

Western Australia

## **Dog Amendment Act 2013**

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As at 29 Oct 2013

No. 18 of 2013

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## Dog Amendment Act 2013

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Western Australia

## **Dog Amendment Act 2013**

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**No. 18 of 2013**

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**An Act to amend the *Dog Act 1976* and the *Residential Tenancies Act 1987* and to repeal the *Dog (Restricted Breeds) Regulations (No. 2) 2002*.**

*[Assented to 29 October 2013]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This is the *Dog Amendment Act 2013*.

**2. Commencement**

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.



## **Part 2 — *Dog Act 1976* amended**

**3. Act amended**

This Part amends the *Dog Act 1976*.

**4. Section 3 amended**

- (1) In section 3(1) delete the definitions of:

*dangerous dog*

*guide dog*

*sterilized*

- (2) In section 3(1) insert in alphabetical order:

*CEO* means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of this Act;

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

*dangerous dog* means a dog that is —

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

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

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

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

***dog management facility*** means —

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

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

***effectively confined*** —

- (a) in relation to keeping a dog in premises comprising a mobile home, means the mobile home is designed and constructed in a way that enables an occupant to prevent the dog from escaping the mobile home; and
- (b) in relation to keeping a dog in or at other premises, or in any outdoor area of those premises, means the premises or area is bounded by a fence or barrier of a standard sufficient to prevent the dog from escaping;

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

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

***microchip database*** means a database —

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

***microchip database company*** means —

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

***microchip implanter*** means —

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

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

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

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

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

***police officer*** means a person appointed —

- (a) under the *Police Act 1892* Part I to be a member of the Police Force of Western Australia; or
- (b) under the *Police Act 1892* section 35 to be a special constable; or

- (c) under the *Police Act 1892* section 38B(1) to be an Aboriginal police liaison officer;

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

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

**sterilised** means made permanently infertile by a surgical procedure;

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

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

**vehicle** means —

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

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

**veterinarian** means a registered veterinary surgeon as defined in the *Veterinary Surgeons Act 1960* section 2;

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

- (3) In section 3(1) in the definition of ***premises*** delete “tenement;” and insert:

tenement, and includes a mobile home;

- (4) In section 3(1) in the definition of ***provocation***:

- (a) in paragraph (a)(iii) delete “on which” and insert:

where

- (b) in paragraph (a)(iv) after “in” insert:

or on

- (c) in paragraph (b)(ii) delete “on which” and insert:

where

- (5) In section 3(1) in the definition of ***public place*** delete “has” and insert:

may lawfully have

- (6) In section 3(1) in the definition of ***townsite*** paragraph (d) delete “region.” and insert:

region;

(7) After section 3(2) insert:

- (3) In the case of a dog that is not registered, but is microchipped, a person whose name is recorded as the owner of the dog in a microchip database is to be taken, in the absence of evidence to the contrary, to be a person by whom the dog is ordinarily kept.

**5. Section 6 amended**

Delete section 6(4) and insert:

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

- (iv) the Australian Customs Service;
- or
- (e) a person of a prescribed class.

**6. Section 7 amended**

- (1) Delete section 7(1) and insert:

- (1) Subject to subsections (1a) and (3), if a dog is not registered under this Act or the law of another State or a Territory each of the following persons commits an offence —
- (a) the owner of the dog;
  - (b) if the dog is ordinarily kept or permitted to live in or at premises in Western Australia, the occupier of the premises.

Penalty:

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

- (2) In section 7(3):

- (a) delete paragraph (c)(ii) and insert:

- (ii) a police officer in the performance of the officer's functions; or
  - (iii) any other person in the performance of a function under this Act or any other written law;
- or

(b) delete paragraphs (d) and (e) and insert:

(d) a greyhound that is registered under the *Racing and Wagering Western Australia Act 2003* section 41 while the registration is in effect.

(3) In section 7(3) after each of paragraphs (a) to (b) and (b)(i) insert:

or

**7. Section 8 replaced**

Delete section 8 and insert:

**8. Assistance dogs**

(1) In this section —

***assistance dog*** means a dog —

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



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

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

**8. Sections 10AA and 10AB inserted**

After section 10 insert:

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

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

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

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

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

**9. Section 11 amended**

- (1) In section 11(1):
  - (a) delete “public pounds” and insert:  
  
dog management facilities

**s. 10**

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- (b) delete “those pounds” and insert:

those facilities

- (2) In section 11(2) delete “pounds” and insert:

dog management facilities

**10. Section 12A amended**

- (1) In section 12A(1):

- (a) delete paragraph (a) and insert:

- (a) any premises —

- (i) where a dog is registered to be ordinarily kept; or

- (ii) described in an application for registration as those where a dog will be ordinarily kept,

for the purpose of ascertaining whether the dog is, or will be, effectively confined; or

- (b) in paragraph (b) delete “on” and insert:

in or at

- (2) After section 12A(3) insert:

- (4) An authorised person may, at any reasonable time, without a warrant and without consent, enter any premises other than a dwelling where the person reasonably suspects a dangerous dog to be, for the

purpose of ascertaining whether an offence against Part VI Division 2 is being committed.

- (5) An authorised person may, without a warrant and without consent, stop, enter and search or inspect a vehicle in which the person reasonably suspects a dog to be, for any purpose relating to the enforcement of this Act.

**11. Part III heading replaced and Part III Division 1 heading inserted**

Delete the heading to Part III and insert:

**Part III — Registration and identification**

**Division 1 — Registration**

**12. Section 14 replaced**

Delete section 14 and insert:

**14. Register of dogs**

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

**13. Section 15 amended**

- (1) Delete section 15(2) and insert:
  - (2) The registration under this Act of a dog, other than a dangerous dog, has effect from the date specified in the registration certificate until —
    - (a) in the case of registration for an extended period prescribed under subsection (3)(b), 31 October in the final year of that period, unless cancelled sooner; or
    - (b) in the case of registration for a dog's lifetime, the dog's death, unless cancelled sooner; or
    - (c) in all other cases, the next 31 October, unless cancelled sooner.
  - (3A) The registration under this Act of a dangerous dog has effect from the date specified in the registration certificate until the next 31 October, unless cancelled sooner.
- (2) In section 15(3):
  - (a) in paragraph (b) after “registration” insert:

of a dog
  - (b) after paragraph (b) insert:
    - (ca) by persons who elect to effect registration for the lifetime of a dog; and

(c) delete paragraph (e) and insert:

- (e) in respect of a dog that is kept in an approved kennel establishment licensed under section 27;  
and
- (f) in respect of a dog that is kept in prescribed circumstances.

(3) After section 15(3) insert:

- (4A) A local government may discount or waive a registration fee, including a registration fee prescribed under subsection (3), for any individual dog or any class of dogs within its district.
- (4B) Subsections (3) and (4A) do not apply to a dangerous dog.

(4) In section 15(4) delete “a guide dog,” and insert:

an assistance dog as defined in section 8(1),

(5) In section 15(3) after each of paragraphs (a) to (c) insert:

and

**s. 14**

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(6) Delete section 15(6) and insert:

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

**14. Section 16 amended**

(1) In section 16(1) after “prescribed fee,” insert:

if any,

(2) Delete section 16(1a) and insert:

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



- (ii) the microchip's unique identification number for the dog;
  - and
  - (e) a statement as to whether the dog is kept, or is to be kept, as a commercial security dog; and
  - (f) a statement as to whether the owner is subject to an order under section 46A(2).
- (1BB) Nothing in subsection (1BA) prevents a form prescribed for the purposes of subsection (1) requiring an applicant to provide additional information.
- (3) In section 16(2)(b) after “the fee,” insert:
- if any,
- (4) After section 16(2) insert:
- (3A) If on an order under section 46A(2) a person is banned from owning or keeping a dog —
- (a) the registration officer of the local government district in which a dog is registered in the person's name is to cancel the registration of the dog in the person's name; and
  - (b) a registration officer of any local government is not to effect or renew the registration of a dog in the person's name during the period to which the order applies.
- (5) In section 16(3):
- (a) delete paragraph (a) and insert:
    - (a) the applicant, the owner, or the registered owner, as the case may be, has been convicted,

**s. 15**

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or has paid a modified penalty, within the previous 3 years in respect of 2 or more offences against any of this Act, the *Cat Act 2011* or the *Animal Welfare Act 2002*; or

(b) delete paragraph (c) and insert:

(c) the local government is not satisfied that the dog is, or will be, effectively confined in or at premises where the dog is, or will be, ordinarily kept; or

(da) the dog is required under section 21 or 22 to be microchipped but is not microchipped; or

(c) in paragraph (d) delete “dog; or” and insert:

dog.

(d) delete paragraph (e).

(6) Delete section 16(3a) and (3b).

**15. Section 16AA inserted**

After section 16 insert:

**16AA. Owner’s delegate**

- (1) The registered owner of a dog may, in writing given to the local government with which the dog is registered, appoint a person who has reached 18 years of age to act as the owner’s delegate.
- (2) A local government may deal with the owner’s delegate instead of the owner in the circumstances specified in this Act.

- (3) An appointment under subsection (1) must be in a prescribed form.
- (4) An appointment under subsection (1) may be terminated in writing by either the registered owner or the appointed person.
- (5) An appointment under subsection (1) ceases to have effect when the person who made the appointment ceases to be the registered owner of the dog.

**16. Section 16A amended**

- (1) In section 16A(1):
  - (a) delete “a dog” and insert:

a dog, other than a dangerous dog,
  - (b) delete the Penalty and insert:

Penalty: a fine of \$5 000.
- (2) In section 16A(2)(a) delete “subsection (1); or” and insert:

subsection (1) or section 33K(2)(c); or

**17. Section 17A inserted**

After section 16A insert:

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

(1) In this section —

*dog* means a dog —

- (a) that is, or is deemed under section 9 or 10(2) to be, ordinarily kept in the district of the relevant local government district; and
- (b) in respect of which an application for registration has not been made.

(2) A local government may give written notice to the owner of a dog that the dog cannot be registered by the local government because —

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

- (3) The notice must inform the owner of the right under section 17(1) to apply for a review of the decision.

**18. Section 17 amended**

- (1) In section 17(1) delete “registration, the applicant or the registered owner as the case may be” and insert:

registration or gives a written notice under section 17A(2), the applicant or the registered owner or owner of the dog, as the case may be,

- (2) In section 17(4) delete “owner,” and insert:

owner or owner of the dog,

**19. Section 18 amended**

In section 18(2) delete “section 15(2)(a)(ii),” and insert:

section 15(2)(a), or a lifetime registration referred to in section 15(2)(b),

**20. Section 20 amended**

- (1) In section 20(1) delete the Penalty and insert:

Penalty:

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

- (2) In section 20(2) delete the Penalty and insert:

Penalty: a fine of \$5 000.

**21. Part III Divisions 2 and 3 inserted**

After section 20 insert:

**Division 2 — Microchipping**

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

- (1) On and after 1 November 2013, the owner of a dog must ensure that the dog is microchipped if —
- (a) the dog has reached 3 months of age; and
  - (b) the dog was not registered under this Act or the law of another State or a Territory so that its registration was in effect on 31 October 2013.

Penalty: a fine of \$5 000.

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

Penalty: a fine of \$5 000.

- (3) Neither subsection (1) nor (2) requires a dog to be microchipped if, under subsection (4) it is exempt from microchipping.
- (4) A dog is exempt from microchipping if a certificate given by a veterinarian stating that the implantation of a microchip in the dog may adversely affect the health and welfare of the dog applies in respect of the dog.
- (5) A certificate referred to in subsection (4) cannot apply in respect of a dog that is under 3 months of age.

**22. Microchipping of dangerous dogs**

- (1) In this section —

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

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

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.
- (3) Subsection (2) does not apply in relation to a dangerous dog (declared) —
- (a) during the 7 day period after the giving of the notice, required by section 33F(1), by which the dog is declared a dangerous dog (declared); or
  - (b) during the period, if any, beginning when the owner lodges an objection under section 33F or applies for review under section 33I(1)(b) and ending 7 days after the day of the determination of that objection or review; or
  - (c) during the 7 day period, if any, after the giving of a notice under section 33F(6)(a) as to the dismissal of an objection; or
  - (d) during the period, if any, beginning when the owner applies for a review under section 33I(1)(a)(i) or (d) and ending 7 days after the day of the determination of that review.

- (4) A dangerous dog is exempt from microchipping if a certificate given by a veterinarian stating that the implantation of a microchip in the dog may adversely affect the health and welfare of the dog applies in respect of the dog.
- (5) A certificate referred to in subsection (4) cannot apply in respect of a dangerous dog that is under 3 months of age.
- (6) Nothing in subsection (3) affects the operation of section 21(1) or (2) in relation to a particular dog.

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

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

Penalty: a fine of \$5 000.

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

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

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

Penalty: a fine of \$5 000.



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

A microchip database company for a dog must keep and maintain in its microchip database the information prescribed under section 24 in respect of the dog.

Penalty: a fine of \$5 000.

**26A. Interference with microchips**

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

Penalty: a fine of \$5 000.

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

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

Penalty: a fine of \$5 000.

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

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

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

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

Penalty: a fine of \$5 000.

**Division 3 — Changes to recorded information**

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

The owner of a dog must give notice in writing —

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

within 7 days after the change to the information.

Penalty: a fine of \$5 000.

**22. Section 26 amended**

- (1) Delete section 26(1) and (2) and insert:

- (1) A local government may, by a local law under this Act —
  - (a) limit the number of dogs that have reached 3 months of age that can be kept in or at premises in the local government's district; or
  - (b) limit the number of dogs of a breed specified in the local law that can be kept in or at premises in the local government's district.
- (2) A local law mentioned in subsection (1) —
  - (a) may limit the number of dogs that can be kept in or at premises to 2, 3, 4, 5 or 6 only; and
  - (b) cannot prevent the keeping in or at premises of one or 2 dogs that have reached 3 months of

age and any pup of either of those dogs under that age; and

- (c) cannot apply to dogs kept at premises that are licensed under section 27 as an approved kennel establishment; and
- (d) cannot apply to dangerous dogs (declared) or dangerous dogs (restricted breed).

(2) In section 26(3):

- (a) in paragraph (a) delete “therein;” and insert:

in the exemption; and

- (b) delete paragraph (b) and insert:

- (b) cannot authorise the keeping in or at those premises of —

- (i) more than 6 dogs that have reached 3 months of age; or

- (ii) a dog under that age unless it is a pup of a dog whose keeping is authorised by the exemption;

and

(3) Delete section 26(4) and insert:

- (4) A person must not keep in or at any premises, not being licensed under section 27 as an approved kennel establishment —

- (a) in the case of dogs that have reached 3 months of age, other than dangerous dogs (declared) or dangerous dogs (restricted breed), more than

the number of dogs than the limit imposed under —

- (i) a local law mentioned in subsection (1); or
- (ii) an exemption granted under subsection (3);

or

(b) more than —

- (i) 2 dangerous dogs (declared); or
- (ii) 2 dangerous dogs (restricted breed); or
- (iii) one of each of those kinds of dangerous dogs,

that have reached 3 months of age; or

(c) any pup, of a dangerous dog (restricted breed), that is under 3 months of age.

Penalty:

(a) for an offence relating to a dangerous dog —

- (i) a fine of \$10 000, but the minimum penalty is a fine of \$500;
- (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500;

(b) for an offence relating to a dog other than a dangerous dog —

- (i) a fine of \$5 000;
- (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$100.

- (4) In section 26(5)(a) delete “from the provisions of a local law placing a limitation on the number of dogs that may be kept on any premises; or” and insert:

under subsection (3); or

**23. Section 27 amended**

- (1) Delete section 27(1) and insert:

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

- (2) In section 27(2) delete the Penalty and insert:

Penalty:

- (a) a fine of \$5 000;  
(b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$100.

**24. Section 28 inserted**

At the beginning of Part VI Division 1 insert:

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

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

Penalty: a fine of \$5 000.

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

**25. Section 29 amended**

- (1) In section 29(3):
- (a) delete paragraph (b) and insert:
    - (b) an attack by a dog is likely to occur; or
  - (ca) a dog is in a place in contravention of section 31, 32 or 33A; or
  - (cb) an offence against section 26(4) or 27(2) is being committed in respect of a dog; or
  - (cc) an offence against Division 2 is being committed in respect of a dog; or

- (b) in paragraph (c)(ii) delete “under this Act,” and insert:

as required under section 7,
  - (c) in paragraph (e) delete “premises, other (unless section 33G(1) applies) than a building or part of a building that is used for residential purposes.” and insert:

premises other than a dwelling unless section 33G(1) applies.
- (2) After section 29(3) insert:
- (4A) In relation to subsection (3)(cb), an authorised person may seize and detain only the number of dogs in excess of the limit imposed under —
    - (a) a local law mentioned in section 26(1); or
    - (b) an exemption granted under section 26(3); or
    - (c) section 26(4)(b) or (c); or
    - (d) a licence under section 27(2),as is applicable in the case.
- (3) In section 29(5a):
- (a) delete “has or may have caused injury or damage,” and insert:

(the ***attack dog***) has or may have caused injury or damage, or that a dangerous dog (restricted breed) has given birth to one or more pups,

- (b) delete “seize the dog” and insert:

seize the attack dog, or each pup, as is relevant to the case,

- (c) in paragraph (a) delete “dog is a dangerous dog,” and insert:

attack dog is a dangerous dog, or in the case of a pup of a dangerous dog (restricted breed),

- (4) In section 29(6) delete “pound maintained by a local government or at premises maintained by a prescribed body,” and insert:

dog management facility

- (5) In section 29(7):

- (a) delete “prescribed body” and insert:

body prescribed for the purposes of the definition of ***dog management facility*** in section 3(1) and

- (b) delete “any premises maintained by that body for the care of dogs” and insert:

a dog management facility operated by that body

- (6) Delete section 29(8)(a) and (b) and insert:

- (a) if the dog is wearing a registration tag or is microchipped or the owner is otherwise readily identifiable, the authorised person causing it to



be detained shall also cause notice to be given to the owner, or if the notice cannot be given to the owner to the owner's delegate, if any, in the prescribed manner and form as soon as is practicable; and

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

(7) Delete section 29(8a) and insert:

(8A) Where a dog is detained under subsection (5b) and, at the expiration of the period of 7 days after the detention commenced (the *detention period*), no application has been made for an order for the destruction of the dog —

- (a) if the dog is wearing a registration tag or is microchipped or the owner is otherwise readily identifiable, an authorised person shall cause notice to be given to the owner, or if the notice cannot be given to the owner to the owner's delegate, if any, in the prescribed manner and form as soon as is practicable after the expiration of the detention period; and
- (b) if the dog is wearing a registration tag or is microchipped or the owner is otherwise readily identifiable, the dog is to be kept and maintained for a period of at least 7 days next

following the giving of the notice under paragraph (a); and

- (c) if the dog is not readily identifiable, the dog is to be kept and maintained for a period of at least 72 hours next following the expiration of the detention period; and
- (d) subject to this section the dog is to be delivered up to a person who produces satisfactory evidence of ownership or of the person's authority to take delivery of the dog; and
- (e) the owner of the dog is liable to pay the reasonable cost of maintaining the dog during any period after the expiration of the period of 7 days mentioned in paragraph (b) or 72 hours mentioned in paragraph (c), as is applicable in the case, but otherwise the owner is not liable for any cost or charge in relation to the seizure, impounding, maintaining or return of the dog.

- (8) In section 29(8b) delete the passage that begins with "subsection (8a)(a)," and continues to the end of the subsection and insert:

subsection (8A)(a), (b), (c) and (e) apply in relation to the dog as if the determination of the application were the expiration of the detention period.

- (9) In subsection 29(8c) delete "subsection (8a)(c), or under subsection (8a)(c)" and insert:

subsection (8A)(e), or under subsection (8A)(e)

- (10) In section 29(10):
- (a) in paragraph (d) delete “applies,” and insert:  
  
applies; or
  - (b) after paragraph (d) insert:  
  
    - (c) an authorised person is satisfied that to deliver up the dog under subsection (8) or (8A) would create circumstances that give rise to an offence against this Act,

- (11) In section 29(3) after paragraph (a) insert:

or

Note: The heading to amended section 29 is to read:

**Power to seize dogs**

**26. Section 30A inserted**

After section 29 insert:

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

- (1) The operator of a dog management facility may do anything necessary to ensure that a dog kept at the facility is microchipped before the dog is reclaimed or otherwise transferred from the facility if the operator —
  - (a) believes on reasonable grounds that the dog is required under section 21 or 22 to be microchipped but is not microchipped; and

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- (b) has no reason to believe that the dog is exempt from microchipping as referred to in section 21(4) or 22(4).
- (2) The owner of a dog kept at a dog management facility is liable to pay to the operator of the facility the reasonable costs associated with the implantation of a microchip in the dog under subsection (1).
- (3) The operator of a dog management facility may recover the amount of the costs referred to in subsection (2) from the owner of the dog in a court of competent jurisdiction.

**27. Section 30 amended**

- (1) Delete section 30(1) and insert:
  - (1) A dog must not be in a public place unless it is wearing a collar to which is securely attached a registration tag that complies with section 18.
- (2) In section 30(2):
  - (a) delete “against that subsection unless he” and insert:

unless the person
  - (b) delete the Penalty and insert:

Penalty: a fine of \$5 000.
- (3) Delete section 30(3)(b) and (c).

- (4) Delete section 30(4) and insert:

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

**28. Section 31 amended**

- (1) After section 31(1) insert:

(2A) Despite subsection (1), a dog shall not be in a public place —

- (a) at all if the place is specified under subsection (2B) as a place where dogs are prohibited at all times; or
- (b) at a time when the place is specified under subsection (2B) as a place where dogs are prohibited at that time.

(2B) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited —

- (a) at all times; or
- (b) at specified times.

- (2) In section 31(2):

(a) delete paragraphs (a) and (b) and insert:

- (a) it is in a dog exercise area specified under subsection (3A); or
- (b) it is in a public place that is in an area of the State outside the metropolitan region or outside a townsite, and that is not a rural leashing area specified under subsection (3B); or

- (b) in paragraph (c) delete “vehicle or boat;” and insert:  
  
vehicle; or
  - (c) in paragraph (g) delete “registered”.
- (3) After section 31(2) insert:
- (3A) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.
  - (3B) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place that is under the care, control or management of the local government to be a rural leashing area.
  - (3C) At least 28 days before specifying a place to be —
    - (a) a place where dogs are prohibited at all times or at a time specified under subsection (2B); or
    - (b) a dog exercise area under subsection (3A); or
    - (c) a rural leashing area under subsection (3B),a local government must give local public notice as defined in the *Local Government Act 1995* section 1.7 of its intention to so specify.

(4) In section 31(3):

- (a) delete “every person liable for the control of the dog at that time commits an offence against that subsection unless he” and insert:

or (2A), every person liable for the control of the dog at that time commits an offence unless the person

- (b) delete the Penalty and insert:

Penalty: a fine of \$5 000.

(5) After section 31(3) insert:

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

(6) In section 31(2) after each of paragraphs (d) to (f) insert:

or

**29. Section 32 amended**

(1) Delete section 32(1) and insert:

- (1) A dog shall not be in —
  - (a) a dog exercise area specified under section 31(3A); or

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- (b) a public place that is in an area of the State outside the metropolitan region or outside a townsite, and that is not a rural leashing area specified under section 31(3B),

unless —

- (c) the dog is being held in the way referred to in section 31(1)(a); or
- (d) the dog is being tethered in the way referred to in section 31(1)(b); or
- (e) the dog is not a greyhound and is being supervised by a competent person who is in reasonable proximity to the dog.

- (2) In section 32(4):

- (a) delete “against that subsection unless he” and insert:

unless the person

- (b) delete the Penalty and insert:

Penalty: a fine of \$5 000.

- (3) Delete section 32(5) and insert:

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

**30. Section 33 amended**

- (1) Delete section 33(1) and insert:

- (1) A greyhound must be muzzled in such a manner as will prevent it from biting a person or animal unless —
    - (a) it is in or at premises occupied by its owner; or



- (b) it has successfully completed a prescribed training programme.

- (2) In section 33(3):

- (a) delete “against that subsection unless he” and insert:

unless the person

- (b) delete the Penalty and insert:

Penalty: a fine of \$5 000.

- (3) After section 33(3) insert:

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

**31. Section 33A amended**

- (1) Delete section 33A(1)(b) and insert:

- (b) in the case of a dangerous dog, it is controlled as required by section 33GA(6), (7) and (8); or
  - (c) in the case of a dog other than a dangerous dog, it is held or tethered as required by section 31(1).

- (2) In section 33A(2)(b) delete “vehicle or boat.” and insert:

vehicle.

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- (3) In section 33A(3):
- (a) delete “against that subsection unless he” and insert:  
  
unless the person
  - (b) delete the Penalty and insert:  
  
Penalty:
    - (a) for an offence relating to a dangerous dog, a fine of \$10 000, but the minimum penalty is a fine of \$500;
    - (b) for an offence relating to a dog other than a dangerous dog, a fine of \$5 000.

**32. Section 33B amended**

In section 33B delete “of contravening section 30(1), 31(1), 32(1), 33(1) or 33A(1)” and insert:

under section 30(2), 31(3), 32(4), 33(3) or 33A(3)

Note: The heading to amended section 33B is to read:

**Defences applicable to offences under this Division**

**33. Section 33D amended**

- (1) Delete section 33D(1) and insert:
- (1) If a dog attacks or chases any person or animal and physical injury is caused to the person or animal that is attacked or chased, every person liable for the control of the dog commits an offence.

Penalty:

- (a) for an offence relating to a dangerous dog, a fine of \$20 000, but the minimum penalty is a fine of \$1 000;
  - (b) for an offence relating to a dog other than a dangerous dog, a fine of \$10 000.
- (2A) If a dog attacks or chases any person or animal without causing physical injury to the person or animal that is attacked or chased, every person liable for the control of the dog commits an offence.

Penalty:

- (a) for an offence relating to a dangerous dog, a fine of \$10 000, but the minimum penalty is a fine of \$500;
  - (b) for an offence relating to a dog other than a dangerous dog, a fine of \$3 000.
- (2B) It is a defence to a charge of an offence under subsection (1) or (2A) if the person charged satisfies the court —
- (a) in the case of any person, that the dog was being used in good faith in the reasonable defence of any person or property or for the droving or removal of any animal found trespassing; or
  - (b) in the case of the occupier of premises where the dog is ordinarily kept or ordinarily permitted to live, that at the material time the dog was owned by another person who had reached 18 years of age, and who is identified by the person charged; or
  - (c) in the case of the owner, that at the material time the dog was in the possession or control of another person without the owner's consent, express or implied.

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(2) In section 33D(2):

(a) delete “any animal owned by or in the charge of another person,” and insert:

animal,

(b) delete the Penalty and insert:

Penalty:

(a) for an offence relating to a dangerous dog, a fine of \$20 000 and imprisonment for 2 years, but the minimum penalty is a fine of \$1 000;

(b) for an offence relating to a dog other than a dangerous dog, a fine of \$10 000 and imprisonment for 12 months.

(3) After section 33D(2) insert:

(3) Nothing in this section affects —

(a) the duty that a person, who has a dog in the person’s charge or under the person’s control, has under *The Criminal Code* section 266(2); or

(b) the operation of *The Criminal Code* section 266(2) or Chapter XXVIII or XXIX, or any other law in relation to the consequences of omitting to perform that duty.

**34. Section 33E amended**

- (1) In section 33E(1) delete “a dog to be a dangerous dog” and insert:

an individual dog to be a dangerous dog (declared)

- (2) In section 33E(3) delete “dangerous dog,” and insert:

dangerous dog (declared),

Note: The heading to amended section 33E is to read:

**Individual dog may be declared to be a dangerous dog (declared)**

**35. Section 33F amended**

- (1) In section 33F(1):

- (a) after “dangerous dog” insert:

(declared)

- (b) delete “dog, and may by that notice impose an order as to control requirements in respect of the”.

- (2) In section 33F(2):

- (a) in paragraph (b) delete “declaration or as to any control requirement imposed, or as to both; and” and insert:

declaration.

- (b) delete paragraph (c).

(3) Delete section 33F(3), (4) and (5) and insert:

(3) Whether or not an objection is lodged or application for review is made, the declaration of a dog as a dangerous dog (declared) has effect 7 days after the giving of a notice under subsection (1).

(4) Delete section 33F(8) and (9).

(5) In section 33F(2) after paragraph (a) insert:

and

Note: The heading to amended section 33F is to read:

**Owner to be notified of making of declaration**

**36. Sections 33GA to 33GE inserted**

After section 33F insert:

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

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

Penalty:

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

Penalty:

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

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

- (a) the dog is confined to the premises and that the enclosure within which the dog is confined is constructed to —
  - (i) prevent the dog from escaping that enclosure; and
  - (ii) prevent the dog from being removed or released from that enclosure without the permission of a person liable for the dog's control;

and

- (b) during any time that a person other than the dog's handler has lawful access to the area in which the dog is working —
  - (i) the dog is confined to an enclosure that is constructed to —
    - (I) prevent the dog from escaping that enclosure; and
    - (II) prevent the dog from being removed or released from that enclosure without the permission of a person liable for the dog's control; and
    - (III) prevent a child who has not reached 7 years of age from entering, or inserting any part of its body into, that enclosure without the help of an adult;

or

- (ii) the dog is held by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length by a person who has



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

Penalty:

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

Penalty:

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

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
- (b) for each separate and further offence committed by the person under the

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

- (7) When a dangerous dog is not confined in an enclosure, every person liable for the control of the dog must ensure that —
- (a) the dog is held by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length by a person who has reached 18 years of age and who is capable of controlling the dog; or
  - (b) the dog is securely tethered on a temporary basis by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.

Penalty:

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

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
- (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.

- (9) Every person liable for the control of a dangerous dog must ensure that the dog is not in a public place —
- (a) at all if the place is specified under section 31(2B) as a place where dogs are prohibited at all times; or
  - (b) at a time when the place is specified under section 31(2B) as a place where dogs are prohibited at that time.

Penalty:

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

Penalty: imprisonment for 10 years.

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

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

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
- (b) for each separate and further offence committed by the person under the

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

- (2) It is a defence to a charge of an offence under subsection (1) if the person charged satisfies the court that the dog —
  - (a) has a physical condition that is likely to cause the dog to die if it is sterilised; or
  - (b) is sterile.

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

- (1) In this section —  
***restricted breed pup*** means a pup —
  - (a) having at least one parent that is a dangerous dog (restricted breed); and
  - (b) that is under 3 months of age.
- (2) A person must not advertise a dangerous dog (restricted breed) or a restricted breed pup as being for sale or otherwise available for transfer of ownership.  
Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.
- (3) A person must not sell a dangerous dog (restricted breed) or a restricted breed pup to another person.  
Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$500.
- (4) A person must not otherwise transfer the ownership of a dangerous dog (restricted breed) or a restricted breed pup to another person unless —
  - (a) the dog or pup forms part of a deceased estate and its ownership is transferred by the executor of the will in relation to, or the administrator for, the estate; or

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

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

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

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

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

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

- A person must not —
- (a) breed a dangerous dog (restricted breed); or
  - (b) breed from a dangerous dog (restricted breed).

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

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

- (1) In this section —

*receiver* means a person to whom —

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

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

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

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

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

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

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

- (a) a current passport;
- (b) a current Australian driver's licence;

- (c) a prescribed document,  
that bears a photograph of the person and indicates by  
reference to the person's date of birth or otherwise that  
the person has reached 18 years of age.

**37. Section 33G amended**

- (1) After section 33G(1) insert:

- (2A) An authorised person or a police officer who has  
reasonable grounds to believe that a dangerous dog  
(restricted breed) has given birth to one or more pups  
may —
- (a) enter any premises under a warrant issued  
under section 29(5a) or with the consent of an  
adult occupier of the premises; and
  - (b) seize each pup; and
  - (c) detain each pup under section 29(3).

- (2) In section 33G(2) delete “so detained pursuant to  
subsection (1)” and insert:

detained as mentioned in subsection (1) or (2A)

**38. Section 33H amended**

- (1) Delete section 33H(1)(a) and insert:

- (a) a notice under section 33F(1) declaring a dog to  
be a dangerous dog (declared); or

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- (2) In section 33H(3)(a) delete “notice, declaration or proposal” and insert:

notice

Note: The heading to amended section 33H is to read:

**Local government may revoke a declaration or proposal to destroy**

**39. Section 33I amended**

- (1) In section 33I(1)(a)(i) delete “the declaration or control requirements” and insert:

a declaration

- (2) In section 33I(1)(b) delete “dangerous dog,” and insert:

dangerous dog (declared),

**40. Section 33J amended**

- (1) In section 33J:
- (a) delete “An order imposing control requirements in relation to a dog” and insert:

A notice declaring a dog to be a dangerous dog  
(declared)

- (b) delete paragraphs (b), (c) and (d) and insert:

(b) the notice is revoked by the local government;  
or



- (c) the decision pursuant to which the notice was given is quashed by the State Administrative Tribunal,

- (2) In section 33J after paragraph (a) insert:

or

Note: The heading to amended section 33J is to read:

**Duration of a declaration**

**41. Section 33K amended**

- (1) Delete section 33K(1) and insert:

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

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

- (2) At the end of section 33K(2) insert:

Penalty:

- (a) a fine of \$10 000, but the minimum penalty is a fine of \$500;
    - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500.

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(3) In section 33K(3):

- (a) delete “by which the dog was declared to be a dangerous dog,” and insert:

with which the dog is registered,

- (b) at the end of subsection (3) insert:

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

(4) Delete section 33K(4) and insert:

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

- (a) written notice that the dog is a dangerous dog for the purposes of this Act; and

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

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

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

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

- (5) At the end of section 33K(5) insert:

Penalty: a fine of \$5 000.

- (6) In section 33K(2) after each of paragraphs (a) and (b) insert:

or

**42. Section 33L replaced**

Delete section 33L and insert:

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

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

- (a) in the case of any person (including a person referred to in paragraph (b), (c) or (d)), that the person took all reasonable precautions and exercised all due diligence to avoid the contravention; or
- (b) in the case of any person other than the owner of the dog to which the charge relates, that the person did not know and did not have reasonable cause to believe that the dog was a dangerous dog for the purposes of this Act; or
- (c) in the case of a person who is the occupier of premises where the dog to which the charge relates is ordinarily kept or ordinarily permitted to live, that at the material time the dog was owned by another person who had reached 18 years of age, and who is identified by the person charged; or

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- (d) in the case of a person who is the owner of the dog to which the charge relates (the *owner*), that at the material time the dog was in the possession or control of another person without the owner's consent, express or implied.

**43. Section 33M amended**

In section 33M(1):

- (a) delete "dangerous dog," and insert:

dangerous dog (declared),

- (b) in paragraph (a) delete the passage that begins with "dog," and continues to the end of the paragraph and insert:

dog and the manner and place in which it is from time to time kept; or

**44. Section 34 amended**

In section 34(4) after "Penalty:" insert:

a fine of

**45. Section 36 deleted**

Delete section 36.

**46. Section 38 replaced**

Delete section 38 and insert:

**38. Nuisance dogs**

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

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- (4) An order has effect for 6 months after the day on which it is issued.
- (5) A person to whom an order is issued must comply with the order during the period in which it has effect.

Penalty:

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

**47. Section 39 amended**

In section 39(3) delete the Penalty and insert:

Penalty: a fine of \$5 000.

**48. Section 43 amended**

- (1) In section 43(1) delete the Penalty and insert:

Penalty:

- (a) for an offence relating to a dangerous dog —
  - (i) a fine of \$10 000, but the minimum penalty is a fine of \$500;

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

(2) In section 43(2) delete the Penalty and insert:

Penalty:

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

**49. Section 43A amended**

In section 43A:

- (a) delete “name” and insert:

name, date of birth

- (b) delete the Penalty and insert:

Penalty:

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

- (b) for an offence relating to a dog other than a dangerous dog, a fine of \$5 000.

**50. Section 44 amended**

After section 44(3) insert:

- (4) Despite subsection (2), a prosecution of an offence against section 33GA(10) can be commenced only by a police officer.
- (5) Subsections (2) and (4) do not limit the functions of the Director of Public Prosecutions under the *Director of Public Prosecutions Act 1991* section 11.

**51. Section 45 amended**

Delete section 45(1) and insert:

- (1) In any proceeding for an offence against this Act in relation to a specified dog —
  - (a) an averment in a prosecution notice alleging an offence against this Act that at a particular time —
    - (i) a specified person was the registered owner of the dog; or
    - (ii) the dog was ordinarily kept by a specified person; or
    - (iii) a specified person had the dog in the person's possession or under the person's control; or
    - (iv) a specified person was the occupier of any premises where the dog was



ordinarily kept or ordinarily permitted to live; or

- (v) the dog was not registered; or
  - (vi) the dog was of a particular breed or was a mix of particular breeds; or
  - (vii) the dog was not sterilised; or
  - (viii) the dog was not microchipped; or
  - (ix) that a specified person's name was recorded as the owner of the dog in a microchip database; or
  - (x) that a specified database was a microchip database; or
  - (xi) that a specified person or body was a microchip database company in relation to the dog; or
  - (xii) the dog had reached 3 months of age; or
  - (xiii) the dog was under 3 months of age; or
  - (xiv) the dog was the pup of a particular dog, is evidence of that fact; and
- (b) the onus of proving that at a particular time the dog was registered, sterilised, microchipped or was under the age of 3 months lies on the person making that assertion.

- (2A) In any proceedings, whether civil or criminal, the onus of proving that a particular dog was not a dangerous dog (restricted breed) lies on the person making that assertion.

**52. Section 45A amended**

Delete section 45A(1), (2) and (3) and insert:

- (1) Regulations may provide for a modified penalty for an offence —
  - (a) against a provision of this Act, other than the regulations, for which the maximum penalty does not exceed \$10 000; or
  - (b) a regulation made under section 48 or 54.
- (2) Local laws may provide for a modified penalty for an offence against those local laws.
- (3) A modified penalty for an offence must not exceed 10% of the maximum penalty for that offence.

**53. Section 46A inserted**

At the end of Part VII insert:

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

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

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

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**54. Section 47 replaced**

Delete section 47 and insert:

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

(1) In this section —

*representative*, in relation to a local government,  
means —

(a) an authorised person appointed by the local government; or

(b) an employee of the local government,  
who, at the relevant time, is performing a function on behalf of the local government.

(2) A local government is liable to pay for the veterinary services requested in respect of a dog by a representative of the local government.

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

**55. Section 50 amended**

In section 50(2) delete "\$2 000" and insert:

\$5 000

Note: The heading to amended section 50 is to read:

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

**56. Section 51 amended**

In section 51:

- (a) delete paragraphs (b), (ba) and (bb);
- (b) in paragraph (d) delete “on which” and insert:

where

- (c) in paragraph (e) delete “pounds” and insert:

dog management facilities

- (d) delete paragraph (h).

**57. Section 53 deleted**

Delete section 53.

**58. Section 54 amended**

- (1) After section 54(1) insert:
  - (2A) Without limiting subsection (1), the Governor may make regulations to make provision for a register of dangerous dogs.
  - (2B) Despite the *Interpretation Act 1984* section 41(1)(b), a regulation prescribing a breed of dog to be a restricted breed for the purposes of the definition of ***dangerous dog (restricted breed)*** in section 3(1) comes into operation on the 7<sup>th</sup> day after publication in the *Gazette* or if a later day is specified or provided for in the regulation, on that day.

- (2) In section 54(3) delete “made under this Act in like manner *mutatis mutandis* as they apply to a local law.” and insert:

mentioned in this section in the same way that they apply to a regulation made under section 48.

**59. Part XI inserted**

After section 54 insert:

**Part XI — Transitional provisions**

**Division 1 — Transitional provisions arising from certain amendments made by the *Dog Amendment Act 2013***

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

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

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

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

**57. Registration procedure**

An application for registration delivered under the *Dog Act 1976* section 16(1) but not finally dealt with under

section 16(2) of that Act before the day on which the *Dog Amendment Act 2013* section 14 comes into operation is, on and from that day, to be dealt with as if the *Dog Amendment Act 2013* section 14 had not been enacted.

**58. Detained dogs**

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

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

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

**60. Transitional regulations**

(1) In this section —

*commencement day* means —

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

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

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

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

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



anything done or omitted to be done before  
Gazettal day.

**60. Review of Act**

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

**Part 3 — *Residential Tenancies Act 1987* amended**

**61. Act amended**

This Part amends the *Residential Tenancies Act 1987*.

**62. Section 29 amended**

In section 29(1A) in the definition of *pet* delete “a guide” and insert:

an assistance

## **Part 4 — Regulations repealed**

**63. *Dog (Restricted Breeds) Regulations (No. 2) 2002* repealed**

The *Dog (Restricted Breeds) Regulations (No. 2) 2002* are repealed.

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