



ANNO TRICESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1989

No. 20 of 1989

An Act to amend the Dog Control Act, 1979.

[Assented to 27 April 1989]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Dog Control Act Amendment Act, 1989*.
- (2) The *Dog Control Act, 1979*, is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. Section 5 of the principal Act is amended—

- (a) by striking out from subsection (1) the definition of "dog" and substituting the following definition:

"dog" means an animal of the species *canis familiaris* but does not include a dingo or cross of a dingo;

- (b) by inserting after the definition of "the Fund" in subsection (1) the following definition:

"guard dog" means a dog used in or in connection with a business or other activity not of a domestic nature principally for the purpose of guarding or protecting a person or property;

- (c) by inserting after the definition of "guide dog" in subsection (1) the following definition:

"metropolitan council" means a council declared by regulation to be a metropolitan council;

- (d) by striking out paragraph (a) of the definition of "prescribed private pound" in subsection (1) and substituting the following paragraph:

(a) by the Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated;

and

(e) by inserting after the definition of “registrar” in subsection (1) the following definition:

“registration disc” means a disc, badge, tag or other device issued or to be issued in respect of a dog registered under this Act.

Appointment of authorized persons

4. Section 7 of the principal Act is amended by striking out from subsection (3) “within the meaning of the *Local Government Act, 1934-1981*,”.

Dog Control Statutory Fund

5. Section 16 of the principal Act is amended by striking out subsection (3) and substituting the following subsection:

(3) The Fund may be applied by the Minister in making grants or payments—

(a) to the Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated;

(b) to the Animal Welfare League of South Australia, Incorporated;

(c) to any council or organization for maintenance of a pound;

(d) for the administrative expenses associated with the operations of the Committee;

(e) for any other purpose approved by the Minister as being in furtherance of the objects of this Act.

Offence where dog is unregistered

6. Section 26 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

(1a) A person responsible for the control of a dog is not guilty of an offence against subsection (1) by reason of the fact that the dog is unregistered if—

(a) less than 14 days has elapsed since the person first became responsible for the control of the dog;

or

(b) the dog is travelling with the person and the place at which the dog is or is to be usually kept is not within the State.;

(b) by striking out from paragraph (a) of subsection (2) “three months” and substituting “six months”;

and

(c) by striking out subparagraph (ii) of paragraph (b) of subsection (2).

Registration

7. Section 27 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) An application for registration of a dog must be made to the registrar for the area in which the dog is or is to be usually kept.;

(b) by inserting after paragraph (b) of subsection (2) the following paragraph:

(ba) be accompanied by any document or certificate required under the regulations;;

(c) by striking out subsections (4) and (5);

and

(d) by striking out from subsection (6) "for the blind".

Duration and renewal of registration

8. Section 29 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) Registration of a dog under this Act expires if the dog is removed from the area in which it is registered with the intention that it will be usually kept at a place outside that area and 14 days has elapsed since it was removed from that area.

Collars and registration discs

9. Section 33 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) If a dog is in any place without a collar around its neck that—

(a) has legibly and indelibly endorsed or inscribed on it, or an attachment to it, the name and address of the owner of the dog;

(b) has securely attached to it the registration disc last issued for that dog;

and

(c) in the case of a guard dog, complies with the requirements of the regulations as to the collars for guard dogs,

the person responsible for the control of the dog is guilty of an offence.

Penalty: Division 10 fine.;

(b) by striking out paragraph (a) of subsection (2);

and

(c) by striking out paragraph (d) of subsection (2) and substituting the following paragraph:

(d) in any case or circumstances of a kind specified in the regulations.

Seizure of dogs wandering at large

10. Section 36 of the principal Act is amended—

(a) by striking out subsections (1), (2) and (3) and substituting the following subsections:

(1) An authorized person may seize any dog that is wandering at large.

(2) Where a dog is seized under this section, the authorized person may detain it or cause it to be returned to the person responsible for its control.

(3) A person is not entitled to the return of a dog seized under this section unless the person—

(a) pays—

(i) the reasonable cost of returning the dog or of maintaining it during the period of detention (or both where appropriate);

(ii) any charges that are payable by the person under the regulations in relation to the seizure and impounding of the dog;

and

(iii) any other charges or fees relating to the dog that ought to have been, but have not been, paid under this Act;

and

(b) in the case of an unregistered dog—registers the dog.

(3a) The council for the area in which the dog was seized, or, in any other case, the Crown, may recover any costs, charges or fees referred to in subsection (3) from the person responsible for the control of the dog as a debt in any court of competent jurisdiction whether or not the dog has been returned to the person.;

and

(b) by striking out paragraph (d) of subsection (5) and substituting the following paragraph:

(d) the dog must, subject to this section—

(i) if it has been delivered to a private pound—be kept and maintained at the pound for at least 72 hours from the time of its delivery to the pound;

or

(ii) in any other case—be kept and maintained for at least 72 hours from the time when notice was given under paragraph (c), or, if no such notice was given, the time when the notice under paragraph (a) was placed on exhibition.;

Powers of entry of authorized persons

11. Section 37 of the principal Act is amended by striking out subsection (3).

Repeal of s. 42

12. Section 42 of the principal Act is repealed.

Dogs attacking, etc., persons or animals

13. Section 44 of the principal Act is amended—

(a) by striking out from subsection (2) “shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars” and substituting “is guilty of an offence”;

(b) by inserting at the foot of subsection (2) “Penalty: Division 5 fine or division 5 imprisonment”;

and

(c) by inserting after subsection (4) the following subsection:

(5) Where a person is found guilty of an offence against this section, the court may order, in addition to any penalty, that the person pay compensation for injury or loss resulting from the actions of the dog.

Dogs attacking persons lawfully entering premises

14. Section 45 of the principal Act is amended by striking out from subsection (2) “for the injury caused by the dog” and substituting “for injury or loss resulting from the actions of the dog”.

Powers to protect other animals from dogs**15. Section 46 of the principal Act is amended—**

(a) by inserting after subsection (1) the following subsection:

(1a) A warden under the *National Parks and Wildlife Act, 1972*, or an authorized person who finds a dog attacking or harassing a protected animal within the meaning of that Act on a reserve within the meaning of that Act may lawfully shoot or otherwise destroy the dog if there is no other way of protecting the animal.;

(b) by striking out paragraph (d) of subsection (4) and substituting the following paragraph:

(d) the person complies with the requirements of the regulations as to the display and service of notices relating to the action taken.;

and

(c) by striking out subsection (5) and substituting the following subsection:

(5) A person who lays poison in baits for dogs except as authorized by subsection (4) is guilty of an offence.

Penalty: Division 8 fine.

Dogs creating nuisance**16. Section 49 of the principal Act is amended by striking out subsection (4) and substituting the following subsection:**

(4) A person who fails to comply with an order made against the person under subsection (3) is guilty of an offence.

Penalty: Division 6 fine.

Court may order destruction of dog**17. Section 50 of the principal Act is amended—**

(a) by striking out from paragraph (g) of subsection (3) “to any person who has suffered any injury to person or property” and substituting “for injury or loss suffered by any person”;

and

(b) by striking out subsection (5) and substituting the following subsection:

(5) A person responsible for the control of a dog who fails to comply with an order made against the person under subsection (3) is guilty of an offence.

Penalty: Division 6 fine.

Power to seize and detain dog**18. Section 50a of the principal Act is amended—**

(a) by inserting in subsection (1) “unduly mischievous or” before “dangerous”;

(b) by striking out subsection (3) and substituting the following subsection:

(3) Where an authorized person believes on reasonable grounds—

(a) that a dog is unduly mischievous or dangerous;

and

- (b) that urgent action is required in the circumstances,
the authorized person may, without any order or warrant—
- (c) seize and detain the dog;
and
- (d) as may be reasonably necessary in the circumstances—
 - (i) enter premises;
and
 - (ii) use force to gain such entry or to seize and detain the dog.

Effect of Act on other Acts and remedies

19. Section 51 of the principal Act is amended by striking out from subsection (1) “the Alsatian Dogs Act, 1934-1978, or”.

Substitution of s. 52

20. Section 52 of the principal Act is repealed and the following section is substituted:

Civil remedy for injury or loss resulting from actions of dog

52. (1) A person responsible for the control of a dog is liable in damages for any injury or loss resulting from the actions of the dog.

(2) It is not necessary in any proceedings for a party seeking damages in respect of injury or loss resulting from the actions of a dog to show a previous mischievous propensity in the dog or knowledge of any such propensity or that the injury or loss was attributable to any neglect on the part of the person responsible for the control of the dog.

Substitution of ss. 57 and 58

21. Sections 57 and 58 of the principal Act are repealed and the following sections are substituted:

By-laws limiting numbers of dogs

57. (1) A council may make by-laws limiting the number of the dogs that may be kept in premises within the area of the council.

(2) A by-law under subsection (1) may be of general application or limited to a particular class of dogs or a particular part of the council's area or according to any other factor or a combination of factors.

(3) Subject to subsection (4) and except as authorized by a licence granted under section 58, a person must not keep dogs in any premises contrary to a limitation imposed by by-law under this section.

Penalty: Division 10 fine.

(4) A council may, if satisfied that it is appropriate to do so and that a licence pursuant to section 58 is not required in the circumstances, exempt particular premises from compliance with a limitation imposed by by-law under this section.

(5) An exemption under subsection (4)—

(a) may be made subject to conditions as determined by the council;

and

(b) may be varied or revoked by the council.

Licensing of kennels

58. (1) Dogs may be kept in premises in numbers exceeding a limit imposed by by-law under section 57 where the premises are licensed as an approved kennel establishment pursuant to this section.

(2) Subject to subsection (3), a licence to keep an approved kennel establishment may be granted by a council on application made in the manner and form, and accompanied by the fee, prescribed by the council by by-law.

(3) A licence may not be granted under this section unless—

(a) the council is satisfied that due notice of the proposed use of the land has been given to persons in the locality who may, in the opinion of the council, be affected;

and

(b) the council has given due consideration to any objections raised by any such person.

(4) A council may make by-laws relating to approved kennel establishments regulating the siting of such establishments, the physical specifications to which they must conform, and the maintenance and securing of such establishments.

(5) A person who keeps dogs in an approved kennel establishment pursuant to a licence under this section must not contravene, or fail to comply with, a by-law made under subsection (4).

Penalty: Division 10 fine.

(6) A licence under this section—

(a) has effect for a period of 12 months;

(b) may be renewed on payment of the fee prescribed by the council by by-law;

(c) may be cancelled by the council if the council is satisfied that the licensee has contravened, or failed to comply with, a by-law made under subsection (4).

(7) Cancellation of a licence may be effected by notice served on the licensee specifying a period (which must be of at least three months) at the end of which the licence will expire.

(8) An appeal lies to the local court nearest to the office of the council against any decision of the council—

(a) to refuse to grant a licence under this section;

or

(b) to cancel a licence under this section.

(9) A court may, on appeal under subsection (8)—

(a) affirm or quash the decision of the council appealed against;

or

(b) direct that the council grant a licence to the appellant on such conditions, if any, as the court thinks fit.

Substitution of s. 59

22. Section 59 of the principal Act is repealed and the following section is substituted:

Power to order disposal of dog

59. (1) Where a person has been convicted of two prescribed offences committed on separate occasions within the preceding period of two years, a court may order—

(a) that any dog owned by the person be disposed of;

and

(b) that the person not acquire any other dog for a specified period or until further order of the court.

(2) An order under subsection (1) may be made by the court convicting the person of a prescribed offence or, on application, by a local court.

(3) A court making an order under subsection (1) for the disposal of a dog may do one or more of the following things:

(a) require the owner of the dog to dispose of it;

(b) authorize a member of the police force or a person appointed by the council to seize and dispose of it;

(c) make orders as to the manner of its disposal (which may, if appropriate, be by destroying it) and the time allowed for that purpose;

(d) make an order for destruction of the dog in the event of failure to dispose of it by other means;

(e) make an order against the owner of the dog for payment of costs incurred in giving effect to the orders of the court;

and

(f) give all other necessary directions to make its orders effective.

(4) If a person against whom an order has been made under subsection (1) (b) contravenes the order—

(a) an order may be made under this section for disposal of the dog acquired by the person;

and

(b) the person is guilty of an offence.

Penalty: Division 6 fine.

(5) In this section—

“own” includes have possession or control, and “owner” has a corresponding meaning;

“prescribed offence” means an offence against—

(a) section 44;

(b) section 45;

(c) section 49 (l);

(d) section 13 of the *Prevention of Cruelty to Animals Act, 1985*, involving ill-treatment of a dog.

Evidence

23. Section 61 of the principal Act is amended by striking out from paragraph (b) “three months” and substituting “six months”.

Substitution of s. 64

24. Section 64 of the principal Act is repealed and the following section is substituted:

Expiation of offences

64. (1) If an authorized person believes on reasonable grounds that a person has committed a prescribed offence against this Act, the authorized person may give that person a written notice that the offence may be expiated—

(a) where the authorized person is an officer of a council—by payment to the council;

or

(b) in any other case—by payment at a police station specified in the notice, of the appropriate expiation fee within 60 days from the date on which the notice was issued.

(2) A notice given under subsection (1) may be given to a person personally, or by post addressed to the person's last known place of residence or business.

(3) An authorized officer may give a notice under subsection (1) notwithstanding that he or she, or some other authorized officer, has previously given such a notice in relation to the same offence.

(4) Where an offence is expiated in accordance with a notice under subsection (1), no person may be prosecuted in any court for that offence.

(5) Notwithstanding that the time for payment specified in a notice under subsection (1) has expired, a council may—

(a) on payment of the prescribed fee for late payment of the expiation fee;

or

(b) where the council has commenced proceedings in respect of the alleged offence—on payment of the costs and expenses incurred by the council in relation to those proceedings,

accept late payment of the expiation fee.

(6) Where a council has accepted late payment of an expiation fee under subsection (5)—

(a) no person may be prosecuted in any court for the alleged offence;

and

(b) any proceedings that have been commenced against a person for the alleged offence must be discontinued.

(7) In this section—

“the appropriate expiation fee” in relation to a prescribed offence, means a fee of the amount prescribed in relation to that offence.

Substitution of s. 65a

25. Section 65a of the principal Act is repealed and the following section is substituted:

By-laws

65a. (1) A by-law that a council is empowered to make for the purposes of this Act must be made in accordance with the provisions of Part XXXIX of the *Local Government Act, 1934*.

(2) The provisions of the *Local Government Act, 1934*, including the provisions as to the variation of fees, or the prescription of forms, by resolution of a council, apply in relation to a by-law for the purposes of this Act as if it were a by-law under the *Local Government Act, 1934*.

SCHEDULE

The principal Act is further amended as follows:

Provision Amended	How Amended
Section 2	Strike out this section
Section 3	Strike out this section
Section 4	Strike out this section
Section 5 (1)	
Definition of "authorized person"	Strike out "of this Act"
Definition of "pound"	Strike out ", whether"
	Strike out "entered into by the council with the body operating the prescribed private pound" and substitute "between the council and the body operating it"
Definition of "premises"	Strike out this definition and substitute: "premises" includes— (a) land; (b) a part of any premises or land;
Definition of "registered dog"	Strike out "of this Act"
Section 5 (2)	Strike out "shall be regarded as being" and substitute "is"
Section 5 (2) (c)	Strike out "the close proximity of the person and is responsive to his commands" and substitute "close proximity to, and responsive to the commands of, the person"
Section 6	Strike out "shall" and substitute "has a duty to"
Section 7 (3)	Strike out "upon" and substitute "on"
Section 7 (4)	Strike out "shall not" and substitute "may not"
Section 7 (5)	Strike out "shall" and substitute "must" Strike out "under this section"
Section 7 (6)	Strike out "shall" and substitute "must" After "he" insert "or she" Strike out "his" and substitute "the"
Section 8 (2) (b)	Strike out "a place"
Section 9	Strike out "shall attach" and substitute "attaches" Transpose "in pursuance of this Act" so as to follow "person" (third occurring) Strike out "by him"
Section 10 (1)	Strike out "shall" and substitute "must" Strike out "in respect of that council" and substitute "in relation to its area"
Section 10 (2)	Strike out "his" and substitute "the registrar's"
Section 11 (1)	Strike out "shall" and substitute "must"
Section 12 (1)	Strike out "shall" and substitute "must" Strike out "moneys" (twice occurring) and substitute, in each case, "money" Strike out "pursuant to" and substitute "under"
Section 12 (2)	Strike out "moneys" and substitute "money" Strike out "pursuant to" and substitute "under" Strike out "shall" and substitute "must"
Section 12 (3)	Strike out "shall" and substitute "must" Strike out "moneys received by the council by way of dog registration fees" and substitute "dog registration fees received by the council"
Section 13	Strike out this section and substitute: The Dog Advisory Committee 13. The <i>Dog Advisory Committee</i> is established.
Section 14 (1)	Strike out "shall consist" and substitute "is to consist"
Section 14 (1) (a)	Strike out "shall be a person" and substitute "must be"
Section 14 (1) (b)	Strike out "shall be a person" and substitute "must be"

Provision Amended	How Amended
Section 14 (1a)	Strike out "shall" and substitute "may"
Section 14 (2)	Strike out "persons is not nominated" and substitute "nominees is not submitted" Strike out "of this section" Strike out "so to do" and substitute "for submission of such a panel" Strike out "shall be deemed to be" and substitute "will be taken to have been"
Section 14 (3)	Strike out "shall hold" and substitute "holds"
Section 14 (4)	Strike out "shall" and substitute "may"
Section 16 (1)	Strike out this subsection and substitute: (1) The <i>Dog Control Statutory Fund</i> is established at the Treasury.
Section 16 (2)	Strike out "shall consist of the following moneys" and substitute "consists of"
Section 16 (2) (a)	Strike out "moneys" and substitute "money"
Section 16 (2) (b)	Strike out "moneys" and substitute "money"
Section 16 (4)	Strike out "moneys that form part of the fund but are" and substitute "money from the Fund, that is"
Section 26 (1)	Strike out "liable" (first occurring) and substitute "responsible" Strike out "shall" and substitute "is" Strike out "be guilty of an offence and liable to a penalty not exceeding one hundred dollars" and substitute "guilty of an offence" Insert at the foot of this subsection: Penalty: Division 10 fine.
Section 26 (2) (b) (v)	Strike out "in his capacity"
Section 27 (2) (b)	Strike out "this" and substitute "his or her"
Section 27 (3)	Strike out "shall" and substitute "must"
Section 27 (6)	Strike out "shall be" and substitute "is"
Section 28 (1)	Strike out "shall, upon" and substitute "must, on"
Section 28 (2)	Strike out "shall, upon" and substitute "must, on"
Section 28 (3)	Strike out "Notwithstanding the provisions of this Act, a dog" and substitute "A dog" Strike out "shall be deemed to be" and substitute "will be regarded as"
Section 29 (1)	Strike out "shall remain" and substitute "remains"
Section 29 (2)	Strike out "shall operate" and substitute "operates"
Section 30 (1)	Strike out "shall" and substitute "must" Strike out "and"
Section 30 (2)	Strike out "shall" (twice occurring) and substitute, in each case, "must"
Section 30 (3)	Strike out "shall, upon" and substitute "must, on"
Section 31	Strike out this section and substitute: Replacement of lost registration disc 31. The registrar, if satisfied that the registration disc issued in respect of a registered dog has been lost or destroyed, must, on application and payment of the prescribed fee, issue to the applicant another registration disc of the prescribed kind.
Section 32 (1)	Strike out "a person shall, upon" and substitute "a particular person must, on" After "his" insert "or her"
Section 33 (2) (b)	Strike out "Dog" and substitute "Greyhound"
Section 33 (3)	Strike out "shall be" and substitute "is"
Section 34 (1)	Strike out "liable" and substitute "responsible" Strike out "he" and substitute "the owner"

Provision Amended	How Amended
Section 34 (2) (a)	<p>Strike out this paragraph and substitute:</p> <p>(a) where—</p> <p>(i) it appears from a register maintained under this Act that a dog was registered in the name of a particular person before the material time;</p> <p>and</p> <p>(ii) it does not appear from that register that the dog was subsequently (but before the material time) registered in the name of some other person,</p> <p>the person in whose name the dog was registered will be taken to have been the owner of the dog at the material time (whether or not the registration continued in force until the material time) unless that person proves that the dog was subsequently registered in the name of another person;</p>
Section 34 (2) (b)	<p>Strike out "shall" and substitute "will"</p> <p>Strike out "deemed" and substitute "taken"</p>
Section 34 (3)	<p>Strike out "Any" and substitute "A"</p> <p>Strike out "shall" and substitute "has"</p> <p>Strike out "of this section"</p> <p>Strike out "while he continues to keep, or have possession or control of, the dog have" and substitute "while continuing to keep or continuing in possession or control of the dog."</p> <p>Strike out "liability" and substitute "responsibility"</p>
Section 34 (4)	<p>Strike out "shall be deemed" and substitute "will be taken"</p> <p>Strike out "he proves" and substitute "it is proved"</p>
Section 34 (5)	<p>Strike out "shall be" and substitute "is"</p> <p>Strike out "is deemed to have been the owner" and substitute "the presumptive owner"</p> <p>Strike out "he" and substitute "that person"</p> <p>After "his" insert "or her"</p>
Section 35 (1)	<p>Strike out this subsection and substitute:</p> <p>(1) Where—</p> <p>(a) a dog is—</p> <p>(i) in a place to which the public has access;</p> <p>or</p> <p>(ii) in a place without the consent of the occupier;</p> <p>and</p> <p>(b) no person is exercising effective control over the dog, the dog will be taken to be wandering at large and the person responsible for the control of the dog is guilty of an offence.</p> <p>Penalty: Division 10 fine.</p>
Section 35 (2)	<p>Strike out "that is"</p>
Section 35 (2) (a)	<p>Insert "that is" before "being"</p>
Section 35 (2) (b)	<p>Insert "that is" before "being"</p>
Section 35 (2)	<p>Strike out "shall not thereby be deemed" and substitute "will not, for that reason, be taken"</p>
Section 36 (4)	<p>Strike out "liable" and substitute "responsible"</p> <p>Strike out "shall" and substitute "must"</p>
Section 36 (5) (a)	<p>Strike out "shall" and substitute "must"</p>
Section 36 (5) (b)	<p>Strike out "such notice shall" and substitute "the notice must"</p> <p>Strike out "that"</p>
Section 36 (5) (c)	<p>Strike out "liable" and substitute "responsible"</p> <p>Strike out "shall" and substitute "must"</p> <p>Strike out "given to that person in the prescribed manner and form as soon as is practicable" and substitute "given as soon as practicable to that person in the prescribed manner and form"</p>
Section 36 (5) (e)	<p>Strike out "shall" and substitute "must"</p> <p>After "he" insert "or she"</p>

Provision Amended	How Amended
Section 36 (6)	Strike out "the name of whom" and substitute "whose name" Strike out "moneys" and substitute "money" Strike out "are" and substitute "is"
Section 36 (7)	Strike out "which" and substitute "that" Strike out "of this section" Strike out "otherwise" and substitute "in any other manner" Strike out "shall be" and substitute "are"
Section 36 (8)	Strike out "Where it is the opinion of an authorized person that a dog seized pursuant to this section" and substitute "An authorized person, if of the opinion that a dog seized under this section" Strike out "he"
Section 36 (9)	Strike out this subsection and substitute: (9) Where a dog is found wandering at large and it is, in the opinion of an authorized person, dangerous or impracticable to seize the dog because of its savagery, repeated evasion of attempts at seizure, or other sufficient cause, the dog may be destroyed.
Section 36 (11)	Strike out "Vertebrate Pests Act, 1975-1977" and substitute "Animal and Plant Control (Agricultural and Other Purposes) Act, 1986"
Section 37 (1)	Strike out this subsection and substitute: (1) An authorized person, who has reasonable grounds to believe that it is necessary to do so for the due enforcement of this Act, may with the consent of an owner or occupier enter any premises.
Section 37 (2)	Strike out this subsection and substitute: (2) Where an authorized person satisfies a justice of the peace— (a) that entry to any premises is reasonably necessary for the due enforcement of this Act; and (b) that— (i) admission has been refused; (ii) the premises are apparently unoccupied; or (iii) a request for admission might defeat the object of entry, the justice may by warrant empower that authorized person and any other person named in the warrant to enter the premises, by force if those premises are not occupied.
Section 38	Strike out "shall" (first occurring) and substitute "must" After "his" insert "or her" Strike out "abode" and substitute "residence" Strike out "shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars" and substitute "is guilty of an offence" Insert at the foot of this section: Penalty: Division 8 fine.
Section 39	Strike out "shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars" and substitute "is guilty of an offence" Insert at the foot of this section: Penalty: Division 10 fine.
Section 40	Strike out "used by man for food or drink" and substitute "used for human food or drink" Strike out "prepared for, or exposed for, sale," and substitute "prepared, exposed" Strike out "liable" (first occurring) and substitute "responsible" Strike out "shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars" and substitute "is guilty of an offence" Insert at the foot of this section: Penalty: Division 10 fine.

Provision Amended	How Amended
Section 41	<p>Strike out "liable" (first occurring) and substitute "responsible"</p> <p>Strike out "shall be guilty of an offence and liable to a penalty not exceeding one hundred and fifty dollars" and substitute "is guilty of an offence"</p> <p>Insert at the foot of this section: Penalty: Division 9 fine.</p>
Section 43	<p>Strike out "shall" (first occurring) and substitute "must"</p> <p>Strike out "shall" (second occurring)</p> <p>Strike out "One hundred dollars" and substitute "Division 11 fine"</p>
Section 44 (1)	<p>Strike out "liable" (first occurring) and substitute "responsible"</p> <p>Strike out "shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars" and substitute "is guilty of an offence"</p> <p>Insert at the foot of this subsection: Penalty: Division 7 fine.</p>
Section 44 (3)	<p>Strike out "shall be" and substitute "is"</p> <p>Strike out "any proceedings for" and substitute "a charge of"</p> <p>Strike out "<i>bona fide</i>" and substitute "genuinely"</p>
Section 44 (4)	<p>Strike out "shall not be" and substitute "is not"</p>
Section 45 (1)	<p>Strike out "liable" (first occurring) and substitute "responsible"</p> <p>Strike out "shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars" and substitute "is guilty of an offence"</p> <p>Insert at the foot of this subsection: Penalty: Division 7 fine.</p>
Section 45 (2)	<p>Strike out "of this section"</p>
Section 46 (1)	<p>Strike out this subsection and substitute:</p> <p>(1) A person who owns, is acting under the authority of the owner, or is for the time being lawfully in charge of, any animal or bird may lawfully shoot or otherwise destroy a dog found attacking or harassing that animal or bird if—</p> <p>(a) there is no other way of protecting the animal or bird;</p> <p>and</p> <p>(b) notice is given to a member of the police force as soon as practicable thereafter.</p>
Section 46 (2)	<p>Strike out this subsection and substitute:</p> <p>(2) If a dog, unaccompanied by a person, is found in an 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, the owner or occupier, or a person acting under his or her authority, may lawfully shoot or otherwise destroy the dog.</p>
Section 46 (3)	<p>Strike out "proceedings, whether civil or criminal" and substitute "civil or criminal proceedings"</p> <p>Strike out "the dog was immediately prior thereto" and substitute "immediately beforehand the dog was"</p> <p>Strike out "shall" and substitute "gives rise to a presumption"</p> <p>Strike out "be deemed to prove"</p> <p>Strike out "liable" and substitute "responsible"</p>
Section 46 (4)	<p>Strike out "depasturing on any land" and substitute "depastured on land"</p> <p>Strike out "of that land"</p> <p>After "his" insert "or her"</p>
Section 46 (4) (c)	<p>Strike out "so laid as" and substitute "laid so as"</p>
Section 47 (1)	<p>Strike out "liable" and substitute "responsible"</p> <p>Strike out "shall" (first occurring) and substitute "must"</p> <p>Strike out "against that dog" and substitute "to prevent the dog from"</p> <p>Strike out "shall cause the dog to be" and substitute "must have the dog"</p>

Provision Amended	How Amended
Section 47 (2)	Strike out "he" and substitute "an authorized person" Strike out "the provisions of subsection (1) of this section have not" and substitute "subsection (1) has not" Strike out "any" and substitute "the" Strike out "liable" and substitute "responsible"
Section 47 (3)	Strike out "Any" and substitute "A" Strike out "given" Strike out "of this section" Strike out "shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars" and substitute "is guilty of an offence" Insert at the foot of this subsection: Penalty: Division 10 fine.
Section 47 (4)	Strike out "Where pursuant to an examination made by him under this section any" and substitute "Where after making an examination under this section a"
Section 47 (5) (a)	Strike out "the owner shall as soon as practicable be given notice in the prescribed manner and may" and substitute "notice in the prescribed manner must be given as soon as practicable to the owner who may"
Section 47 (5) (b)	Strike out "shall" and substitute "must" Strike out "the decision" (first occurring)
Section 48 (1)	Strike out "liable" and substitute "responsible" Strike out "shall" and substitute "must" Strike out "in such a manner as will" and substitute "so as to" Strike out "One hundred dollars" and substitute "Division 10 fine"
Section 49 (1)	Strike out "suffered or permitted to remain and who suffers or permits" and substitute "permitted to remain, who permits" Strike out "of itself" and substitute "alone" Strike out "shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars" and substitute "is guilty of an offence" Insert at the foot of this subsection: Penalty: Division 9 fine.
Section 49 (2)	Strike out "shall be taken to be" and substitute "will be regarded as"
Section 49 (2) (a)	Strike out "it is injurious or dangerous to" and substitute "it injures or endangers"
Section 49 (3)	Strike out "under" and substitute "against"
Section 50 (2)	Strike out "proceedings (whether civil or criminal)" and substitute "civil or criminal proceedings"
Section 50 (3)	Strike out "thereto, or in lieu thereof" and substitute "to, or instead of, making such an order"
Section 50 (3) (a)	Strike out "shall" and substitute "will"
Section 50 (3) (b)	Strike out "the destruction of the dog" and substitute "destruction"
Section 50 (3) (g)	Strike out "liable" and substitute "responsible"
Section 50 (4)	Strike out "shall" and substitute "must"
Section 50 (6)	Strike out "shall" and substitute "must"
Section 50a (2)	Strike out "shall not" and substitute "may not"
Section 50a (4)	Strike out "shall" and substitute "must"
Section 50a (5)	Strike out "shall" and substitute "must"
Section 51 (1)	Strike out "The provisions of this Act are" and substitute "This Act is" Strike out "do not" and substitute "does not"
Section 51 (2)	Strike out "the provisions of this Act shall not affect" and substitute "this Act does not affect"

Provision Amended	How Amended
Section 53	Strike out "or shall be allowed" Strike out "shall be deemed guilty of" and substitute "commits" Strike out "the provisions of"
Section 54 (1) (b)	Strike out "shall" and substitute "must" After "he" insert "or she"
Section 54 (1)	Strike out "Two hundred dollars" and substitute "Division 10 fine".
Section 55 (1)	Strike out "Any" and substitute "A" Strike out "his" (twice occurring) Strike out "shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars" and substitute "is guilty of an offence" Insert at the foot of this subsection: Penalty: Division 7 fine.
Section 55 (2)	Strike out this subsection and substitute: (2) A person who fails without lawful excuse to produce— (a) any certificate or other document issued to the person under this Act; or (b) any dog in the person's possession or control, when required to do so by an authorized person or any other person acting under this Act, or fails to allow that person to make an examination of it on its production is guilty of an offence. Penalty: Division 7 fine.
Section 55 (3)	Strike out "Any" and substitute "A" Strike out "shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars" and substitute "is guilty of an offence". Insert at the foot of this subsection: Penalty: Division 7 fine.
Section 56	Strike out "Any" and substitute "A" Strike out "any" (second occurring) and substitute "a" Strike out "his" and substitute "that person's"
Section 56 (c)	Strike out this paragraph and substitute: (c) for the purpose of obtaining any benefit, or avoiding any penalty or obligation, under this Act (either on that person's own behalf or on behalf of another),
Section 56	Strike out "shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars" and substitute "is guilty of an offence" Insert at the foot of this section: Penalty: Division 7 fine.
Section 60	Strike out this section and substitute: General defence 60. It is a defence to a charge of an offence against this Act if it is proved— (a) that the contravention occurred without the defendant's knowledge, consent or connivance; and (b) that the defendant exercised all due diligence to prevent it.
Section 61 (a)	Strike out "liable" and substitute "responsible" Strike out "shall be deemed to be" and substitute "will be accepted as"
Section 62	Strike out this section and substitute: Summary procedure 62. An offence against this Act is a summary offence.
Section 63 (1)	Strike out "shall" and substitute "must"

Provision Amended	How Amended
Section 63 (2)	Strike out "is recovered otherwise than" and substitute "is not recovered"
Section 65 (1) (a)	Strike out "shall" and substitute "must" Strike out "shall be" and substitute "is" Strike out "the amount equal to"
Section 65 (1) (b)	Strike out "shall" and substitute "is" Strike out "he is convicted" and substitute "conviction" Strike out "be" Strike out "the amount equal to"
Section 65 (2)	Strike out "shall" and substitute "will" Strike out "of this section" Strike out "deemed" and substitute "taken"
Section 66 (2)	Strike out "of this section"
Section 66 (2) (a)	Strike out "that may be of amounts that" and substitute "the amount of which may"
Section 66 (2) (c)	Strike out "to use of and the detention of dogs" and substitute "to the detention and use of dogs"
Section 66 (2) (h)	Strike out "shall constitute" and substitute "constitutes" Strike out "therein" and substitute "in it"
Section 66 (2) (i)	Strike out "two hundred dollars" and substitute "a division 10 fine".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor