocation of the dog by a person liable for the control of the dog;

**public place** means any place to which the public may lawfully have access;

**refuge operations** means operations conducted by a non-profit organisation for the purposes of providing temporary shelter or care to, and finding suitable homes for, stray, abandoned, seized or surrendered dogs;

**registered owner** means the person in whose name the dog is registered under this Act;

**registration officer** means a person authorised by the local government to effect the registration of dogs pursuant to this Act;

**relevant pet shop business** —

- (a) means a business, or a part of a business, that is conducted at, in or from a shop and involves supplying, or offering to supply, dogs; but

- (b) does not include —
  - (i) refuge operations; or
  - (ii) operations conducted at, in or from a dog management facility by the operator of the dog management facility; or
  - (iii) a business, or a part of a business, of a prescribed class;

**scan** means to scan in a manner that enables a microchip to be detected and the information recorded to be electronically retrieved;

**shop** means a shop that is open to the public generally at specified times or otherwise on a regular basis;

**sterilised** has the meaning given in subsection (1A);

**supply** includes —

- (a) sell, trade, give away, take consideration for; and
- (b) agree to supply, or cause or permit a supply;

**townsite** means —

- (a) land constituted, defined, or reserved as the site of a town or village under the *Land Administration Act 1997*; and
- (b) land subdivided or laid out as the site for a townsite, township, or village, in accordance with the subdivisional plan, lodged with the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5 or with the department principally assisting in the administration of the *Land Administration Act 1997*; and

[(c) *deleted*]

- (d) land within a town or city under the *Local Government Act 1995* that is outside the metropolitan region;

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**transfer**, in relation to ownership of a dog, includes —

- (a) sell, trade, give away, take consideration for and transfer ownership of; and
- (b) to reclaim from a dog management facility;

**vehicle** means —

- (a) any thing capable of transporting people or things by air, road, rail or water, irrespective of whether the thing is permanently or semi-permanently stationary, other than a mobile home; or
- (b) a caravan or campervan that is reasonably suspected not to be permanently or semi-permanently stationary in a single location,

and it does not matter how the thing, caravan or campervan is moved or propelled;

**veterinarian** has the meaning given in the *Veterinary Practice Act 2021* section 3;

**working**, in relation to a commercial security dog, means guarding or protecting premises that are not dwellings and that are not the premises of the dog's owner.

- (1A) For the purposes of this Act, a dog is **sterilised** if the dog has been made permanently infertile.
- (2) A person who is shown in the register maintained by a local government under this Act as being the last person recorded by the local government as the registered owner of a dog is deemed to be the owner of that dog, whether or not the registration in his name continues in force, unless he proves that he is not the owner of the dog.
- (3) In the case of a dog that is not registered, but is microchipped, a person whose name is recorded as the owner of the dog in a

microchip database is to be taken, in the absence of evidence to the contrary, to be a person by whom the dog is ordinarily kept.

*[Section 3 amended: No. 23 of 1987 s. 4; No. 14 of 1996 s. 4; No. 24 of 1996 s. 4; No. 81 of 1996 s. 153(1); No. 31 of 1997 s. 141; No. 10 of 1998 s. 29(1); No. 38 of 2005 s. 15; No. 60 of 2006 s. 132; No. 18 of 2013 s. 4; No. 19 of 2016 s. 130; No. 16 of 2019 s. 106; No. 19 of 2021 s. 230(2)-(4); No. 29 of 2021 s. 8(1)-(7).]*

[4. Deleted: No. 23 of 1987 s. 5.]

[5. Omitted under the Reprints Act 1984 s. 7(4)(f) and (g).]

## 6. Application

- (1) Subject to subsection (4), the provisions of this Act apply generally to all dogs, whether sterilised or unsterilised, and of whatever age.
- (2) Subject to subsection (3), this Act applies subject to the *Highways (Liability for Straying Animals) Act 1983*, so that, where a provision of that Act is inconsistent with a provision of this Act, the provision of that Act prevails and the provision of this Act is inoperative to the extent of the inconsistency.
- (3) Subsection (2) does not prevent or in any way affect the liability of —
  - (a) the owner; or
  - (b) a person deemed under section 46(5) to be the owner,of a dog in respect of —
  - (c) injury to any person or animal inflicted by the dog; or
  - (d) damage to the clothing or other property of a person caused by the dog,

in the course of an attack by that dog on a highway.

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- (4) The provisions of this Act do not apply to or in relation to a dog that is kept for the purposes of the Crown.
- (5) Notwithstanding anything in this Act or any other written law, a person who is a public officer is not guilty of an offence by reason only that the person takes a dog into a place in the performance of the person's functions as a public officer.
- (6) In subsection (5) —  
**public officer** means —
  - (a) a police officer; or
  - (b) a prison officer as defined in the *Prisons Act 1981* section 3(1); or
  - (c) a contract worker as defined in the *Prisons Act 1981* section 15A; or
  - (d) a member of —
    - (i) the armed forces of the Commonwealth; or
    - (ii) the Australian Federal Police; or
    - (iii) the Australian Quarantine and Inspection Service; or
    - (iv) the Australian Customs Service;or
  - (e) a person of a prescribed class.

*[Section 6 amended: No. 64 of 1983 s. 3; No. 23 of 1987 s. 6; No. 24 of 1996 s. 5; No. 10 of 1998 s. 29(2); No. 18 of 2013 s. 5.]*

**7. Dogs to be registered**

- (1) Subject to subsections (1a) and (3), if a dog is not registered under this Act or the law of another State or a Territory each of the following persons commits an offence —
  - (a) the owner of the dog;

- (b) if the dog is ordinarily kept or permitted to live in or at premises in Western Australia, the occupier of the premises.

Penalty for this subsection:

- (a) for an offence relating to a dangerous dog, a fine of \$10 000;
  - (b) for an offence relating to a dog other than a dangerous dog, a fine of \$5 000.
- (1a) It is a defence for an occupier referred to in subsection (1) against whom proceedings are brought for a contravention of that subsection to prove that a person over the age of 18 (whom he shall identify) was the owner of the dog at the time of the contravention.
- (2) Where a person is convicted of an offence against subsection (1) the court shall, in addition to any penalty it may impose, order payment by that person of the registration fee which should have been paid and the amount of that fee shall be recoverable in the like manner as that in which the penalty for the offence may be recovered.
- (3) The provisions of this section do not apply to —
- (a) a dog under the age of 3 months; or
  - (aa) a dog kept during any period allowed for the making of an application under section 17 or until an application under that section is determined, discontinued, or dismissed for want of prosecution, or during any period when an order is suspended under section 17(3a); or
  - (b) a dog held in the custody of —
    - (i) The Royal Society for the Prevention of Cruelty to Animals, Western Australia<sup>6</sup>; or
    - (ii) the Dogs Refuge Home (W.A.) Inc.; or

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- (iii) any other prescribed body,  
in a place maintained for the purpose of finding dogs  
suitable homes; or
- (c) a dog held in the custody of —
  - (i) a veterinarian, or a person acting on a  
veterinarian's behalf, in the course of the  
veterinarian's professional practice; or
  - (ii) a police officer in the performance of the  
officer's functions; or
  - (iii) any other person in the performance of a function  
under this Act or any other written law;
- or
- (d) a greyhound that is registered under the *Racing and  
Wagering Western Australia Act 2003* section 41 while  
the registration is in effect.

*[Section 7 amended: No. 57 of 1977 s. 2; No. 23 of 1987 s. 7;  
No. 24 of 1996 s. 16; No. 55 of 2004 s. 252 and 268; No. 18 of  
2013 s. 6; No. 19 of 2021 s. 230(5); No. 29 of 2021 s. 9(1).]*

**8. Assistance dogs**

- (1) In this section —  
***assistance dog*** means a dog —
  - (a) that is trained or is being trained by a representative of  
an organisation that is prescribed for the purposes of this  
definition; or
  - (b) that is trained or is being trained by an individual having  
the qualifications and experience prescribed for the  
purposes of this definition; or
  - (c) that is assessed by a person mentioned in paragraph (a)  
or (b) as being competent to be an assistance dog; or



- 
- (d) that is being assessed by a person mentioned in paragraph (a) or (b) to decide whether the dog is competent to be an assistance dog; or
  - (e) that has been approved, for the purposes of a law of another State or a Territory, as a dog whose use can alleviate or manage an effect of a person's disability or medical condition; or
  - (f) that is approved by the CEO for the purposes of this definition.
- (2) A person mentioned in subsection (3) —
- (a) is entitled to be accompanied by an assistance dog, in any building or place open to or used by the public, for any purpose, or in any public transport; and
  - (b) is not guilty of an offence by reason only that he or she takes that dog into or permits that dog to enter any building or place open to or used by the public or on any public transport.
- (3) The persons to whom subsection (2) applies are as follows —
- (a) a person who has a disability or medical condition an effect of which can be alleviated or managed by the use of an assistance dog;
  - (b) a person who is training or assessing an assistance dog and who is a representative of an organisation mentioned in the definition of *assistance dog* paragraph (a);
  - (c) a person who is training or assessing an assistance dog and who is an individual mentioned in the definition of *assistance dog* paragraph (b);
  - (d) an individual person who is approved by the CEO as a person to whom subsection (2) applies.

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- (4) The CEO may, on application, approve —
  - (a) an individual person to be a person to whom subsection (2) applies; or
  - (b) a particular dog to be an assistance dog for the purposes of the definition in subsection (1).
- (5) An application under subsection (4) must be made in a manner and form approved by the CEO and accompanied by —
  - (a) the prescribed fee, if any, for the application; and
  - (b) each other thing that the CEO requires to accompany the application that will enable the CEO to make a decision.
- (6) The regulations may provide for the review by the State Administrative Tribunal of a decision of the CEO on an application under subsection (4).
- (7) This section applies despite any other provision of this Act or other written law.

*[Section 8 inserted: No. 18 of 2013 s. 7.]*

## Part II — Administration

### 9. Administrative responsibility

- (1) It shall be the duty of a local government within its district to administer and enforce the provisions of this Act, and where in the opinion of the Governor the powers conferred by this Act on a local government should be extended to an area outside the district the Governor may by Order declare that for the purposes of this Act the area is to be regarded as being within the district and the provisions of this Act shall then apply as if in fact the area were within the district.
- (2) Nothing in subsection (1) prevents the CEO from —
  - (a) performing the CEO's functions under this Act; or
  - (b) doing anything the CEO considers appropriate for the purposes of performing those functions.

*[Section 9 amended: No. 14 of 1996 s. 4; No. 29 of 2021 s. 10.]*

### 9A. Delegation by CEO

- (1) The CEO may delegate to a person any power or duty of the CEO under another provision of this Act.
- (2) The delegation must be in writing signed by the CEO.
- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the CEO to perform a function through an officer or agent.

*[Section 9A inserted: No. 29 of 2021 s. 11.]*

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**9B. Designated persons**

- (1) The CEO may, in writing, authorise persons to perform the functions conferred on designated persons under this Act (each a *designated person*).
- (2) An authorisation under this section may —
  - (a) limit the functions of the designated person to functions specified in the authorisation; and
  - (b) be cancelled by the CEO at any time.
- (3) The CEO is to issue to each designated person a certificate stating that the person is a designated person for the purposes of this Act.
- (4) A designated person must produce the certificate issued under subsection (3) at the reasonable request of a person in respect of whom the designated person exercises, has exercised, or is about to exercise any power under this Act.

*[Section 9B inserted: No. 29 of 2021 s. 11.]*

**10. Dogs not kept in district**

*[(1) deleted]*

- (2) Where a person ordinarily keeps a dog at a place that is not within the boundaries of a district or an area to which an Order under section 9 applies, that dog shall for the purposes of this Act be deemed to be ordinarily kept within the district the boundary of which is nearest to the place where the dog is kept.

*[Section 10 amended: No. 23 of 1987 s. 9; No. 14 of 1996 s. 4.]*

**10AA. Delegation of local government powers and duties**

- (1) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, delegate to its chief executive officer any power or duty of the local government under another provision of this Act.

- (2) The delegation must be in writing.
- (3) The delegation may expressly authorise the delegate to further delegate the power or duty.
- (4) A local government's chief executive officer who is exercising or performing a power or duty that has been delegated as authorised under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of a local government's chief executive officer to perform a function through an officer or agent.

*[Section 10AA inserted: No. 18 of 2013 s. 8.]*

**10AB. Register of, and review of, delegations**

- (1) The chief executive officer of a local government is to keep a register of —
  - (a) delegations made under section 10AA(1); and
  - (b) further delegations made under the authority of a delegation made under section 10AA(1).
- (2) At least once every financial year —
  - (a) delegations made under section 10AA(1); and
  - (b) further delegations made under the authority of a delegation made under section 10AA(1),

are to be reviewed by the delegator.

*[Section 10AB inserted: No. 18 of 2013 s. 8.]*

**10A. Payments to veterinarians towards cost of sterilisation**

- (1) A local government may —
  - (a) make payments to veterinarians towards the cost of sterilisation of a dog owned by an eligible person;

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- (b) from time to time issue directions in writing to such veterinarians to be complied with as a condition of the receipt of a payment under paragraph (a).
- (2) No payment shall be made under subsection (1)(a) to a veterinarian for the sterilisation of a dog unless the local government is satisfied that the veterinarian has complied with any direction issued under subsection (1)(b).
- (3) For the purposes of subsection (1) a person is an eligible person in relation to a local government if he —
  - (a) is the registered owner of the dog whether or not the registration is in the district of that local government or in another district; and
  - (b) resides in the district of that local government; and
  - (c) in the opinion of that local government, would suffer hardship in paying the whole of the cost of sterilisation of the dog.

*[Section 10A inserted: No. 23 of 1987 s. 10; amended: No. 14 of 1996 s. 4; No. 19 of 2021 s. 230(6) and (7).]*

**11. Staff and services**

- (1) For the purposes of this Act a local government may establish and maintain one or more dog management facilities and may appoint, under and subject to the provisions of the *Local Government Act 1995*, fit and proper persons to administer those facilities and otherwise to carry out the objects of this Act.
- (2) Where each of 2 or more local governments desire to establish and maintain dog management facilities or other services required by this Act, or otherwise to co-operate in the administration of this Act, then notwithstanding the provisions of any other law it shall be lawful for an agreement pursuant to section 3.68 of the *Local Government Act 1995*, to be entered into and carried out for that purpose between them.

- (3) A person who is authorised by a local government to exercise any power under this Act shall be furnished with a certificate in the prescribed form evidencing his appointment, and shall produce that certificate on being required so to do by a person in respect of whom he exercises, has exercised, or is about to exercise any such power.
- (4) Subsection (3) is subject to the *Public Health Act 2016* section 31.
- (5) Subsection (3) does not apply to a person appointed under the *Local Government Act 1995* section 9.10(2) to be an authorised person for the purposes of this Act.

*[Section 11 amended: No. 14 of 1996 s. 4; No. 18 of 2013 s. 9; No. 19 of 2016 s. 131; No. 16 of 2019 s. 107.]*

#### **11A. Authorised persons**

The chief executive officer of a local government must, under the *Local Government Act 1995* section 9.10(2), appoint persons to be authorised persons for the purposes of this Act.

*[Section 11A inserted: No. 16 of 2019 s. 108.]*

#### **12. Joint jurisdiction**

- (1) Where a person authorised to seize a dog under this Act pursues that dog from the district in respect of which he is authorised into another district of the State, the authorisation shall be deemed to apply in relation to that dog notwithstanding that it is at any material time not in the district where the pursuit commenced.
- (2) Where 2 or more local governments enter into an agreement to co-operate in the administration of this Act, that agreement may provide that an authorisation for the purposes of this Act given by any one of those local governments shall have effect in the

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registration area administered by any other of those local governments, and effect shall be given to any such agreement.

*[Section 12 amended: No. 14 of 1996 s. 4.]*

**12A. Entry of premises**

- (1) A registration officer may, with the consent of the occupier, enter and inspect —
  - (a) any premises —
    - (i) where a dog is registered to be ordinarily kept; or
    - (ii) described in an application for registration as those where a dog will be ordinarily kept, for the purpose of ascertaining whether the dog is, or will be, effectively confined; or
  - (b) any premises, for the purpose of ascertaining whether a dog that is reasonably suspected to be in or at the premises is registered for the purposes of section 7(1), and may make such enquiries as he thinks necessary.
- (2) With the authority of a warrant or the consent of an occupier who has reached 18 years of age, the following persons may enter and inspect any premises for any purpose relating to the enforcement of this Act and may make any enquiries they think necessary —
  - (a) an authorised person;
  - (b) a designated person;
  - (c) in the case of a warrant issued to a person referred to in paragraph (a) or (b) — any other person named in the warrant.
- (2A) Without limiting subsection (2), the purpose of determining whether grounds exist for the cancellation of an approval to breed, a pet shop approval or a dog supply approval is a purpose relating to the enforcement of this Act.



- (3) If he is satisfied that there are reasonable grounds for doing so, a Justice of the Peace may issue a warrant for the purposes of subsection (2).
- (4) An authorised person may, at any reasonable time, without a warrant and without consent, enter any premises other than a dwelling where the person reasonably suspects a dangerous dog to be, for the purpose of ascertaining whether an offence against Part VI Division 2 is being committed.
- (5) An authorised person may, without a warrant and without consent, stop, enter and search or inspect a vehicle in which the person reasonably suspects a dog to be, for any purpose relating to the enforcement of this Act.

*[Section 12A inserted: No. 23 of 1987 s. 11; amended: No. 18 of 2013 s. 10; No. 29 of 2021 s. 13.]*

### **13. Immunity of persons acting in good faith**

No proceedings, whether civil or penal, shall lie against a local government or any person for any act, matter or thing done, or commanded to be done, in the exercise or purported exercise of a power or the performance of a duty under the provisions of this Act, or for any act, matter or thing omitted to be done, unless that act, matter or thing was done, commanded to be done, or omitted to be done, maliciously or without reasonable and probable cause.

*[Section 13 amended: No. 14 of 1996 s. 4.]*

### **13A. Centralised registration system**

- (1) The CEO must establish and maintain an electronic database or system in which information relating to dogs can be recorded (the *centralised registration system*).
- (2) The CEO and each local government is to —
  - (a) record in the centralised registration system any information that is prescribed; and

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- (b) ensure that the information recorded by it in the centralised registration system is accurate and kept up-to-date.
- (3) The CEO or a local government may cause any error in, or omission from, the centralised registration system to be corrected.
- (4) Where anything under this Act is required or permitted to be done in a manner approved by the CEO or a local government, the manner approved by the CEO or the local government may, without limitation, involve the use of the centralised registration system.
- (5) Regulations under section 54 may deal with any matter relating to the centralised registration system, including (without limitation) its establishment, maintenance and accessibility (including its accessibility to the public).
- (6) The CEO may establish a single database or system for the purposes of subsection (1) and the *Cat Act 2011* section 41A(1).  
*[Section 13A inserted: No. 29 of 2021 s. 14.]*

**13B. Dog owner numbers**

- (1) Regulations under section 54 may require, or otherwise deal with, the issue, for the purposes of this Act, of a unique number (a *dog owner number*) to —
  - (a) a person who owns, or has previously owned, 1 or more dogs; or
  - (b) a person of a prescribed class.
- (2) Regulations under section 54 may deal with any matter relating to dog owner numbers and may, without limitation, require a person to have a dog owner number before transferring ownership of a dog to another person.  
*[Section 13B inserted: No. 29 of 2021 s. 14.]*

## **Part III — Registration and identification**

*[Heading inserted: No. 18 of 2013 s. 11.]*

### **Division 1 — Registration**

*[Heading inserted: No. 18 of 2013 s. 11.]*

#### **14. Register of dogs**

- (1) A local government is to keep an accurate and up-to-date register of dogs registered by the local government.
- (2) The register is to be kept in such form as the local government thinks fit.
- (3) The local government is to record in the register the information prescribed in respect of each dog registered by the local government.
- (4) The local government may cause any error in, or omission from, the register to be corrected.

*[Section 14 inserted: No. 18 of 2013 s. 12.]*

#### **15. Registration periods and fees**

- (1) Subject to the provisions of this section, the registration fee payable in relation to a dog shall be such amount as is prescribed by regulation.
- (2) The registration under this Act of a dog, other than a dangerous dog, has effect from the date specified in the registration certificate until —
  - (a) in the case of registration for an extended period prescribed under subsection (3)(b), 31 October in the final year of that period, unless cancelled sooner; or
  - (b) in the case of registration for a dog's lifetime, the dog's death, unless cancelled sooner; or

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- (c) in all other cases, the next 31 October, unless cancelled sooner.
- (3A) The registration under this Act of a dangerous dog has effect from the date specified in the registration certificate until the next 31 October, unless cancelled sooner.
- (3) Regulations may provide that concessional rates of registration fee shall be payable —
  - (a) by persons of a specified class or in specified circumstances; and
  - (b) by persons who elect to effect registration of a dog for such extended period as is prescribed; and
  - (ca) by persons who elect to effect registration for the lifetime of a dog; and
  - (c) in respect of registration for a period of less than one year; and
  - (d) in respect of a dog that is proved, in such manner as is prescribed, to have been sterilised; and
  - (e) in respect of a dog that is kept in an approved kennel establishment licensed under section 27; and
  - (f) in respect of a dog that is kept in prescribed circumstances.
- (4A) A local government may discount or waive a registration fee, including a registration fee prescribed under subsection (3), for any individual dog or any class of dogs within its district.
- (4B) Subsections (3) and (4A) do not apply to a dangerous dog.
- (4) No registration fee shall be payable in relation to an assistance dog as defined in section 8(1), or any dog that is kept for the purposes of the Crown.
- (5) The registration fee payable in relation to a dog that is *bona fide* used in the droving or tending of stock shall be one quarter of the fee that would otherwise be payable.

- (6) The registration fee payable in relation to a dog's first registration —
- (a) that takes effect after 31 May and before 1 November in the year of the first registration; and
  - (b) that is to have effect until 31 October in that year,
- is one half of the fee that would otherwise be payable.

*[Section 15 amended: No. 57 of 1977 s. 3; No. 23 of 1987 s. 13; No. 18 of 2013 s. 13.]*

## **16. Registration procedure**

- (1) A dog may be registered by the local government of the district in which —
- (a) the dog is ordinarily kept; or
  - (b) the dog is deemed to be ordinarily kept pursuant to section 9 or section 10(2),

if the owner of the dog or some person on his behalf delivers an application in the prescribed form, signed by or on behalf of the owner and accompanied by the prescribed fee, if any, to the office of the local government or some other place within the district appointed by the local government for the purpose.

- (1BA) The form of application prescribed for the purposes of subsection (1) shall require the applicant to provide —
- (a) the name, residential address and contact details of the owner of the dog; and
  - (b) the address of the premises where the dog will ordinarily be kept; and
  - (c) a statement that the dog will be effectively confined in or at those premises; and
  - (d) if the dog is microchipped —
    - (i) the name of the microchip database company for the dog; and

(ii) the microchip's unique identification number for the dog;

and

(e) a statement as to whether the dog is kept, or is to be kept, as a commercial security dog; and

(f) a statement as to whether the owner is subject to an order under section 46A(2).

(1BB) Nothing in subsection (1BA) prevents a form prescribed for the purposes of subsection (1) requiring an applicant to provide additional information.

(1b) Where a dog is ordinarily kept by a person under the age of 18 years, application for registration of that dog shall be made by his parent or guardian or some other person who is over the age of 18 years and any registration shall be in the name of the applicant.

(2) The registration officer on receipt of an application duly made under subsection (1) shall —

(a) effect the registration in accordance with this Act; or

(b) where the local government so directs, refuse the application and refund the fee, if any,

and in either event shall as soon as is practicable thereafter enter the prescribed particulars in the record maintained by the local government pursuant to section 14.

(3A) If on an order under section 46A(2) a person is banned from owning or keeping a dog —

(a) the registration officer of the local government district in which a dog is registered in the person's name is to cancel the registration of the dog in the person's name; and

(b) a registration officer of any local government is not to effect or renew the registration of a dog in the person's name during the period to which the order applies.

- (3) The local government may direct the registration officer to refuse to effect or renew the registration of a dog, and may direct that the registration of a dog shall be cancelled, if —
- (a) the applicant, the owner, or the registered owner, as the case may be, has been convicted, or has paid a modified penalty, within the previous 3 years in respect of 2 or more offences against any of this Act, the *Cat Act 2011* or the *Animal Welfare Act 2002*; or
  - (b) the dog in question has been shown to the satisfaction of the local government to be destructive, unduly mischievous, or to be suffering from a contagious or infectious disease; or
  - (c) the local government is not satisfied that the dog is, or will be, effectively confined in or at premises where the dog is, or will be, ordinarily kept; or
  - (da) the dog is required under section 21 or 22 to be microchipped but is not microchipped; or
  - (d) the dog is a dangerous dog.

*[(3a), (3b) deleted]*

- (3c) The registration officer may cancel the registration of a dog if it is proved to his satisfaction that the dog has died or has been removed from the State.
- (4) Where the registration of a dog is refused, not renewed or cancelled pursuant to subsection (3) the local government shall forthwith notify the applicant or the person in whose name the registration was effected, and that notification shall be accompanied by a statement in writing of the grounds upon which the decision of the local government was made.
- (5) The registration of a dog under this Act has effect throughout the State notwithstanding that the dog may be removed to another district of the State.

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- (6) On effecting or renewing any registration, the registration officer shall deliver to the applicant —
- (a) a certificate in the prescribed form acknowledging the fee paid and specifying the registration number allocated to each dog, the term of the relevant registration period, and a description of each dog so registered; and
  - (b) in respect of each dog so registered, a registration tag of the prescribed kind.

*[Section 16 amended: No. 23 of 1987 s. 14 and 44; No. 14 of 1996 s. 4; No. 24 of 1996 s. 6; No. 10 of 1998 s. 29(1); No. 18 of 2013 s. 14.]*

**16AA. Owner's delegate**

- (1) The registered owner of a dog may, in writing given to the local government with which the dog is registered, appoint a person who has reached 18 years of age to act as the owner's delegate.
- (2) A local government may deal with the owner's delegate instead of the owner in the circumstances specified in this Act.
- (3) An appointment under subsection (1) must be in a prescribed form.
- (4) An appointment under subsection (1) may be terminated in writing by either the registered owner or the appointed person.
- (5) An appointment under subsection (1) ceases to have effect when the person who made the appointment ceases to be the registered owner of the dog.

*[Section 16AA inserted: No. 18 of 2013 s. 15.]*

**16A. Change of ownership**

- (1) Where the ownership of a dog, other than a dangerous dog, is transferred to another person, the registered owner shall within 28 days thereafter cause the local government in whose register



his name appears to be notified in the prescribed manner and form of the name and residential address of the new owner.

Penalty: a fine of \$5 000.

- (2) No change shall be made in the record of the ownership of a dog unless —
- (a) the registered owner has notified the change to the local government under subsection (1) or section 33K(2)(c); or
  - (b) an application for registration is made by a person who alleges that he is the new owner.
- (3) A person aggrieved by a decision of the local government relating to the ownership of a dog as recorded in a register may apply to the State Administrative Tribunal for a review of the decision.

*[Section 16A inserted: No. 23 of 1987 s. 15; amended: No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 55 of 2004 s. 254; No. 18 of 2013 s. 16.]*

**17A. If no application for registration made**

- (1) In this section —
- dog** means a dog —
- (a) that is, or is deemed under section 9 or 10(2) to be, ordinarily kept in the district of the relevant local government district; and
  - (b) in respect of which an application for registration has not been made.
- (2) A local government may give written notice to the owner of a dog that the dog cannot be registered by the local government because —
- (a) the owner or the registered owner, as the case may be, has been convicted, or has paid a modified penalty, within the previous 3 years in respect of 2 or more

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offences against any of this Act, the *Cat Act 2011* or the *Animal Welfare Act 2002*; or

- (b) the dog has been shown to the satisfaction of the local government to be destructive, unduly mischievous or suffering from a contagious or infectious disease; or
  - (c) the local government is not satisfied that the dog is, or will be, effectively confined in or at premises where the dog is, or will be, ordinarily kept; or
  - (d) the dog is required under section 21 or 22 to be microchipped but is not microchipped; or
  - (e) the dog is a dangerous dog.
- (3) The notice must inform the owner of the right under section 17(1) to apply for a review of the decision.

*[Section 17A inserted: No. 18 of 2013 s. 17.]*

**17. Refusal or cancellation of registration**

- (1) Where a local government refuses to effect or renew the registration of a dog, or cancels a registration or gives a written notice under section 17A(2), the applicant or the registered owner or owner of the dog, as the case may be, may apply to the State Administrative Tribunal for a review of the decision.

*[(2) deleted]*

- (3) Where the State Administrative Tribunal affirms the decision of the local government, section 40(1) shall not apply and the State Administrative Tribunal shall make an order for the seizure of the dog and for its detention and destruction.
- (3a) Notwithstanding subsection (3), the State Administrative Tribunal may suspend an order made under that subsection for a specified period and impose conditions relating to the keeping of the dog and may at or before the expiry of that period cancel the order under subsection (3) if it is satisfied that the dog will be kept without the likelihood of any contravention of this Act.

- (4) If an application is not made under subsection (1) within the time fixed for the making of the application the local government may apply to a Justice of the Peace for an order authorising the seizure of the dog and where the Justice is satisfied that the applicant or the registered owner or owner of the dog, as the case may be, of the dog has been given proper notice of the reason for the decision but has not applied for a review of the decision, the Justice may make an order for the seizure of the dog.
- (5) If an application is made under subsection (1) but the proceeding on the application in the State Administrative Tribunal is withdrawn, dismissed or struck out under section 46, 47 or 48 of the *State Administrative Tribunal Act 2004*, a Justice of the Peace may, on the application of the local government, make an order for the seizure of the dog.
- (6) If an order for the seizure of the dog is made under subsection (4) or (5), the local government may cause the dog to be seized and detained or destroyed or otherwise disposed of as though it had been found in a place in contravention of section 31, 32 or 33A and had not been claimed.

*[Section 17 amended: No. 23 of 1987 s. 16; No. 14 of 1996 s. 4; No. 55 of 2004 s. 255; No. 18 of 2013 s. 18.]*

## **18. Registration tags**

- (1) A registration tag shall —
  - (a) be of a durable material; and
  - (b) be of a colour specified by the Minister under subsection (2); and
  - (c) contain such particulars as are prescribed.
- (2) The Minister shall by order published in the *Gazette* in respect of a registration period, or an extended registration period referred to in section 15(2)(a), or a lifetime registration referred

to in section 15(2)(b), specify the colour of registration tags for that registration period or extended registration period.

- (3) The Minister may, in like manner, amend or replace an order under subsection (2).

*[Section 18 inserted: No. 23 of 1987 s. 17; amended: No. 18 of 2013 s. 19.]*

**19. Refund of fee on cancellation**

Where on the cancellation of the registration of a dog that was registered for an extended period, the person who was the registered owner returns the registration tag to the local government, the local government shall refund to the person such proportion of the registration fee as may be prescribed.

*[Section 19 inserted: No. 23 of 1987 s. 18; amended: No. 14 of 1996 s. 4.]*

**20. Offences relating to registration etc.**

- (1) A person who —
- (a) wilfully inserts or omits, or permits to be inserted or omitted, in any application for the grant or renewal of a registration any matter or thing whatsoever contrary to, or for the purpose of concealing, the truth; or
  - [(b) deleted]*
  - (c) keeps any dog wearing a registration tag —
    - [(i) deleted]*
    - (ii) issued in respect of another dog; or
    - (iii) in respect of a registration which is cancelled;or
  - (d) wrongfully removes or defaces any registration tag issued under this Act, or makes, uses, purchases or has in his possession any counterfeit or false certificate of

registration or registration tag or any thing apparently  
intended to resemble or pass for the same,

commits an offence.

Penalty for this subsection:

- (a) for an offence relating to a dangerous dog, a fine of \$10 000;
  - (b) for an offence relating to a dog other than a dangerous dog, a fine of \$5 000.
- (2) Where by regulations it is provided that a prescribed tattoo appearing on a dog may be accepted by a local government as proof that the dog has been sterilised, a person who applies that tattoo, or causes the same to be applied, to an unsterilised dog commits an offence.

Penalty: a fine of \$5 000.

*[Section 20 amended: No. 23 of 1987 s. 19 and 44; No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 18 of 2013 s. 20; No. 29 of 2021 s. 20(1) and (2).]*

### **Division 2 — Microchipping**

*[Heading inserted: No. 18 of 2013 s. 21.]*

#### **21. Microchipping of dogs other than dangerous dogs**

- (1) On and after 1 November 2013, the owner of a dog must ensure that the dog is microchipped if —
  - (a) the dog has reached 3 months of age; and

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- (b) the dog was not registered under this Act or the law of another State or a Territory so that its registration was in effect on 31 October 2013.

Penalty: a fine of \$5 000.

- (2) On and after 1 November 2015, the owner of a dog that has reached 3 months of age must ensure that the dog is microchipped.

Penalty: a fine of \$5 000.

- (3) Neither subsection (1) nor (2) requires a dog to be microchipped if, under subsection (4) it is exempt from microchipping.

- (4) A dog is exempt from microchipping if a certificate given by a veterinarian stating that the implantation of a microchip in the dog may adversely affect the health and welfare of the dog applies in respect of the dog.

- (5) A certificate referred to in subsection (4) cannot apply in respect of a dog that is under 3 months of age.

*[Section 21 inserted: No. 18 of 2013 s. 21.]*

*[Part IV heading deleted: No. 23 of 1987 s. 21.]*

**22. Microchipping of dangerous dogs**

- (1) In this section —

***relevant day*** means the last day of the period of 30 days beginning on the day on which the *Dog Amendment Act 2013* section 21 comes into operation.

- (2) After the relevant day, the owner of a dangerous dog that has reached 3 months of age must ensure that the dog is microchipped.

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;

- (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (3) Subsection (2) does not apply in relation to a dangerous dog (declared) —
- (a) during the 7 day period after the giving of the notice, required by section 33F(1), by which the dog is declared a dangerous dog (declared); or
  - (b) during the period, if any, beginning when the owner lodges an objection under section 33F or applies for review under section 33I(1)(b) and ending 7 days after the day of the determination of that objection or review; or
  - (c) during the 7 day period, if any, after the giving of a notice under section 33F(6)(a) as to the dismissal of an objection; or
  - (d) during the period, if any, beginning when the owner applies for a review under section 33I(1)(a)(i) or (d) and ending 7 days after the day of the determination of that review.
- (4) A dangerous dog is exempt from microchipping if a certificate given by a veterinarian stating that the implantation of a microchip in the dog may adversely affect the health and welfare of the dog applies in respect of the dog.
- (5) A certificate referred to in subsection (4) cannot apply in respect of a dangerous dog that is under 3 months of age.
- (6) Nothing in subsection (3) affects the operation of section 21(1) or (2) in relation to a particular dog.

*[Section 22 inserted: No. 18 of 2013 s. 21.]*

**23. Notice to be given of microchip information**

- (1) The owner of a microchipped dog must, within 7 days of the microchipping, give notice in writing to the local government of the district in which the dog is ordinarily kept or ordinarily permitted to live of —
- (a) the name of the microchip database company for the dog; and
  - (b) the microchip's unique identification number for the dog.

Penalty: a fine of \$5 000.

- (2) Subsection (1) does not apply if the information has been, or will be, provided with an application to the local government to register the dog.

*[Section 23 inserted: No. 18 of 2013 s. 21.]*

**24. Microchip implanter to give information to microchip database company**

A microchip implanter who implants a microchip in a dog must, within 7 days after the microchip is implanted, give notice in writing in the form, if any, prescribed of the information prescribed to the microchip database company for that dog.

Penalty: a fine of \$5 000.

*[Section 24 inserted: No. 18 of 2013 s. 21.]*

**25. Microchip database company's obligations**

A microchip database company for a dog must keep and maintain in its microchip database the information prescribed under section 24 that has been given to it in respect of the dog.

Penalty: a fine of \$5 000.

*[Section 25 inserted: No. 18 of 2013 s. 21; amended: No. 29 of 2021 s. 21.]*



**26A. Interference with microchips**

A person must not, without reasonable excuse, remove or interfere with a microchip implanted in a dog.

Penalty: a fine of \$5 000.

*[Section 26A inserted: No. 18 of 2013 s. 21.]*

**26B. Transfer of ownership of unmicrochipped dogs**

- (1) A person must not transfer the ownership of a dog that is not microchipped unless, at the time of the transfer, the person is satisfied that a certificate referred to in section 21(4) or 22(4) applies in respect of the dog.

Penalty: a fine of \$5 000.

- (2) Subsection (1) applies regardless of when or whether the dog was registered.

*[Section 26B inserted: No. 18 of 2013 s. 21.]*

**26C. Transfer of ownership of microchipped dogs**

Within 7 days after the transfer of the ownership of a microchipped dog, the person who effected the transfer must give notice in writing to the microchip database company for that dog, of —

- (a) the name and address of the person to whom the ownership of the dog was transferred; and
- (b) any other changes to the information prescribed under section 24 in respect of the dog.

Penalty: a fine of \$5 000.

*[Section 26C inserted: No. 18 of 2013 s. 21.]*

**Division 3 — Changes to recorded information**

*[Heading inserted: No. 18 of 2013 s. 21.]*

**26D. Notice to be given of changes to recorded information**

The owner of a dog must give notice in writing —

- (a) to the local government with which the dog is registered, if there is a change to any of the information prescribed under section 14(3) in respect of the dog; and
- (b) to the microchip database company for that dog, if there is a change to any of the information prescribed under section 24 in respect of the dog,

within 7 days after the change to the information.

Penalty: a fine of \$5 000.

*[Section 26D inserted: No. 18 of 2013 s. 21.]*

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## Part V — The keeping of dogs

### 26. Limitation as to numbers

- (1) A local government may, by a local law under this Act —
  - (a) limit the number of dogs that have reached 3 months of age that can be kept in or at premises in the local government's district; or
  - (b) limit the number of dogs of a breed specified in the local law that can be kept in or at premises in the local government's district.
- (2) A local law mentioned in subsection (1) —
  - (a) may limit the number of dogs that can be kept in or at premises to 2, 3, 4, 5 or 6 only; and
  - (b) cannot prevent the keeping in or at premises of one or 2 dogs that have reached 3 months of age and any pup of either of those dogs under that age; and
  - (c) cannot apply to dogs kept at premises that are licensed under section 27 as an approved kennel establishment; and
  - (d) cannot apply to dangerous dogs (declared) or dangerous dogs (restricted breed).
- (3) Where by a local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption —
  - (a) may be made subject to conditions, including a condition that it applies only to the dogs specified in the exemption; and

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- (b) cannot authorise the keeping in or at those premises of —
    - (i) more than 6 dogs that have reached 3 months of age; or
    - (ii) a dog under that age unless it is a pup of a dog whose keeping is authorised by the exemption;and
  - (c) may be revoked or varied at any time.
- (4) A person must not keep in or at any premises, not being licensed under section 27 as an approved kennel establishment —
- (a) in the case of dogs that have reached 3 months of age, other than dangerous dogs (declared) or dangerous dogs (restricted breed), more than the number of dogs than the limit imposed under —
    - (i) a local law mentioned in subsection (1); or
    - (ii) an exemption granted under subsection (3);or
  - (b) more than —
    - (i) 2 dangerous dogs (declared); or
    - (ii) 2 dangerous dogs (restricted breed); or
    - (iii) one of each of those kinds of dangerous dogs, that have reached 3 months of age; or
  - (c) any pup, of a dangerous dog (restricted breed), that is under 3 months of age.

**Penalty:**

- (a) for an offence relating to a dangerous dog —
  - (i) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (ii) for each separate and further offence committed by the person under the

*Interpretation Act 1984* section 71, a fine of \$500;

- (b) for an offence relating to a dog other than a dangerous dog —
  - (i) a fine of \$5 000;
  - (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$100.

- (5) Any person who is aggrieved —
  - (a) by the conditions imposed in relation to any exemption under subsection (3); or
  - (b) by the refusal of a local government to grant such an exemption, or by the revocation of an exemption,

may apply to the State Administrative Tribunal for a review of the decision.

- (6) An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.

*[Section 26 amended: No. 23 of 1987 s. 22; No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 55 of 2004 s. 256 and 268; No. 18 of 2013 s. 22.]*

## **27. Licensing of approved kennel establishments**

- (1) Where, under section 26(1)(a) or (b), a limit is imposed on the number of dogs that can be kept in or at any premises situate in a local government's district area, and a person proposes to keep more than that number of dogs in or at premises in that area that are not exempt from the limitation, the person must apply for the premises in question to be licensed as an approved kennel establishment.

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- (2) A person who keeps, or permits or suffers to be kept, any dog over the age of 3 months of a breed or kind to which that licence applies at an approved kennel establishment otherwise than in accordance with the licence relating to that establishment commits an offence.

Penalty for this subsection:

- (a) a fine of \$5 000;
- (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$100.
- (3) Local laws made under this Act may require that dogs in an approved kennel establishment shall be kept in kennels and yards appropriate to the breed or kind in question and having specifications of a standard not less than that prescribed, sited and maintained in accordance with the requirements of public health, and sufficiently secured.
- (4) A licence to keep an approved kennel establishment may be granted by a local government on an application made in a manner and form approved by the local government, which may be required to be supported by evidence that due notice of the proposed use of the land has been given to persons in the locality, and where notice is required to be given the local government shall have regard to any objections raised.
- (5) A licence under this section has effect for a period of 12 months, and is renewable upon payment of the prescribed fee, but may be cancelled at any time by the local government if the local government is dissatisfied with the conduct of the establishment.
- (6) The cancellation of a licence under this section shall be effected by the service of a notice on the licensee specifying a period at the end of which the licence is cancelled, which shall be a period of not less than 3 months.

- (7) Where —
- (a) the local government refuses the grant of a licence under this section; or
  - (b) notice of the cancellation of a licence under this section is given,

the applicant or the licensee as the case may be may apply to the State Administrative Tribunal for a review of the decision.

*[Section 27 amended: No. 23 of 1987 s. 23; No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 55 of 2004 s. 257; No. 18 of 2013 s. 23; No. 29 of 2021 s. 25.]*

## **Part VI — Control of dogs**

*[Heading inserted: No. 23 of 1987 s. 24.]*

### **Division 1 — Dogs generally**

*[Heading inserted: No. 24 of 1996 s. 7.]*

#### **28. Obligation to identify dog's owner**

- (1) If the identity of the owner of a dog entering a dog management facility is unknown to the operator of the facility then, as soon as practicable after the dog enters the facility, the operator must make every reasonable attempt to identify the owner of the dog including, where possible, by scanning the dog.

Penalty: a fine of \$5 000.

- (2) Despite subsection (1), a person does not have to scan a dog if —
- (a) the dog behaves aggressively towards the person or any other person; and
  - (b) the person believes on reasonable grounds that there is a danger to the health or safety of any person in attempting to scan the dog.

*[Section 28 inserted: No. 18 of 2013 s. 24.]*

#### **29. Power to seize dogs**

*[(1) deleted]*

- (1a) A police officer may exercise any power conferred by this section on an authorised person.
- (2) No proceedings, whether civil or penal, shall lie against —
- (a) any person assisting an authorised person or a police officer, at his request and in accordance with his directions; or



- (b) the owner or occupier of any premises for the time being used to detain a dog pursuant to this Act,

in respect of any act, matter or thing done or omitted to be done in good faith for the purposes of carrying out the provisions of this Act.

- (3) If it appears to an authorised person that —
  - (a) an attack by a dog has occurred; or
  - (b) an attack by a dog is likely to occur; or
  - (ca) a dog is in a place in contravention of section 31, 32 or 33A; or
  - (cb) an offence against section 26(4) or 27(2) is being committed in respect of a dog; or
  - (cc) an offence against Division 2 is being committed in respect of a dog; or
  - (c) a dog is a dangerous dog —
    - (i) in relation to which moneys are due to the local government in respect of a charge determined under section 33M; or
    - (ii) which is not registered as required under section 7,

the authorised person may —

- (d) seize and detain the dog; and
- (e) if he is in pursuit of the dog for the purpose of seizing it and he has reasonable grounds to believe that it is necessary to do so for that purpose, enter any premises other than a dwelling unless section 33G(1) applies.

- (4A) In relation to subsection (3)(cb), an authorised person may seize and detain only the number of dogs in excess of the limit imposed under —
  - (a) a local law mentioned in section 26(1); or
  - (b) an exemption granted under section 26(3); or

- (c) section 26(4)(b) or (c); or
- (d) a licence under section 27(2),

as is applicable in the case.

- (4) Where a dog is seized pursuant to subsection (3) the authorised person may —
  - (a) cause it to be returned to the owner; or
  - (b) detain it,

and the owner shall be liable to pay to the local government detaining the dog, if so required by the local government and whether or not payable to the local government, before the dog is returned to the owner the reasonable cost of returning the dog or of maintaining it during the period of detention, or both where that is appropriate, together with any charges levied in relation to the seizure and impounding of the dog and any other fees or charges relating to that dog which ought to have been, but had not been, paid under this Act, including any penalties imposed on, or costs or expenses payable by, the owner in respect of an offence, whether or not the dog is returned to the owner.

- (5) Any moneys due under this Act in relation to a dog for which the owner is liable may be recovered in any court of competent jurisdiction —
  - (a) by the person to whom they are due; or
  - (b) by the local government detaining the dog, (whether or not payable to that local government),

as though they were a debt, and where any such moneys are so recovered by a local government they shall be disbursed by that local government to the persons or authorities entitled thereto.

- (5a) If he is satisfied on the balance of probabilities that an attack by a dog (the **attack dog**) has or may have caused injury or damage, or that a dangerous dog (restricted breed) has given birth to one or more pups, a Justice of the Peace may issue a

warrant authorising any authorised person to seize the attack dog, or each pup, as is relevant to the case, and —

- (a) if the attack dog is a dangerous dog, or in the case of a pup of a dangerous dog (restricted breed), detain and deal with it in accordance with section 33G; or
  - (b) otherwise, detain it pending the determination of an application under section 39.
- (5b) Where a warrant under subsection (5a) is issued in respect of a dog an authorised person —
- (a) may seize and detain the dog, and if section 33G(2) applies shall give the notice required by that subsection; and
  - (b) may enter any premises if he has reasonable grounds to believe that it is necessary to do so for the purpose of seizing the dog.
- (6) Where a dog is seized under this section and is not forthwith returned to the owner it shall be detained in a dog management facility or in any other suitable premises.
- (7) An officer of a body prescribed for the purposes of the definition of *dog management facility* in section 3(1) and who is authorised by that body for the purpose may receive and keep dogs in a dog management facility operated by that body and in respect to any such dog that officer has and may exercise all or any of the powers of an authorised person or a local government under this section including the powers of disposal and sale.
- (8) Where a dog is detained under subsection (3) —
- (a) if the dog is wearing a registration tag or is microchipped or the owner is otherwise readily identifiable, the authorised person causing it to be detained shall also cause notice to be given to the owner, or if the notice cannot be given to the owner to the owner's delegate, if any, in the prescribed manner and form as soon as is practicable; and

- (b) if the dog is wearing a registration tag or is microchipped or the owner is otherwise readily identifiable, the dog is to be kept and maintained for a period of at least 7 days next following the giving of the notice under paragraph (a); and
- (c) if the dog is not readily identifiable, the dog is to be kept and maintained for a period of at least 72 hours next following the time the detention commenced,

but, subject to this section, to the prior payment of any moneys required in accordance with subsection (4), to be paid to the local government detaining the dog, and to section 33G, or unless the dog is required to be detained as evidence of an offence, shall be delivered up to a person who produces satisfactory evidence of ownership or of his authority to take delivery of it.

- (8A) Where a dog is detained under subsection (5b) and, at the expiration of the period of 7 days after the detention commenced (the *detention period*), no application has been made for an order for the destruction of the dog —
- (a) if the dog is wearing a registration tag or is microchipped or the owner is otherwise readily identifiable, an authorised person shall cause notice to be given to the owner, or if the notice cannot be given to the owner to the owner's delegate, if any, in the prescribed manner and form as soon as is practicable after the expiration of the detention period; and
  - (b) if the dog is wearing a registration tag or is microchipped or the owner is otherwise readily identifiable, the dog is to be kept and maintained for a period of at least 7 days next following the giving of the notice under paragraph (a); and
  - (c) if the dog is not readily identifiable, the dog is to be kept and maintained for a period of at least 72 hours next following the expiration of the detention period; and

- (d) subject to this section the dog is to be delivered up to a person who produces satisfactory evidence of ownership or of the person's authority to take delivery of the dog; and
  - (e) the owner of the dog is liable to pay the reasonable cost of maintaining the dog during any period after the expiration of the period of 7 days mentioned in paragraph (b) or 72 hours mentioned in paragraph (c), as is applicable in the case, but otherwise the owner is not liable for any cost or charge in relation to the seizure, impounding, maintaining or return of the dog.
- (8b) Notwithstanding section 40(1)(ea), where a dog is detained under subsection (5b) and, upon the determination of an application for an order for the destruction of the dog, the court does not make an order under section 40(1), subsection (8A)(a), (b), (c) and (e) apply in relation to the dog as if the determination of the application were the expiration of the detention period.
- (8c) Subsection (5) applies in relation to any moneys that the owner of a dog is liable to pay under subsection (8A)(e), or under subsection (8A)(e) as applied by subsection (8b).
- (9) In all cases where a dog seized under this section is returned to or claimed by the owner or a person on his behalf, the registration certificate for that dog may be required to be produced or, where the dog is not registered, that person may be required to register it before the dog is released.
- (10) Where a dog has been seized and detained, whether or not under this section, and —
- (a) the dog is not claimed; or
  - (b) the person in whose name the dog is registered declines to resume possession of the dog; or
  - (c) any moneys due in relation to the dog are not paid; or
  - (d) section 33G(6) applies; or

- (e) an authorised person is satisfied that to deliver up the dog under subsection (8) or (8A) would create circumstances that give rise to an offence against this Act,

an authorised person may cause the dog to be destroyed.

- (11) A dog which is liable to be destroyed pursuant to subsection (10) may be disposed of by the local government or prescribed body or sold and the proceeds of the sale shall be the property of the local government or prescribed body detaining the dog and are not required to be accounted for to the owner.
- (12) Where it is the opinion of an authorised person that a dog seized pursuant to this section is suffering from injury, disease or sickness to such an extent that it is impracticable to maintain the dog, or that any such disease is of a contagious or infectious kind, he may cause it to be destroyed upon the written authority of a veterinarian or a medical practitioner.
- (13) Where an authorised person may seize a dog under subsection (3) but by reason of —
  - (a) the savagery of the dog; or
  - (b) repeated evasion of attempts at seizure; or
  - (c) other sufficient cause,it is, in the opinion of the authorised person, dangerous or impracticable to seize the dog, the dog may, subject to subsection (13a), be destroyed without being seized if —
  - (d) the assistance of the owner, or some other person likely to be able to control the dog is not reasonably available; and
  - (e) there is no other practicable way to enforce the provisions of this Act.
- (13a) A dog may be destroyed under subsection (13) only —
  - (a) in a public place; or

- (b) on premises that are not a public place if the occupier of those premises consents to the destruction.
- (14) A local government or an authorised person may cause a dog to be destroyed at the request of the owner of that dog, whether or not the dog has been seized or detained.
- (15) Where a dog is destroyed under this section, the owner is liable for the cost of both the destruction and the disposal of the dog.

*[Section 29 amended: No. 23 of 1987 s. 26; No. 14 of 1996 s. 4; No. 24 of 1996 s. 8; No. 57 of 1997 s. 49; No. 10 of 1998 s. 29(1); No. 55 of 2004 s. 258; No. 18 of 2013 s. 25; No. 19 of 2016 s. 132; No. 16 of 2019 s. 109; No. 19 of 2021 s. 230(8).]*

**30A. Operator of dog management facility may have dog microchipped at owner's expense**

- (1) The operator of a dog management facility may do anything necessary to ensure that a dog kept at the facility is microchipped before the dog is reclaimed or otherwise transferred from the facility if the operator —
  - (a) believes on reasonable grounds that the dog is required under section 21 or 22 to be microchipped but is not microchipped; and
  - (b) has no reason to believe that the dog is exempt from microchipping as referred to in section 21(4) or 22(4).
- (2) The owner of a dog kept at a dog management facility is liable to pay to the operator of the facility the reasonable costs associated with the implantation of a microchip in the dog under subsection (1).
- (3) The operator of a dog management facility may recover the amount of the costs referred to in subsection (2) from the owner of the dog in a court of competent jurisdiction.

*[Section 30A inserted: No. 18 of 2013 s. 26.]*

**30. Dogs to wear collars, registration tags etc.**

- (1) A dog must not be in a public place unless it is wearing a collar to which is securely attached a registration tag that complies with section 18.
- (2) If a dog is at any time in a public place in contravention of subsection (1), every person liable for the control of the dog at that time commits an offence unless the person establishes a defence under section 33B.

Penalty for this subsection: a fine of \$5 000.

- (3) A dog is exempt from the requirements of subsection (1) if it is —
- (a) a greyhound participating in a greyhound race or trial held under a licence issued under the *Racing and Wagering Western Australia Act 2003*; or
  - [(b), (c) deleted]*
  - (d) a dog being exhibited for show purposes; or
  - (e) a dog which, under the control of a responsible person, is being trained for or is participating in retrieving, duck hunting or some other customary sporting purpose; or
  - (f) a dog that is participating in an obedience trial or classes conducted under the auspices of the body known as the Canine Association of Western Australia (Inc.) or a body approved by the local government in whose district the obedience trial or classes are conducted.

- (4) This section does not apply to a dangerous dog.

*[Section 30 inserted: No. 23 of 1987 s. 27; amended: No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 23 of 1998 s. 20; No. 35 of 2003 s. 220(2); No. 18 of 2013 s. 27; No. 29 of 2021 s. 28.]*



**31. Control of dogs in certain public places**

- (1) A dog shall not be in a public place unless it is —
- (a) held by a person who is capable of controlling the dog;  
or
  - (b) securely tethered for a temporary purpose,
- by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.
- (2A) Despite subsection (1), a dog shall not be in a public place —
- (a) at all if the place is specified under subsection (2B) as a place where dogs are prohibited at all times; or
  - (b) at a time when the place is specified under subsection (2B) as a place where dogs are prohibited at that time.
- (2B) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited —
- (a) at all times; or
  - (b) at specified times.
- (2) A dog is exempt from the requirements of subsection (1) if —
- (a) it is in a dog exercise area specified under subsection (3A); or
  - (b) it is in a public place that is in an area of the State outside the metropolitan region or outside a townsite, and that is not a rural leashing area specified under subsection (3B); or
  - (c) it is in or on a vehicle; or
  - (d) it is being exhibited for show purposes; or

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- (e) it is participating in an obedience trial or classes conducted under the auspices of the body known as the Canine Association of Western Australia (Inc.) or a body approved by the local government in whose district the obedience trial or classes are conducted; or
- (f) it is registered as being *bona fide* used in the droving or tending of stock and is being so used or is going to or returning from a place where it will be, or has been, so used; or
- (g) it is a foxhound in a pack *bona fide* engaged in hunting or hound exercise or in going to or returning from hunting or hound exercise; or
- (h) it is being used for retrieving, duck hunting or other customary sporting purposes.

(3A) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.

(3B) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place that is under the care, control or management of the local government to be a rural leashing area.

(3C) At least 28 days before specifying a place to be —

- (a) a place where dogs are prohibited at all times or at a time specified under subsection (2B); or
- (b) a dog exercise area under subsection (3A); or
- (c) a rural leashing area under subsection (3B),

a local government must give local public notice as defined in the *Local Government Act 1995* section 1.7 of its intention to so specify.

(3) If a dog is at any time in any public place in contravention of subsection (1) or (2A), every person liable for the control of the

dog at that time commits an offence unless the person establishes a defence under section 33B.

Penalty: a fine of \$5 000.

- (4) This section does not apply to a dangerous dog.
- (5) A local government must specify under subsection (3A) such dog exercise areas as are, in the opinion of the local government, sufficient in number, and suitable, for the exercising of dogs in the district.

*[Section 31 inserted: No. 23 of 1987 s. 27; amended: No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 18 of 2013 s. 28.]*

### **32. Control of dogs in exercise areas and rural areas**

- (1) A dog shall not be in —
  - (a) a dog exercise area specified under section 31(3A); or
  - (b) a public place that is in an area of the State outside the metropolitan region or outside a townsite, and that is not a rural leashing area specified under section 31(3B),unless —
  - (c) the dog is being held in the way referred to in section 31(1)(a); or
  - (d) the dog is being tethered in the way referred to in section 31(1)(b); or
  - (e) the dog is not a greyhound and is being supervised by a competent person who is in reasonable proximity to the dog.
- (2) A person is a competent person for the purposes of subsection (1) only if —
  - (a) he is a person who is liable for the control of the dog; and
  - (b) he is capable of controlling it; and

- (c) he is carrying and capable of attaching to the dog for the purpose of controlling it, a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.
- (3) The exemptions in section 31(2) (other than paragraphs (a) and (b)) also apply for the purposes of subsection (1).
- (4) If a dog is at any time in any place in contravention of subsection (1) every person liable for the control of the dog at that time commits an offence unless the person establishes a defence under section 33B.  
Penalty: a fine of \$5 000.
- (5) This section does not apply to a dangerous dog.

*[Section 32 inserted: No. 23 of 1987 s. 27; amended: No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 18 of 2013 s. 29.]*

**33. Special provision for greyhounds**

*[(1) deleted]*

- (2) Section 31 applies to a greyhound subject to the following modifications —
  - (a) the exemptions in subsection (2)(a) and (b) of that section shall not apply; and
  - (b) a greyhound is exempt from section 31(1) while it is participating in a greyhound race or trial held under a licence issued under the *Racing and Wagering Western Australia Act 2003*; and
  - (c) for the purposes of subsection (1)(a) of that section, a person shall be conclusively deemed to be incapable of controlling a greyhound if it is one of more than 2 greyhounds held by him at one time.

*[(3) deleted]*

- (4) This section does not apply to a dangerous dog.

*[Section 33 inserted: No. 23 of 1987 s. 27; amended: No. 24 of 1996 s. 16; No. 23 of 1998 s. 20; No. 35 of 2003 s. 220(3); No. 18 of 2013 s. 30; No. 29 of 2021 s. 4.]*

**33A. Control of dogs in places that are not public**

- (1) A dog shall not be in any place that is not a public place unless —
- (a) consent to its being there has been given —
    - (i) by the occupier or a person apparently authorised to consent on behalf of the occupier; or
    - (ii) if the place is unoccupied, by the owner or a person apparently authorised to consent on behalf of the owner; or
    - (iii) if the place is an enclosed field, paddock, yard or other place in which animals or birds are confined, by the owner of all such animals or birds;
  - or
  - (b) in the case of a dangerous dog, it is controlled as required by section 33GA(6), (7) and (8); or
  - (c) in the case of a dog other than a dangerous dog, it is held or tethered as required by section 31(1).
- (2) A dog is exempt from the requirements of subsection (1) if it is —
- (a) in veterinary premises as defined in the *Veterinary Practice Act 2021* section 3; or
  - (b) in or on a vehicle.
- (3) If a dog is at any time in any place in contravention of subsection (1) every person liable for the control of the dog at

that time commits an offence unless the person establishes a defence under section 33B.

Penalty for this subsection:

- (a) for an offence relating to a dangerous dog, a fine of \$10 000, but the minimum penalty is a fine of \$500;
- (b) for an offence relating to a dog other than a dangerous dog, a fine of \$5 000.

*[Section 33A inserted: No. 23 of 1987 s. 27; amended: No. 24 of 1996 s. 16; No. 18 of 2013 s. 31; No. 19 of 2021 s. 230(9); No. 29 of 2021 s. 29.]*

**33B. Defences applicable to offences under this Division**

It is a defence to a charge of an offence under section 30(2), 31(3), 32(4) or 33A(3) if the person charged satisfies the court —

- (a) in the case of any person, that he took all reasonable precautions and exercised all due diligence to avoid the contravention; or
  - (b) in the case of the occupier of premises where the dog is ordinarily kept or ordinarily permitted to live, that —
    - (i) he has fulfilled the requirements of paragraph (a); or
    - (ii) that at the material time the dog was in fact owned by some other person (whom he shall identify) over the age of 18 years;
- or
- (c) in the case of the owner or the registered owner, that —
    - (i) he fulfilled the requirements of paragraph (a); or
    - (ii) that at the material time the dog was in the possession or control of some other person without his consent, express or implied.

*[Section 33B inserted: No. 23 of 1987 s. 27; amended: No. 18 of 2013 s. 32; No. 29 of 2021 s. 5.]*

**33C. Saving**

Nothing in this Part shall be read as limiting any other written law whereby the entry or presence of dogs in any place is prohibited, controlled or restricted.

*[Section 33C inserted: No. 23 of 1987 s. 27.]*

**33D. Dog attacks etc.**

- (1) If a dog attacks or chases any person or animal and physical injury is caused to the person or animal that is attacked or chased, every person liable for the control of the dog commits an offence.

Penalty:

- (a) for an offence relating to a dangerous dog, a fine of \$20 000, but the minimum penalty is a fine of \$1 000;
- (b) for an offence relating to a dog other than a dangerous dog, a fine of \$10 000.

- (2A) If a dog attacks or chases any person or animal without causing physical injury to the person or animal that is attacked or chased, every person liable for the control of the dog commits an offence.

Penalty:

- (a) for an offence relating to a dangerous dog, a fine of \$10 000, but the minimum penalty is a fine of \$500;
- (b) for an offence relating to a dog other than a dangerous dog, a fine of \$3 000.

- (2B) It is a defence to a charge of an offence under subsection (1) or (2A) if the person charged satisfies the court —

- (a) in the case of any person, that the dog was being used in good faith in the reasonable defence of any person or

property or for the droving or removal of any animal found trespassing; or

- (b) in the case of the occupier of premises where the dog is ordinarily kept or ordinarily permitted to live, that at the material time the dog was owned by another person who had reached 18 years of age, and who is identified by the person charged; or
  - (c) in the case of the owner, that at the material time the dog was in the possession or control of another person without the owner's consent, express or implied.
- (2) A person shall not set on or urge a dog to attack or chase any person or animal, whether or not any injury is caused, except in good faith —
- (a) in the reasonable defence of any person or property; or
  - (b) for the droving or removal of any animal if —
    - (i) the owner or person in charge of the animal consents to the droving or removal; or
    - (ii) the animal is found trespassing.

Penalty:

- (a) for an offence relating to a dangerous dog, a fine of \$20 000 and imprisonment for 2 years, but the minimum penalty is a fine of \$1 000;
  - (b) for an offence relating to a dog other than a dangerous dog, a fine of \$10 000 and imprisonment for 12 months.
- (3) Nothing in this section affects —
- (a) the duty that a person, who has a dog in the person's charge or under the person's control, has under *The Criminal Code* section 266(2); or
  - (b) the operation of *The Criminal Code* section 266(2) or Chapter XXVIII or XXIX, or any other law in relation to the consequences of omitting to perform that duty.



*[Section 33D inserted: No. 23 of 1987 s. 27; amended: No. 24 of 1996 s. 9 and 16; No. 18 of 2013 s. 33.]*

### **Division 2 — Dangerous dogs**

*[Heading inserted: No. 24 of 1996 s. 10.]*

**33E. Individual dog may be declared to be dangerous dog (declared)**

- (1) A local government, or on behalf of the local government an authorised person or person specifically authorised by the local government for the purposes of this section either generally or in a particular case, may, by a notice in writing given in accordance with section 33F, declare an individual dog to be a dangerous dog (declared) if, in the opinion of the local government or that person —
  - (a) the dog has caused injury or damage by an attack on, or chasing, a person, animal or vehicle; or
  - (b) the dog has, repeatedly, shown a tendency —
    - (i) to attack, or chase, a person, animal or vehicle even though no injury has been caused by that behaviour; or
    - (ii) to threaten to attack;or
  - (c) the behaviour of the dog meets other criteria prescribed for the purpose of this section.
- (2) For the purpose of subsection (1)(b), a dog to which section 30(3) applies shall not be taken to show a tendency to attack, or chase, in carrying out the activities referred to in section 30(3) in relation to a dog of that kind.
- (3) The owner of a dog declared to be a dangerous dog (declared), or detained under this Division, shall have the rights referred to in this Division to object and to apply for a review.

*[Section 33E inserted: No. 24 of 1996 s. 10; amended: No. 10 of 1998 s. 29(1); No. 55 of 2004 s. 259; No. 18 of 2013 s. 34.]*

**33F. Owner to be notified of making of declaration**

- (1) The local government, or the person by whom the declaration was made on behalf of the local government, must give written notice declaring a dog to be a dangerous dog (declared) to the owner of that dog.
- (2) A notice to be given under subsection (1) —
  - (a) shall give reasons for the making of the declaration; and
  - (b) shall specify that the owner has a right under this Division, to be exercised within not more than 7 days after the giving of the notice, either —
    - (i) to lodge a written objection with the local government, with a subsequent right to apply to the State Administrative Tribunal for a review of the decision made by the local government on the objection; or
    - (ii) to apply directly to the State Administrative Tribunal for a review,  
as to the declaration.
- (3) Whether or not an objection is lodged or application for review is made, the declaration of a dog as a dangerous dog (declared) has effect 7 days after the giving of a notice under subsection (1).

*[(4), (5) deleted]*

- (6) Where an objection is lodged with a local government in accordance with subsection (2)(b)(i) the local government shall consider it and —
  - (a) if the local government dismisses the objection, the owner may, within 7 days after the giving of a notice by

the local government as to the dismissal of the objection, apply to the State Administrative Tribunal for a review of the decision; or

- (b) if the local government has not given notice to the owner stating that the objection has been considered, and setting out its determination on the objection, within 35 days after the giving under subsection (1) of the notice of the making of the declaration, the owner may, within 42 days after the giving of the notice under subsection (1), apply to the State Administrative Tribunal for a review of the decision to which the owner objected.
- (7) Where a local government gives notice of the dismissal of an objection under this section, that notice must set out the reason for the dismissal of the objection.

*[Section 33F inserted: No. 24 of 1996 s. 10; amended: No. 10 of 1998 s. 29(1); No. 55 of 2004 s. 260 and 268; No. 18 of 2013 s. 35.]*

**33GA. Offences relating to dangerous dogs**

- (1) Every person liable for the control of —
  - (a) a commercial security dog must ensure that the dog wears a collar of a kind prescribed to be worn by commercial security dogs with information attached to or endorsed on the collar in accordance with the regulations; or
  - (b) a dangerous dog other than a commercial security dog must ensure that the dog wears a collar of a kind prescribed to be worn by dangerous dogs other than commercial security dogs with information attached to or endorsed on the collar in accordance with the regulations.

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Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (2) Every person liable for the control of a dangerous dog must ensure that the enclosure within which the dog is confined, whether or not the enclosure is at the premises where the dog is ordinarily kept or ordinarily permitted to live, is constructed to —
- (a) prevent the dog from escaping; and
  - (b) prevent the dog from being removed or released from the enclosure without the permission of the person liable for the dog's control; and
  - (c) prevent a child who has not reached 7 years of age from entering, or inserting any part of its body into, the enclosure without the help of an adult.

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (3) Subsection (2) does not apply to a commercial security dog when it is working.
- (4) When a commercial security dog is working at premises, every person liable for the control of the dog and the person who

arranges for the dog to guard or protect the premises must ensure that —

- (a) the dog is confined to the premises and that the enclosure within which the dog is confined is constructed to —
  - (i) prevent the dog from escaping that enclosure; and
  - (ii) prevent the dog from being removed or released from that enclosure without the permission of a person liable for the dog's control;and
- (b) during any time that a person other than the dog's handler has lawful access to the area in which the dog is working —
  - (i) the dog is confined to an enclosure that is constructed to —
    - (I) prevent the dog from escaping that enclosure; and
    - (II) prevent the dog from being removed or released from that enclosure without the permission of a person liable for the dog's control; and
    - (III) prevent a child who has not reached 7 years of age from entering, or inserting any part of its body into, that enclosure without the help of an adult;or
  - (ii) the dog is held by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length by a person who has reached 18 years of age and who is capable of controlling the dog; or

- (iii) the dog is securely tethered on a temporary basis by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (5) The occupier of the premises where a dangerous dog is ordinarily kept or ordinarily permitted to live must ensure that a warning sign, of a prescribed kind, is displayed at each entrance to the premises.

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (6) When a dangerous dog is not confined in an enclosure, every person liable for the control of the dog must ensure that the dog wears a muzzle.

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (7) When a dangerous dog is not confined in an enclosure, every person liable for the control of the dog must ensure that —

- (a) the dog is held by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length by a person who has reached 18 years of age and who is capable of controlling the dog; or
- (b) the dog is securely tethered on a temporary basis by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (8) When a dangerous dog is not confined in an enclosure, every person liable for the control of the dog must ensure that the dog is controlled by a person who has reached 18 years of age and who is capable of controlling the dog.

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (9) Every person liable for the control of a dangerous dog must ensure that the dog is not in a public place —
- (a) at all if the place is specified under section 31(2B) as a place where dogs are prohibited at all times; or
  - (b) at a time when the place is specified under section 31(2B) as a place where dogs are prohibited at that time.

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (10) Every person liable for the control of a dangerous dog must ensure that the dog —
- (a) does not kill a person; and
  - (b) does not endanger the life of a person.
- (11) A person who contravenes subsection (10) is guilty of a crime.  
Penalty: imprisonment for 10 years.

*[Section 33GA inserted: No. 18 of 2013 s. 36.]*

**33GB. Dangerous dogs (restricted breed) to be sterilised**

- (1) The owner of a dangerous dog (restricted breed) that has reached 3 months of age must ensure that the dog is sterilised.

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (2) It is a defence to a charge of an offence under subsection (1) if the person charged satisfies the court that the dog —
- (a) has a physical condition that is likely to cause the dog to die if it is sterilised; or
  - (b) is sterile.

*[Section 33GB inserted: No. 18 of 2013 s. 36.]*



**33GC. Restrictions on transferring ownership of dangerous dogs (restricted breed)**

(1) In this section —

***restricted breed pup*** means a pup —

- (a) having at least one parent that is a dangerous dog (restricted breed); and
- (b) that is under 3 months of age.

(2) A person must not advertise a dangerous dog (restricted breed) or a restricted breed pup as being for sale or otherwise available for transfer of ownership.

Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.

(3) A person must not sell a dangerous dog (restricted breed) or a restricted breed pup to another person.

Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.

(4) A person must not otherwise transfer the ownership of a dangerous dog (restricted breed) or a restricted breed pup to another person unless —

- (a) the dog or pup forms part of a deceased estate and its ownership is transferred by the executor of the will in relation to, or the administrator for, the estate; or
- (b) the owner of the dog or pup is certified, by a person registered under a written law as a medical practitioner, as being not capable of caring for the dog or fulfilling the responsibilities that an owner of a dangerous dog (restricted breed) has under this Act; or
- (c) the Minister in his absolute discretion forms the view that extraordinary conditions exist in a particular case and a transfer of ownership is justified in that case.

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Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.

- (5) A person must not —
- (a) buy a dangerous dog (restricted breed) or a restricted breed pup from another person; or
  - (b) otherwise accept the ownership of a dangerous dog (restricted breed) or a restricted breed pup from another person except in the circumstances mentioned in subsection (4)(a) or (b).

Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.

- (6) It is a defence to a charge of an offence under subsection (5) in relation to a restricted breed pup if the person charged satisfies the court that the person did not know and did not have reasonable cause to believe that the dog was a restricted breed pup.

*[Section 33GC inserted: No. 18 of 2013 s. 36.]*

**33GD. Dangerous dogs (restricted breed) not to be bred**

A person must not —

- (a) breed a dangerous dog (restricted breed); or
- (b) breed from a dangerous dog (restricted breed).

Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.

*[Section 33GD inserted: No. 18 of 2013 s. 36.]*

**33GE. Prohibition on transfer of ownership of dangerous dogs (declared) to persons under 18**

(1) In this section —

*receiver* means a person to whom —

- (a) a dangerous dog (declared) is sold; or
- (b) the ownership of a dangerous dog (declared) is otherwise transferred;

*relevant time* means the time at which an offence under subsection (2) is alleged to have been committed.

(2) A person must not sell, or otherwise transfer the ownership of, a dangerous dog (declared) to a person who has not reached 18 years of age.

Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.

(3) It is a defence to a charge of an offence under subsection (2) if the person charged satisfies the court that —

- (a) at or before the relevant time the receiver had produced to the person charged evidence that the receiver had reached 18 years of age; and
- (b) at the relevant time the person charged had no reason to believe that the receiver had not reached 18 years of age.

(4) For the purposes of subsection (3)(a) the following documents can be used as evidence that a person has reached 18 years of age —

- (a) a current passport;
- (b) a current Australian driver's licence;
- (c) a prescribed document,

that bears a photograph of the person and indicates by reference to the person's date of birth or otherwise that the person has reached 18 years of age.

*[Section 33GE inserted: No. 18 of 2013 s. 36.]*

**33G. Seizure and destruction**

- (1) Where an authorised person or a police officer has reasonable grounds to believe that an attack by a dangerous dog has occurred, whether or not a warrant has been applied for under section 29(5a), that authorised person or police officer may, if he has reasonable grounds to believe it is necessary to do so, enter onto or into any premises and there seize the dog and thereafter the dog may be detained under section 29(3).
- (2A) An authorised person or a police officer who has reasonable grounds to believe that a dangerous dog (restricted breed) has given birth to one or more pups may —
  - (a) enter any premises under a warrant issued under section 29(5a) or with the consent of an adult occupier of the premises; and
  - (b) seize each pup; and
  - (c) detain each pup under section 29(3).
- (2) On the dog being detained as mentioned in subsection (1) or (2A) the local government or an authorised person must give notice in writing, in addition to any notice required by section 29, to the owner of the dog —
  - (a) informing the owner of the seizure and of the place where the dog is detained; and
  - (b) giving reasons for the seizure; and
  - (c) stating that, whether or not the dog is claimed, the local government proposes to cause the dog to be destroyed, at a time specified not earlier, unless the owner otherwise consents, than 10 days after the giving of the notice; and
  - (d) specifying that the owner has a right under this Division, to be exercised within not more than 7 days after the giving of the notice, either —
    - (i) to lodge a written objection with the local government, with a subsequent right to apply to

the State Administrative Tribunal for a review of the decision made by the local government on the objection; or

- (ii) to apply directly to the State Administrative Tribunal for a review,

where, and as soon as, that is practicable.

- (3) The local government shall cause a dog seized under this section to be detained until any objection which is received has been considered, the time for making an application to the State Administrative Tribunal for a review has passed, and if an application is made that application has been determined.
- (4) Where an objection is lodged with a local government in accordance with subsection (2)(d)(i) the local government shall consider it and —
  - (a) if the local government dismisses the objection, the owner may, within 7 days after the giving of a notice by the local government as to the dismissal of the objection, apply to the State Administrative Tribunal for a review of the decision; or
  - (b) if the local government has not given notice to the owner stating that the objection has been considered, and setting out its determination on the objection, within 35 days after the giving under subsection (2) of the notice of the seizure of the dog, the owner may, within 42 days after the giving of that notice under subsection (2), apply to the State Administrative Tribunal for a review of the decision to which the owner objected.
- (5) Where a local government gives notice of the dismissal of an objection under this section, that notice must set out the reason for the dismissal of the objection.

- (6) Where —
- (a) an objection lodged with a local government in accordance with subsection (2)(d)(i) is dismissed and —
    - (i) no application for review is made to the State Administrative Tribunal; or
    - (ii) an application for review is made but the applicant discontinues the application; or
    - (iii) the State Administrative Tribunal makes an order dismissing the application for want of prosecution;
  - or
  - (b) an application is made under this section to the State Administrative Tribunal for a review and the State Administrative Tribunal affirms the proposal to cause the dog to be destroyed,

an authorised person, or a person specifically authorised by the State Administrative Tribunal, may destroy the dog concerned.

*[Section 33G inserted: No. 24 of 1996 s. 10; amended: No. 10 of 1998 s. 29(1); No. 55 of 2004 s. 261 and 268; No. 8 of 2009 s. 47(2); No. 18 of 2013 s. 37.]*

**33H. Local government may revoke declaration or proposal to destroy**

- (1) The local government of the district in which the dog is at that time ordinarily kept may, of its own motion or, subject to subsection (4), on the application of the owner of the dog, revoke —
- (a) a notice under section 33F(1) declaring a dog to be a dangerous dog (declared); or
  - (b) a notice under section 33G proposing to cause a dog to be destroyed,

if the local government is satisfied that the dog can be kept without the likelihood of any contravention of this Act.

- (2) The local government may, before dealing with any application under subsection (1), require the owner of the dog to which the relevant notice relates, or a person to whom ownership, possession or control of the dog has passed, to attend with the dog a course in behaviour and training approved by the local government, or otherwise to demonstrate a change in the behaviour of the dog.
- (3) The local government must, as soon as is practicable, give notice in writing to the owner of the dog —
  - (a) of the revoking of a notice under subsection (1); or
  - (b) if the owner has sought such a revocation, of any refusal so to revoke and of the reasons for the making of the decision.
- (4) A person who was the owner of a dog at the time the relevant notice was given shall not be entitled to make an application under subsection (1)(a) until —
  - (a) any objection or application for review in respect of the notice sought to be revoked has been determined; or
  - (b) one year has elapsed since the giving of that notice, or since any preceding application under subsection (1) was determined.
- (5) Where an application is lodged with a local government under subsection (1) the local government shall consider it and —
  - (a) if the local government dismisses the application, the owner may, within 7 days after the giving of a notice by the local government as to the dismissal of the application, apply to the State Administrative Tribunal for a review of the decision; or
  - (b) if the local government has not given notice to the owner stating that the application has been considered, and setting out its determination on the objection, within 35 days after the lodging of the application under

subsection (1), the owner may, within 42 days after the lodging of the application under subsection (1), apply to the State Administrative Tribunal for a review of the decision on the application as if the application had been dismissed.

*[Section 33H inserted: No. 24 of 1996 s. 10; amended: No. 10 of 1998 s. 29(1); No. 55 of 2004 s. 262; No. 18 of 2013 s. 38.]*

**33I. Jurisdiction of State Administrative Tribunal**

- (1) An application may be made under this Division to the State Administrative Tribunal for a review of —
- (a) the decision made by a local government —
    - (i) where an objection as to a declaration is lodged with the local government under section 33F(2)(b)(i), or an objection is lodged under section 33G(2)(d)(i) to a proposal to destroy a dog, is dismissed; or
    - (ii) where an application lodged under section 33H(1) to revoke any notice is dismissed;
- or
- (b) the declaration under section 33E of a dog as a dangerous dog (declared), where no objection is lodged with the local government, where the owner elects to proceed under section 33F(2)(b)(ii) directly; or
  - (c) a proposal to destroy a dog, where the owner elects to proceed under section 33G(2)(d)(ii) directly; or
  - (d) where an objection or application is lodged with the local government but section 33F(6)(b), section 33G(4)(b) or section 33H(5)(b) applies.



- (2) Where, under this Division, an application for a review is made to the State Administrative Tribunal, the orders that the State Administrative Tribunal may make include —
- (a) where the dog is detained, an order for the release of the dog to the owner;
  - (b) on being satisfied that the dog will be kept without the likelihood of any contravention of this Act, an order cancelling any previous order made in respect of that dog by the State Administrative Tribunal.

*[Section 33I inserted: No. 24 of 1996 s. 10; amended: No. 10 of 1998 s. 29(1); No. 55 of 2004 s. 263; No. 18 of 2013 s. 39.]*

### **33J. Duration of declaration**

A notice declaring a dog to be a dangerous dog (declared) has effect until —

- (a) the dog dies; or
- (b) the notice is revoked by the local government; or
- (c) the decision pursuant to which the notice was given is quashed by the State Administrative Tribunal,

even though the ownership of the dog may change.

*[Section 33J inserted: No. 24 of 1996 s. 10; amended: No. 10 of 1998 s. 29(1); No. 55 of 2004 s. 264; No. 8 of 2009 s. 47(3); No. 18 of 2013 s. 40.]*

### **33K. Duty to notify persons**

- (1) The owner of a dangerous dog must ensure that every person liable for the control of the dog is aware of the person's responsibilities under this Division.

Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.

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- (2) A person liable for the control of a dog which is a dangerous dog shall, within 24 hours, notify the local government of the district in which the dog is ordinarily kept —
- (a) if an attack by the dog occurs, giving particulars of that attack; or
  - (b) if the dog is missing, giving particulars of where it was last known to be located; or
  - (c) if the ownership of the dog changes, giving particulars as to that change; or
  - (d) if the dog is to be ordinarily kept in the district of that local government at a different location to the place in which the dog was previously ordinarily kept, giving particulars as to the new location.

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (3) Where a person liable for the control of a dangerous dog intends ordinarily to keep the dog in the district of a local government that is not the local government with which the dog is registered, the person must notify the local government of the district in which the dog is to be kept within 24 hours of the dog commencing to be kept there.

Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.

- (4) On or before the change of ownership of a dangerous dog (declared), the person transferring ownership must give to the person to whom ownership is to be transferred —
- (a) written notice that the dog is a dangerous dog for the purposes of this Act; and

(b) a copy of the notice given under section 33F(1).

Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.

(5A) On or before the change of ownership of a dangerous dog (restricted breed) or a commercial security dog, the person transferring ownership must give, to the person to whom ownership is to be transferred, written notice that the dog is a dangerous dog for the purposes of this Act.

Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.

(5) The owner of a dangerous dog must notify the local government of the district in which the dog is ordinarily kept if —

(a) the dog is to be ordinarily kept in a location not in the district of that local government, giving particulars as to the new location; or

(b) the dog dies.

Penalty: a fine of \$5 000.

*[Section 33K inserted: No. 24 of 1996 s. 10; amended: No. 10 of 1998 s. 29(1); No. 18 of 2013 s. 41.]*

### **33L. Defences applicable to this Division**

It is a defence to a charge of an offence under this Division if the person charged satisfies the court —

(a) in the case of any person (including a person referred to in paragraph (b), (c) or (d)), that the person took all reasonable precautions and exercised all due diligence to avoid the contravention; or

(b) in the case of any person other than the owner of the dog to which the charge relates, that the person did not know and did not have reasonable cause to believe that the dog was a dangerous dog for the purposes of this Act; or

- (c) in the case of a person who is the occupier of premises where the dog to which the charge relates is ordinarily kept or ordinarily permitted to live, that at the material time the dog was owned by another person who had reached 18 years of age, and who is identified by the person charged; or
- (d) in the case of a person who is the owner of the dog to which the charge relates (the *owner*), that at the material time the dog was in the possession or control of another person without the owner's consent, express or implied.

*[Section 33L inserted: No. 18 of 2013 s. 42.]*

**33M. Local government expenses to be recoverable**

- (1) Where a dog is declared to be a dangerous dog (declared), the local government may require the owner to pay, in addition to and at the time of payment of the registration fee under section 15, either —
  - (a) a reasonable charge, up to such maximum amount as may be prescribed, as determined by the local government having regard to the expense incurred by the local government in making inquiries, investigations and inspections concerning the behaviour of that particular dog and the manner and place in which it is from time to time kept; or
  - (b) a fixed charge of such amount as is —
    - (i) determined by the local government for the purposes of this paragraph, but not exceeding the maximum amount prescribed for the purposes of paragraph (a); or
    - (ii) prescribed,as the local government may require.

- (2) Where the amount of any charge due under subsection (1) in relation to a dog is not paid —
- (a) the dog is liable to be seized, detained and disposed of under section 29; and
  - (b) whether or not the dog is seized, section 29(5) applies in respect to such money.

*[Section 33M inserted: No. 24 of 1996 s. 10; amended: No. 10 of 1998 s. 29(1); No. 18 of 2013 s. 43.]*

**Division 3 — Protection of stock; vermin disease  
and parasite control**

*[Heading inserted: No. 24 of 1996 s. 11.]*

**34. Protection of livestock**

- (1) A person who owns, or who is for the time being lawfully in charge of, any animal or bird may lawfully shoot or otherwise destroy a dog which he finds attacking that animal or bird if there is no other way of stopping the attack and provided that notice is given to a police officer as soon as is practicable thereafter.
- (2) The owner or occupier of any enclosed paddock, field, yard or other place in which any horse, cattle, sheep, swine, goats or poultry (in this section referred to as *livestock*) are confined, or any person acting under the authority of that owner or occupier, may lawfully shoot or otherwise destroy any dog found therein, whether the owner of the dog is or is not known, if that dog is not accompanied by some person.
- (3) In any proceedings, whether civil or penal, arising out of an attack by a dog upon any animal or bird or the worrying or chasing of livestock, whether in a confined area or otherwise, the fact that the dog was immediately prior thereto in company with or had been seen continuously and closely following a person is *prima facie* evidence that the person had the dog in his

possession or under his control for the purposes of the definition of *person liable for the control of the dog* in section 3.

- (4) Where it is reasonably necessary for the protection of livestock confined or depasturing on any land the owner or occupier of that land or a person acting under his authority may lay poison on that land in baits likely to be taken by dogs wandering at large if —
- (a) the poison is not laid within 20 m of any road, reserve or public place; and
  - (b) the laying of that poison is authorised in the material circumstances by or under any Act relating to the prevention, destruction or eradication of specific kinds of animal or of animals in specified circumstances; and
  - (c) the poison is not so laid as to endanger children or indigenous birds or animals,

but where the laying of poison is not found to have been reasonably necessary, or does not otherwise comply with the requirements of this subsection, a person who lays poison in baits commits an offence.

Penalty for this subsection: a fine of \$1 000.

*[Section 34 amended: No. 23 of 1987 s. 28; No. 24 of 1996 s. 16; No. 18 of 2013 s. 44; No. 29 of 2021 s. 31.]*

**35. Destruction of vermin etc.**

Where a person, reasonably and in good faith, lawfully takes measures for the purpose of destroying vermin or dogs wandering at large, whether by means of traps, poison or otherwise, in conformity with the provisions of any Act or the regulations made thereunder, and as a consequence of a dog wandering at large those measures result in that dog suffering death, injury or harm, that person shall not be liable therefor in any proceedings, whether civil or penal.

[36. Deleted: No. 18 of 2013 s. 45.]

[37. Deleted: No. 23 of 1987 s. 30.]

#### **Division 4 — Control of nuisance**

*[Heading inserted: No. 24 of 1996 s. 11.]*

#### **38. Nuisance dogs**

- (1) For the purposes of this section, a dog is a nuisance if the dog —
  - (a) makes a noise, by barking or otherwise, that persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any place; or
  - (b) is shown to be allowed to behave consistently in a manner contrary to the general interest of the community; or
  - (c) makes a noise, by barking or otherwise, that exceeds —
    - (i) a prescribed noise level measured by a prescribed method over a prescribed period of time; or
    - (ii) a prescribed number of times of occurrence during or over a prescribed period of time.
- (2) A person may lodge a complaint in a prescribed form with an authorised person, alleging that a dog is a nuisance.
- (3) If an authorised person is satisfied that a dog is a nuisance as alleged in a complaint, the authorised person may issue an order to a person liable for the control of the dog requiring that person to prevent the behaviour that is alleged to constitute the nuisance by a time specified in the order.
- (4) An order has effect for 6 months after the day on which it is issued.

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- (5) A person to whom an order is issued must comply with the order during the period in which it has effect.

Penalty:

- (a) for an offence relating to a dangerous dog —
- (i) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500;
- (b) for an offence relating to a dog other than a dangerous dog, a fine of \$5 000.
- (6) This section does not apply to a dog while that dog is kept at an establishment licensed as an approved kennel establishment under section 27.

*[Section 38 inserted: No. 18 of 2013 s. 46.]*



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## **Part VIA — Pet shops and supply of dogs to relevant pet shop businesses**

*[Heading inserted: No. 29 of 2021 s. 32.]*

### **Division 1 — Preliminary**

*[Heading inserted: No. 29 of 2021 s. 32.]*

#### **38A. Supply of dogs to relevant pet shop businesses**

For the purposes of this Part, a person supplies a dog to a relevant pet shop business if —

- (a) the person supplies the dog to the person who conducts the relevant pet shop business, or a person acting on their behalf; and
- (b) the person who conducts the relevant pet shop business, or the person acting on their behalf, is acting for the purposes of the business.

*[Section 38A inserted: No. 29 of 2021 s. 32.]*

### **Division 2 — Approval of pet shop for relevant pet shop business**

*[Heading inserted: No. 29 of 2021 s. 32.]*

#### **38B. Pet shop for relevant pet shop business must be approved**

A person must not conduct a relevant pet shop business unless the person holds a pet shop approval for the pet shop granted by the local government in whose district the pet shop is located.

Penalty: a fine of \$10 000.

*[Section 38B inserted: No. 29 of 2021 s. 32.]*

**38C. Application for pet shop approval**

- (1) A person who intends to conduct, or who conducts, a relevant pet shop business may apply to the local government in whose district the pet shop is located for —
  - (a) the grant of an approval for the pet shop (a *pet shop approval*); or
  - (b) the renewal of the pet shop approval for the pet shop.
- (2) An application for the grant or renewal of a pet shop approval must be made in accordance with Part X Division 2.

*[Section 38C inserted: No. 29 of 2021 s. 32.]*

**38D. Pet shop approval**

- (1) On receiving an application for the grant or renewal of a pet shop approval, a local government is to —
  - (a) grant or refuse to grant the pet shop approval; or
  - (b) renew or refuse to renew the pet shop approval.
- (2) The local government may refuse to grant or renew a pet shop approval only if the local government is satisfied that at least one of the following applies —
  - (a) the applicant is a convicted person;
  - (b) in the case of a renewal — a circumstance in section 38E(c), (d), (e) or (f);
  - (c) the facilities that the applicant proposes to use, or uses, to keep dogs for the purposes of the relevant pet shop business do not meet the requirements of any relevant written law;
  - (d) a circumstance prescribed for the purposes of this subsection.
- (3) The approval is subject to any conditions the local government —
  - (a) considers necessary or desirable to impose; and

- (b) specifies in the approval.
- (4) The local government may, at any time by written notice to the holder of the approval, amend or revoke the conditions, or impose new conditions, on the approval.
- (5) A pet shop approval has effect for the period of 1 year beginning on the day on which the approval is granted or, in the case of a renewal, the day on which the approval is renewed, unless it is cancelled earlier in accordance with section 38E.

*[Section 38D inserted: No. 29 of 2021 s. 32.]*

### **38E. Cancellation of pet shop approval**

A local government may cancel a pet shop approval that the local government granted to a person only if the person requests that the local government cancel the approval or the local government is satisfied that —

- (a) any of the things set out in section 38D(2)(a), (c) or (d) applies in relation to the person; or
- (b) the person does not need the approval; or
- (c) the person has not complied with a condition imposed on the approval; or
- (d) the person has not complied with a requirement under this Act or the *Animal Welfare Act 2002*; or
- (e) there has been a contravention of this Act or the *Animal Welfare Act 2002* in relation to the relevant pet shop business conducted by the person or the pet shop to which the approval relates; or
- (f) a circumstance prescribed for the purposes of this section applies.

*[Section 38E inserted: No. 29 of 2021 s. 32.]*

**38F. Continuation of pet shop approval until application for renewal decided**

- (1) This section applies if —
- (a) a person who holds a pet shop approval applies, before the expiry of the approval, for the renewal of the approval; and
  - (b) the local government has not renewed the approval or given notice to the person of its decision to refuse to renew the approval.
- (2) The pet shop approval continues to have effect, despite the date of its expiry passing, until the local government renews the approval or has given notice to the person of its decision to refuse to renew the approval.

*[Section 38F inserted: No. 29 of 2021 s. 32.]*

**Division 3 — Obligations of person conducting relevant pet shop business**

*[Heading inserted: No. 29 of 2021 s. 32.]*

**38G. Relevant pet shop business only to supply dogs obtained from holder of dog supply approval**

A person who conducts a relevant pet shop business must ensure that a dog is not supplied or offered for supply in the course of the relevant pet shop business unless the dog was supplied to the relevant pet shop business by the holder of a dog supply approval.

Penalty: a fine of \$10 000.

*[Section 38G inserted: No. 29 of 2021 s. 32.]*

**38H. Pet shop to display certificate of registration**

A person who conducts a relevant pet shop business must ensure that the pet shop certificate for the pet shop is displayed publicly at the pet shop.

Penalty: a fine of \$5 000.

*[Section 38H inserted: No. 29 of 2021 s. 32.]*

**38I. Person conducting relevant pet shop business to provide certain information**

A person who conducts a relevant pet shop business must ensure that —

- (a) any person who is supplied with a dog in the course of the relevant pet shop business is provided, before the dog is supplied, with —
  - (i) the prescribed information about the person who supplied the dog to the relevant pet shop business; and
  - (ii) the pet shop number for the pet shop;and
- (b) any person to whom the supply of a dog is offered in the course of the relevant pet shop business is, if the person requests, provided with —
  - (i) the prescribed information about the person who supplied the dog to the relevant pet shop business; and
  - (ii) the pet shop number for the pet shop.

Penalty: a fine of \$5 000.

*[Section 38I inserted: No. 29 of 2021 s. 32.]*

**38J. Person conducting relevant pet shop business to provide copy of health certificate**

A person who conducts a relevant pet shop business must ensure that —

- (a) any person who is supplied with a dog in the course of the relevant pet shop business is provided, before the dog is supplied, with a copy of the health certificate for the dog; and
- (b) any person to whom the supply of a dog is offered in the course of the relevant pet shop business is, if the person requests, provided with a copy of the health certificate for the dog.

Penalty: a fine of \$5 000.

*[Section 38J inserted: No. 29 of 2021 s. 32.]*

**38K. Person conducting relevant pet shop business to keep records relating to source of dogs**

- (1) In this section —

**relevant dog**, in relation to a person who conducts a relevant pet shop business, means each of the following —

- (a) a dog kept for the purposes of the relevant pet shop business;
- (b) a dog that is supplied or offered for supply in the course of the relevant pet shop business.

- (2) A person who conducts a relevant pet shop business must keep, in relation to each relevant dog, a record that —

- (a) contains the prescribed information about the dog, including information about the person who supplied the dog to the relevant pet shop business; and
- (b) includes any evidence necessary to enable the information in the record to be verified.

- (3) The person must keep the record, even if the person ceases to conduct the relevant pet shop business —
- (a) in the prescribed way, if any; and
  - (b) until —
    - (i) in relation to a dog kept for the purposes of the relevant pet shop business — the end of the period of 5 years after the day on which the relevant dog ceased being kept for the purposes of the relevant pet shop business; and
    - (ii) in relation to a dog that is supplied or offered for supply in the course of the relevant pet shop business — the end of the period of 5 years after the day on which the dog is supplied or first offered for supply.
- (4) If the regulations prescribe a time within which a record referred to in subsection (2) must be made, the record must be made within that time.
- (5) A person who fails to comply with this section commits an offence.

Penalty for this subsection: a fine of \$10 000.

*[Section 38K inserted: No. 29 of 2021 s. 32.]*

**38L. Person conducting relevant pet shop business to provide information to local government**

- (1) A local government may request a person who conducts or has conducted a relevant pet shop business, the pet shop for which is or was located in the local government's district, to provide the local government with any record, information or evidence the person is required to keep under section 38K.
- (2) The local government may take extracts from, or make copies of, any record, information or evidence provided.

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- (3) A request made under subsection (1) must specify the time within which the record, information or evidence must be provided to the local government.
- (4) A person must comply with a request made of the person under subsection (1) within the time specified in the request (or, if another time is agreed between the local government and the person, within that time).

Penalty for this subsection: a fine of \$10 000.

*[Section 38L inserted: No. 29 of 2021 s. 32.]*

**38M. Self-incrimination**

- (1) A person is not excused from complying with a request under section 38L to provide a record, information or evidence on the ground that the record, information or evidence might incriminate the person or make the person liable to a penalty.
- (2) However, any record, information or evidence provided by an individual in compliance with a request made of the individual under section 38L is not admissible in evidence against the individual in any proceedings for an offence other than proceedings for an offence against this Act or for perjury.

*[Section 38M inserted: No. 29 of 2021 s. 32.]*

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*[Heading inserted: No. 29 of 2021 s. 32.]*

**38N. Only holder of dog supply approval may supply dogs to relevant pet shop businesses**

- (1) A person (the *supplier*) must not supply a dog to a relevant pet shop business unless —
  - (a) the dog is a stray, abandoned, seized or surrendered dog that is being kept —



- (i) as part of refuge operations conducted by the supplier; or
- (ii) in a dog management facility operated by the supplier;

and

- (b) the supplier holds a dog supply approval.

Penalty for this subsection: a fine of \$10 000.

- (2) A person (the *supplier*) must not supply a dog to a relevant pet shop business unless the supplier has —
  - (a) obtained, in respect of the dog, a certificate issued by a veterinarian that declares that the veterinarian has completed a health assessment of the dog and that outlines the prescribed information in relation to the health status of the dog (a *health certificate*); and
  - (b) provided the person who conducts the relevant pet shop business, or the person acting on their behalf, with a copy of the health certificate.

Penalty for this subsection: a fine of \$5 000.

[Section 38N inserted: No. 29 of 2021 s. 32.]

**38O. Person conducting refuge operations or operating dog management facility may apply for dog supply approval**

- (1) A person who conducts refuge operations or is the operator of a dog management facility may apply to the CEO for the grant of an approval to supply to relevant pet shop businesses dogs kept as part of the refuge operations or in the dog management facility (a *dog supply approval*).
- (2) An application for the grant of an approval must —
  - (a) be made in a manner and form approved by the CEO; and
  - (b) contain the information prescribed; and

- (c) without limiting paragraph (b), contain information regarding the intended sources of dogs to be supplied; and
  - (d) be accompanied by the fee, if any, prescribed; and
  - (e) comply with any other requirements that are prescribed.
- (3) The CEO may require the applicant to give the CEO, within a specified time, any document or information that the CEO requires to determine the application and may require the applicant to verify the information by statutory declaration.
- (4) The CEO may refuse to consider an application if the applicant does not comply with a requirement under subsection (3) within the specified time.

*[Section 38O inserted: No. 29 of 2021 s. 32.]*

**38P. Dog supply approval**

- (1) On receiving an application for the grant of a dog supply approval, the CEO is to grant or refuse to grant the dog supply approval.
- (2) The CEO may refuse to grant a dog supply approval only if the CEO is satisfied that at least one of the following applies —
  - (a) the applicant is a convicted person;
  - (b) in the case of an applicant who purports to conduct refuge operations — there are reasonable grounds to suspect that the applicant is not conducting genuine refuge operations;
  - (c) the dog management facility does not, or the facilities that the applicant uses to keep dogs for the purposes of the refuge operations do not, meet the requirements of any relevant written law;
  - (d) a local government objects to the grant of the approval;
  - (e) a circumstance prescribed for the purposes of this subsection.

- (3) The approval is subject to any conditions the CEO —
  - (a) considers necessary or desirable to impose; and
  - (b) specifies in the approval.
- (4) The CEO may, at any time by written notice to the holder of the approval, amend or revoke the conditions, or impose new conditions, on the approval.
- (5) A dog supply approval remains in force unless and until it is cancelled in accordance with section 38Q.

*[Section 38P inserted: No. 29 of 2021 s. 32.]*

### **38Q. Cancellation of dog supply approval**

The CEO may cancel a dog supply approval granted to a person only if the person requests that the CEO cancel the approval or the CEO is satisfied that —

- (a) any of the things set out in section 38P(2) applies in relation to the person; or
- (b) the person does not need the approval; or
- (c) the person has not complied with a condition imposed on the approval; or
- (d) the person has supplied to a relevant pet shop business a dog which the CEO suspects, on reasonable grounds, is not a stray, abandoned, seized or surrendered dog; or
- (e) the person has not complied with a requirement under this Act or the *Animal Welfare Act 2002*; or
- (f) there has been a contravention of this Act or the *Animal Welfare Act 2002* in relation to the refuge operations or dog management facility to which the approval relates; or
- (g) a circumstance prescribed for the purposes of this section applies.

*[Section 38Q inserted: No. 29 of 2021 s. 32.]*

**38R. Notice of certain decisions made under this Division**

- (1) This section applies to each of the following —
  - (a) a decision to refuse to grant a dog supply approval;
  - (b) a decision to cancel a dog supply approval (other than a decision to cancel the approval at the request of the person who held the approval);
  - (c) a decision to impose or amend conditions on a dog supply approval.
- (2) Within 7 days after the day on which the CEO makes a decision referred to in subsection (1), the CEO is to give to the applicant for, or holder of, the approval to which the decision relates written notice of the decision and the reasons for the decision.
- (3) The regulations may provide for the review by the State Administrative Tribunal of a decision of the CEO referred to in subsection (1) and may provide for the effect of a decision to be suspended while a right of review exists or a review is underway.

*[Section 38R inserted: No. 29 of 2021 s. 32.]*

**38S. Record of dog supply approval**

- (1) As soon as practicable after the CEO makes a decision to grant or refuse to grant a dog supply approval, the CEO is to enter the decision and the prescribed information in the centralised registration system.
- (2) The CEO is to ensure that the information recorded under subsection (1) is updated to reflect —
  - (a) any change to the information notified under section 38T; and
  - (b) any imposition or amendment of conditions on the dog supply approval; and
  - (c) any cancellation of the dog supply approval; and

- (d) the outcome of any review provided for under section 38R(3).

*[Section 38S inserted: No. 29 of 2021 s. 32.]*

**38T. Notice of change to information**

The holder of a dog supply approval must, within 7 days after the day on which the holder becomes aware of a change to any of the information prescribed under section 38S(1) in respect of the dog supply approval, give notice in writing of the change to the CEO.

Penalty: a fine of \$5 000.

*[Section 38T inserted: No. 29 of 2021 s. 32.]*

**38U. Certificate and unique number to be given to holder of dog supply approval**

- (1) If the CEO grants a dog supply approval to a person, the CEO must —
- (a) give the person a certificate containing the prescribed information; and
  - (b) issue the person with a unique number for the dog supply approval.
- (2) The CEO may give a person who holds a dog supply approval a new certificate if the CEO is satisfied that the person's certificate has been stolen, lost, damaged or destroyed.

*[Section 38U inserted: No. 29 of 2021 s. 32.]*

**Division 5 — Obligations of holder of dog supply approval**

*[Heading inserted: No. 29 of 2021 s. 32.]*

**38V. Holder of dog supply approval to keep records**

- (1) A person who holds a dog supply approval must keep, in relation to each dog supplied by the person to a relevant pet shop business, a record that —
  - (a) contains the prescribed information in relation to the source and history of the dog; and
  - (b) includes any evidence necessary to enable the information in the record to be verified.
- (2) The person must keep the record, even if the person ceases to hold the dog supply approval —
  - (a) in the prescribed way, if any; and
  - (b) for 5 years after the day on which the dog was supplied by the person.
- (3) If the regulations prescribe a time within which a record referred to in subsection (1) must be made, the record must be made within that time.
- (4) A person who fails to comply with this section commits an offence.

Penalty for this subsection: a fine of \$5 000.

*[Section 38V inserted: No. 29 of 2021 s. 32.]*

**38W. Holder of dog supply approval to provide information to CEO**

- (1) The CEO may request a person who holds or has held a dog supply approval to provide the CEO with any of the following —
  - (a) any record, information or evidence the person is required to keep under section 38V;

- (b) any other information, evidence or document that the CEO requires to determine if the dog supply approval should remain in force.
- (2) The CEO may take extracts from, or make copies of, any record, information, evidence or document provided.
- (3) A request made under subsection (1) must specify the time within which the record, information, evidence or document must be provided to the CEO.
- (4) A person must comply with a request made of the person under subsection (1) within the time specified in the request (or, if another time is agreed between the CEO and the person, within that time).

Penalty for this subsection: a fine of \$5 000.

*[Section 38W inserted: No. 29 of 2021 s. 32.]*

**38X. Holder of dog supply approval to provide information to local government**

- (1) In this section, a relevant pet shop business is an *applicable pet shop business* in relation to a local government if the pet shop is located in the local government's district.
- (2) A local government may request a person who holds or has held, or purports to hold or have held, a dog supply approval, and who supplies or has supplied dogs to an applicable pet shop business, to provide the local government with any of the following —
  - (a) evidence that the person holds or has held the dog supply approval;
  - (b) a copy of the health certificate of any dog supplied by the person to an applicable pet shop business in the previous 5 years or, if a shorter period, the period since the person was granted the dog supply approval.

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- (3) The local government may take extracts from, or make copies of, any evidence or copy provided.
- (4) A request made under subsection (2) must specify the time within which the evidence or copy must be provided to the local government.
- (5) A person must comply with a request made of the person under subsection (2) within the time specified in the request (or, if another time is agreed between the local government and the person, within that time).

Penalty for this subsection: a fine of \$5 000.

*[Section 38X inserted: No. 29 of 2021 s. 32.]*

**38Y. Self-incrimination**

- (1) A person is not excused from complying with a request under this Division to provide information, evidence, a record or a document on the ground that the information, evidence, record or document might incriminate the person or make the person liable to a penalty.
- (2) However, any information, evidence, record or document provided by an individual in compliance with a request made of the individual under this Division is not admissible in evidence against the individual in any proceedings for an offence other than —
  - (a) if it is provided in compliance with a request under section 38W(1)(a) — proceedings for an offence against this Act or for perjury; or
  - (b) in any other case — proceedings for perjury or an offence against section 43AA.

*[Section 38Y inserted: No. 29 of 2021 s. 32.]*



## **Part VII — Enforcement**

### **39. Dogs causing injury or damage may be destroyed**

- (1) Where an attack by a dog is shown on the balance of probabilities to have caused injury or damage a court before which any offence arising out of that attack is heard, or the Magistrates Court on the application of a local government, an authorised person or a person specifically authorised by a local government for the purposes of section 33E, may —
  - (a) order the owner to destroy that dog or cause that dog to be destroyed; or
  - (b) order that dog to be destroyed by —
    - (i) the local government by which, or authorised person by whom, it was seized or it is detained under section 29; or
    - (ii) a person specifically authorised by the court, and the provisions of section 40 apply.
- (2) A person specifically authorised by a court under subsection (1)(b)(ii) to destroy a dog may give effect to the order for destruction.
- (3) In addition to the matters provided for in section 40, a court may, if it makes an order that a dog is to be destroyed, require the owner of the dog —
  - (a) to take, during or within such period as is specified in the order, such action as the court considers likely to be necessary to —
    - (i) prevent, or reduce the likelihood of, that dog causing injury; or
    - (ii) enable effect to be given to the order for destruction;and

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- (b) to pay any costs or expense incurred in relation to the detention or destruction of the dog,

and an owner of a dog who does not comply with such a requirement commits an offence.

Penalty: a fine of \$5 000.

- (4) If an attack by 2 or more dogs is shown on the balance of probabilities to have caused injury or damage, both or all of those dogs are to be treated for the purposes of subsection (1) as having caused that injury or damage even if it is not possible to show which of those dogs actually caused that injury or damage.

*[Section 39 inserted: No. 24 of 1996 s. 12; amended: No. 10 of 1998 s. 29(1); No. 59 of 2004 s. 141; No. 18 of 2013 s. 47.]*

**40. Destruction of dogs etc.**

- (1) In relation to any application made for an order for the destruction of a dog or where in any proceedings the destruction of a dog may be ordered, the court or the State Administrative Tribunal, according to which of them is dealing with the proceedings, may —
  - (a) order the destruction; and
  - (b) provide that the order shall be remitted in specified circumstances; and
  - (c) order the seizure and detention of the dog, whether or not an order is made for the destruction of the dog; and
  - (d) make an order requiring that the dog be controlled, or be controlled in a specified manner; and
  - (e) make an order requiring that the dog be disposed of, or be disposed of in a specified manner; and
  - (ea) where the dog has been detained under section 29(5b) or an order is made under paragraph (c), make any order it thinks fit as to the payment of any cost, charge or fee of a kind referred to in section 29(4); and

- (f) authorise a police officer or a person appointed by the local government to give effect to the order; and
  - (g) give all necessary directions to make the order effective.
- (2) An order for the destruction of a dog shall state —
- (a) to whom it is directed; and
  - (b) whether or not it may be remitted, and, if so, in what circumstances; and
  - (c) within what period it is to be put into effect.
- (3) Where the destruction of a dog is ordered or authorised by this Act it shall be effected so far as is practicable without cruelty and by some speedy means.
- (4) An order of the kind referred to in subsection (1) shall be implemented notwithstanding that the ownership of the dog has changed or is not known, or that the dog is no longer kept in the area for which the local government is the registration authority, unless on an application made to the court making the original order or the State Administrative Tribunal, as the case requires, that court or tribunal is satisfied that the changed circumstances are such that the order may be varied.
- (5) A person who is ordered or authorised to destroy a dog is required to make provision for the disposal of the carcass.

*[Section 40 amended: No. 23 of 1987 s. 32; No. 14 of 1996 s. 4; No. 55 of 2004 s. 267.]*

**41. Indemnity as to destruction of dogs**

No action, claim or demand lies, or shall be allowed, by or in favour of any person against another, and no person shall be deemed guilty of an offence, by reason only of measures lawfully taken for the destruction of a dog under the provisions of this Act.

*[42. Deleted: No. 23 of 1987 s. 33.]*

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**43. Offences relating to enforcement etc.**

- (1) A person who —
- (a) being the owner or occupier of any premises in relation to which a person authorised under this Act has exercised or is about to exercise any of his powers under this Act, fails to facilitate the carrying out by that person, or any assistant or interpreter acting on his behalf, of his duties under this Act; or
  - (b) impedes, delays or in any way obstructs a person authorised under this Act in the exercise of his powers or the carrying out of his duties under this Act; or
  - (c) fails without lawful excuse to produce any dog in his possession or control when required to do so by a person exercising a power under this Act, or fails to allow that person, on his producing the same, to make an examination thereof; or
  - (d) interferes with, releases, or removes from lawful custody any dog seized or detained under this Act, or damages or destroys any structure in which a dog is lawfully detained, or attempts to do any such act,

commits an offence.

Penalty:

- (a) for an offence relating to a dangerous dog —
  - (i) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500;
- (b) for an offence relating to a dog other than a dangerous dog, a fine of \$5 000.

- (2) A person who fails without lawful excuse to produce any certificate or other document issued to him pursuant to this Act when required to do so by a person exercising a power under this Act, or fails to allow that person, on his producing the same, to make an examination thereof, commits an offence.

Penalty:

- (a) for an offence relating to a dangerous dog —
- (i) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500;
- (b) for an offence relating to a dog other than a dangerous dog, a fine of \$5 000.
- (3) If a body corporate may be charged with an offence against this Act, any person who is concerned in or takes part in the management of that body corporate and who was, in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the commission of the offence may also be charged with that offence.

*[Section 43 amended: No. 23 of 1987 s. 34; No. 24 of 1996 s. 13 and 16; No. 18 of 2013 s. 48.]*

**43AA. False or misleading information**

- (1) A person must not do anything set out in subsection (2) —
- (a) in, or in connection with, an application for an approval under this Act; or
  - (b) in, or in connection with, a notice or document given under this Act; or
  - (c) in dealing with a person who is performing a function under this Act; or

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- (d) in compliance, or purported compliance, with a requirement under this Act.

Penalty for this subsection: a fine of \$5 000.

- (2) The things to which subsection (1) applies are making a statement or giving information that —
  - (a) the person knows is false or misleading in a material particular; or
  - (b) omits anything without which the statement or information is, to the person's knowledge, misleading in a material particular.

*[Section 43AA inserted: No. 29 of 2021 s. 33.]*

**43A. Name and address to be supplied**

- (1) In this section —

***relevant person*** means an authorised person or a designated person.

- (2) A person who is alleged by a relevant person to be concerned in the commission of an offence against this Act must give to that relevant person on demand their full name, date of birth and residential address.

Penalty for this subsection:

- (a) for an offence relating to a dangerous dog, a fine of \$10 000, but the minimum penalty is a fine of \$500;
- (b) for an offence relating to a dog other than a dangerous dog, a fine of \$5 000.

*[Section 43A inserted: No. 23 of 1987 s. 35; amended: No. 24 of 1996 s. 16; No. 18 of 2013 s. 49; No. 29 of 2021 s. 34.]*

**43B. General powers of relevant persons**

(1) In this section —

**authorised purpose** means the purpose of investigating whether, or collecting evidence that —

- (a) an offence is being, or has been, committed against this Act; or
- (b) grounds exist for the cancellation of an approval to breed, a pet shop approval or a dog supply approval;

**relevant person** means an authorised person or a designated person.

(2) A relevant person may, in any premises lawfully entered, do any one or more of the following as is reasonably required for an authorised purpose —

- (a) examine, seize, copy or take extracts from a document;
- (b) take photographs, films and audio, video or other recordings;
- (c) direct a person to answer questions;
- (d) examine, including by scanning, a dog;
- (e) take any other action that the relevant person believes, on reasonable grounds, is necessary.

*[Section 43B inserted: No. 29 of 2021 s. 35.]*

**44. Enforcement proceedings**

*[(1) deleted]*

(2) Any proceedings under this Act, whether civil or penal, may be taken —

- (a) by any police officer, in the name of the Crown; or
- (b) by any employee of a local government authorised in that behalf by the local government, in the name of the local government; or
- (ba) by the CEO or a designated person; or

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- (c) by any person aggrieved.
- (3) Where proceedings under this Act are taken by an employee of a local government, the CEO or a designated person, no proof is required that the person is authorised to take the proceedings (or, in the case of an employee of a local government, of the appointment of that employee as an employee of the local government), but the averment on the process that the person is authorised to take the proceedings is deemed to be sufficient proof of the fact.
- (4) Despite subsection (2), a prosecution of an offence against section 33GA(10) can be commenced only by a police officer.
- (5) Subsections (2) and (4) do not limit the functions of the Director of Public Prosecutions under the *Director of Public Prosecutions Act 1991* section 11.

*[Section 44 amended: No. 14 of 1996 s. 4; No. 59 of 2004 s. 141; No. 18 of 2013 s. 50; No. 29 of 2021 s. 36.]*

**45. Evidentiary provisions**

- (1) In any proceeding for an offence against this Act in relation to a specified dog —
  - (a) an averment in a prosecution notice alleging an offence against this Act that at a particular time —
    - (i) a specified person was the registered owner of the dog; or
    - (ii) the dog was ordinarily kept by a specified person; or
    - (iii) a specified person had the dog in the person's possession or under the person's control; or
    - (iv) a specified person was the occupier of any premises where the dog was ordinarily kept or ordinarily permitted to live; or
    - (v) the dog was not registered; or



- (vi) the dog was of a particular breed or was a mix of particular breeds; or
  - (vii) the dog was not sterilised; or
  - (viii) the dog was not microchipped; or
  - (ix) that a specified person's name was recorded as the owner of the dog in a microchip database; or
  - (x) that a specified database was a microchip database; or
  - (xi) that a specified person or body was a microchip database company in relation to the dog; or
  - (xii) the dog had reached 3 months of age; or
  - (xiii) the dog was under 3 months of age; or
  - (xiv) the dog was the pup of a particular dog,  
is evidence of that fact; and
- (b) the onus of proving that at a particular time the dog was registered, sterilised, microchipped or was under the age of 3 months lies on the person making that assertion.
- (2A) In any proceedings, whether civil or criminal, the onus of proving that a particular dog was not a dangerous dog (restricted breed) lies on the person making that assertion.
- (2) In any proceedings, whether civil or penal, a registration certificate under section 16(6), or a copy of an entry in a register certified by a registration officer, shall, without proof of the signature of the person appearing to have signed the same or that he is a registration officer, be evidence of the matters relevant to the proceedings set out in that registration certificate or certified copy.

*[Section 45 inserted: No. 23 of 1987 s. 36; amended: No. 18 of 2013 s. 51.]*

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**45A. Modified penalties**

- (1) Regulations may provide for a modified penalty for an offence —
  - (a) against a provision of this Act, other than the regulations, for which the maximum penalty does not exceed \$10 000; or
  - (b) a regulation made under section 48 or 54.
- (2) Local laws may provide for a modified penalty for an offence against those local laws.
- (3) A modified penalty for an offence must not exceed 10% of the maximum penalty for that offence.
- (4) Where a person does not contest an allegation that he committed an offence to which a modified penalty applies, the production of an acknowledgement from the local government or designated person by whom that person was notified of the commission of the offence that the modified penalty has been paid to that local government or designated person is a defence to a charge of the offence in respect of which the modified penalty was paid.
- (5) The payment of a modified penalty shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the occurrence to which the modified penalty relates.
- (6) For the purposes of section 16(3)(a) and section 33E, the payment of a modified penalty in relation to any occurrence may be taken to be evidence of the behaviour of the dog by reason of which that modified penalty was imposed.

*[Section 45A inserted: No. 23 of 1987 s. 37; amended: No. 14 of 1996 s. 4; No. 24 of 1996 s. 14 and 16; No. 18 of 2013 s. 52; No. 29 of 2021 s. 38.]*

**46A. Order to attend dog training course, ban on owning or keeping dogs**

- (1) A court that convicts a person of —
  - (a) an offence against this Act for which there is a minimum penalty may, in addition to imposing a penalty, order the person to attend with the dog and complete a dog training course specified in the order; or
  - (b) any other offence against this Act may, as an alternative to or in addition to, imposing a penalty, order the person to attend with the dog and complete a dog training course specified in the order.
  
- (2) If —
  - (a) a court convicts a person of an offence against this Act; and
  - (b) the person has previously been convicted of 2 or more offences against this Act,

the court may, in addition to imposing the penalty for the offence referred to in paragraph (a), order that the person is banned from owning or keeping a dog permanently or for a period specified in the order.
  
- (3) A court that makes an order made under subsection (1) or (2) is to provide a copy of the order to —
  - (a) the local government for the district in which the person subject to the order lives; and
  - (b) the CEO.
  
- (4) A person who does not comply with an order made under subsection (1) or (2) is guilty of contempt of court.
  
- (5) A person who is guilty of contempt of court under subsection (4) may be summarily convicted by the Court and on conviction is liable to imprisonment for a term not exceeding 12 months, or to a fine not exceeding \$5 000, or to both, or in

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default of immediate payment of the fine imposed, to imprisonment —

- (a) until the fine is paid; or
- (b) for a term not exceeding 12 months,

whichever may be the shorter period.

*[Section 46A inserted: No. 18 of 2013 s. 53.]*

## Part VIII — Civil remedies, etc.

### 46. Damages

- (1) The conviction of a person under this Act does not affect any right or remedy by civil process of any party arising in relation to the same matter, and the provisions of this Act do not limit or affect any right, remedy or proceeding under any other Act or at law.
- (2) The owner of any dog, or a person deemed under subsection (5) to be the owner of a dog, shall be liable, subject to any contributory negligence, in damages for —
  - (a) injury to any person or animal inflicted; or
  - (b) damage to the property of a person caused,in the course of an attack by that dog.
- (3) It shall not be necessary in any proceedings for a party seeking damages in respect of an injury caused by a dog to show a previous mischievous propensity in the dog or the knowledge of that propensity on the part of the owner or a person deemed to be the owner, or that the injury was attributable to neglect on the part of the owner or a person deemed to be the owner of the dog.
- (4) It shall not be a defence in any civil proceedings in relation to injury, damage, nuisance or annoyance caused by a dog for a person who would otherwise be liable therefor to show that at the material time the dog was not in his possession or control unless he also satisfies the court that the dog was in the actual possession or control of some other person without his consent, express or implied.
- (5) A person who —
  - (a) has a dog in his possession or under his control; or

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- (b) is the occupier of any premises where a dog is ordinarily kept or ordinarily permitted to live,

shall for the purposes of subsection (2) be deemed to be the owner of the dog whilst those circumstances subsist.

- (6) In addition to any other defence he may have, a person referred to in subsection (5)(b) is not liable as owner of a dog if he satisfies the court that at the material time the dog was in fact owned by some other person over the age of 18 years, whom he shall identify.
- (7) Where the death of a person is caused by the attack of a dog and that person would, if death had not ensued, have been entitled to maintain an action against, and recover damages from, the owner of the dog in respect of injury caused by the attack the death may, for the purposes of the *Fatal Accidents Act 1959*, be taken to have been caused by a wrongful act, neglect or default on the part of the owner of the dog.

*[Section 46 amended: No. 23 of 1987 s. 38; No. 24 of 1996 s. 15.]*

**47. Veterinary service expenses recoverable from local government**

- (1) In this section —  
**representative**, in relation to a local government, means —
- (a) a person who is an authorised person by virtue of an appointment or designation made by that local government; or
- (b) an employee of the local government,  
who, at the relevant time, is performing a function on behalf of the local government.
- (2) A local government is liable to pay for the veterinary services requested in respect of a dog by a representative of the local government.

- (3) A veterinarian who provides services in respect of a dog at the request of a local government's representative may recover the amount of the costs for the services from the local government in a court of competent jurisdiction.

*[Section 47 inserted: No. 18 of 2013 s. 54; amended: No. 19 of 2016 s. 133.]*

## **Part IX — Local laws**

*[Heading amended: No. 14 of 1996 s. 4.]*

### **48. Regulations to operate as local laws**

- (1) The Governor may make regulations that are to operate as if they were local laws for each district to which they apply.
- (2) Regulations made under this section may deal with any matter in respect of which local laws may be made under this Act.
- (3) Regulations under this section, other than those that only repeal or amend other regulations, are to contain a statement to the effect that they apply as if they were local laws.
- (4) A local government is to administer any regulation made under this section to the extent that it relates to any place where the local government may perform functions, as if the regulation was a local law.
- (5) Unless a contrary intention appears, a reference to an offence against a local law includes a reference to an offence against a regulation made under this section.
- (6) If there is any inconsistency between a regulation made under this section and a local law, the regulation prevails to the extent of the inconsistency.

*[Section 48 inserted: No. 14 of 1996 s. 4.]*

### **49. Local laws**

A local government may make local laws —

- (a) for its district and any other area that is to be regarded, for the purposes of this Act, as being within that district; and
- (b) in accordance with Subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995*; and



(c) for the purposes permitted by section 51.

*[Section 49 inserted: No. 14 of 1996 s. 4.]*

**49A. Model local laws**

- (1) The Governor may cause to be prepared and published in the *Gazette* model local laws the provisions of which a local law made under this Act may adopt by reference, with or without modification.
- (2) Model local laws have no effect except to the extent that they are adopted.
- (3) The Governor may, by notice published in the *Gazette*, amend a model local law published under this section.
- (4) An amendment to a model local law does not affect any local law that adopted the model local law before the amendment but the amendment may be adopted by a further local law.

*[Section 49A inserted: No. 14 of 1996 s. 4.]*

**49B. Governor may amend or repeal local laws**

- (1) The Governor may make a local law to amend the text of, or repeal, a local law.
- (2) Subsection (1) does not include the power to amend a local law to include in it a provision that bears no reasonable relationship to the local law as in force before the amendment.
- (3) The Minister is to give a local government notice in writing of any local law that the Governor makes to amend the text of, or repeal, any of the local government's local laws.
- (4) A local law made under this section is to be taken, for all purposes, to be a local law made by the local government which made the local law that is amended or repealed.

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- (5) Section 3.17 of the *Local Government Act 1995* does not apply in relation to local laws made under this Act.

*[Section 49B inserted: No. 14 of 1996 s. 4.]*

**50. General provisions relating to regulations and local laws**

- (1) Any regulation made under section 48 or local law may be made —
- (a) so as to apply generally or in a particular class of case, or particular classes of cases, at all times or at a specified time or specified times, throughout the district or in a specified part or specified parts of the district and in areas which although not within the district are by the operation of the provisions of this Act nevertheless to be regarded for the purpose of the local law making power of a local government as being within the district;
  - (b) so as to require a matter affected by it to be in accordance with a specified standard or specified requirement, or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and so as to delegate to or confer upon a specified body a discretionary authority;
  - (c) so as to provide that in specified cases, or a specified class of case, or specified classes of cases, whether on specified conditions or unconditionally, persons or things or a class or classes of persons or things may be exempted from its provisions either wholly or to such extent as is specified.
- (2) Any regulation made under section 48 or local law may make provision for the imposition of penalties not exceeding \$5 000 in respect of any contravention, and may prescribe the fees and charges that shall be payable in relation to matters under this Act, the persons liable and the method of recovery of amounts not duly paid.

- (3) Where in relation to a regulation made under section 48 or local law made under this Act the expression *specified* is used, the expression, unless the context requires otherwise, means specified in that regulation or local law.

*[Section 50 amended: No. 23 of 1987 s. 41; No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 18 of 2013 s. 55.]*

## 51. Local law making powers

A local government may so make local laws —

- (a) providing for the registration of dogs;

*[(b) deleted]*

- (c) specifying areas within which it shall be an offence (unless the excreta are removed) for any person liable for the control of a dog to permit that dog to excrete on any street or public place or on any land without the consent of the occupier;

- (d) requiring that in specified areas a portion of the premises where a dog is kept must be fenced in a manner capable of confining the dog;

- (e) providing for the establishment and maintenance of dog management facilities and other services and facilities necessary or expedient for the purposes of this Act;

- (f) providing for the detention, maintenance, care and release or disposal of dogs seized;

- (g) as to the destruction of dogs pursuant to the powers hereinbefore conferred;

*[(h) deleted]*

- (i) providing for the licensing, regulating, construction, use, and inspection of approved kennel establishments.

*[Section 51 amended: No. 23 of 1987 s. 42; No. 14 of 1996 s. 4; No. 18 of 2013 s. 56.]*

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**52. Revocation of local laws**

- (1) Where any local law has been or is made by a local government, whether under the authority or purported authority of this Act, the repealed Acts, the *Local Government Act 1995*, the *Health (Miscellaneous Provisions) Act 1911*, the *Planning and Development Act 2005*, or any other Act, and in relation to any matter affecting dogs or the keeping of dogs that local law, or the manner in which that local law is administered, is in the opinion of the Governor unduly oppressive, repugnant to or inconsistent with the provisions of this Act the Governor may by notice published in the *Gazette* revoke that local law or any part thereof in relation to any such matter and effect shall be given to any such revocation but without affecting the validity, or curing the invalidity, of any thing done, or of the omission of any thing, in the mean-time.
- (2) The Minister shall cause a copy of any notice published under this section to be laid before each House of Parliament within 6 sitting days of that House next following the publication, and if either House of Parliament passes a resolution of which notice has been given within the first 14 sitting days of that House after the copy of a notice under this section has been laid before that House that the notice be disallowed, the notice thereupon ceases to have effect, but the disallowance of the notice does not affect or invalidate anything done in good faith before the passing of the resolution.

*[Section 52 amended: No. 14 of 1996 s. 4; No. 38 of 2005 s. 15; No. 19 of 2016 s. 134.]*

## Part X — Miscellaneous

*[Heading inserted: No. 29 of 2021 s. 39.]*

### Division 1 — Regulations

*[Heading inserted: No. 29 of 2021 s. 40.]*

[53. Deleted: No. 18 of 2013 s. 57.]

#### 54. Regulations generally

- (1) The Governor may make regulations for and in relation to any matter which the Governor thinks necessary or expedient for carrying this Act into effect, including such transitional, incidental and supplementary provisions as may be necessary in relation to the Acts repealed by this Act or any application of the provisions of this Act.
- (2A) Without limiting subsection (1), the Governor may make regulations to make provision for a register of dangerous dogs.
- (2B) Despite the *Interpretation Act 1984* section 41(1)(b), a regulation prescribing a breed of dog to be a restricted breed for the purposes of the definition of ***dangerous dog (restricted breed)*** in section 3(1) comes into operation on the 7<sup>th</sup> day after publication in the *Gazette* or if a later day is specified or provided for in the regulation, on that day.
- (2C) Without limiting subsection (1), regulations may —
  - (a) require or permit any notice, information or document required or authorised to be given under this Act to be given in a certain way or ways, including —
    - (i) by using the centralised registration system; or
    - (ii) by any other means by which the notice, information or document can be accessed electronically;and

- (b) make provision for or in relation to the time at which the notice, information or document is taken to have been given.
- (2) Where and to the extent that there is inconsistency between regulations made under this Act and any local law in force in any district made or purporting to have been made under or pursuant to this Act, the Acts repealed by this Act, the *Local Government Act 1995*, or any other Act the provisions of the regulations prevail.
- (3) The provisions of section 50(1), (2) and (3) have effect in relation to regulations mentioned in this section in the same way that they apply to a regulation made under section 48.

*[Section 54 amended: No. 14 of 1996 s. 4; No. 18 of 2013 s. 58; No. 29 of 2021 s. 41.]*

### **Division 2 — Local government approvals**

*[Heading inserted: No. 29 of 2021 s. 42.]*

#### **Subdivision 1 — Applications for approval**

*[Heading inserted: No. 29 of 2021 s. 42.]*

#### **54A. Applications**

- (1) An application for the grant of an approval to breed, or for the grant or renewal of a pet shop approval, must —
  - (a) be made in a manner and form approved by the CEO; and
  - (b) contain the information prescribed; and
  - (c) be accompanied by the fee, if any, prescribed; and
  - (d) comply with any other requirements that are prescribed.
- (2) A local government that receives an application may require the applicant to give the local government, within a specified time, any document or information that the local government requires

to determine the application and may require the applicant to verify the information by statutory declaration.

- (3) The local government may refuse to consider an application if the applicant does not comply with a requirement under subsection (2) within the specified time.

*[Section 54A inserted: No. 29 of 2021 s. 42.]*

**54B. Record of approval**

- (1) As soon as practicable after a local government makes a decision to grant or refuse to grant an approval to breed or a pet shop approval, or to renew or refuse to renew a pet shop approval, the local government is to enter the decision and the prescribed information in the centralised registration system.
- (2) A local government is to ensure that the information recorded under subsection (1) is updated to reflect —
- (a) any change to the information notified under section 54C; and
  - (b) any imposition or amendment of conditions on the approval to breed or pet shop approval; and
  - (c) any expiry or cancellation of the approval to breed or pet shop approval; and
  - (d) the outcome of any objection or review under section 54G or 54H.

*[Section 54B inserted: No. 29 of 2021 s. 42.]*

**54C. Notice of change to information**

The holder of an approval to breed or a pet shop approval must, within 7 days after the day on which the holder becomes aware of a change to any of the information prescribed under section 54B(1) in respect of the approval, give notice in writing of the change to the local government that granted the approval.

Penalty: a fine of \$5 000.

*[Section 54C inserted: No. 29 of 2021 s. 42.]*

**54D. Certificate and unique number to be given to holder of approval**

- (1) If a local government grants an approval to breed or a pet shop approval to a person, the local government must —
  - (a) give the person a certificate containing the prescribed information; and
  - (b) in the case of a pet shop approval — issue the person with a unique number for the pet shop to which the approval relates (a *pet shop number*).
- (2) If a local government renews a pet shop approval held by a person, the local government must give the person a certificate containing the prescribed information.
- (3) A local government may give a person who holds an approval to breed or a pet shop approval granted by the local government a new certificate if the local government is satisfied that the person's certificate has been stolen, lost, damaged or destroyed.

*[Section 54D inserted: No. 29 of 2021 s. 42.]*

**Subdivision 2 — Objection and review process**

*[Heading inserted: No. 29 of 2021 s. 42.]*

**54E. Notice of certain decisions made by local government**

- (1) This section applies to each of the following —
  - (a) a decision to refuse to grant an approval to breed;
  - (b) a decision to refuse to grant or renew a pet shop approval;
  - (c) a decision to cancel an approval to breed or a pet shop approval (other than a decision to cancel the approval at the request of the person who held the approval);



- (d) a decision to impose or amend conditions on an approval to breed or a pet shop approval.
- (2) Within 7 days after the day on which a local government makes a decision referred to in subsection (1), the local government is to give to the applicant for, or holder of, the approval to which the decision relates written notice of —
  - (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) the person's rights under sections 54F and 54H either —
    - (i) to lodge a written objection against the decision with the local government, with a subsequent right to apply to the State Administrative Tribunal for a review of the decision made by the local government on the objection; or
    - (ii) to apply directly to the State Administrative Tribunal for a review of the decision.

*[Section 54E inserted: No. 29 of 2021 s. 42.]*

**54F. Objection may be lodged**

- (1) A person who has been given notice under section 54E of a decision by a local government may, within 28 days after the day on which the person was given the notice, object in writing to the decision.
- (2) The objection is made by preparing it in a form approved by the CEO and containing the information prescribed, and lodging it with the local government in a manner approved by the local government.
- (3) Subsection (1) does not apply if the person has applied for a review of the decision under section 54H.

*[Section 54F inserted: No. 29 of 2021 s. 42.]*

**54G. Dealing with objection**

- (1) The objection is to be dealt with by the council of the local government or by a committee authorised by the council to deal with the objection.
- (2) A committee cannot deal with an objection against a decision that the committee made or a decision that the council made.
- (3) The person who made the objection is to be given a reasonable opportunity to make submissions on how to dispose of the objection.
- (4) The objection may be disposed of by —
  - (a) dismissing the objection; or
  - (b) varying the decision objected to; or
  - (c) revoking the decision objected to, with or without substituting for it another decision.
- (5) The local government is to ensure that the person who made the objection is given notice in writing of how it has been decided to dispose of the objection and the reasons for disposing of it in that way.

*[Section 54G inserted: No. 29 of 2021 s. 42.]*

**54H. Review of decisions**

- (1) A person who has been given notice under section 54E of a decision by a local government may apply to the State Administrative Tribunal for a review of the decision if the person —
  - (a) has not lodged an objection to the decision under section 54F; or
  - (b) has lodged an objection but, at the expiration of 35 days after the day on which the objection was lodged, has not been given notice in writing of how it has been decided to dispose of the objection.

- (2) An application under subsection (1) must be made —
- (a) if subsection (1)(a) applies — within 42 days after the day on which the person is given the notice under section 54E; or
  - (b) if subsection (1)(b) applies — more than 35 days, but within 77 days, after the day on which the person lodged the objection.
- (3) If the person lodged an objection and has been given notice in writing of how it has been decided to dispose of the objection, the person may apply to the State Administrative Tribunal, within 42 days after the day on which the person was given the notice, for a review of the decision on the objection.

*[Section 54H inserted: No. 29 of 2021 s. 42.]*

**54I. Suspension of effect of some decisions**

- (1) This section applies if —
- (a) a decision has been made to —
    - (i) cancel an approval to breed or a pet shop approval (other than at the request of the person who held the approval); or
    - (ii) not renew a pet shop approval;or
  - (b) a decision has been made under section 54G to dispose of an objection in a way that results in —
    - (i) an approval to breed or a pet shop approval being cancelled; or
    - (ii) a pet shop approval not being renewed.
- (2) The effect of the decision is suspended, and the approval is taken to continue to have effect, until —
- (a) if an application is made to the State Administrative Tribunal under section 54H for a review of the

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decision — the State Administrative Tribunal determines the application; or

- (b) in any other case — there is no longer any right to lodge an objection under section 54F or apply to the State Administrative Tribunal under section 54H in relation to the decision.
- (3) Subsection (2) does not apply if the State Administrative Tribunal orders that the effect of the decision should not be suspended.

*[Section 54I inserted: No. 29 of 2021 s. 42.]*

## **Part XI — Transitional provisions**

*[Heading inserted: No. 18 of 2013 s. 59.]*

### **Division 1 — Transitional provisions for the *Dog Amendment Act 2013***

*[Heading inserted: No. 18 of 2013 s. 59; amended: No. 16 of 2019 s. 110.]*

**55. Application of *Interpretation Act 1984***

The provisions of this Division do not prejudice or affect the application of the *Interpretation Act 1984* to and in relation to the repeals of provisions of the *Dog Act 1976* effected by the *Dog Amendment Act 2013*.

*[Section 55 inserted: No. 18 of 2013 s. 59.]*

**56. Authorisations in relation to assistance dogs**

A dog specified in an authority given by the Minister under the *Dog Act 1976* section 8 and in effect immediately before the day on which the *Dog Amendment Act 2013* section 7 comes into operation is, on and from that day, to be taken to be an assistance dog as defined in the *Dog Act 1976* section 8(1) as inserted by the *Dog Amendment Act 2013* section 7.

*[Section 56 inserted: No. 18 of 2013 s. 59.]*

**57. Registration procedure**

An application for registration delivered under the *Dog Act 1976* section 16(1) but not finally dealt with under section 16(2) of that Act before the day on which the *Dog Amendment Act 2013* section 14 comes into operation is, on and from that day, to be dealt with as if the *Dog Amendment Act 2013* section 14 had not been enacted.

*[Section 57 inserted: No. 18 of 2013 s. 59.]*

**58. Detained dogs**

A dog that is being detained by or on behalf of a local government immediately before the day on which the *Dog Amendment Act 2013* section 25 comes into operation, having been seized under the *Dog Act 1976* section 29(3) is, on and from that day, to be dealt with as if the *Dog Amendment Act 2013* section 25 had not been enacted.

*[Section 58 inserted: No. 18 of 2013 s. 59.]*

**59. Dogs declared to be dangerous dogs**

A declaration under the *Dog Act 1976* section 33E(1) that is in effect immediately before the day on which the *Dog Amendment Act 2013* section 34 comes into operation is, on and from that day, to be taken to be a declaration under the *Dog Act 1976* section 33E(1) as amended by the *Dog Amendment Act 2013* section 34 but any order imposed by the notice given under the *Dog Act 1976* section 33F(1) ceases to have effect.

*[Section 59 inserted: No. 18 of 2013 s. 59.]*

**60. Transitional regulations**

(1) In this section —

***commencement day*** means —

- (a) in the case of transitional regulations under subsection (2)(a) — the day on which the *Dog Amendment Act 2013* section 59 commences; or
- (b) in the case of transitional regulations under subsection (2)(b) — the day on which the amending provision commences;

***Gazettal day*** means the day on which transitional regulations are published in the *Gazette*;

***transitional matter*** means a matter of a transitional, savings or application nature;

*transitional regulations* means regulations under subsection (2).

- (2) Regulations may prescribe anything else required, necessary or convenient to be prescribed in relation to a transitional matter in connection with —
  - (a) the enactment of the *Dog Amendment Act 2013*; or
  - (b) an amendment made to the *Dog Amendment Act 2013* by a provision of another Act (the **amending provision**).
- (3) Transitional regulations can only be made before the end of the period of 12 months beginning on commencement day.
- (4) If transitional regulations provide that a state of affairs is to be taken to have existed, or not to have existed, on and from a day (the **operative day**) that is earlier than Gazettal day, the regulations have effect according to their terms as long as the operative day is not earlier than commencement day.
- (5) If transitional regulations contain a provision mentioned in subsection (4), the provision does not operate so as to —
  - (a) affect in a manner prejudicial to any person, other than the State or an authority of the State, the rights of that person existing before Gazettal day; or
  - (b) impose liabilities on any person, other than the State or an authority of the State, in respect of anything done or omitted to be done before Gazettal day.

*[Section 60 inserted: No. 18 of 2013 s. 59.]*

**Division 2 — Transitional provision for the *Local Government Legislation Amendment Act 2019***

*[Heading inserted: No. 16 of 2019 s. 111.]*

**61. Authorised persons**

- (1) This section applies to a person who, immediately before the day on which the *Local Government Legislation Amendment*

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**Part XI** Transitional provisions

**Division 3** Transitional provisions for the Dog Amendment (Stop Puppy Farming) Act 2021

**s. 62**

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*Act 2019* section 109 comes into operation, was a person appointed under section 29(1).

- (2) The person is taken to be an authorised person appointed under the *Local Government Act 1995* section 9.10(2) for the purposes of this Act on the terms and conditions that were applicable to the person's appointment under section 29(1) immediately before the day referred to in subsection (1).

*[Section 61 inserted: No. 16 of 2019 s. 111.]*

**Division 3 — Transitional provisions for the Dog Amendment (Stop Puppy Farming) Act 2021**

*[Heading inserted: No. 29 of 2021 s. 44.]*

**62. Transitional provision for centralised registration system**

- (1) In this section —

***centralised registration system*** means the electronic database or system the CEO will be required to establish and maintain when the *Dog Amendment (Stop Puppy Farming) Act 2021* section 14 comes into operation;

***commencement day*** means the day on which the *Dog Amendment (Stop Puppy Farming) Act 2021* section 14 comes into operation.

- (2) The CEO may establish and maintain the centralised registration system before the commencement day and may —
- (a) permit a local government to record in the centralised registration system any information that the local government is required under this Act to record in a register maintained by it; and
  - (b) cause or permit information to be transferred from a register maintained by a local government to the centralised registration system.



- (3) If a local government records information in the centralised registration system under subsection (2)(a), or information from a register maintained by the local government is transferred to the centralised registration system under subsection (2)(b), before the commencement day the information is taken, for the purposes of this Act, to be information recorded by the local government on a register maintained by the local government.

*[Section 62 inserted: No. 29 of 2021 s. 44.]*

**63. Registered unsterilised dogs**

- (1) In this section —

***commencement day*** means the day on which the *Dog Amendment (Stop Puppy Farming) Act 2021* section 16 comes into operation.

- (2) If the registration of a dog that is not sterilised is, at the time immediately before the commencement day, in effect under this Act, section 15, as it is immediately before the commencement day, continues to apply to the registration (until the registration ceases to have effect in accordance with that section) as if the *Dog Amendment (Stop Puppy Farming) Act 2021* section 16 had not been enacted.

*[Section 63 inserted: No. 29 of 2021 s. 45.]*

**64. Application for registration**

An application for registration delivered under section 16(1) but not finally dealt with under section 16(2) before the day on which the *Dog Amendment (Stop Puppy Farming) Act 2021* section 17 comes into operation is, on and from that day, to be dealt with as if the *Dog Amendment (Stop Puppy Farming) Act 2021* section 17(5) had not been enacted.

*[Section 64 inserted: No. 29 of 2021 s. 45.]*

**65. Transition period for relevant pet shop businesses**

(1) In this section —

*application day* means the prescribed date;

*commencement day* means the day on which the *Dog Amendment (Stop Puppy Farming) Act 2021* section 32 comes into operation;

*pre-existing dog*, in relation to a relevant pet shop business, means a dog that is supplied to the relevant pet shop business (within the meaning of section 38A) before the application day.

(2) If, immediately before the commencement day, a person conducts a relevant pet shop business —

(a) sections 38B, 38G, 38H, 38I, 38J, 38K and 38L do not apply to the person in relation to the relevant pet shop business and the pet shop before the application day; and

(b) sections 38G, 38I, 38J, 38K and 38L do not apply to the person in relation to a pre-existing dog.

(3) Section 38N does not apply to a person before the application day.

*[Section 65 inserted: No. 29 of 2021 s. 45.]*



## Notes

This is a compilation of the *Dog Act 1976* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, or versions that include editorial changes made under the *Legislation Act 2021* Part 3, see the compilation table. For provisions affected by editorial changes see the editorial changes table. For provisions that have not yet come into operation see the uncommenced provisions table.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Dog Act 1976</i>	58 of 1976	16 Sep 1976	Act other than s. 21: 24 Dec 1976 (see s. 2(1) and <i>Gazette</i> 24 Dec 1976 p. 5029); s. 21: 1 Jul 1977 (see s. 2(2) and <i>Gazette</i> 3 Jun 1977 p. 1635)
<i>Dog Act Amendment Act 1977</i>	57 of 1977	23 Nov 1977	23 Nov 1977
<i>Dog Amendment Act 1983</i>	64 of 1983	13 Dec 1983	17 Nov 1983 (see s. 2)
<b>Reprint of the <i>Dog Act 1976</i> approved 17 Sep 1984</b> (includes amendments listed above)			
<i>Dog Amendment Act 1987</i>	23 of 1987	25 Jun 1987	s. 1 and 2: 25 Jun 1987; Act other than s. 1 and 2: 1 Nov 1987 (see s. 2 and <i>Gazette</i> 18 Sep 1987 p. 3587)
<b>Reprint of the <i>Dog Act 1976</i> as at 11 Feb 1988</b> (includes amendments listed above)			
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Dog Amendment Act 1996</i>	24 of 1996	27 Aug 1996	s. 1 and 2: 27 Aug 1996; Act other than s. 1 and 2: 14 Sep 1996 (see s. 2 and <i>Gazette</i> 13 Sep 1996 p. 4675)
<i>Transfer of Land Amendment Act 1996</i> s. 153(1)	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
<b>Reprint of the <i>Dog Act 1976</i> as at 20 Nov 1996</b> (includes amendments listed above)			

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Land Administration) Act 1997</i> s. 141	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> s. 49	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998</i> s. 29	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<i>Western Australian Greyhound Racing Association Amendment Act 1998</i> s. 20	23 of 1998	30 Jun 1998	1 Aug 1998 (see s. 3 and <i>Gazette</i> 21 Jul 1998 p. 3825)
<b>Reprint of the Dog Act 1976 as at 9 Nov 2001</b> (includes amendments listed above)			
<i>Racing and Gambling Legislation Amendment and Repeal Act 2003</i> s. 220 <sup>1</sup>	35 of 2003	26 Jun 2003	1 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Jul 2003 p. 3259)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141 <sup>2</sup>	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 38 <sup>3,4</sup>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80 and 82	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005</i> s. 15	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)

**Reprint 5: The Dog Act 1976 as at 4 Aug 2006** (includes amendments listed above)

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Land Information Authority Act 2006</i> s. 132	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009</i> s. 47	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
<i>Dog Amendment Act 2013</i> Pt. 2 <sup>5</sup>	18 of 2013	29 Oct 2013	1 Nov 2013 (see s. 2(b) and <i>Gazette</i> 31 Oct 2013 p. 4829)
<b>Reprint 6: The Dog Act 1976 as at 4 Jul 2014</b> (includes amendments listed above)			
<i>Public Health (Consequential Provisions) Act 2016</i> Pt. 3 Div. 11	19 of 2016	25 Jul 2016	24 Jan 2017 (see s. 2(1)(c) and <i>Gazette</i> 10 Jan 2017 p. 165)
<i>Local Government Legislation Amendment Act 2019</i> Pt. 4 Div. 5	16 of 2019	5 Jul 2019	7 Nov 2020 (see s. 2(b) and SL 2020/212 cl. 2)
<i>Veterinary Practice Act 2021</i> s. 230	19 of 2021	27 Oct 2021	18 Jun 2022 (see s. 2(b) and SL 2022/81 cl. 2)
<i>Dog Amendment (Stop Puppy Farming) Act 2021</i> Pt. 2 (other than s. 7, 8(8), 9(2), 12, 15-19, 20(3), 22-24, 26, 27, 30, 37, 43 and Div. 4 and 5)	29 of 2021	22 Dec 2021	Pt. 2 Div. 1 and 2: 23 Dec 2021 (see s. 2(b)); s. 44: 27 Aug 2022 (see s. 2(e) and SL 2022/150 cl. 2); s. 6, 8(1)-(7), 9(1), 10, 11, 13, 14, 20(1) and (2), 21, 25, 28, 29, 31-36, 38-42 and 45: 28 Nov 2024 (see s. 2(e) and SL 2024/241 cl. 2)
<b>Dog Act 1976 with editorial changes as at 4 Oct 2024</b>			
<b>Dog Act 1976 with editorial changes as at 26 Nov 2024</b>			

### Editorial changes table

The *Legislation Act 2021* Part 3 authorises the Parliamentary Counsel to make editorial changes to laws. This power cannot be used to change the effect of a law. If an editorial change is made to a law, the law has effect as if the change had been made by another law that amended the law and commenced on the day on which the change is made.

To see the editorial changes included in a version of a law, see the compare document for that version on the WA legislation website.

Provision/s affected	Authorising provision of <i>Legislation Act 2021 Part 3</i>	Effective date of change
s. 7(3)(b)(i)	s. 26(1)	4 Oct 2024
s. 7(3)(b)(i)	s. 26(2)	26 Nov 2024

### Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA legislation website.

Short title	Number and year	Assent	Commencement
<i>Public Health (Consequential Provisions) Act 2016</i> Pt. 5 Div. 5	19 of 2016	25 Jul 2016	To be proclaimed (see s. 2(1)(c))
<i>TAB (Disposal) Act 2019</i> s. 148	21 of 2019	18 Sep 2019	To be proclaimed (see s. 2(1)(b)(xiii))
<i>Dog Amendment (Stop Puppy Farming) Act 2021</i> s. 7, 8(8), 9(2), 12, 15-19, 20(3), 22-24, 26, 27, 30, 37, 43 and Pt. 2 Div. 4 and 5	29 of 2021	22 Dec 2021	To be proclaimed (see s. 2(c), (d) and (e))

### Other notes

<sup>1</sup> The *Racing and Gambling Legislation Amendment and Repeal Act 2003* s. 19 reads as follows:

#### 19. Power to amend regulations

- (1) The Governor, on the recommendation of the Minister, may make regulations amending subsidiary legislation made under any Act.

- (2) The Minister may make a recommendation under subsection (1) only if the Minister considers that each amendment proposed to be made by the regulations is necessary or desirable as a consequence of the enactment of the RWWA Act or this Act.
- (3) Nothing in this section prevents subsidiary legislation from being amended in accordance with the Act under which it was made.

<sup>2</sup> The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 15 was deleted by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).

<sup>3</sup> The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

<sup>4</sup> The *State Administrative Tribunal Regulations 2004* r. 47 reads as follows:

**47. Dog Act 1976**

- (1) If a notice has been given under the *Dog Act 1976* section 33F(1) before the commencement day, on or after the commencement day the notice is to be taken to refer to the right to apply to the State Administrative Tribunal for a review.
- (2) If a notice has been given under the *Dog Act 1976* section 33G(2) before the commencement day, on or after the commencement day the notice is to be taken to refer to the right to apply to the State Administrative Tribunal for a review.

<sup>5</sup> The *Dog Amendment Act 2013* s. 60 reads as follows:

**60. Review of Act**

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as practicable after 1 January 2019.
- (2) The Minister must prepare a report based on the review and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament.

<sup>6</sup> Formerly known as *Royal Society for the Prevention of Cruelty to Animals (Inc.) of Western Australia*.

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
amending provision.....	60(2)
applicable pet shop business .....	38X(1)
application day .....	65(1)
approval to breed .....	3(1)
assistance dog .....	8(1)
attack.....	3(1)
attack dog.....	29(5a)
authorised person .....	3(1)
authorised purpose .....	43B(1)
centralised registration system.....	3(1), 13A(1), 62(1)
CEO .....	3(1)
commencement day .....	60(1), 62(1), 63(1), 65(1)
commercial security dog .....	3(1)
convicted person .....	3(1)
dangerous dog .....	3(1)
dangerous dog (declared) .....	3(1)
dangerous dog (restricted breed).....	3(1)
Department.....	3(1)
designated person.....	3(1), 9B(1)
detention period .....	29(8A)
district .....	3(1)
dog .....	17A(1)
dog management facility.....	3(1)
dog owner number .....	3(1), 13B(1)
dog supply approval.....	3(1), 38O(1)
dwelling .....	3(1)
effectively confined .....	3(1)
Gazettal day .....	60(1)
health certificate.....	3(1), 38N(2)
livestock .....	34(2)
metropolitan region.....	3(1)
microchip .....	3(1)
microchip database .....	3(1)
microchip database company .....	3(1)
microchip implanter .....	3(1)
microchipped .....	3(1)
mobile home .....	3(1)
non-profit organisation.....	3(1)
offer.....	3(1)



operative day .....	60(4)
owner .....	3(1), 33L
owner's delegate .....	3(1)
person liable for the control of the dog .....	3(1)
pet shop .....	3(1)
pet shop approval .....	3(1), 38C(1)
pet shop certificate .....	3(1)
pet shop number .....	3(1), 54D(1)
police officer .....	3(1)
pre-existing dog .....	65(1)
premises .....	3(1)
prescribed .....	3(1)
provocation .....	3(1)
public officer .....	6(6)
public place .....	3(1)
receiver .....	33GE(1)
refuge operations .....	3(1)
registered owner .....	3(1)
registration officer .....	3(1)
relevant day .....	22(1)
relevant dog .....	38K(1)
relevant person .....	43A(1), 43B(1)
relevant pet shop business .....	3(1)
relevant time .....	33GE(1)
representative .....	47(1)
restricted breed pup .....	33GC(1)
scan .....	3(1)
shop .....	3(1)
specified .....	50(3)
sterilised .....	3(1)
supplier .....	38N(1) and (2)
supply .....	3(1)
townsite .....	3(1)
transfer .....	3(1)
transitional matter .....	60(1)
transitional regulations .....	60(1)
vehicle .....	3(1)
veterinarian .....	3(1)
working .....	3(1)

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