

DOG.

No. 58 of 1976.

AN ACT to amend and Consolidate the law relating to the control and registration of dogs, the ownership and keeping of dogs and the obligations and rights of persons in relation thereto, and for incidental and other purposes.

[Assented to 16th September, 1976.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Dog Act, 1976*. Short title.

Commence-
ment.

2. (1) Except as provided in subsection (2) of this section, 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) of this section 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.

Interpre-
tation.

3. In this Act, unless the context otherwise requires—

“authorized person” means a person who is authorized by or under section 29;

“council” means the council of a municipality constituted under the Local Government Act, 1960;

“district” means an area of the State, the inhabitants of which area are a municipality under the Local Government Act, 1960, 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;

“guide dog” means a dog trained by a guide dog training institution recognized by the Guide Dogs for the Blind Association of Western Australia Incorporated which is used as a guide by a person who is blind or partially blind, and for certain purposes provided for in this Act includes a dog which is in the course of such training;

“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;

“registration officer” means an officer of the council authorized by the council to effect the registration of dogs pursuant to this Act; and

“section” means section of this Act.

4. The provisions of this Act are arranged as follows— Arrangement.

PART I.—PRELIMINARY, ss. 1-8.

PART II.—ADMINISTRATION, ss. 9-13.

PART III.—REGISTRATION, ss. 14-21.

PART IV.—OWNERSHIP, ss. 22-25.

PART V.—THE KEEPING OF DOGS, ss. 26-27.

PART VI.—SEIZURE, DETENTION AND CONTROL, ss. 28-38.

PART VII.—ENFORCEMENT, ss. 39-45.

PART VIII.—CIVIL REMEDIES, ETC., ss. 46-47.

PART IX.—BY-LAWS, ss. 48-52.

PART X.—REGULATIONS, ss. 53-54.

5. (1) The Acts hereinafter mentioned are hereby repealed, that is to say— Repeal of the Dog Acts, Savings and transitional provisions.

Act No.	Short Title
No. 6 of 1903	Dog Act, 1903.
No. 1 of 1923	Dog Act Amendment Act, 1922.
No. 24 of 1928	Dog Act Amendment Act, 1928.
No. 74 of 1948	Dog Act Amendment Act, 1948.
No. 42 of 1960	Dog Act Amendment Act, 1960.
No. 55 of 1961	Dog Act Amendment Act, 1961.
No. 13 of 1963	Dog Act Amendment Act, 1963.
No. 19 of 1965	Dog Act Amendment Act, 1965.
No. 20 of 1967	Dog Act Amendment Act, 1967.
No. 85 of 1972	Dog Act Amendment Act, 1972.

Act No. 30
of 1918.

(2) Without limiting the operation of the provisions of the Interpretation Act, 1918, until regulations or by-laws are made under this Act, the regulations and by-laws made pursuant to the Dog Act, 1903-1972, and in force immediately prior to the publication of the proclamation referred to in subsection (1) of section 2 shall apply, so far as they are not inconsistent with this Act, to persons, dogs, acts, circumstances and things under this Act as if those regulations or by-laws were made under this Act.

(3) Upon the coming into operation of section 16 of this Act a registration effected pursuant to the Dog Act, 1903-1972, shall have effect as though it were a registration effected under this Act until the thirty-first day of October then next ensuing.

(4) Upon the coming into operation of the Local Government Act Amendment Act (No. 3), 1976, any by-law made by a council under the provisions of the Local Government Act, 1960, repealed by that Act which is not inconsistent with the provisions of this Act and could be made by a council under this Act shall continue in force and be deemed to have been made by that council pursuant to the provisions of this Act.

Application.

6. The provisions of this Act apply generally to all dogs, whether sterilised or unsterilised, and of whatever age.

Dogs to be
registered.

7. (1) Subject to subsection (3) of this section, a person who keeps any dog which is not registered with a council under this Act commits an offence.

(2) Where a person is convicted of an offence against subsection (1) of this section 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 three months;
- (b) a dog held in the custody of—
 - (i) the Royal Society for the Prevention of Cruelty to Animals of Western Australia;
 - (ii) the Dogs Refuge Home (W.A.) Inc.;
or
 - (iii) any other prescribed body,
in a place maintained for the purpose of finding dogs suitable homes;
- (c) a dog held in the custody of—
 - (i) a registered veterinary surgeon, or a person acting on his behalf, in the course of his professional practice;
or
 - (ii) a member of the Police Force or other person acting in pursuance of a statutory duty or in the administration of this Act; or
- (d) a pack of not less than ten foxhounds *bona fide* kept together in kennel exclusively for the purpose of hunting, and registered as a pack in lieu of the separate registration of each hound.

8. (1) Notwithstanding anything contained elsewhere in this Act or in any other Act, regulation or by-law a person who is blind or partially blind—

Special provisions for guide dogs.

- (a) is entitled to be accompanied by a dog *bona fide* used by him as a guide 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 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.

(2) The provisions of subsection (1) of this section shall also apply to any person who is *bona fide* engaged in the training of a guide dog.

PART II.—ADMINISTRATION.

Adminis-
trative
responsi-
bility.

9. It shall be the duty of a council 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 council 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.

Method of
administra-
tion.

10. (1) Uniform by-laws and draft model by-laws may be made by the Governor, and councils may adopt draft model by-laws with or without alterations or make by-laws, for any of the purposes permitted by this Act in accordance with the provisions of this Act, but no such by-law shall be inconsistent with or repugnant to any of the provisions of this Act or any other law in force.

(2) Where a person 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 kept within the district the boundary of which is nearest to the place where the dog is kept.

(3) All fees payable, and all fines and penalties recovered in respect of offences committed, within any district shall be paid to the council as part of its ordinary revenue and the expenses of the administration of this Act incident to any district incurred by a council shall be paid out of the ordinary revenue of that council, but any further or other

expense incurred in the administration of this Act may be paid out of such moneys as are appropriated by Parliament for the purpose.

11. (1) For the purposes of this Act a council may establish and maintain one or more public pounds and may appoint, under and subject to the provisions of the Local Government Act, 1960, fit and proper persons to administer those pounds and otherwise to carry out the objects of this Act.

Staff and
services.

(2) Where each of two or more councils desire to establish and maintain pounds 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 three hundred and twenty-eight of the Local Government Act, 1960, to be entered into and carried out for that purpose between them.

(3) A person who is authorized by a council 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.

12. (1) Where a person authorized to seize a dog under this Act pursues that dog from the district in respect of which he is authorized into another district of the State, the authorization 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.

Joint
juris-
diction.

(2) Where two or more councils enter into an agreement to co-operate in the administration of this Act, that agreement may provide that an authorization for the purposes of this Act given by any one of those councils shall have effect in the registration area administered by any other of those councils, and effect shall be given to any such agreement.

Immunity of
persons
acting in
good faith.

13. No proceedings, whether civil or penal, shall lie against a council 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.

PART III.—REGISTRATION.

Register
to be
maintained.

14. (1) A council shall maintain a register showing, in relation to the district of the council and any other area for which under the provisions of this Act the council is the registering authority,—

- (a) the particulars of each dog which is the subject of an application for registration;
- (b) the particulars of the person by or on behalf of whom an application for the registration of a dog is made as the owner of the dog, and the premises stated as the place at which the dog is intended to be kept;
- (c) any notification of an alleged change of ownership;
- (d) the period of any registration effected, the registration number given, and the particulars of the registration disc relevant to each dog;
- (e) particulars of any conviction recorded, or offence in respect of which a modified penalty is paid, under this Act relevant to any dog or person to which an application or registration relates;
- (f) the number of dogs currently registered in the name of each person;
- (g) particulars of the cancellation of any registration pursuant to this Act.

(2) In compiling or maintaining the register the registering officer shall give effect to any direction given to him by the council or a court.

(3) The register shall be kept at the public office of the council and shall, as far as is practicable, be so maintained as to include any alteration or addition since the preparation of the register for the preceding year.

(4) A person who applies to the council is, on payment of the prescribed fee, entitled to inspect and take copies of any entry in the register or, as the case may be, to receive a copy of an entry in the register certified by a registration officer.

15. (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. Registration periods and fees.

(2) The registration of a dog under this Act—

(a) shall, unless sooner cancelled, remain in force from the date specified in the certificate until the thirty-first day of October either—

(i) next ensuing; or

(ii) where the regulations permit an extended registration period and the owner has elected to register the dog for that extended period, ensuing in the last registration year of that period; and

(b) may be renewed to take effect as from the first day of November in any year, within the preceding period of twenty-one days.

(3) Regulations may provide that concessional rates of registration fee shall be payable by—

- (a) persons of a specified class; or
- (b) persons who elect to effect registration for such extended period as is prescribed.

(4) No registration fee shall be payable in relation to a guide dog, 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) In respect of every first registration made after the thirty-first day of May, in any year, only one half of the registration fee shall be payable.

Registration
procedure.

16. (1) A dog may be registered by the council of the district in which—

- (a) the dog is kept; or
- (b) the dog is deemed to be kept pursuant to section 9 or subsection (2) of section 10,

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, to the office of the council or some other place within the district appointed by the council for the purpose.

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

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

- (b) where the council so directs, refuse the application and refund the fee,

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

(3) The council may direct the registering 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 owner has been convicted, or has paid a modified penalty, in respect of an offence under this Act on two or more occasions during the preceding twelve months; or
- (b) the dog in question has been shown to the satisfaction of the council to be destructive, dangerous, vicious, unduly mischievous, or to be suffering from a contagious or infectious disease.

(4) Where the registration of a dog is refused, not renewed or cancelled pursuant to subsection (3) of this section the council 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 council 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.

(6) On effecting or renewing any registration, the registering 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 disc of the prescribed kind.

Refusal or
cancellation
of
registration.

17. (1) Where a council refuses to effect or renew the registration of a dog, or cancels a registration, the owner may, in the prescribed manner and within the prescribed time, appeal against the decision to the Local Court held nearest to the office of the council.

(2) Where an appeal is instituted under this section the Local Court may either affirm the decision of the council or quash it and direct the registration of the dog, and the registering officer shall, on receipt of the prescribed registration fee, give effect to the direction.

(3) Where the Local Court affirms the decision of the council on an appeal the Local Court may make an order for the seizure of the dog and for its detention, destruction or disposal.

(4) If no appeal under subsection (1) is instituted within the prescribed time the council may apply to a Justice of the Peace for an order authorizing the seizure of the dog and where the Justice is satisfied that the owner of the dog has been given proper notice of the reason for the decision but has not appealed against the decision, the Justice may make an order for the seizure of the dog and thereupon the council may cause the dog to be seized and detained or destroyed or otherwise disposed of as though it had been wandering at large and had not been claimed.

18. (1) A registration disc shall be of a size, shape, colour and material to be prescribed, and shall be clearly marked with the registration number allocated and such other particulars as are prescribed.

Registration disc.

(2) A person liable for the control of any dog, not being—

- (a) a greyhound participating in a greyhound race or trial under the control of the Greyhound Racing Control Board established under the Greyhound Racing Control Act, 1972;
- (b) a foxhound exempted from separate registration pursuant to paragraph (d) of subsection (3) of section 7;
- (c) a dog being exhibited for Show purposes; or
- (d) a dog which, under the control of a responsible person, is being trained for or is participating in obedience trials or classes, retrieving, duck hunting or some other customary sporting purpose,

who permits that dog to be in any place to which the public has access without a collar round its neck to which a valid registration disc relating thereto is securely attached commits an offence.

19. Where, because of the death of the dog or the cancellation of the registration, or because the dog has left the State, the registration disc in respect of a dog that is registered for a current extended registration period is returned to the council by the person recorded on the register as having been the owner of the dog the council shall refund such proportion of the registration fee as may be prescribed.

Return of registration discs.

20. A person who—

- (a) wilfully inserts or omits, or permits to be inserted or omitted, in any application for

Offences relating to registration, etc.

the grant or renewal of a registration any matter or thing whatsoever contrary to, or for the purpose of concealing, the truth;

- (b) whether on his own behalf or that of another person, for the purpose of obtaining any benefit or avoiding any penalty or obligation under this Act, wilfully makes or causes to be made any representation or statement which is false or misleading in any material particular or which he knows or ought reasonably to know is likely to deceive any person;
- (c) keeps any dog wearing a registration disc—
 - (i) issued in respect of any preceding registration period;
 - (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 disc issued under this Act, or makes, uses, purchases or has in his possession any counterfeit or false certificate of registration or registration disc or any thing apparently intended to resemble or pass for the same,

commits an offence.

Penalty: Fifty dollars.

Name and
address to
be shown
on collar.

21. A person liable for the control of any dog, not being—

- (a) a greyhound participating in a greyhound race or trial under the control of the Greyhound Racing Control Board established under the Greyhound Racing Control Act, 1972;
- (b) a foxhound exempted from separate registration pursuant to paragraph (d) of subsection (3) of section 7;
- (c) a dog being exhibited for Show purposes; or

- (d) a dog which, under the control of a responsible person, is being trained for or is participating in obedience trials or classes, retrieving, duck hunting or some other customary sporting purpose,

who permits that dog to be in any place to which the public has access without the name and address of the owner of the dog being legibly endorsed or inscribed on, or on an attachment to, a collar worn by that dog commits an offence.

PART IV.—OWNERSHIP.

22. (1) Subject to the provisions of subsection (1) of section 25, the owner of a dog is required to control that dog and remains liable for ensuring that the dog is controlled and for the actions of the dog even if in fact it is not in his possession and notwithstanding that for the purposes of this Act the dog may be, or be deemed to be, in the control of some other person.

The
concepts of
ownership
and
control.

(2) Subject to the provisions of this section, a person who keeps or has a dog in his possession or under his control, or is the occupier of any premises where a dog is kept or permitted to live, shall for the purpose of this Act be liable for the control of that dog whilst those circumstances subsist, even if in fact he is not the owner, and any proceedings under this Act may be taken against him as if in fact he were the owner.

(3) Subject to subsection (4) of this section, where premises are occupied by more than one person, each of those persons shall be deemed to keep and to be an owner of that dog.

(4) Any presumption as to ownership may be rebutted by evidence that the dog is registered in the name of, or is in fact owned by, some other person over the age of eighteen years but the

rebuttal of a presumption as to the ownership does not relieve the person having actual possession of the dog from his liability to control it.

(5) Where a dog is kept by a person under the age of eighteen years, that dog shall be registered by his parent or guardian or some other person who is over the age of eighteen years who shall thereupon be deemed to be the owner for the purposes of this Act.

(6) The provisions of this section do not apply to or in relation to—

- (a) a registered veterinary surgeon, or a person acting on his behalf, in the course of his professional practice; or
- (b) a member of the Police Force or other person acting in pursuance of a statutory duty or in the administration of this Act.

Evidence of
ownership.

23. In any proceedings, whether civil or penal—

- (a) a person who is shown in the register maintained by a council under this Act as being the last person recorded by a council as having been the owner of a dog is deemed, unless he can show cause to the contrary, to be the owner of that dog whether or not the registration in his name continues in force;
- (b) a registration certificate, 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 certificate or that he is a registration officer, be *prima facie* evidence of the matters relevant to the proceedings set out in that registration certificate or certified copy; and

- (c) where any dog, whether registered or not registered, is shown to have been habitually in the apparent ownership of any person, that person is deemed, unless he can show cause to the contrary, to have been and to continue to be the owner of that dog and liable for the control of the dog.

24. (1) Where a dog is registered in the name of a person and that person transfers the ownership of the dog to any other person, he shall within twenty-eight days thereafter cause the council to be notified in the prescribed manner and form of the name and address of the new owner, and a person who fails so to do commits an offence.

Change of
ownership.

(2) No change shall be made in the record of the ownership of a dog unless—

- (a) the registered owner has notified the council pursuant to subsection (1) of this section of the change; or
- (b) an application for registration is made by a person who alleges that he is the new owner.

(3) A person aggrieved by any entry in the register recording the ownership of a dog may at any time apply in the prescribed manner to the Local Court for an order directed to the council for the rectification of the register.

25. (1) It shall not be a defence in any proceedings, whether civil or penal, in relation to any offence under this Act or in relation to any injury, damage, nuisance or annoyance caused by a dog for the person who is registered as or is otherwise found to be the owner to show that at the material time the dog was not in his possession or control unless he also shows that the dog in question was in the actual possession or control of some other person without his consent.

Deemed pos-
session and
control, and
duty of care.

(2) Where in any proceedings under this Act a person is alleged to have permitted any act or thing it shall be a defence to any prosecution that the contravention or non-compliance occurred without his knowledge, consent or connivance only if it is also shown that he exercised all due diligence to prevent it.

(3) A dog may be found to be under effective control although not physically restrained.

PART V.—THE KEEPING OF DOGS.

Limitation
as to
numbers.

26. (1) The provisions of this Part of this Act shall not operate to prevent the keeping on any premises of two dogs over the age of three months and the young of those dogs under that age.

(2) Subject to subsection (1) of this section, a council, pursuant to by-laws, may limit the number of dogs over the age of three months, or the number of such dogs of any specified breed or kind, that may be kept on any premises situate in a specified area to which those by-laws apply unless those premises are licensed as an approved kennel establishment or are exempt.

“This Act”
includes
regulations.
Act No. 30
of 1918, s.4.

(3) Where by a by-law under this Act a council has placed a limit on the keeping of dogs in any specified area but the council 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 council 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 therein;
- (b) shall not operate to authorise the keeping of more than six dogs on those premises; and
- (c) may be revoked or varied at any time.

(4) Subject to the provisions of subsection (3) of this section, a person who keeps on any premises, not being premises licensed as an approved kennel establishment, dogs over the age of three months in numbers exceeding any limit imposed in relation to those dogs by a by-law made under subsection (2) of this section commits an offence.

Penalty: One hundred dollars in respect of the initial conviction and thereafter ten dollars daily for so long as the offence continues.

(5) Any person who is aggrieved—

- (a) by the conditions imposed in relation to any exemption from the provisions of a by-law placing a limitation on the number of dogs that may be kept on any premises; or
- (b) by the refusal of a council to grant such an exemption, or by the revocation of an exemption,

may appeal in writing to the Minister who may, after such inquiry as he thinks fit, give directions to the council concerned and effect shall be given to any such direction.

27. (1) Where, pursuant to the provisions of section 26, a council imposes a limit on the number of dogs over the age of three months, or the number of such dogs of any specified breed or kind, that may be kept on any premises situate in a specified area, and a person proposes to keep dogs to which such a limit applies in numbers exceeding that limit on premises that are not exempt from the limitation he shall apply for the premises in question to be licensed as an approved kennel establishment.

Licensing of
approved
kennel
establish-
ments.

(2) A person who keeps, or permits or suffers to be kept, any dog over the age of three 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: One hundred dollars in respect of the initial conviction and thereafter ten dollars daily for so long as the offence continues.

(3) By-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 council on an application made in the prescribed manner and form, 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 council shall have regard to any objections raised.

(5) A licence under this section has effect for a period of twelve months, and is renewable upon payment of the prescribed fee, but may be cancelled at any time by the council if the council 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 to expire at the end of the period specified in the notice, which shall be a period of not less than three months.

(7) Where—

- (a) the council refuses the grant of a licence under this section; or
- (b) notice of the intention to cancel a licence under this section is given,

the licensee may, in the prescribed manner and in the prescribed time, appeal against the decision to the Local Court held nearest to the office of the council and that court may thereupon either affirm the decision of the council or quash it and direct the licensing of the establishment upon such conditions, if any, as the court thinks fit.

PART VI.—SEIZURE, DETENTION AND CONTROL.

28. (1) For the purposes of this Act, a dog shall be taken to be wandering at large if—

Dogs
wandering
at large.

- (a) it is deemed to be wandering at large by virtue of the provisions of section 32;
- (b) it is found in a place to which the public has access, or in a place where the occupier has not consented that it should be, and a person liable for the control of that dog is—
 - (i) not capable of exercising effective control over the dog; or
 - (ii) not in fact exercising effective control over the dog; or
- (c) it is roaming about without any control whatsoever.

(2) A dog—

- (a) which 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;
- (b) which is a foxhound comprised in a registered pack *bona fide* engaged in hunting or hound exercise or in going to or returning from hunting or hound exercise;
- (c) which is participating in an obedience trial or classes conducted under the auspices of the body known as the Canine Association of W.A.; or

- (d) which is being used for retrieving, duck hunting or other customary sporting purposes in relevant circumstances,

shall not thereby be deemed to be wandering at large.

Power to
seize
strays,
etc.

29. (1) Any member of the Police Force or any officer of a council authorized for the purpose by that council is authorized to exercise any power conferred by this section.

(2) No proceedings, whether civil or penal, shall lie against—

- (a) any person assisting an authorized person, 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 section,

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 section.

(3) Where a dog is found wandering at large an authorized person may seize and detain it.

(4) Where a dog is seized pursuant to this section the authorized person may—

- (a) cause it to be returned to the owner; or
- (b) detain it,

and the owner shall be liable to pay 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, any modified penalty and any other fees or charges relating to that dog which ought to have been, but had not been, paid under this Act.

(5) Any moneys referred to in subsection (4) of this section may be recovered in any court of competent jurisdiction—

- (a) by the person to whom they are due; or
- (b) by the council detaining the dog, (whether or not payable to that council),

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

(6) Where a dog is seized under this section and is not forthwith returned to the owner it shall be detained in a pound maintained by a council or at premises maintained by a prescribed body, or in any other suitable premises.

(7) An officer of a prescribed body who is authorized by that body for the purpose may receive and keep dogs in any premises maintained by that body for the care of dogs and in respect to any such dog that officer has and may exercise all or any of the powers of an authorized person or a council under this section including the powers of disposal and sale.

(8) Where a dog is detained under this section—

- (a) if the dog is wearing a registration disc or the owner is otherwise readily identifiable, the authorized person causing it to be detained shall also cause notice to be given to the owner in the prescribed manner and form as soon as is practicable; and
- (b) the dog shall be kept and maintained for a period of at least seventy-two hours next following—
 - (i) where notice is given under paragraph (a) of this subsection, the giving of that notice; or

- (ii) where no such notice is required to be given, the time the detention commenced,

but, subject to this section, shall be delivered up to a person who produces satisfactory evidence of ownership or of his authority to take delivery of it.

(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 is not claimed, or where a person in the name of whom that dog is registered declines to resume possession of a dog, or any moneys due in relation to that dog are not paid, an authorized person may cause a dog seized and detained under this section to be destroyed.

(11) A dog which is liable to be destroyed pursuant to subsection (10) of this section may be disposed of by the council or prescribed body or sold and the proceeds of the sale shall be the property of the council or prescribed body detaining the dog.

(12) Where it is the opinion of an authorized 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 registered veterinary surgeon, medical practitioner or Health Surveyor.

(13) Where a dog is found wandering at large and by reason of the savagery of that dog, repeated evasion of the attempts at seizure, or other sufficient cause it is, in the opinion of an authorized person, dangerous or impracticable to seize the dog, the dog may be destroyed without being seized if the

assistance of the owner or some other person likely to be able to control the dog is not reasonably available and there is no other practicable way to enforce the provisions of this Act.

(14) A council or an authorized 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.

30. (1) A person who is authorized pursuant to section 29 to seize dogs wandering at large shall also be an authorized person for the purposes of this section and may exercise the powers conferred by this section.

Entry on
premises.

(2) With the consent of an owner or occupier of the premises an authorized person may enter any premises where he has reasonable grounds to believe that it is necessary to do so in order to seize a dog found wandering at large.

(3) Where an authorized person satisfies a Justice of the Peace that it is reasonably necessary for the due enforcement of the provisions of this Act that entry be made to any premises to which admission has been refused or that are apparently unoccupied or where a request for admission might defeat the object of the entry, the Justice may by warrant under his hand empower that authorized person and any other person named in the warrant or any Police officer to enter upon the premises, by force if those premises are not occupied, and that warrant continues in force until the purpose for which it was granted is satisfied.

31. A person who is alleged by an authorized person to be concerned in the commission of an offence against this Act shall furnish to that authorized person on demand his full name and place of abode.

Name and
address
to be
supplied.

Offences
relating to
the control
of dogs.

32. (1) A person liable for the control of a dog who permits that dog to be wandering at large commits an offence.

Penalty: One hundred dollars.

(2) A person liable for the control of a dog who permits that dog to be in an enclosed field, paddock, yard, or other place in which any animal or bird owned by some other person is confined without—

(a) the consent of the owner of that animal or bird; or

(b) maintaining effective control of the dog, commits an offence, and that dog shall be deemed to be wandering at large.

Penalty: One hundred dollars.

(3) A person liable for the control of a dog who permits that dog to be—

(a) in any shop, not being a pet shop or premises used for the purposes of the practice of a registered veterinary surgeon; or

(b) in any school or the grounds of any school, pre-school centre, or kindergarten,

commits an offence unless the dog is under the effective control of some person and restrained by means of a chain, cord, leash or harness.

Penalty: One hundred dollars.

(4) A person liable for the control of a dog who permits that dog to be in any place where any commodity used by man for food or drink, is prepared for, or exposed for, sale, or offered for sale, or is sold commits an offence.

Penalty: One hundred dollars.

(5) Any person who—

(a) permits a dog to rush at or chase any vehicle;

- (b) causes or permits a dog or any young of a dog to be abandoned by taking it or permitting it to be taken to a place other than that in which it is usually kept, there to fend for itself,

commits an offence.

Penalty: One hundred dollars.

33. (1) A person who permits a dog to attack, worry or chase any person, or any animal or bird owned by or in charge of some other person, commits an offence.

Setting dogs
on.

Penalty: One hundred dollars.

(2) A person who sets on or urges any dog to attack, worry or chase any person, or any animal or bird owned by or in the charge of some other person commits an offence.

Penalty: Two hundred dollars and imprisonment for a term not exceeding six months.

(3) It shall be a defence to any proceedings for an offence against this section to show that the dog was *bona fide* used in the reasonable defence of any person or property, or for the droving or removal of any animal found trespassing.

(4) It shall not be necessary for the purposes of any proceedings under this section to show that any actual injury was caused.

34. (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.

Protection of
livestock.

(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 was liable for the control of that dog.

(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 twenty metres of any road, reserve or public place;
- (b) the laying of that poison is authorized 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: Five hundred dollars.

Destruction
of vermin,
etc.

35. 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. (1) The owner of a dog shall take all reasonable precautions against that dog becoming infested by tapeworms or other parasites, and if the dog appears to be suffering from any infectious or contagious disease shall cause the dog to be examined by a registered veterinary surgeon, or in the absence of a veterinary surgeon, by a medical practitioner or Health Surveyor and shall take all practicable steps to enable that condition to be controlled or eradicated.

Diseases
and
parasite
control.

(2) Where he has reasonable grounds for believing that the provisions of subsection (1) of this section have not been complied with any Police officer or person authorized by the council for the purpose of this section, may by notice in writing require the owner of a dog to have that dog available at a specified place for veterinary examination at the cost of the owner by a registered veterinary surgeon, or in the absence of a veterinary surgeon by a medical practitioner or Health Surveyor, within the period specified in that notice (not being a period of less than three days) and a person who without reasonable excuse fails to comply with that requirement commits an offence.

(3) Where pursuant to an examination made by him under this section any registered veterinary surgeon, medical practitioner or Health Surveyor considers that a dog is a danger to health the council may cause the dog to be seized and detained for isolation or destruction, but where the council proposes to destroy the dog the owner shall be given notice in the prescribed manner and may, in the prescribed manner and within the prescribed time, appeal against the decision to the nearest Local Court and the dog shall be detained until that Local Court either affirms the decision or quashes the decision.

Special
provisions
applicable
to
greyhounds.

37. (1) The owner of a greyhound shall, except while the greyhound is on land of which, or within premises of which, the owner of the greyhound is the occupier, cause a muzzle to be securely fixed upon the mouth of the greyhound in such a manner as will prevent it from biting any person or animal.

Penalty: Fifty dollars.

(2) The owner of a greyhound shall cause the greyhound to be under the effective control of a competent person capable of restraining it at all times when the greyhound is in or on a place to which the public has access, other than when that greyhound is participating in a greyhound race or trial under the control of the Greyhound Racing Control Board established under the Greyhound Racing Control Act, 1972.

Penalty: One hundred dollars.

(3) For the purposes of subsection (2) of this section, a greyhound shall be deemed not to be under the effective control of a person if—

- (a) that greyhound is one of more than two greyhounds under the control of that person at the one time; or
- (b) that person is not restraining the greyhound by means of a chain, cord or leash.

(4) Subsections (1) and (2) of this section do not apply to a greyhound at any time when the greyhound is—

- (a) being exhibited for Show purposes; or
- (b) participating in an obedience trial,

if at that time the greyhound is under the control of a competent person.

Nuisance.

38. (1) The occupier of any premises where a dog is kept or permitted or suffered to remain and who permits that dog, either of itself or together

with other dogs (whether or not in the same ownership), to be or become a nuisance commits an offence.

Penalty: One hundred dollars.

(2) A dog shall be taken to be a nuisance for the purposes of this section if—

- (a) it is injurious or dangerous to the health of any person;
- (b) it creates a noise, by barking or otherwise, which persistently occurs or continues to a degree or extent not normally habitual in dogs and has a disturbing effect on the state of reasonable physical, mental, or social well-being of a person; or
- (c) it is shown to be allowed to behave consistently in a manner contrary to the general interest of the community,

but not otherwise.

(3) Where three persons, of whom at least two occupy different premises, are prepared to sign and do sign a complaint in the prescribed form alleging the existence of a nuisance created by a dog the council may serve on the occupier of the premises in which that dog is kept a notice requiring him to abate the nuisance within fourteen days, and if the nuisance is not so abated the council may institute proceedings for an offence against subsection (1) of this section.

PART VII.—ENFORCEMENT.

39. Where a dog is shown to have bitten a person without provocation or reasonable cause a court may order that the dog be destroyed.

Biting of persons.

40. (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 may—

Destruction of dogs, etc.

- (a) order the destruction;

- (b) provide that the order shall be remitted in specified circumstances;
- (c) order the seizure and detention of the dog, whether or not an order is made for the destruction of the dog;
- (d) make an order requiring that the dog be controlled, or be controlled in a specified manner;
- (e) make an order requiring that the dog be disposed of, or be disposed of in a specified manner;
- (f) authorize a Police officer or a person appointed by the council 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;
- (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.

“This Act”
includes
regulations
and by-laws
Cf. Act
No. 30 of
1918, s. 4.

(3) Where the destruction of a dog is ordered or authorized 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) of this section 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 council is the registering authority, unless on an application made to the court making the original order the court is satisfied that the changed circumstances are such that the order may be varied.

(5) A person who is ordered or authorized to destroy a dog is required to make provision for the disposal of the carcass.

41. 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.

Indemnity
as to
destruction
of dogs.

42. (1) A person who—

- (a) fails to comply with any of the requirements of this Act within the time or in the manner provided; or
- (b) contravenes or fails to comply with any other provision of this Act,

Offences
and
penalties.

"This Act"
includes
regulations
and by-laws
Cf. Act
No. 30 of
1918, s. 4.

commits an offence against this Act.

(2) A person convicted of an offence against this Act is liable, where no other penalty is expressly provided for the offence,—

- (a) if he has not been previously convicted of any offence against this Act, to a penalty of twenty dollars; and
- (b) if he has been previously convicted of an offence against this Act, to a penalty of fifty dollars.

(3) Where an offence is a continuing offence, whether of commission or omission, a person convicted of the continuing offence is liable to a daily penalty of ten dollars for every day that the offence continues after his initial conviction for the offence.

(4) Regulations made under this Act may provide for modified penalties not exceeding the amount provided in the Act in relation to the offence in question to be payable in relation to specified offences against this Act and where a person does not contest an allegation that he committed an offence of the kind to which that modified penalty is expressed to apply, the production of an acknowledgment from the council by whom that person was notified of the commission of the offence that

the modified penalty has been paid to that council shall be a defence to a charge of the offence in respect of which the modified penalty was paid.

(5) For the purposes of subsection (2) of this section, the payment of a modified penalty for an offence shall be treated as an initial conviction for that offence.

Offences
relating to
enforcement,
etc.

43. A person who—

- (a) being the owner or occupier of any premises in relation to which a person authorized 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;
- (b) assaults, impedes, delays or in any way obstructs a person authorized under this Act in the exercise of his powers or the carrying out of his duties under this Act;
- (c) fails without lawful excuse to produce any certificate or other document issued to him pursuant to this Act, or 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: One hundred dollars.

Enforcement
proceedings.

44. (1) All proceedings in respect of offences against this Act shall be heard by a Court of Petty Sessions, and the provisions of the Justices Act, 1902, apply to any such proceedings.

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

- (a) by any Police officer, in the name of the Crown;
- (b) by any officer of a council authorized in that behalf by the council, in the name of the council; or
- (c) by any person aggrieved.

(3) Where proceedings under this Act are taken by an officer of a council no proof shall be required of the appointment of that officer as an officer of the council or of his authority to take the proceedings, but the averment on the process that the person is so authorized shall be deemed to be sufficient proof of the fact.

45. In any proceeding for an offence under this Act— Facilitation of proof.

- (a) an averment on the process that a person was liable for the control of a dog or was, or was deemed at the material time to be, the owner of a dog, or that any dog was at the material time not registered, is sufficient evidence of the fact in the absence of an assertion by the defendant to the contrary; and
- (b) the onus of proving that a dog was duly registered or was at the material time under the age of three months lies on the person making that assertion.

PART VIII.—CIVIL REMEDIES, ETC.

46. (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. Damages

(2) The owner of any dog, or a person deemed under this Act to be the owner of a dog, may be liable in damages for injury done 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 owner's knowledge of that propensity, or that the injury was attributable to neglect on the part of the owner of the dog.

Causing harm
to dogs.

47. A person who wilfully and without lawful excuse kills, poisons, injures or causes unnecessary pain or suffering to any dog commits an offence.

Penalty: Five hundred dollars and imprisonment for a term not exceeding six months.

PART IX.—BY-LAWS.

Uniform
by-laws.

48. (1) The Governor may make and publish in the *Gazette* uniform general by-laws for all or any of the purposes for which by-laws may be made under this Act.

(2) Subject to subsection (3) of this section, any uniform general by-law published under subsection (1) of this section shall apply in the whole of each district within the State, and shall have the same force and effect in each district and may be enforced by the council as if it were a by-law made under this Act by the council of the district.

(3) The Governor may from time to time by Order declare that any uniform general by-law published under subsection (1) of this section shall not apply to a district specified in the Order, or to any specified part of the district, and thereafter that by-law (and any amendment or substitution of that by-law effected pursuant to subsection (1) of this section) shall not apply thereto unless the Order is varied so as to allow such application or is revoked.

(4) An Order made under subsection (3) of this section may be varied or revoked by a subsequent Order.

(5) Where and to the extent that there is inconsistency between the provisions of a uniform general

by-law having force and effect under this section and a by-law made by a council under this Act, the provisions of the uniform general by-law prevail.

49. (1) A council may make by-laws for any of the purposes permitted by section 51 and any such by-law shall have effect in the area for which that council is the registering authority, whether within the district of the council or deemed to be within that district for the purposes of this Act. Council
by-laws.

(2) The Governor may cause to be prepared and published in the *Gazette* draft model by-laws which a council may adopt, with or without alterations, for the purposes of this Act.

(3) Where a draft model by-law is adopted, with or without alterations, by a council that by-law shall for all purposes have effect as if it were in fact made by the council.

(4) By-laws made under this section are required to be confirmed by the Governor before being published in the *Gazette* and laid before each House of Parliament.

(5) The provisions of the Interpretation Act, 1918, in general, and those of sections thirty-six and thirty-eight of that Act in particular, apply in respect of by-laws made and the making of by-laws under this Act. Act No. 30
of 1918.

(6) Where a council intends to make a by-law, whether by adoption of a model by-law or otherwise, the council shall—

- (a) cause a draft of the proposed by-law to be prepared, or specify the draft model by-law to be adopted setting out any alterations proposed;
- (b) resolve that the by-law be made, specifying in the resolution any alterations proposed to a draft model by-law;

- (c) record the resolution in, or substantially in, the form required under the Local Government Act, 1960, for the making or adoption of a by-law, as the case may require, and cause the seal of the municipality to be affixed to that form;
- (d) cause notice of the intention to submit the by-law for confirmation by the Governor to be published once in a newspaper circulating in the district of the municipality, and cause to be stated in the notice the purport of the by-law and of the alterations, if any, where a draft model by-law is adopted and notification that the full text of the by-law may be inspected by members of the public free of charge at the office of the council;
- (e) for a period of twenty-one days commencing on the day of the publication of the notice in a newspaper pursuant to the requirements of paragraph (d) of this subsection, cause—
 - (i) a copy of that notice to be kept posted on the official notice board of the council; and
 - (ii) a copy of the full text of the by-law to be available free of charge for public inspection during office hours at the office of the council.

(7) The notice of the intention to submit the by-law for confirmation by the Governor published in a newspaper in accordance with paragraph (d) of subsection (6) of this section and the notice posted on the official notice board of the council in accordance with paragraph (e) of that subsection shall in each case include a provision making known to the public that objections to and representations in respect of the proposed by-law may be made to the council during the period of twenty-one days commencing on the date of the publication and in the manner specified in the notice.

(8) Within the period of twenty-one days commencing on the date of the publication and in the manner so specified, any person or body that wishes to make an objection or representation to the council in respect of the proposed by-law may submit that objection or representation with all relevant accompanying documents or information to the council.

(9) The council shall consider any objection or representation made under subsection (8) of this section and, if the council thereafter still desires to make the by-law in the form published, cause the sealed record of the resolution mentioned in paragraph (c) of subsection (6) of this section to be delivered to the Minister together with a report on the objections and representations made in respect of the proposal.

(10) If the Governor confirms the by-law the Minister shall cause the full text of the by-law to be published in the *Gazette* and to be laid before both Houses of Parliament as required by section thirty-six of the Interpretation Act, 1918.

50. (1) Any uniform general by-law or other by-law may be made—

General provisions relating to by-laws.

- (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 by-law making power of a council 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; and

(d) so as to provide for a modified penalty, not exceeding the amount specified in that by-law as the penalty for which a person may be liable in relation to that offence, to be payable by a person who does not contest an allegation that he committed any specified breach of the provisions of those by-laws, and providing that the due payment of a modified penalty is a defence to a charge of the breach in respect of which that modified penalty was paid.

(2) Any uniform by-law or other by-law may make provision for the imposition of penalties not exceeding one hundred dollars 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 by-law made under this Act the expression "specified" is used, the expression, unless the context requires otherwise, means specified in that by-law.

(4) The provisions of section two hundred and sixty to section two hundred and sixty-four,

inclusive, of the Local Government Act, 1960, apply to a by-law made under this Act as if it were in fact made under that Act.

(5) A council shall cause—

- (a) copies of the by-laws which are made under this Act and which are in force in the district to be available for sale at a price not exceeding the cost price for each copy, as determined by the council, to persons applying for them at the office of the council; and
- (b) copies of those by-laws in force to be available for inspection, free of charge, during office hours, at the office of the council.

51. A council may so make by-laws—

By-law
making
powers

- (a) providing for the registration of dogs;
- (b) specifying places where dogs are prohibited absolutely or permitted only if restrained on a chain, cord or leash;
- (c) specifying areas within which it shall be an offence (unless the excreta is 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 on which a dog is kept must be fenced in a manner capable of confining the dog;
- (e) providing for the establishment and maintenance of pounds 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) as to the number of dogs that may be kept pursuant to section 26 or section 27; and
- (i) providing for the licensing, regulating, construction, use, and inspection of approved kennel establishments.

Revocation
of by-laws.

52. (1) Where any by-law has been or is made by a council, whether under the authority or purported authority of this Act, the repealed Acts, the Local Government Act, 1960, the Health Act, 1911, the Town Planning and Development Act, 1928, or any other Act, and in relation to any matter affecting dogs or the keeping of dogs that by-law, or the manner in which that by-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 by-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 meantime.

(2) The Minister shall cause a copy of any notice published under this section to be laid before each House of Parliament within six 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 fourteen 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

PART X.—REGULATIONS.

Regulations
as to certain
kinds of dog.

53. (1) Where in the opinion of the Minister any kind of dog, whether of a specific breed or of mixed breeds, is a potential danger the Governor may, on the recommendation of the Minister, make regulations for the purposes of this section.

(2) The provisions of regulations made under this section shall apply to dogs only in the circumstances, and at the time and place, specified therein.

(3) Regulations made under this section in relation to a specified kind of dog may—

- (a) require the sterilisation of any such dog;
- (b) provide that dogs found in contravention of the regulations may be destroyed;
- (c) require that such dogs be kept chained or otherwise under restraint or in effective confinement;
- (d) require that any such dog be marked for identification by the method known as tattooing or in some other prescribed manner; or
- (e) impose conditions, restrictions or limitations upon the keeping of, or relating to the custody and control of, any such dog.

(4) A person who contravenes or fails to comply with any of the provisions of a regulation made under this section, or the requirement of a council made pursuant to paragraph (e) of subsection (3) of this section, commits an offence.

Penalty: Two hundred dollars.

(5) In any proceedings under this Act any question as to whether or not the provisions of this section apply to any dog by virtue of it being a dog of a specified kind shall be determined by the person holding the office of Chief Veterinary Surgeon in the Department of Agriculture but the examination of the dog may be made by a person acting under his direction.

(6) The production of a certificate purporting to be signed by the Chief Veterinary Surgeon with respect to a determination made for the purposes of this Act shall, without proof of the signature of the person appearing to have signed that certificate or that he is the Chief Veterinary

Surgeon, be sufficient evidence of the breed or characteristics of the dog identified in that certificate and of the matters relevant to those proceedings stated in the certificate unless the defendant, by not less than three days' notice in writing delivered to the complainant and by a like three days' notice delivered to the Chief Veterinary Surgeon requires the attendance of the Chief Veterinary Surgeon as a witness.

Regulations
generally.

54. (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.

(2) Where and to the extent that there is inconsistency between regulations made under this Act and any by-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, 1960, or any other Act the provisions of the regulations prevail.

(3) The provisions of subsections (1), (2) and (3) of section 50 have effect in relation to regulations made under this Act in like manner *mutatis mutandis* as they apply to a by-law.
