

WESTERN AUSTRALIA

DOG AMENDMENT ACT 1996

No. 24 of 1996

AN ACT to amend the *Dog Act 1976*.

[Assented to 27 August 1996.]

The Parliament of Western Australia enacts as follows:

Short title

- 1.** This Act may be cited as the *Dog Amendment Act 1996*.

Commencement

2. The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

Principal Act

3. In this Act the *Dog Act 1976** is referred to as the principal Act.

[* Reprinted as at 11 February 1988.]

Section 3 amended

4. Section 3 (1) of the principal Act is amended —

(a) by inserting in their respective alphabetical positions the definitions following —

“

“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;

“dangerous dog” means a dog which is the subject of a declaration under section 33E declaring it to be a dangerous dog;

“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 on which the dog is ordinarily kept; or

s. 4

(iv) any intrusion into or upon any vehicle in 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 on which 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;

”;

and

- (b) in the definition of “authorized person”, by deleting “authorized by or under section 29” and substituting the following —

“
appointed by a council, to exercise powers
on behalf of the council, under
section 29 (1)
”.

Section 6 amended

- 5. (1) Section 6 of the principal Act is amended —

- (a) in subsection (1), by deleting “The” and substituting the following —

“ Subject to subsection (4), the ”; and

- (b) in subsection (3) —

- (i) by deleting “in tort under this Act”;

- (ii) in paragraph (c), by deleting “bodily injury to a person caused by the dog wounding the person” and substituting the following —

“
injury to any person or animal
inflicted by the dog
”;

- (iii) in paragraph (d), by inserting, after “clothing”, the following —

“ or other property ”; and

s. 6

- (iv) by deleting “attacking the person referred to in paragraph (c) or (d), as the case requires,” and substituting the following —

“ an attack by that dog ”.

- (2) After section 6 (3) of the principal Act the following subsection is inserted —

“

(4) The provisions of this Act, and of any regulation or by-law which is made under this Act, do not apply to or in relation to a dog when it is working with a member of the Police Force on duty, and despite anything in any written law a member of the Police Force on duty is entitled to be accompanied, at all times and in all places, by a dog with which that member is working.

”.

Section 16 amended

- 6.** Section 16 (3) of the principal Act is amended —

- (a) in paragraph (b) by deleting “dangerous, vicious;” and
- (b) after paragraph (c), by deleting the full stop and substituting the following —

“

; or

- (d) the dog is a dangerous dog; or
- (e) the council is not satisfied that the terms and conditions of an order as to control requirements in respect of a dangerous dog are being complied with at those premises.

”.

New Divisional heading

7. The principal Act is amended by inserting, after the heading to Part VI preceding section 29, the Divisional heading following —

“ ***Division 1 — Dogs generally*** ”.

Section 29 amended

8. Section 29 of the principal Act is amended —

(a) by repealing subsection (1) and substituting the subsections following —

“

(1) A council shall, in writing, appoint persons to exercise on behalf of the council the powers conferred on an authorized person by this Act.

(1a) A police officer may exercise any power conferred by this section on an authorized person.

”;

(b) in subsection (2) —

(i) by inserting, after “authorized person” in paragraph (a), the following —

“ or a police officer ”; and

(ii) by deleting “section”, in both places where it occurs, and substituting the following —

“ Act ”;

s. 8

- (c) by repealing subsection (3) and substituting the following subsection —

“

(3) If it appears to an authorized person that —

- (a) an attack by a dog has occurred;
- (b) a dog is, or is deemed under section 17 (4) to have been found, in a place in apparent contravention of section 31, 32 or 33A; 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 under this Act,

the authorized 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 (unless section 33G (1) applies) than a building or part of a building that is used for residential purposes;

”.

(d) in subsection (4) —

(i) by inserting, after “liable to pay”, the following —

“
to the council detaining the dog, if so
required by the council and whether
or not payable to the council, before
the dog is returned to the owner
”;

and

(ii) by adding, after “Act”, the following —

“
, 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
”;

(e) in subsection (5), by deleting “referred to in subsection (4)” and substituting the following —

“
due under this Act in relation to a dog for
which the owner is liable
”;

(f) in subsection (5a) —

(i) by deleting “that a dog has or may have bitten a person without provocation or reasonable cause” and substituting the following —

“
on the balance of probabilities that an
attack by a dog has or may have
caused injury or damage
”;

- (ii) by deleting “and”, after “seize the dog”, and substituting the following —

“
and —
(a) if the dog is a dangerous dog,
detain and deal with it in
accordance with section 33G; or
(b) otherwise,
”;

and

- (iii) by deleting “for an order for the destruction of the dog” and substituting the following —

“ under section 39 ”;

- (g) in subsection (5b) (a), by inserting, after “dog”, the following —

“
, and if section 33G (2) applies shall give
the notice required by that subsection
”;

- (h) in subsection (8), by inserting, after “subject to this section”, the following —

“
, to the prior payment of any moneys
required in accordance with subsection (4),
to be paid to the council detaining the dog,
and to section 33G, or unless the dog is
required to be detained as evidence of an
offence,
”;

- (i) by repealing subsection (10) and substituting the following subsection —

“

(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,

an authorized person may cause the dog to be destroyed.

”;

- (j) in subsection (11), by adding, after “the dog”, the following —

“

and are not required to be accounted for to the owner

”;

and

- (k) by adding the subsection following —

“

(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 33D amended

- 9.** (1) Section 33D (1) of the principal Act is amended —
- (a) by deleting “or bird”;
 - (b) in paragraph (a) —
 - (i) by deleting “that — ”;
 - (ii) by deleting subparagraph (i);
 - (iii) by deleting “or”, where it occurs after subparagraph (i); and
 - (iv) by deleting the subparagraph designation “(ii)” and substituting the following —
 - “ that ”;
 - and
 - (c) in paragraphs (b) and (c), respectively, by deleting “fulfils the requirements of paragraph (a) or”.
- (2) Section 33D (2) of the principal Act is amended by deleting “or bird”.

New Divisional heading and sections inserted

- 10.** The principal Act is amended by inserting, after section 33D, the Divisional heading and sections following —

“

Division 2 — Dangerous dogs**A dog may be declared to be a dangerous dog**

33E. (1) A council, or on behalf of the council an authorized person or person specifically authorized by the council 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

a dog to be a dangerous dog if, in the opinion of the council or that person —

- (a) the dog has caused injury or damage by an attack on, or chasing, a person, animal or vehicle;
 - (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, or detained under this Division, shall have the rights of objection and appeal referred to in this Division.

Owner to be notified of making of declaration, and as to control requirements

33F. (1) The council, or the person by whom the declaration was made on behalf of the council, must give written notice declaring a dog to be a dangerous

dog to the owner of that dog, and may by that notice impose an order as to control requirements in respect of the dog.

- (2) A notice to be given under subsection (1) —
- (a) shall give reasons for the making of the declaration;
 - (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 council, with a subsequent right of appeal to a Local Court in the manner prescribed by regulations against any decision made by the council; or
 - (ii) to appeal, directly to a Local Court, in the manner prescribed by regulations, as to the declaration or as to any control requirement imposed, or as to both; and
 - (c) if an order as to any control requirements is to be imposed on the owner, shall set out —
 - (i) the terms and conditions of that order; and
 - (ii) the date, or respective dates, by which the owner must comply with any such requirement.

(3) Whether or not any objection is lodged or appeal made, the declaration of a dog as a dangerous dog has, subject to subsection (4) and to the terms and conditions of the order as to control requirements

imposed by that notice, effect upon the giving of a notice under subsection (1) and thereafter —

- (a) the owner is required, in accordance with section 33K (1), to ensure that any other person liable for the control of the dog is made aware of the declaration;
 - (b) any person liable for the control of the dog shall cause the dog to be muzzled, in such a manner as will prevent it from biting a person or animal, at all times —
 - (i) in any public place; and
 - (ii) in such other circumstances as may be specified in the order as to control requirements;
- and
- (c) if so required by the order, a person liable for the control of the dog shall ensure that the dog is kept —
 - (i) on a leash or chain, by a person physically able to control the dog, when in a dog exercise area and in such other circumstances as may be specified; and
 - (ii) under continuous supervision, by a person physically able to control the dog, in such circumstances as may be specified.

(4) The terms and conditions of an order as to control requirements, other than such as have effect under subsection (3), shall have effect on such date, or respective dates, as are specified in the notice given under subsection (1) imposing the order unless an

s. 10

objection is lodged or an appeal is made, in which case any such term or condition of the order to which the objection or appeal relates shall not have effect until the objection, and any relevant appeal, has been determined.

(5) In making any order imposing control requirements in respect of a dog the council or the person giving the notice on behalf of the council may set out any term or condition, of any kind, which is considered necessary to prevent, or reduce the likelihood of, that dog attacking, including any requirement referred to in subsection (3) (b) (ii) or (3) (c) or a requirement —

- (a) that the dog be confined in, or excluded from, any area specified;
- (b) that any enclosure within which the dog is kept be constructed —
 - (i) so as to restrict access by young children;
 - (ii) so that the dog can not escape from it; and
 - (iii) so that it complies with any prescribed requirement;
- (c) that the owner ensure that at all times, or at such times as may be specified in the order, the dog wears a distinctive collar or device, of a kind prescribed or as approved by the council, to warn people that the dog is dangerous; or

(d) that the owner ensure that at any entrance to premises where the dog is kept signs, of a kind prescribed or as approved by the council, are displayed to warn people that a dangerous dog is kept there.

(6) Where an objection is lodged with a council in accordance with subsection (2) (b) (i) the council shall consider it and —

(a) if the council dismisses the objection, the owner may appeal to a Local Court in the manner prescribed by regulations within 7 days after the giving of a notice by the council as to the dismissal of the objection; or

(b) if the council has not given notice to the owner that the objection has been considered, and either upheld, varied or dismissed, within 35 days after the giving under subsection (1) of the notice of the making of the declaration the owner may appeal to a Local Court in the manner prescribed by regulations, within not more than 42 days after the giving of the notice under subsection (1).

(7) Where a council gives notice of the dismissal of an objection under this section, that notice must set out the reason for the dismissal of the objection.

(8) The council of a district in which the dog is at that time ordinarily kept may, by written notice to the owner of the dog, vary the terms and conditions of any order as to control requirements which has been imposed, and any such notice of variation shall be dealt with as though it were, and is subject to the same provisions as to objection and appeal as, a notice given under subsection (1).

(9) Where a dog is declared to be a dangerous dog an authorized person may, at any reasonable time, enter any premises other than a building or part of a building that is used for residential purposes, being premises —

- (a) where the dog is ordinarily kept; or
- (b) which he has reasonable grounds to believe that it is necessary to enter for the purpose of this section,

to ascertain whether or not the owner has complied with the requirements imposed by or under this section.

Seizure and destruction

33G. (1) Where an authorized 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 authorized 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).

(2) On the dog being so detained pursuant to subsection (1) the council or an authorized 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;
- (b) giving reasons for the seizure;

- (c) stating that, whether or not the dog is claimed, the council 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 council, with a subsequent right of appeal to a Local Court in the manner prescribed by regulations against any decision made by the council; or
 - (ii) to appeal, directly to a Local Court, in the manner prescribed by regulations,

where, and as soon as, that is practicable.

(3) The council shall cause a dog seized under this section to be detained until any objection which is received has been considered, the time for any appeal to a Local Court has passed, and if an appeal is made that appeal has been determined.

(4) Where an objection is lodged with a council in accordance with subsection (2) (d) (i) the council shall consider it and —

- (a) if the council dismisses the objection, the owner may appeal to a Local Court in the manner prescribed by regulations within 7 days after the giving of a notice by the council as to the dismissal of the objection; or

s. 10

- (b) if the council has not given notice to the owner that the objection has been considered, and either upheld, varied or dismissed, within 35 days after the giving under subsection (2) of the notice of the seizure of the dog the owner may appeal to a Local Court in the manner prescribed by regulations, within 42 days after the giving of that notice under subsection (2).

(5) Where a council 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 council in accordance with subsection (2) (d) (i) is dismissed and —

- (i) no appeal is made to the Local Court;

- (ii) the applicant discontinues the appeal;
or

- (iii) the Local Court makes an order dismissing the appeal for want of prosecution;

or

- (b) an appeal is made under this section to the Local Court and the proposal to cause the dog to be destroyed is affirmed by an order of that court,

an authorized person, or a person specifically authorized by the court, may destroy the dog concerned.

Council may revoke a declaration, control requirements, or proposal to destroy

33H. (1) The council 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 —
 - (i) declaring a dog to be a dangerous dog;
or
 - (ii) imposing control requirements;
- or
- (b) a notice under section 33G proposing to cause a dog to be destroyed,

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

(2) The council 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 council, or otherwise to demonstrate a change in the behaviour of the dog.

(3) The council must, as soon as is practicable, give notice in writing to the owner of the dog —

- (a) of the revoking of a notice, declaration or proposal under subsection (1); or

s. 10

(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 appeal 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 this section was determined.

(5) Where an application is lodged with a council under subsection (1) the council shall consider it and —

(a) if the council dismisses the application, the owner may appeal to a Local Court in the manner prescribed by regulations within 7 days after the giving of a notice by the council as to the dismissal of the application; or

(b) if the council has not given notice to the owner that the application has been considered, and either upheld, varied or dismissed, within 35 days after the lodging of the application under subsection (1) the owner may appeal to a Local Court in the manner prescribed by regulations, within not more than 42 days after the lodging of the application under subsection (1).

Jurisdiction of the Local Court

33I. (1) An appeal lies to a Local Court under this Division —

- (a) against the decision made by a council —
 - (i) where an objection as to the declaration or control requirements is lodged with the council 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;
- (b) against the declaration under section 33E of a dog as a dangerous dog, where no objection is lodged with the council, where the owner elects to proceed under section 33F (2) (b) (ii) directly;
- (c) against 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 council but section 33F (6) (b), section 33G (4) (b) or section 33H (5) (b) applies.

(2) Where, under this Division, an appeal lies to a Local Court —

- (a) the appeal shall be instituted in the Local Court held nearest to the office of the council concerned in that appeal; and

- (b) that Local Court may —
- (i) affirm the decision appealed against, or quash it;
 - (ii) dismiss any appeal for want of prosecution;
 - (iii) where the dog is detained, order the release of the dog to the owner;
 - (iv) suspend, or vary, the operation of any decision or order appealed against, with or without imposing conditions on the keeping of the dog; or
 - (v) on being satisfied that the dog will be kept without the likelihood of any contravention of this Act, cancel any previous order made in respect of that dog by a Local Court,

and the provisions of section 40 apply in respect to any such matter.

(3) An appeal to a Local Court under this Division shall proceed by way of a re-hearing of the matter to which the appeal relates, and the decision of the Local Court is final and not subject to further appeal.

(4) Regulations made under section 54 may make provision in relation to appeals under this Division.

Duration of an order as to control requirements

33J. An order imposing control requirements in relation to a dog has effect until —

- (a) the dog dies;

- (b) the notice imposing the order is revoked, or the relevant requirement is varied, by the council;
- (c) the decision pursuant to which the order was imposed is quashed, or varied in a relevant manner, by the Local Court; or
- (d) if a period for which the order is to have effect was specified in the notice by which it was imposed, that period expires,

even though the ownership of the dog may change.

Duty to notify persons

33K. (1) Following the making of a declaration that a dog is a dangerous dog, and the service of a notice under section 33F (1) or (8) imposing or varying control requirements, the owner of that dog shall ensure that any person who is, or subsequently becomes, a person liable for the control of the dog is made aware of the declaration and of the terms and conditions of the control requirements imposed in relation to that dog.

(2) A person liable for the control of a dog which is a dangerous dog shall, within 24 hours, notify the council of the district in which the dog is ordinarily kept —

- (a) if an attack by the dog occurs, giving particulars of that attack;
- (b) if the dog is missing, giving particulars of where it was last known to be located;
- (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 council at a different location to the place in which the dog was previously ordinarily kept, giving particulars as to the new location.

(3) Where a person liable for the control of a dangerous dog intends ordinarily to keep the dog in the district of a council that is not the council by which the dog was declared to be a dangerous dog, the person must notify the council of the district in which the dog is to be kept within 24 hours of the dog commencing to be kept there.

(4) On or before the change of ownership of a dangerous dog, the person transferring ownership must give written notice to the person to whom ownership is to be transferred —

- (a) that the dog has been declared to be a dangerous dog;
- (b) of the terms and conditions of any order imposed as to control requirements; and
- (c) that this Act requires that the new owner comply with the terms and conditions of that order.

(5) The owner of a dangerous dog must notify the council 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 council, giving particulars as to the new location; or
- (b) the dog dies.

Offences by a person liable for the control of a dangerous dog

33L. (1) Subject to subsection (2), any person who is liable for the control of a dog which is a dangerous dog and who does not comply with any requirements of —

- (a) section 33F or an order imposed under section 33F;
- (b) where the terms or conditions of any order under section 33F are from time to time varied, whether by the council or a Local Court, in respect of that dog, the terms and conditions of the order as so varied;
- (c) an order under section 40; or
- (d) section 33K (1), (2), (3) or (4),

commits an offence.

Penalty: \$4 000 and a daily penalty of \$400.

(2) A person who becomes a person liable for the control of a dangerous dog shall be taken not to have committed an offence under this Division if the person establishes that —

- (a) before or when the person became so liable, the person was not informed that the dog was a dangerous dog, and did not have any reasonable cause to believe that the dog was a dangerous dog; and

- (b) the person was not subsequently, prior to the alleged offence, informed by a person previously liable for the control of the dog, a council or an authorized person that the dog was a dangerous dog.

Council expenses to be recoverable

33M. (1) Where a dog is declared to be a dangerous dog, the council 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 council having regard to the expense incurred by the council in making inquiries, investigations and inspections concerning the behaviour of that particular dog, the manner and place in which it is from time to time kept, and whether or not the terms and conditions of any order as to control requirements are being complied with at any premises; or
- (b) a fixed charge of such amount as is —
 - (i) determined by the council for the purposes of this paragraph, but not exceeding the maximum amount prescribed for the purposes of paragraph (a); or
 - (ii) prescribed,

as the council 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.

”.

New Divisional headings

11. The principal Act is amended by inserting —

- (a) before section 34, the Divisional heading following —

“

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

”.

and

- (b) before section 38, the Divisional heading following —

“ ***Division 4 — Control of nuisance*** ”.

Section 39 repealed and a section substituted

12. Section 39 of the principal Act is repealed and the following section is substituted —

“

Dogs causing injury or damage may be destroyed

39. (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 a Local Court on the application of a council, an authorized person or a person specifically authorized by a council 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 council by which, or authorized person by whom, it was seized or it is detained under section 29; or
 - (ii) a person specifically authorized by the court,

and the provisions of section 40 apply.

· (2) A person specifically authorized 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

- (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: \$4 000 and a daily penalty of \$400.

(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 43 amended

13. After section 43 (2) of the principal Act the following subsection is inserted —

“

(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 45A amended

14. After section 45A (5) of the principal Act the following subsection is inserted —

“

(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 46 amended

15. (1) Section 46 (2) of the principal Act is amended by deleting “may be liable in damages for injury done” and substituting the following —

“

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

”.

(2) After section 46 (6) of the principal Act the following subsection is inserted —

“

(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.

”.

Penalties amended

16. The principal Act is amended as set out in the Table to this section.

Table

s. 7 (1)	Delete "\$200" and substitute the following — " Where the dog is a dangerous dog, \$1 000; otherwise, \$500 "
s. 16A (1)	Delete "\$100" and substitute the following — " Where the dog is a dangerous dog, \$400; otherwise, \$200 "
s. 20 (1)	Delete "\$500" and substitute the following — " Where the dog is a dangerous dog, \$4 000; otherwise, \$1 000 "
s. 20 (2)	Delete "\$500" and substitute the following — " \$1 000 "
s. 26 (4)	Delete "\$200 and a daily penalty of \$20" and substitute the following — " \$1 000 and a daily penalty of \$100 "
s. 27 (2)	Delete "\$200 and a daily penalty of \$20" and substitute the following — " \$1 000 and a daily penalty of \$100 "
s. 30 (2)	Delete "\$100" and substitute the following — " Where the dog is a dangerous dog, \$1 000; otherwise, \$500 "

s. 16

- s. 31 (3) Delete "\$200" and substitute the following —
" Where the dog is a dangerous dog, \$4 000;
otherwise, \$1 000 ".
- s. 32 (4) Delete "\$200" and substitute the following —
" Where the dog is a dangerous dog, \$4 000;
otherwise, \$1 000 ".
- s. 33 (3) Delete "\$200" and substitute the following —
" \$2 000 ".
- s. 33A (3) Delete "\$200" and substitute the following —
" Where the dog is a dangerous dog, \$4 000;
otherwise, \$1 000 ".
- s. 33D (1) Delete "\$1 000" and substitute the following —
" \$10 000 ".
- s. 33D (2) Delete "\$2 000" and substitute the following —
" \$10 000, or 12 months imprisonment, or
both ".
- s. 34 (4) Delete "\$500" and substitute the following —
" \$1 000 ".
- s. 36 (1) Delete "\$200" and substitute the following —
" \$500 ".

- s. 38 (1a) Delete “\$200” and substitute the following —
- “ Where the dog is a dangerous dog, \$4 000 and a daily penalty of \$400; otherwise, \$2 000 and a daily penalty of \$200 ”.
- s. 43 (1) Delete “\$500” and substitute the following —
- “ Where the dog is a dangerous dog, \$4 000; otherwise, \$2 000 ”.
- s. 43 (2) Delete “\$200” and substitute the following —
- “ Where the dog is a dangerous dog, \$1 000; otherwise, \$500 ”.
- s. 43A Delete “\$200” and substitute the following —
- “ \$500 ”.
- s. 45A (1) Delete “\$200” and substitute the following —
- “ \$2 000 ”.
- s. 47 Delete “\$1 000 and imprisonment for a term not exceeding 6 months” and substitute the following —
- “ \$10 000, or 12 months imprisonment, or both ”.
- s. 50 (2) Delete “\$200” and substitute the following —
- “ \$2 000 ”.
- s. 53 (4) Delete “\$500” and substitute the following —
- “ \$5 000 ”.