

Western Australia

Dog Act 1976

As at 01 Nov 2013

Version 05-g0-03

Extract from www.slp.wa.gov.au, see that website for further information

Dog Act 1976

Contents

Part I — Preliminary		
1.	Short title	2
2.	Commencement	2
3.	Interpretation	2
6.	Application	9
7.	Dogs to be registered	10
8.	Assistance dogs	12
Part II — Administration		
9.	Administrative responsibility	15
10.	Dogs not kept in a district	15
10AA.	Delegation of local government powers and duties	15
10AB.	Register of, and review of, delegations	17
10A.	Payments to veterinary surgeons towards cost of sterilization	17
11.	Staff and services	18
12.	Joint jurisdiction	19
12A.	Entry of premises	19
13.	Immunity of persons acting in good faith	20
Part III — Registration and identification		
Division 1 — Registration		
14.	Register of dogs	21
15.	Registration periods and fees	21
16.	Registration procedure	23
16AA.	Owner's delegate	26
16A.	Change of ownership	27

Contents

17A.	If no application for registration made	27
17.	Refusal or cancellation of registration	28
18.	Registration tags	29
19.	Refund of fee on cancellation	30
20.	Offences relating to registration, etc.	30
	Division 2 — Microchipping	
21.	Microchipping of dogs other than dangerous dogs	32
22.	Microchipping of dangerous dogs	33
23.	Notice to be given of microchip information	34
24.	Microchip implanter to give information to microchip database company	34
25.	Microchip database company's obligations	35
26A.	Interference with microchips	35
26B.	Transfer of ownership of unmicrochipped dogs	35
26C.	Transfer of ownership of microchipped dogs	35
	Division 3 — Changes to recorded information	
26D.	Notice to be given of changes to recorded information	36
	Part V — The keeping of dogs	
26.	Limitation as to numbers	37
27.	Licensing of approved kennel establishments	39
	Part VI — Control of dogs	
	Division 1 — Dogs generally	
28.	Obligation to identify a dog's owner	42
29.	Power to seize dogs	42
30A.	Operator of dog management facility may have dog microchipped at owner's expense	49
30.	Dogs to wear collars, registration tags, etc.	50
31.	Control of dogs in certain public places	51
32.	Control of dogs in exercise areas and rural areas	53
33.	Special provision for greyhounds	54
33A.	Control of dogs in places that are not public	55
33B.	Defences applicable to offences under this Division	56
33C.	Saving	57
33D.	Dog attacks, etc.	57

Division 2 — Dangerous dogs		
33E.	Individual dog may be declared to be a dangerous dog (declared)	59
33F.	Owner to be notified of making of declaration	60
33GA.	Offences relating to dangerous dogs	62
33GB.	Dangerous dogs (restricted breed) to be sterilised	66
33GC.	Restrictions on transferring ownership of dangerous dogs (restricted breed)	67
33GD.	Dangerous dogs (restricted breed) not to be bred	68
33GE.	Prohibition on transfer of ownership of dangerous dogs (declared) to persons under 18	69
33G.	Seizure and destruction	70
33H.	Local government may revoke a declaration or proposal to destroy	72
33I.	Jurisdiction of State Administrative Tribunal	74
33J.	Duration of a declaration	75
33K.	Duty to notify persons	76
33L.	Defences applicable to this Division	77
33M.	Local government expenses to be recoverable	78
Division 3 — Protection of stock; vermin disease and parasite control		
34.	Protection of livestock	79
35.	Destruction of vermin, etc.	80
Division 4 — Control of nuisance		
38.	Nuisance dogs	81
Part VII — Enforcement		
39.	Dogs causing injury or damage may be destroyed	83
40.	Destruction of dogs, etc.	84
41.	Indemnity as to destruction of dogs	85
43.	Offences relating to enforcement, etc.	86
43A.	Name and address to be supplied	87
44.	Enforcement proceedings	88
45.	Evidentiary provisions	88
45A.	Modified penalties	90
46A.	Order to attend a dog training course, ban on owning or keeping dogs	91
Part VIII — Civil remedies, etc.		
46.	Damages	93

Contents

47.	Veterinary service expenses recoverable from local government	94
Part IX — Local laws		
48.	Regulations to operate as local laws	96
49.	Local laws	96
49A.	Model local laws	97
49B.	Governor may amend or repeal local laws	97
50.	General provisions relating to regulations and local laws	98
51.	Local law making powers	99
52.	Revocation of local laws	100
Part X — Regulations		
54.	Regulations generally	101
Part XI — Transitional provisions		
Division 1 — Transitional provisions arising from certain amendments made by the <i>Dog Amendment Act 2013</i>		
55.	Application of the <i>Interpretation Act 1984</i>	102
56.	Authorisations in relation to assistance dogs	102
57.	Registration procedure	102
58.	Detained dogs	103
59.	Dogs declared to be dangerous dogs	103
60.	Transitional regulations	103
Notes		
	Compilation table	105
Defined terms		

Western Australia

Dog Act 1976

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

Part I — Preliminary

1. Short title

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

2. Commencement

- (1) Except as provided in subsection (2), this Act, or this Act less such provisions as are specified in any such proclamation, shall come into operation on a date to be fixed by proclamation¹.
- (2) The Governor may, by proclamation made pursuant to subsection (1) or by any subsequent proclamation, fix a date for the coming into operation of any provision of this Act on a date other than the date fixed in relation to the provisions of the Act generally¹.

3. Interpretation

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

authorised person means a person who is appointed by a local government, to exercise powers on behalf of the local government, under section 29(1);

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;

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

dog management facility means —

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

s. 3

- (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;

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

microchip means an identification device of a prescribed type that —

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

microchip database means a database —

- (a) of records containing information about a dog 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 in relation to a dog means —

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

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

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

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

but does not include —

s. 3

- (e) a registered veterinary surgeon, or a person acting on his behalf, in the course of his professional practice; or
- (f) a police officer or other person acting under a statutory duty or in the administration of this Act;

police officer means a person appointed —

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

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

prescribed means prescribed under regulations made under this Act;

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

- (a) on the part of a person, other than a person liable for the control of the dog —
 - (i) any teasing, tormenting, or abuse of the dog; or
 - (ii) any assault on, or act of cruelty towards, the dog; or
 - (iii) entry without lawful excuse on any land or premises of which the owner of the dog is an occupier or where the dog is ordinarily kept; or
 - (iv) any intrusion into or upon any vehicle in or on which the dog is present; or
 - (v) any threat to, or attack upon, another person or animal towards whom the dog could reasonably be expected to be protective;

or

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

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

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

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

registered veterinary surgeon means a veterinary surgeon registered under the *Veterinary Surgeons Act 1960*;

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

townsite means —

- (a) land constituted, defined, or reserved as the site of a town or village under the *Land Administration Act 1997*;
- (b) land subdivided or laid out as the site for a townsite, township, or village, in accordance with the subdivisional plan, lodged with the Western Australian

s. 3

Land Information Authority established by the *Land Information Authority Act 2006* section 5 or with the department principally assisting in the administration of the *Land Administration Act 1997*; and

[(c) deleted]

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

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.

- (2) A person who is shown in the register maintained by a local government under this Act as being the last person recorded by the local government as the registered owner of a dog is deemed to be the owner of that dog, whether or not the registration in his name continues in force, unless he proves that he is not the owner of the dog.

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

[Section 3 amended by No. 23 of 1987 s. 4; No. 14 of 1996 s. 4; No. 24 of 1996 s. 4; No. 81 of 1996 s. 153(1); No. 31 of 1997 s. 141; No. 10 of 1998 s. 29(1); No. 38 of 2005 s. 15; No. 60 of 2006 s. 132; No. 18 of 2013 s. 4.]

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

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

6. Application

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

s. 7

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

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

7. Dogs to be registered

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

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

Penalty:

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

s. 8

in a place maintained for the purpose of finding dogs suitable homes; or

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

or

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

[(e) deleted]

[Section 7 amended by No. 57 of 1977 s. 2; No. 23 of 1987 s. 7; No. 24 of 1996 s. 16; No. 55 of 2004 s. 252 and 268; No. 18 of 2013 s. 6.]

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 —

s. 8

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

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

Part II — Administration

9. Administrative responsibility

It shall be the duty of a local government within its district to administer and enforce the provisions of this Act, and where in the opinion of the Governor the powers conferred by this Act on a local government should be extended to an area outside the district the Governor may by Order declare that for the purposes of this Act the area is to be regarded as being within the district and the provisions of this Act shall then apply as if in fact the area were within the district.

[Section 9 amended by No. 14 of 1996 s. 4.]

10. Dogs not kept in a district

[(1) deleted]

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

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

10AA. Delegation of local government powers and duties

- (1) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, delegate to its chief executive officer any power or duty of the local government under another provision of this Act.
- (2) The delegation must be in writing.
- (3) The delegation may expressly authorise the delegate to further delegate the power or duty.
- (4) A local government's chief executive officer who is exercising or performing a power or duty that has been delegated as

s. 10AA

authorised under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

- (5) Nothing in this section limits the ability of a local government's chief executive officer to perform a function through an officer or agent.

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

10AB. Register of, and review of, delegations

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

are to be reviewed by the delegator.

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

10A. Payments to veterinary surgeons towards cost of sterilization

- (1) A local government may —
- (a) make payments to registered veterinary surgeons towards the cost of sterilization of a dog owned by an eligible person;
 - (b) from time to time issue directions in writing to such veterinary surgeons to be complied with as a condition of the receipt of a payment under paragraph (a).
- (2) No payment shall be made under subsection (1)(a) to a veterinary surgeon for the sterilization of a dog unless the local government is satisfied that the veterinary surgeon has complied with any direction issued under subsection (1)(b).

s. 11

- (3) For the purposes of subsection (1) a person is an eligible person in relation to a local government if he —
- (a) is the registered owner of the dog whether or not the registration is in the district of that local government or in another district;
 - (b) resides in the district of that local government; and
 - (c) in the opinion of that local government, would suffer hardship in paying the whole of the cost of sterilization of the dog.

[Section 10A inserted by No. 23 of 1987 s. 10; amended by No. 14 of 1996 s. 4.]

11. Staff and services

- (1) For the purposes of this Act a local government may establish and maintain one or more dog management facilities and may appoint, under and subject to the provisions of the *Local Government Act 1995*, fit and proper persons to administer those facilities and otherwise to carry out the objects of this Act.
- (2) Where each of 2 or more local governments desire to establish and maintain dog management facilities or other services required by this Act, or otherwise to co-operate in the administration of this Act, then notwithstanding the provisions of any other law it shall be lawful for an agreement pursuant to section 3.68 of the *Local Government Act 1995*, to be entered into and carried out for that purpose between them.
- (3) A person who is authorised by a local government to exercise any power under this Act shall be furnished with a certificate in the prescribed form evidencing his appointment, and shall produce that certificate on being required so to do by a person in respect of whom he exercises, has exercised, or is about to exercise any such power.

[Section 11 amended by No. 14 of 1996 s. 4; No. 18 of 2013 s. 9.]

12. Joint jurisdiction

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

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

12A. Entry of premises

- (1) A registration officer may, with the consent of the occupier, enter and inspect —
 - (a) any premises —
 - (i) where a dog is registered to be ordinarily kept; or
 - (ii) described in an application for registration as those where a dog will be ordinarily kept,
for the purpose of ascertaining whether the dog is, or will be, effectively confined; or
 - (b) any premises, for the purpose of ascertaining whether a dog that is reasonably suspected to be in or at the premises is registered for the purposes of section 7(1),
and may make such enquiries as he thinks necessary.
- (2) With the authority of a warrant, an authorised person, and any other person named in the warrant, may enter and inspect any premises for any purpose relating to the enforcement of this Act.

s. 13

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

[Section 12A inserted by No. 23 of 1987 s. 11; amended by No. 18 of 2013 s. 10.]

13. Immunity of persons acting in good faith

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

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

Part III — Registration and identification

[Heading inserted by No. 18 of 2013 s. 11.]

Division 1 — Registration

[Heading inserted by No. 18 of 2013 s. 11.]

14. Register of dogs

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

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

15. Registration periods and fees

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

Dog Act 1976

Part III Registration and identification

Division 1 Registration

s. 16

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

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

is one half of the fee that would otherwise be payable.

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

16. Registration procedure

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

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

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

Dog Act 1976

Part III Registration and identification

Division 1 Registration

s. 16

- (ii) the microchip's unique identification number for the dog;
 - and
 - (e) a statement as to whether the dog is kept, or is to be kept, as a commercial security dog; and
 - (f) a statement as to whether the owner is subject to an order under section 46A(2).
- (1BB) Nothing in subsection (1BA) prevents a form prescribed for the purposes of subsection (1) requiring an applicant to provide additional information.
- (1b) Where a dog is ordinarily kept by a person under the age of 18 years, application for registration of that dog shall be made by his parent or guardian or some other person who is over the age of 18 years and any registration shall be in the name of the applicant.
- (2) The registration officer on receipt of an application duly made under subsection (1) shall —
- (a) effect the registration in accordance with this Act; or
 - (b) where the local government so directs, refuse the application and refund the fee, if any,
- and in either event shall as soon as is practicable thereafter enter the prescribed particulars in the record maintained by the local government pursuant to section 14.
- (3A) If on an order under section 46A(2) a person is banned from owning or keeping a dog —
- (a) the registration officer of the local government district in which a dog is registered in the person's name is to cancel the registration of the dog in the person's name; and

- (b) a registration officer of any local government is not to effect or renew the registration of a dog in the person's name during the period to which the order applies.
- (3) The local government may direct the registration officer to refuse to effect or renew the registration of a dog, and may direct that the registration of a dog shall be cancelled, if —
- (a) the applicant, the owner, or the registered owner, as the case may be, has been convicted, or has paid a modified penalty, within the previous 3 years in respect of 2 or more offences against any of this Act, the *Cat Act 2011* or the *Animal Welfare Act 2002*; or
 - (b) the dog in question has been shown to the satisfaction of the local government to be destructive, unduly mischievous, or to be suffering from a contagious or infectious disease; or
 - (c) the local government is not satisfied that the dog is, or will be, effectively confined in or at premises where the dog is, or will be, ordinarily kept; or
 - (da) the dog is required under section 21 or 22 to be microchipped but is not microchipped; or
 - (d) the dog is a dangerous dog.
 - [(e) deleted]*
- [(3a), (3b) deleted]*
- (3c) The registration officer may cancel the registration of a dog if it is proved to his satisfaction that the dog has died or has been removed from the State.
- (4) Where the registration of a dog is refused, not renewed or cancelled pursuant to subsection (3) the local government shall forthwith notify the applicant or the person in whose name the registration was effected, and that notification shall be accompanied by a statement in writing of the grounds upon which the decision of the local government was made.

Dog Act 1976

Part III Registration and identification

Division 1 Registration

s. 16AA

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

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

16AA. Owner's delegate

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

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

16A. Change of ownership

- (1) Where the ownership of a dog, other than a dangerous dog, is transferred to another person, the registered owner shall within 28 days thereafter cause the local government in whose register his name appears to be notified in the prescribed manner and form of the name and residential address of the new owner.
Penalty: a fine of \$5 000.
- (2) No change shall be made in the record of the ownership of a dog unless —
 - (a) the registered owner has notified the change to the local government under subsection (1) or section 33K(2)(c);
or
 - (b) an application for registration is made by a person who alleges that he is the new owner.
- (3) A person aggrieved by a decision of the local government relating to the ownership of a dog as recorded in a register may apply to the State Administrative Tribunal for a review of the decision.

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

17A. If no application for registration made

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

Dog Act 1976

Part III Registration and identification

Division 1 Registration

s. 17

- (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.

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

17. Refusal or cancellation of registration

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

[(2) deleted]

- (3) Where the State Administrative Tribunal affirms the decision of the local government, section 40(1) shall not apply and the State Administrative Tribunal shall make an order for the seizure of the dog and for its detention and destruction.

- (3a) Notwithstanding subsection (3), the State Administrative Tribunal may suspend an order made under that subsection for a specified period and impose conditions relating to the keeping of the dog and may at or before the expiry of that period cancel the order under subsection (3) if it is satisfied that the dog will be kept without the likelihood of any contravention of this Act.
- (4) If an application is not made under subsection (1) within the time fixed for the making of the application the local government may apply to a Justice of the Peace for an order authorising the seizure of the dog and where the Justice is satisfied that the applicant or the registered owner or owner of the dog, as the case may be, of the dog has been given proper notice of the reason for the decision but has not applied for a review of the decision, the Justice may make an order for the seizure of the dog.
- (5) If an application is made under subsection (1) but the proceeding on the application in the State Administrative Tribunal is withdrawn, dismissed or struck out under section 46, 47 or 48 of the *State Administrative Tribunal Act 2004*, a Justice of the Peace may, on the application of the local government, make an order for the seizure of the dog.
- (6) If an order for the seizure of the dog is made under subsection (4) or (5), the local government may cause the dog to be seized and detained or destroyed or otherwise disposed of as though it had been found in a place in contravention of section 31, 32 or 33A and had not been claimed.

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

18. Registration tags

- (1) A registration tag shall —
- (a) be of a durable material;

- (b) be of a colour specified by the Minister under subsection (2); and
 - (c) contain such particulars as are prescribed.
- (2) The Minister shall by order published in the *Gazette* in respect of a registration period, or an extended registration period referred to in section 15(2)(a), or a lifetime registration referred to in section 15(2)(b), specify the colour of registration tags for that registration period or extended registration period.
- (3) The Minister may, in like manner, amend or replace an order under subsection (2).

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

19. Refund of fee on cancellation

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

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

20. Offences relating to registration, etc.

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

commits an offence.

Penalty:

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

Penalty: a fine of \$5 000.

Dog Act 1976

Part III Registration and identification

Division 2 Microchipping

s. 21

[Section 20 amended by No. 23 of 1987 s. 19 and 44; No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 18 of 2013 s. 20.]

Division 2 — Microchipping

[Heading inserted by No. 18 of 2013 s. 21.]

21. Microchipping of dogs other than dangerous dogs

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

Penalty: a fine of \$5 000.

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

Penalty: a fine of \$5 000.

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

[Section 21 inserted by No. 18 of 2013 s. 21.]

22. Microchipping of dangerous dogs

(1) In this section —

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

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

Penalty:

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

(3) Subsection (2) does not apply in relation to a dangerous dog (declared) —

- (a) during the 7 day period after the giving of the notice, required by section 33F(1), by which the dog is declared a dangerous dog (declared); or
- (b) during the period, if any, beginning when the owner lodges an objection under section 33F or applies for review under section 33I(1)(b) and ending 7 days after the day of the determination of that objection or review; or
- (c) during the 7 day period, if any, after the giving of a notice under section 33F(6)(a) as to the dismissal of an objection; or
- (d) during the period, if any, beginning when the owner applies for a review under section 33I(1)(a)(i) or (d) and ending 7 days after the day of the determination of that review.

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

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

23. Notice to be given of microchip information

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

Penalty: a fine of \$5 000.

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

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

24. Microchip implanter to give information to microchip database company

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

Penalty: a fine of \$5 000.

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

25. Microchip database company's obligations

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

Penalty: a fine of \$5 000.

[Section 25 inserted by No. 18 of 2013 s. 21.]

26A. Interference with microchips

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

Penalty: a fine of \$5 000.

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

26B. Transfer of ownership of unmicrochipped dogs

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

Penalty: a fine of \$5 000.

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

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

26C. Transfer of ownership of microchipped dogs

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

- (a) the name and address of the person to whom the ownership of the dog was transferred; and

Dog Act 1976

Part III Registration and identification

Division 3 Changes to recorded information

s. 26D

- (b) any other changes to the information prescribed under section 24 in respect of the dog.

Penalty: a fine of \$5 000.

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

Division 3 — Changes to recorded information

[Heading inserted by No. 18 of 2013 s. 21.]

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

The owner of a dog must give notice in writing —

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

within 7 days after the change to the information.

Penalty: a fine of \$5 000.

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

Part V — The keeping of dogs

26. Limitation as to numbers

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

s. 26

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

Penalty:

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

- (b) for an offence relating to a dog other than a dangerous dog —
 - (i) a fine of \$5 000;
 - (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$100.
- (5) Any person who is aggrieved —
 - (a) by the conditions imposed in relation to any exemption under subsection (3); or
 - (b) by the refusal of a local government to grant such an exemption, or by the revocation of an exemption,may apply to the State Administrative Tribunal for a review of the decision.
- (6) An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.

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

27. Licensing of approved kennel establishments

- (1) Where, under section 26(1)(a) or (b), a limit is imposed on the number of dogs that can be kept in or at any premises situate in a local government's district area, and a person proposes to keep more than that number of dogs in or at premises in that area that are not exempt from the limitation, the person must apply for the premises in question to be licensed as an approved kennel establishment.
- (2) A person who keeps, or permits or suffers to be kept, any dog over the age of 3 months of a breed or kind to which that licence applies at an approved kennel establishment otherwise than in

s. 27

accordance with the licence relating to that establishment commits an offence.

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.
- (3) Local laws made under this Act may require that dogs in an approved kennel establishment shall be kept in kennels and yards appropriate to the breed or kind in question and having specifications of a standard not less than that prescribed, sited and maintained in accordance with the requirements of public health, and sufficiently secured.
- (4) A licence to keep an approved kennel establishment may be granted by a local government on an application made in 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 local government shall have regard to any objections raised.
- (5) A licence under this section has effect for a period of 12 months, and is renewable upon payment of the prescribed fee, but may be cancelled at any time by the local government if the local government is dissatisfied with the conduct of the establishment.
- (6) The cancellation of a licence under this section shall be effected by the service of a notice on the licensee specifying a period at the end of which the licence is cancelled, which shall be a period of not less than 3 months.
- (7) Where —
- (a) the local government refuses the grant of a licence under this section; or

(b) notice of the cancellation of a licence under this section is given,

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

[Section 27 amended by No. 23 of 1987 s. 23; No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 55 of 2004 s. 257; No. 18 of 2013 s. 23.]

Part VI — Control of dogs

[Heading inserted by No. 23 of 1987 s. 24.]

Division 1 — Dogs generally

[Heading inserted by No. 24 of 1996 s. 7.]

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.

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

29. Power to seize dogs

- (1) A local government shall, in writing, appoint persons to exercise on behalf of the local government the powers conferred on an authorised person by this Act.
- (1a) A police officer may exercise any power conferred by this section on an authorised person.
- (2) No proceedings, whether civil or penal, shall lie against —
- (a) any person assisting an authorised person or a police officer, at his request and in accordance with his directions; or

- (b) the owner or occupier of any premises for the time being used to detain a dog pursuant to this Act,
in respect of any act, matter or thing done or omitted to be done in good faith for the purposes of carrying out the provisions of this Act.
- (3) If it appears to an authorised person that —
- (a) an attack by a dog has occurred; or
 - (b) an attack by a dog is likely to occur; or
 - (ca) a dog is in a place in contravention of section 31, 32 or 33A; or
 - (cb) an offence against section 26(4) or 27(2) is being committed in respect of a dog; or
 - (cc) an offence against Division 2 is being committed in respect of a dog; or
 - (c) a dog is a dangerous dog —
 - (i) in relation to which moneys are due to the local government in respect of a charge determined under section 33M; or
 - (ii) which is not registered as required under section 7,
- the authorised person may —
- (d) seize and detain the dog; and
 - (e) if he is in pursuit of the dog for the purpose of seizing it and he has reasonable grounds to believe that it is necessary to do so for that purpose, enter any premises other than a dwelling unless section 33G(1) applies.
- (4A) In relation to subsection (3)(cb), an authorised person may seize and detain only the number of dogs in excess of the limit imposed under —
- (a) a local law mentioned in section 26(1); or
 - (b) an exemption granted under section 26(3); or

Dog Act 1976

Part VI Control of dogs

Division 1 Dogs generally

s. 29

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

as is applicable in the case.

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

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

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

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

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

birth to one or more pups, a Justice of the Peace may issue a warrant authorising any authorised person to seize the attack dog, or each pup, as is relevant to the case, and —

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

Dog Act 1976

Part VI Control of dogs

Division 1 Dogs generally

s. 29

owner's delegate, if any, in the prescribed manner and form as soon as is practicable; and

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

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

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

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

Dog Act 1976

Part VI Control of dogs

Division 1 Dogs generally

s. 29

- (b) the person in whose name the dog is registered declines to resume possession of the dog; or
- (c) any moneys due in relation to the dog are not paid; or
- (d) section 33G(6) applies; or
- (e) an authorised person is satisfied that to deliver up the dog under subsection (8) or (8A) would create circumstances that give rise to an offence against this Act,

an authorised person may cause the dog to be destroyed.

- (11) A dog which is liable to be destroyed pursuant to subsection (10) may be disposed of by the local government or prescribed body or sold and the proceeds of the sale shall be the property of the local government or prescribed body detaining the dog and are not required to be accounted for to the owner.
- (12) Where it is the opinion of an authorised person that a dog seized pursuant to this section is suffering from injury, disease or sickness to such an extent that it is impracticable to maintain the dog, or that any such disease is of a contagious or infectious kind, he may cause it to be destroyed upon the written authority of a registered veterinary surgeon, medical practitioner or environmental health officer.
- (13) Where an authorised person may seize a dog under subsection (3) but by reason of —
 - (a) the savagery of the dog; or
 - (b) repeated evasion of attempts at seizure; or
 - (c) other sufficient cause,

it is, in the opinion of the authorised person, dangerous or impracticable to seize the dog, the dog may, subject to subsection (13a), be destroyed without being seized if —

- (d) the assistance of the owner, or some other person likely to be able to control the dog is not reasonably available; and
 - (e) there is no other practicable way to enforce the provisions of this Act.
- (13a) A dog may be destroyed under subsection (13) only —
- (a) in a public place; or
 - (b) on premises that are not a public place if the occupier of those premises consents to the destruction.
- (14) A local government or an authorised person may cause a dog to be destroyed at the request of the owner of that dog, whether or not the dog has been seized or detained.
- (15) Where a dog is destroyed under this section, the owner is liable for the cost of both the destruction and the disposal of the dog.
- [Section 29 amended by No. 23 of 1987 s. 26; No. 14 of 1996 s. 4; No. 24 of 1996 s. 8; No. 57 of 1997 s. 49; No. 10 of 1998 s. 29(1); No. 55 of 2004 s. 258; No. 18 of 2013 s. 25.]*

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

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

associated with the implantation of a microchip in the dog under subsection (1).

- (3) The operator of a dog management facility may recover the amount of the costs referred to in subsection (2) from the owner of the dog in a court of competent jurisdiction.

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

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

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

Penalty: a fine of \$5 000.

- (3) A dog is exempt from the requirements of subsection (1)(a) if it is —

- (a) a greyhound participating in a greyhound race or trial held under a licence issued under the *Racing and Wagering Western Australia Act 2003*;

[(b), (c) deleted]

- (d) a dog being exhibited for show purposes;
- (e) a dog which, under the control of a responsible person, is being trained for or is participating in retrieving, duck hunting or some other customary sporting purpose; or
- (f) a dog that is participating in an obedience trial or classes conducted under the auspices of the body known as the Canine Association of Western Australia (Inc.) or a body approved by the local government in whose district the obedience trial or classes are conducted.

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

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

31. Control of dogs in certain public places

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

Dog Act 1976

Part VI Control of dogs

Division 1 Dogs generally

s. 31

and that is not a rural leashing area specified under subsection (3B); or

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

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

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

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

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

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

- (3) If a dog is at any time in any public place in contravention of subsection (1) or (2A), every person liable for the control of the dog at that time commits an offence unless the person establishes a defence under section 33B.

Penalty: a fine of \$5 000.

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

- (5) A local government must specify under subsection (3A) such dog exercise areas as are, in the opinion of the local government, sufficient in number, and suitable, for the exercising of dogs in the district.

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

32. Control of dogs in exercise areas and rural areas

- (1) A dog shall not be in —
- (a) a dog exercise area specified under section 31(3A); or
 - (b) a public place that is in an area of the State outside the metropolitan region or outside a townsite, and that is not a rural leashing area specified under section 31(3B),

unless —

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

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

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

33. Special provision for greyhounds

- (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) Section 31 applies to a greyhound subject to the following modifications —
- (a) the exemptions in subsection (2)(a) and (b) of that section shall not apply;
 - (b) a greyhound is exempt from section 31(1) while it is participating in a greyhound race or trial held under a

licence issued under the *Racing and Wagering Western Australia Act 2003*; and

- (c) for the purposes of subsection (1)(a) of that section, a person shall be conclusively deemed to be incapable of controlling a greyhound if it is one of more than 2 greyhounds held by him at one time.
- (3) If a greyhound is at any time not muzzled as required by subsection (1) every person liable for the control of the dog at that time commits an offence unless the person establishes a defence under section 33B.
Penalty: a fine of \$5 000.
- (4) This section does not apply to a dangerous dog.

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

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

- (1) A dog shall not be in any place that is not a public place unless —
 - (a) consent to its being there has been given —
 - (i) by the occupier or a person apparently authorised to consent on behalf of the occupier; or
 - (ii) if the place is unoccupied, by the owner or a person apparently authorised to consent on behalf of the owner; or
 - (iii) if the place is an enclosed field, paddock, yard or other place in which animals or birds are confined, by the owner of all such animals or birds;
 - or
 - (b) in the case of a dangerous dog, it is controlled as required by section 33GA(6), (7) and (8); or

Dog Act 1976

Part VI Control of dogs

Division 1 Dogs generally

s. 33B

- (c) in the case of a dog other than a dangerous dog, it is held or tethered as required by section 31(1).
- (2) A dog is exempt from the requirements of subsection (1) if it is —
 - (a) in a pet shop or premises used for the practice of a registered veterinary surgeon; or
 - (b) in or on a vehicle.
- (3) If a dog is at any time in any place in contravention of subsection (1) every person liable for the control of the dog at that time commits an offence unless the person establishes a defence under section 33B.

Penalty:

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

[Section 33A inserted by No. 23 of 1987 s. 27; amended by No. 24 of 1996 s. 16; No. 18 of 2013 s. 31.]

33B. Defences applicable to offences under this Division

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

- (a) in the case of any person, that he took all reasonable precautions and exercised all due diligence to avoid the contravention;
- (b) in the case of the occupier of premises where the dog is ordinarily kept or ordinarily permitted to live, that —
 - (i) he has fulfilled the requirements of paragraph (a); or

- (ii) that at the material time the dog was in fact owned by some other person (whom he shall identify) over the age of 18 years;

or

- (c) in the case of the owner or the registered owner, that —
 - (i) he fulfilled the requirements of paragraph (a); or
 - (ii) that at the material time the dog was in the possession or control of some other person without his consent, express or implied.

[Section 33B inserted by No. 23 of 1987 s. 27; amended by No. 18 of 2013 s. 32.]

33C. Saving

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

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

33D. Dog attacks, etc.

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

Penalty:

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

Dog Act 1976

Part VI Control of dogs

Division 2 Dangerous dogs

s. 33D

Penalty:

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

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

- (a) in the case of any person, that the dog was being used in good faith in the reasonable defence of any person or property or for the droving or removal of any animal found trespassing; or
- (b) in the case of the occupier of premises where the dog is ordinarily kept or ordinarily permitted to live, that at the material time the dog was owned by another person who had reached 18 years of age, and who is identified by the person charged; or
- (c) in the case of the owner, that at the material time the dog was in the possession or control of another person without the owner's consent, express or implied.

(2) A person shall not set on or urge a dog to attack or chase any person or animal, whether or not any injury is caused, except in good faith —

- (a) in the reasonable defence of any person or property; or
- (b) for the droving or removal of any animal if —
 - (i) the owner or person in charge of the animal consents to the droving or removal; or
 - (ii) the animal is found trespassing.

Penalty:

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

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

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

Division 2 — Dangerous dogs

[Heading inserted by No. 24 of 1996 s. 10.]

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

- (1) A local government, or on behalf of the local government an authorised person or person specifically authorised by the local government for the purposes of this section either generally or in a particular case, may, by a notice in writing given in accordance with section 33F, declare an individual dog to be a dangerous dog (declared) if, in the opinion of the local government or that person —
 - (a) the dog has caused injury or damage by an attack on, or chasing, a person, animal or vehicle;
 - (b) the dog has, repeatedly, shown a tendency —
 - (i) to attack, or chase, a person, animal or vehicle even though no injury has been caused by that behaviour; or
 - (ii) to threaten to attack;
- or

- (c) the behaviour of the dog meets other criteria prescribed for the purpose of this section.
- (2) For the purpose of subsection (1)(b), a dog to which section 30(3) applies shall not be taken to show a tendency to attack, or chase, in carrying out the activities referred to in section 30(3) in relation to a dog of that kind.
- (3) The owner of a dog declared to be a dangerous dog (declared), or detained under this Division, shall have the rights referred to in this Division to object and to apply for a review.

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

33F. Owner to be notified of making of declaration

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

[(c) deleted]

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

[(4), (5) deleted]

- (6) Where an objection is lodged with a local government in accordance with subsection (2)(b)(i) the local government shall consider it and —
- (a) if the local government dismisses the objection, the owner may, within 7 days after the giving of a notice by the local government as to the dismissal of the objection, apply to the State Administrative Tribunal for a review of the decision; or
 - (b) if the local government has not given notice to the owner stating that the objection has been considered, and setting out its determination on the objection, within 35 days after the giving under subsection (1) of the notice of the making of the declaration, the owner may, within 42 days after the giving of the notice under subsection (1), apply to the State Administrative Tribunal for a review of the decision to which the owner objected.
- (7) Where a local government gives notice of the dismissal of an objection under this section, that notice must set out the reason for the dismissal of the objection.

[(8), (9) deleted]

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

33GA. Offences relating to dangerous dogs

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

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

Dog Act 1976

Part VI Control of dogs

Division 2 Dangerous dogs

s. 33GA

(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.

Dog Act 1976

Part VI Control of dogs

Division 2 Dangerous dogs

s. 33GB

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

Penalty:

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

- (11) A person who contravenes subsection (10) is guilty of a crime.

Penalty: imprisonment for 10 years.

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

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

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

Penalty:

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

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

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

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

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

Dog Act 1976

Part VI Control of dogs

Division 2 Dangerous dogs

s. 33GD

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.

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

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

A person must not —

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

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

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

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

(1) In this section —

receiver means a person to whom —

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

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

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

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

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

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

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

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

- (c) a prescribed document,

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

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

33G. Seizure and destruction

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

otherwise consents, than 10 days after the giving of the notice; and

- (d) specifying that the owner has a right under this Division, to be exercised within not more than 7 days after the giving of the notice, either —
 - (i) to lodge a written objection with the local government, with a subsequent right to apply to the State Administrative Tribunal for a review of the decision made by the local government on the objection; or
 - (ii) to apply directly to the State Administrative Tribunal for a review,

where, and as soon as, that is practicable.

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

Dog Act 1976

Part VI Control of dogs

Division 2 Dangerous dogs

s. 33H

for a review of the decision to which the owner objected.

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

(6) Where —

(a) an objection lodged with a local government in accordance with subsection (2)(d)(i) is dismissed and —

(i) no application for review is made to the State Administrative Tribunal;

(ii) an application for review is made but the applicant discontinues the application; or

(iii) the State Administrative Tribunal makes an order dismissing the application for want of prosecution;

or

(b) an application is made under this section to the State Administrative Tribunal for a review and the State Administrative Tribunal affirms the proposal to cause the dog to be destroyed,

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

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

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

(1) The local government of the district in which the dog is at that time ordinarily kept may, of its own motion or, subject to subsection (4), on the application of the owner of the dog, revoke —

- (a) a notice under section 33F(1) declaring a dog to be a dangerous dog (declared); or
- (b) a notice under section 33G proposing to cause a dog to be destroyed,

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

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

application, apply to the State Administrative Tribunal for a review of the decision; or

- (b) if the local government has not given notice to the owner stating that the application has been considered, and setting out its determination on the objection, within 35 days after the lodging of the application under subsection (1), the owner may, within 42 days after the lodging of the application under subsection (1), apply to the State Administrative Tribunal for a review of the decision on the application as if the application had been dismissed.

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

33I. Jurisdiction of State Administrative Tribunal

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

- (d) where an objection or application is lodged with the local government but section 33F(6)(b), section 33G(4)(b) or section 33H(5)(b) applies.
- (2) Where, under this Division, an application for a review is made to the State Administrative Tribunal, the orders that the State Administrative Tribunal may make include —
 - (a) where the dog is detained, an order for the release of the dog to the owner;
 - (b) on being satisfied that the dog will be kept without the likelihood of any contravention of this Act, an order cancelling any previous order made in respect of that dog by the State Administrative Tribunal.

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

33J. Duration of a declaration

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

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

[(d) deleted]

even though the ownership of the dog may change.

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

33K. Duty to notify persons

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

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

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

Penalty:

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

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

- (4) On or before the change of ownership of a dangerous dog (declared), the person transferring ownership must give to the person to whom ownership is to be transferred —
- (a) written notice that the dog is a dangerous dog for the purposes of this Act; and
 - (b) a copy of the notice given under section 33F(1).

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

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

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

- (5) The owner of a dangerous dog must notify the local government of the district in which the dog is ordinarily kept if —
- (a) the dog is to be ordinarily kept in a location not in the district of that local government, giving particulars as to the new location; or
 - (b) the dog dies.

Penalty: a fine of \$5 000.

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

33L. Defences applicable to this Division

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

- (a) in the case of any person (including a person referred to in paragraph (b), (c) or (d)), that the person took all

reasonable precautions and exercised all due diligence to avoid the contravention; or

- (b) in the case of any person other than the owner of the dog to which the charge relates, that the person did not know and did not have reasonable cause to believe that the dog was a dangerous dog for the purposes of this Act; or
- (c) in the case of a person who is the occupier of premises where the dog to which the charge relates is ordinarily kept or ordinarily permitted to live, that at the material time the dog was owned by another person who had reached 18 years of age, and who is identified by the person charged; or
- (d) in the case of a person who is the owner of the dog to which the charge relates (the *owner*), that at the material time the dog was in the possession or control of another person without the owner's consent, express or implied.

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

33M. Local government expenses to be recoverable

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

maximum amount prescribed for the purposes of paragraph (a); or

(ii) prescribed,
as the local government may require.

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

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

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

[Heading inserted by No. 24 of 1996 s. 11.]

34. Protection of livestock

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

chasing of livestock, whether in a confined area or otherwise, the fact that the dog was immediately prior thereto in company with or had been seen continuously and closely following a person is *prima facie* evidence that the person had the dog in his possession or under his control for the purposes of the definition of “person liable for the control of the dog” in section 3.

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

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

Penalty: a fine of \$1 000.

[Section 34 amended by No. 23 of 1987 s. 28; No. 24 of 1996 s. 16; No. 18 of 2013 s. 44.]

35. Destruction of vermin, etc.

Where a person, reasonably and in good faith, lawfully takes measures for the purpose of destroying vermin or dogs wandering at large, whether by means of traps, poison or otherwise, in conformity with the provisions of any Act or the regulations made thereunder, and as a consequence of a dog

wandering at large those measures result in that dog suffering death, injury or harm, that person shall not be liable therefor in any proceedings, whether civil or penal.

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

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

Division 4 — Control of nuisance

[Heading inserted by No. 24 of 1996 s. 11.]

38. Nuisance dogs

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

Dog Act 1976

Part VI Control of dogs

Division 4 Control of nuisance

s. 38

to prevent the behaviour that is alleged to constitute the nuisance by a time specified in the order.

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

Penalty:

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

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

Part VII — Enforcement

39. Dogs causing injury or damage may be destroyed

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

s. 40

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

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

Penalty: a fine of \$5 000.

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

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

40. Destruction of dogs, etc.

- (1) In relation to any application made for an order for the destruction of a dog or where in any proceedings the destruction of a dog may be ordered, the court or the State Administrative Tribunal, according to which of them is dealing with the proceedings, may —
 - (a) order the destruction;
 - (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;
 - (ea) where the dog has been detained under section 29(5b) or an order is made under paragraph (c), make any order it

- thinks fit as to the payment of any cost, charge or fee of a kind referred to in section 29(4);
- (f) authorise a police officer or a person appointed by the local government to give effect to the order; and
 - (g) give all necessary directions to make the order effective.
- (2) An order for the destruction of a dog shall state —
- (a) to whom it is directed;
 - (b) whether or not it may be remitted, and, if so, in what circumstances; and
 - (c) within what period it is to be put into effect.
- (3) Where the destruction of a dog is ordered or authorised by this Act it shall be effected so far as is practicable without cruelty and by some speedy means.
- (4) An order of the kind referred to in subsection (1) shall be implemented notwithstanding that the ownership of the dog has changed or is not known, or that the dog is no longer kept in the area for which the local government is the registration authority, unless on an application made to the court making the original order or the State Administrative Tribunal, as the case requires, that court or tribunal is satisfied that the changed circumstances are such that the order may be varied.
- (5) A person who is ordered or authorised to destroy a dog is required to make provision for the disposal of the carcass.

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

41. Indemnity as to destruction of dogs

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

s. 43

[42. Deleted by No. 23 of 1987 s. 33.]

43. Offences relating to enforcement, etc.

(1) A person who —

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

commits an offence.

Penalty:

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

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

Penalty:

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

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

43A. Name and address to be supplied

A person who is alleged by an authorised person to be concerned in the commission of an offence against this Act shall furnish to that authorised person on demand his full name, date of birth and the address of his place of residence.

Penalty:

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

s. 44

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

[Section 43A inserted by No. 23 of 1987 s. 35; amended by No. 24 of 1996 s. 16; No. 18 of 2013 s. 49.]

44. Enforcement proceedings

[(1) deleted]

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

[Section 44 amended by No. 14 of 1996 s. 4; No. 59 of 2004 s. 141; No. 18 of 2013 s. 50.]

45. Evidentiary provisions

- (1) In any proceeding for an offence against this Act in relation to a specified dog —

- (a) an averment in a prosecution notice alleging an offence against this Act that at a particular time —
 - (i) a specified person was the registered owner of the dog; or
 - (ii) the dog was ordinarily kept by a specified person; or
 - (iii) a specified person had the dog in the person's possession or under the person's control; or
 - (iv) a specified person was the occupier of any premises where the dog was ordinarily kept or ordinarily permitted to live; or
 - (v) the dog was not registered; or
 - (vi) the dog was of a particular breed or was a mix of particular breeds; or
 - (vii) the dog was not sterilised; or
 - (viii) the dog was not microchipped; or
 - (ix) that a specified person's name was recorded as the owner of the dog in a microchip database; or
 - (x) that a specified database was a microchip database; or
 - (xi) that a specified person or body was a microchip database company in relation to the dog; or
 - (xii) the dog had reached 3 months of age; or
 - (xiii) the dog was under 3 months of age; or
 - (xiv) the dog was the pup of a particular dog,
is evidence of that fact; and
- (b) the onus of proving that at a particular time the dog was registered, sterilised, microchipped or was under the age of 3 months lies on the person making that assertion.

s. 45A

- (2A) In any proceedings, whether civil or criminal, the onus of proving that a particular dog was not a dangerous dog (restricted breed) lies on the person making that assertion.
- (2) In any proceedings, whether civil or penal, a registration certificate under section 16(6), or a copy of an entry in a register certified by a registration officer, shall, without proof of the signature of the person appearing to have signed the same or that he is a registration officer, be evidence of the matters relevant to the proceedings set out in that registration certificate or certified copy.

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

45A. Modified penalties

- (1) Regulations may provide for a modified penalty for an offence —
- (a) against a provision of this Act, other than the regulations, for which the maximum penalty does not exceed \$10 000; or
 - (b) a regulation made under section 48 or 54.
- (2) Local laws may provide for a modified penalty for an offence against those local laws.
- (3) A modified penalty for an offence must not exceed 10% of the maximum penalty for that offence.
- (4) Where a person does not contest an allegation that he committed an offence to which a modified penalty applies, the production of an acknowledgement from the local government by whom that person was notified of the commission of the offence that the modified penalty has been paid to that local government shall be a defence to a charge of the offence in respect of which the modified penalty was paid.

- (5) The payment of a modified penalty shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the occurrence to which the modified penalty relates.
- (6) For the purposes of section 16(3)(a) and section 33E, the payment of a modified penalty in relation to any occurrence may be taken to be evidence of the behaviour of the dog by reason of which that modified penalty was imposed.

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

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.

s. 46A

- (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.

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

Part VIII — Civil remedies, etc.

46. Damages

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

s. 47

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

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

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

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

47. Veterinary service expenses recoverable from local government

- (1) In this section —
representative, in relation to a local government, means —
- (a) 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.

[Section 47 inserted by No. 18 of 2013 s. 54.]

Part IX — Local laws

[Heading amended by No. 14 of 1996 s. 4.]

48. Regulations to operate as local laws

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

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

49. Local laws

A local government may make local laws —

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

(c) for the purposes permitted by section 51.

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

49A. Model local laws

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

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

49B. Governor may amend or repeal local laws

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

s. 50

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

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

50. General provisions relating to regulations and local laws

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

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

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

51. Local law making powers

A local government may so make local laws —

- (a) providing for the registration of dogs;
- [(b)-(bb) deleted]*
- (c) specifying areas within which it shall be an offence (unless the excreta are removed) for any person liable for the control of a dog to permit that dog to excrete on any street or public place or on any land without the consent of the occupier;
- (d) requiring that in specified areas a portion of the premises where a dog is kept must be fenced in a manner capable of confining the dog;
- (e) providing for the establishment and maintenance of dog management facilities and other services and facilities necessary or expedient for the purposes of this Act;
- (f) providing for the detention, maintenance, care and release or disposal of dogs seized;
- (g) as to the destruction of dogs pursuant to the powers hereinbefore conferred;
- [(h) deleted]*
- (i) providing for the licensing, regulating, construction, use, and inspection of approved kennel establishments.

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

s. 52

52. Revocation of local laws

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

[Section 52 amended by No. 14 of 1996 s. 4; No. 38 of 2005 s. 15.]

Part X — Regulations

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

54. Regulations generally

- (1) The Governor may make regulations for and in relation to any matter which the Governor thinks necessary or expedient for carrying this Act into effect, including such transitional, incidental and supplementary provisions as may be necessary in relation to the Acts repealed by this Act or any application of the provisions of this Act.
- (2A) Without limiting subsection (1), the Governor may make regulations to make provision for a register of dangerous dogs.
- (2B) Despite the *Interpretation Act 1984* section 41(1)(b), a regulation prescribing a breed of dog to be a restricted breed for the purposes of the definition of **dangerous dog (restricted breed)** in section 3(1) comes into operation on the 7th day after publication in the *Gazette* or if a later day is specified or provided for in the regulation, on that day.
- (2) Where and to the extent that there is inconsistency between regulations made under this Act and any local law in force in any district made or purporting to have been made under or pursuant to this Act, the Acts repealed by this Act, the *Local Government Act 1995*, or any other Act the provisions of the regulations prevail.
- (3) The provisions of section 50(1), (2) and (3) have effect in relation to regulations mentioned in this section in the same way that they apply to a regulation made under section 48.

[Section 54 amended by No. 14 of 1996 s. 4; No. 18 of 2013 s. 58.]

Part XI — Transitional provisions

[Heading inserted by No. 18 of 2013 s. 59.]

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

[Heading inserted by No. 18 of 2013 s. 59.]

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*.

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

56. Authorisations in relation to assistance dogs

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

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

57. Registration procedure

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

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

58. Detained dogs

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

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

59. Dogs declared to be dangerous dogs

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

[Section 59 inserted by No. 18 of 2013 s. 59.]

60. Transitional regulations

(1) In this section —

commencement day means —

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

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

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

transitional regulations means regulations under subsection (2).

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

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

Notes

- ¹ This is a compilation of the *Dog Act 1976* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Dog Act 1976</i>	58 of 1976	16 Sep 1976	Act other than s. 21: 24 Dec 1976 (see s. 2(1) and <i>Gazette</i> 24 Dec 1976 p. 5029); s. 21: 1 Jul 1977 (see s. 2(2) and <i>Gazette</i> 3 Jun 1977 p. 1635)
<i>Dog Act Amendment Act 1977</i>	57 of 1977	23 Nov 1977	23 Nov 1977
<i>Dog Amendment Act 1983</i>	64 of 1983	13 Dec 1983	17 Nov 1983 (see s. 2)
Reprint of the <i>Dog Act 1976</i> approved 17 Sep 1984 (includes amendments listed above)			
<i>Dog Amendment Act 1987</i>	23 of 1987	25 Jun 1987	1 Nov 1987 (see s. 2 and <i>Gazette</i> 18 Sep 1987 p. 3587)
Reprint of the <i>Dog Act 1976</i> as at 11 Feb 1988 (includes amendments listed above)			
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Dog Amendment Act 1996</i>	24 of 1996	27 Aug 1996	14 Sep 1996 (see s. 2 and <i>Gazette</i> 13 Sep 1996 p. 4675)
<i>Transfer of Land Amendment Act 1996</i> s. 153(1)	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
Reprint of the <i>Dog Act 1976</i> as at 20 Nov 1996 (includes amendments listed above)			
<i>Acts Amendment (Land Administration) Act 1997</i> s. 141	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> s. 49	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))

Dog Act 1976

Short title	Number and year	Assent	Commencement
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998</i> s. 29	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<i>Western Australian Greyhound Racing Association Amendment Act 1998</i> s. 20	23 of 1998	30 Jun 1998	1 Aug 1998 (see s. 3 and <i>Gazette</i> 21 Jul 1998 p. 3825)
Reprint of the Dog Act 1976 as at 9 Nov 2001 (includes amendments listed above)			
<i>Racing and Gambling Legislation Amendment and Repeal Act 2003</i> s. 220 ³	35 of 2003	26 Jun 2003	1 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Jul 2003 p. 3259)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141 ⁶	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 38 ^{4,5}	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80 and 82	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005</i> s. 15	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)
Reprint 5: The Dog Act 1976 as at 4 Aug 2006 (includes amendments listed above)			
<i>Land Information Authority Act 2006</i> s. 132	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009</i> s. 47	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))

Short title	Number and year	Assent	Commencement
<i>Dog Amendment Act 2013</i> Pt. 2 ⁷	18 of 2013	29 Oct 2013	1 Nov 2013 (see s. 2(b) and <i>Gazette</i> 31 Oct 2013 p. 4829)

² Footnote no longer applicable.

³ The *Racing and Gambling Legislation Amendment and Repeal Act 2003* s. 19 reads as follows:

“

19. Power to amend regulations

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

”.

⁴ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

⁵ The *State Administrative Tribunal Regulations 2004* r. 47 reads as follows:

“

47. Dog Act 1976

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

”.

⁶ The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 15 was repealed by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).

⁷ The *Dog Amendment Act 2013* s. 60 reads as follows:

60. Review of Act

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

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
amending provision.....	60(2)
assistance dog	8(1)
attack.....	3(1)
attack dog.....	29(5a)
authorised person	3(1)
CEO	3(1)
commencement day	60(1)
commercial security dog	3(1)
dangerous dog	3(1)
dangerous dog (declared).....	3(1)
dangerous dog (restricted breed).....	3(1)
detention period	29(8A)
district	3(1)
dog	17A(1)
dog management facility.....	3(1)
dwelling	3(1)
effectively confined	3(1)
Gazettal day	60(1)
livestock	34(2)
metropolitan region.....	3(1)
microchip	3(1)
microchip database	3(1)
microchip database company	3(1)
microchip implanter	3(1)
microchipped	3(1)
mobile home	3(1)
operative day.....	60(4)
owner	3(1), 33L
owner's delegate	3(1)
person liable for the control of the dog	3(1)
police officer	3(1)
premises	3(1)
prescribed.....	3(1)
provocation	3(1)
public officer.....	6(6)
public place.....	3(1)
receiver	33GE(1)
registered owner.....	3(1)
registered veterinary surgeon.....	3(1)

Dog Act 1976

Defined terms

registration officer.....	3(1)
relevant day	22(1)
relevant time	33GE(1)
representative	47(1)
restricted breed pup.....	33GC(1)
scan	3(1)
specified	50(3)
sterilised	3(1)
townsite	3(1)
transfer	3(1)
transitional matter	60(1)
transitional regulations.....	60(1)
vehicle.....	3(1)
veterinarian	3(1)
working	3(1)