
DOG CONTROL ACT 1987

No. 112 of 1987

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DOG CONTROL ACT 1987

No. 112 of 1987

AN ACT to consolidate and amend the law relating to dogs.

[Royal Assent 20 January 1988]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I

PRELIMINARY

1—This Act may be cited as the *Dog Control Act 1987*. Short title.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent. Commencement.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

Interpretation.

- 3—(1) In this Act, unless the contrary intention appears—
- “ authorized person ” means—
- (a) a police officer;
 - (b) a dog control officer; or
 - (c) a registrar;
- “ certificate of competency ” means a certificate of competency issued under section 36;
- “ certificate of registration ” means a certificate of registration issued under section 20;
- “ clerk ” means a town clerk or council clerk as the case requires;
- “ collar ” means a collar of leather or other durable material;
- “ corporation ” means the corporation of a municipality;
- “ council ” means the council of a municipality;
- “ disc ” means a disc, medal, badge, or tag of metal, plastic, or other durable material;
- “ dog ” means an animal of the species *Canis familiaris* but does not include the subspecies *Canis familiaris dingo* or such hybrids of that subspecies as are not recognized by the Australian National Kennel Council;
- “ dog control officer ” means a dog control officer appointed under Part II;
- “ domestic animal ” means an animal or bird kept as a domestic pet;
- “ farm animal ” means a horse, ox, sheep, goat, or pig, or a bird included in the class of birds commonly known as poultry, and includes deer and any other animal or bird kept for farming or breeding purposes;
- “ financial year ” means a period of 12 months ending on 30th June in any year;
- “ guide dog ” has the meaning assigned to that expression by the *Guide Dogs Act 1967*;
- “ infringement notice ” means a notice referred to in Division 3 of Part V;
- “ kennel licence ” means a licence issued under section 78;
- “ leash ” includes a cord or chain of a suitable length;
- “ licensed premises ” means premises in respect of which a kennel licence has been issued;

- “municipal office” has the meaning assigned to that expression by the *Local Government Act 1962*;
- “municipality” has the meaning assigned to that expression by the *Local Government Act 1962*;
- “pensioner” means a prescribed pensioner within the meaning of the *Local Government (Rates and Charges Remissions) Act 1977*;
- “pound”, in relation to a corporation, means the municipal pound established in respect of that corporation under the *Local Government Act 1962* or a prescribed private pound that may be used by the corporation under an arrangement entered into by the corporation with the person operating the prescribed private pound;
- “premises” includes land or any part of any premises or land;
- “prescribed” means prescribed by this Act or the regulations;
- “prescribed private pound” means a pound operated—
- (a) by the Tasmanian Canine Defence League;
 - (b) by the Royal Society for the Prevention of Cruelty to Animals; or
 - (c) by a prescribed person;
- “public place” has the meaning assigned to that expression by the *Guide Dogs Act 1967*;
- “public street” has the meaning assigned to that expression by the *Traffic Act 1925*;
- “register” means a register kept under section 21;
- “registered dog” means a dog which is registered under this Act;
- “registrar”, in relation to the municipality of a corporation, means the registrar of dogs for that corporation;
- “registration disc” means a disc issued by a registrar under Part III;
- “shopping centre” means a collection of shops in an enclosed area covered by a roof, but does not include any area provided for the parking of vehicles;
- “the regulations” means the regulations made and in force under this Act;

“ tranquilizer gun ” means any mechanical device intended for the purpose of implanting a measured dosage of tranquillizing drug in the body of an animal and which satisfies the prescribed requirements;

“ unregistered dog ” means a dog which is not registered under this Act;

“ veterinary surgeon ” means a person registered as a veterinary surgeon under the *Veterinary Act 1918*;

“ working day ” means a day that is not a Saturday, a Sunday, or a bank holiday under the *Bank Holidays Act 1919*;

“ working dog ” means a dog which is used principally for the droving or tending of stock.

(2) A reference in this Act to the occupier of premises shall be construed as a reference to the person who is entitled to occupy those premises as owner or mortgagee in possession or under a lease, licence, or permit.

(3) For the purposes of this Act a dog shall be regarded as being under the effective control of a person if—

(a) the dog is secured and restrained by means of a leash held by the person;

(b) the dog is tethered to a fixed object by the person;

(c) the dog is in the close proximity of the person and is responsive to his commands; or

(d) the dog is a working dog engaged in the activity of droving or tending stock.

(4) A dog which is in a public place, or in a place where the occupier of premises has not consented that the dog should be, and is not under the effective control of a person shall, for the purposes of this Act, be deemed to be at large.

(5) A dog which has a propensity to attack humans or domestic animals or farm animals is, for the purposes of this Act, a dangerous dog.

Person taken
to be owner
of dog.

4—(1) A person shall be taken to be the owner of a dog if—

(a) in the case of an unregistered dog, the person ordinarily keeps the dog; or

(b) in the case of a registered dog, the dog is registered in the name of the person.

(2) For the purposes of subsection (1) (a), where a dog is ordinarily kept on any premises, it shall, in the absence of evidence to the contrary, be deemed to be ordinarily kept by the person who is the occupier of those premises.

(3) Where a person referred to in subsection (1) (a)—

(a) has not attained the age of 18 years; and

(b) resides with his parents, one of his parents, or a guardian, the parent or parents with whom he resides or the guardian, as the case requires, shall, for the purpose of this Act, be deemed to be the owner or owners of the dog.

(4) Notwithstanding the provisions of subsection (1), where a dog is ordinarily kept by an employee on behalf of his employer, the employer shall be deemed to be the owner of the dog.

5—This Act binds the Crown not only in right of this State but also, so far as the legislative power of Parliament permits, binds the Crown in all of its other capacities. Crown bound.

PART II

ADMINISTRATION

6—Each corporation shall, within its municipality, administer and enforce the provisions of this Act and be responsible for the control of dogs. Enforcement of Act.

7—(1) Each corporation shall appoint one or more persons to be dog control officers in respect of its municipality. Dog control officers.

(2) It shall be the duty of every dog control officer—

(a) to seize, impound, and if necessary cause to be destroyed, subject to the provisions of this Act, any dog found at large within the municipality;

(b) if he considers it to be necessary, to cause to be destroyed any dog which is behaving in such a manner and in such circumstances that it is likely to cause death or serious bodily injury to any person;

(c) if he considers it to be necessary, to cause to be destroyed any dog which is found abandoned or distressed or disabled to such an extent that its existence involves continued suffering; and

(d) generally to enforce, subject to the direction of the corporation, the provisions of this Act.

(3) Notwithstanding the provisions of subsection (1), any 2 or more corporations may enter into an arrangement under which each of those corporations appoints the same person to be a dog control officer in respect of 2 or more municipalities and shares the services of that dog control officer.

(4) A dog control officer appointed by a corporation may also be engaged in the performance of other duties for the corporation.

Registrars
of dogs.

8—(1) A corporation may appoint a person to be the registrar of dogs in respect of its municipality.

(2) If a corporation does not appoint a registrar, the clerk of the municipality shall be the registrar of dogs in respect of that municipality until another person is appointed registrar.

(3) A registrar may by an authority in writing authorize any other employee of the corporation to perform such of the functions, and exercise such of the powers, conferred on a registrar under this Act as may be specified in the authority, and anything done in pursuance of such an authority has the like effect as if it were done by a registrar.

Area limita-
tions on
powers of
authorized
persons.

9—(1) A police officer may exercise the powers of an authorized person under this Act in any part of the State.

(2) A dog control officer or a registrar may exercise the powers of an authorized person under this Act—

(a) within the municipality in respect of which he has been appointed; or

(b) outside the municipality in respect of which he has been appointed for the purpose of seizing or destroying a dog under this Act that has been pursued from a place within that municipality.

10—No personal liability shall attach to an authorized person for any act or omission by him in good faith and in the exercise, or purported exercise, of the powers of an authorized person or in the discharge, or purported discharge, of the duties of an authorized person, under this Act.

Immunity of authorized persons from personal liability.

11—(1) A corporation shall provide its dog control officers and its registrar with a certificate of identification which shall contain the prescribed particulars.

Certificates of identification.

(2) A dog control officer or a registrar shall produce his certificate of identification at the request of any person in relation to whom he is exercising a power under this Act.

12—(1) Subject to subsection (2), a council may, by resolution, fix fees for the purposes of Part III and Division 3 of Part VI of this Act.

Council resolutions in respect of certain fees under this Act.

(2) Any fee fixed pursuant to subsection (1) shall not exceed in any particular case the maximum amount prescribed in the regulations in respect of that matter.

13—A corporation may enter into an arrangement with a person operating a prescribed private pound under which the corporation makes use of that pound for the purposes of this Act.

Use of private pounds.

PART III

REGISTRATION

14—The owner of a dog that is over the age of 4 months and is unregistered is guilty of an offence and is liable on summary conviction to a penalty not exceeding 0·8 penalty unit.

Offence to own an unregistered dog.

15—(1) An application for registration of a dog shall be made by the owner of the dog, or agent of the owner, to the registrar of the corporation of the municipality in which the dog is, or is to be, kept.

Application for registration.

(2) An application for registration of the dog shall—

(a) be in the prescribed form and contain the prescribed particulars; and

(b) be accompanied by the appropriate registration fee.

(3) Upon application under this section and payment of the appropriate registration fee, the registrar shall register the dog in the name of the person nominated in the application form.

Registration
fees.

16—(1) The registration fee fixed by the council as being payable in respect of a dog in the relevant circumstances—

(a) may vary in amount according to the kind and sex of dog;

(b) may vary in amount according to the date by which the fee is paid;

(c) shall not, in the case of—

(i) a working dog;

(ii) a pure-bred dog kept for breeding whose owner is the holder of a current Stud Prefix recognized by the Kennel Control Council of Tasmania; or

(iii) a greyhound registered with the Tasmanian Greyhound Racing Board,

exceed one half of the prescribed maximum registration fee;

(d) shall not, in the case of a dog—

(i) that is owned by a person who is a pensioner;
or

(ii) that is sterilized,

exceed one quarter of the prescribed maximum registration fee; and

(e) shall be, in the case of a dog passing the age of 4 months after the last day of December and before the first day of June in any financial year, at half the rate which would otherwise be payable.

(2) Where the owner of a dog claims that the dog is a working dog or is a greyhound registered with the Tasmanian Greyhound Racing Board or a dog registered with the Kennel Control Council of Tasmania, he shall produce evidence to the satisfaction of the registrar to support his claim.

(3) Where the owner of a dog claims that the dog is sterile, an application for registration of the dog shall be accompanied by—

(a) in the case of a dog that has been sterilized by a veterinary surgeon—

(i) a certificate by that veterinary surgeon to the effect that the dog is sterile; or

(ii) if the applicant is unable to obtain such a certificate, a statutory declaration made by the applicant stating that the dog is sterile and stating the reason why the applicant is unable to obtain such a certificate; or

(b) in any other case—a certificate by a veterinary surgeon to the effect that the dog is sterile.

(4) Where a pensioner owns more than one dog, the reduced registration fee payable under subsection (1) (d) (i) shall be limited to one dog owned by the pensioner at any one time.

(5) There shall be no registration fee payable in respect of a guide dog.

(6) A council may by resolution fix a reduced registration fee which shall be payable by an applicant who satisfies the registrar that payment of the appropriate registration fee would occasion hardship to that person.

(7) The registrar shall cause to be published by the end of the first week of June in each year in a daily newspaper circulating in the municipality a notice of the registration fees payable in respect of dogs in the municipality for the financial year commencing on 1st July next.

(8) The appropriate registration fee shall be payable without any previous demand—

(a) in the case of a dog more than 4 months old at the beginning of a financial year, on or before the first day of July in that year; and

(b) in the case of a dog passing the age of 4 months during a financial year, on or before the 30th day after the dog passes that age.

(9) A registration fee shall not be payable more than once in any financial year and shall be paid to the corporation of the municipality in which the dog was kept on the date referred to in subsection (8).

Expire or
cancellation of
registration.

17—(1) Any registration granted under this Act shall expire on the 30th day of June next ensuing after the granting of the registration.

(2) Where the owner of a dog in respect of which a registration fee is payable under this Part, by reason of the dog's death, loss, or removal, ceases to keep the dog in the municipality, he shall notify the registrar who shall, if satisfied of the truth of the notification, cancel the registration of the dog, amend the register accordingly, and, in the case of removal to another municipality, send the relevant form to the registrar of the corporation of that municipality to become part of its register of dogs.

Renewal of
registration.

18—Subject to this Act, a registrar shall, on payment of the appropriate registration fee, renew the registration of a dog.

Misleading
information.

19—(1) A person shall not, in making an application for registration, or renewal of registration, of a dog under this Act—

(a) furnish any information, or make or cause to be made, a statement or representation that to his knowledge is false or misleading in a material particular; or

(b) fail to furnish any prescribed particular that is material to the application.

(2) Any person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 1 penalty unit.

Details of
registration,
&c.

20—Upon registration, or renewal of registration, of a dog, the registrar shall—

(a) allocate to the dog a registration number; and

(b) issue to the owner—

(i) a certificate of registration in the prescribed form; and

- (ii) a registration disc clearly and durably marked with the name of the municipality, the registration number of the dog, and the year of registration.

21—(1) The registrar shall—

Municipal dog register.

(a) keep at the municipal office of the municipality maintained in accordance with section 179 of the *Local Government Act 1962* a register in which he shall enter in respect of each dog registered by any person the prescribed particulars; and

(b) subject to subsection (3), allow any person during normal office hours to inspect the register free of charge.

(2) The register and its details may be recorded and retained in electronic form.

(3) A request by any person to inspect a register that is maintained in electronic form shall, if the council so resolves, be accompanied by the prescribed fee.

(4) If a person supplies any particulars that are not prescribed particulars to a registrar for inclusion in the register, the registrar shall, if he is of the opinion that the particulars are of a confidential nature, enter the particulars in a record separate from the register.

22—Upon request by any person and payment of the prescribed fee, the registrar shall issue to the person a certificate signed by him or a person authorized by him pursuant to section 8 (3) setting out all or any requested registered particulars in relation to any specified dog or specified person.

Certificate of particulars from register.

23—Where, upon application, the owner of a dog makes a statutory declaration that the registration disc issued upon the registration or renewal of registration of any dog has been lost, stolen, or destroyed, the registrar shall, upon payment of the prescribed fee, issue to the applicant another registration disc, the number of which he shall record in the register.

Replacement of lost registration disc.

24—(1) Where a person becomes the owner of a dog that is already registered, he shall, within 14 days after becoming the owner of the dog, notify the registrar in writing of the change of ownership.

Change of owner.

(2) Any person referred to in subsection (1) who fails to comply with that subsection is guilty of an offence and is liable on summary conviction to a penalty not exceeding 0·4 penalty unit.

(3) Where a change of ownership of a registered dog has occurred, the former owner of the dog may discharge his liability in respect of the dog under this Act by—

- (a) giving notice in writing of the change of ownership to the registrar; or
- (b) making an endorsement on the certificate of registration issued in respect of the dog in the prescribed manner, within 14 days of the change of ownership being made.

(4) For the purposes of complying with subsection (1), a person referred to in that subsection may provide the registrar with an endorsed certificate of registration referred to in subsection (3) (b).

Dogs to have collars.

25—(1) If a dog is in any public place without a collar around its neck having securely attached to it the registration disc issued upon the registration of the dog, the owner of the dog is guilty of an offence and is liable on summary conviction to a penalty not exceeding 0·4 penalty unit.

(2) This section does not apply to a dog that is under the effective control of a person and is—

- (a) being used in the droving or tending of stock or is going to or returning from a place, where it will be, or has been, so used; or
- (b) being trained for, or participating in, organized racing, trials, classes or shows or retrieving, hunting, or any other sporting exercise that customarily involves the training of one or more dogs.

Offences: general.

26—(1) Any person who—

- (a) fails to notify the registrar of the death, loss, or removal of a dog in respect of which a registration fee is payable under this Part within 14 days of the death, loss, or removal;
- (b) uses on any dog a registration disc issued in respect of a year other than the year of current registration;
- (c) wilfully and wrongfully removes from any dog a registration disc affixed to any collar worn by that dog, or the collar to which the disc is affixed;

- (d) uses on any dog a registration disc which was issued in respect of another dog;
- (e) falsely makes or counterfeits or knowing to be false or counterfeit, purchases, uses, or has in his possession any disc, medal, badge, or tag resembling, or apparently intended to resemble or pass for, a registration disc;
or
- (f) conceals or disposes of any dog with intent to evade payment of registration fees on the dog,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding 1 penalty unit.

(2) For the purposes of subsection (1) (f), proof of concealment or disposal of a dog is *prima facie* evidence of intent to evade payment of the registration fee on the dog.

(3) Where a person is found guilty of an offence against subsection (1) or section 14, the court which makes the finding may, in addition to any penalty that it may impose for the offence, order the person to—

(a) pay to the corporation an amount equal to any registration fee which would have been payable in respect of the dog if an application for its registration had been made on the day that the offence was committed; or

(b) if—

- (i) it was an offence against subsection (1) (c);
- (ii) the person was not the owner of the dog; and
- (iii) the dog was destroyed in pursuance of this Act as an unregistered dog,

pay to the owner of the dog the value of the dog as determined by the court.

(4) Section 78 of the *Justices Act* 1959 applies to an amount ordered to be paid under subsection (3) (a) in the same way as it applies to a sum adjudged to be paid as referred to in that section.

(5) The court shall not make an order under subsection (3) (a) if the defendant satisfies the court that registration fees had been paid in respect of the dog to some other corporation in the relevant financial year.

PART IV

CONTROL OF DOGS

*Division 1—Stray dogs, &c.*Responsibility
of corporations.

27—Each corporation shall primarily be charged with the responsibility of controlling dogs within its municipality and endeavouring to ensure that the municipality is kept free of straying dogs.

Control of
dogs: general.

28—(1) Any dog in or on a public place shall be kept under the effective control of the owner of the dog, or another competent person.

(2) Where a dog is at large the owner of the dog is guilty of an offence and is liable on summary conviction to a penalty not exceeding 1 penalty unit.

(3) A person shall keep a bitch of which he is the owner and which he knows to be on heat confined in some place removed from any public place.

(4) A person referred to in subsection (3) who fails to comply with that subsection is guilty of an offence and is liable on summary conviction to a penalty not exceeding 1 penalty unit.

Abandonment
of dogs.

29—Any person who abandons, or causes, permits, or suffers any dog owned by him, to be abandoned to fend for itself is guilty of an offence and is liable on summary conviction to a penalty not exceeding 5 penalty units.

Dogs chasing
vehicles.

30—If a dog in a public place rushes at or chases a moving vehicle in that public place, the owner of the dog is guilty of an offence and is liable on summary conviction to a penalty not exceeding 1.5 penalty units.

Animal
exercise areas.

31—(1) Subject to subsection (2), a council may, by resolution, identify an area within the municipality and specific times at which dogs can be exercised off the leash in that area without the dogs being deemed to be at large.

(2) A council shall not make a resolution referred to in subsection (1) unless it has announced its intention to do so by causing an advertisement to be placed in a daily newspaper circulating in the municipality at least 21 days before it is intended that the resolution be made.

(3) Any person residing within the municipality may, by writing under his hand addressed to the registrar, object to the making of a resolution referred to in subsection (1) in respect of any area and shall set out the reasons for his objection in the notice of objection.

(4) In reaching a decision as to whether it should make a resolution referred to in subsection (1) in respect of any area, the council may take into account any objections raised pursuant to subsection (3).

(5) A council may by resolution declare an area within the municipality to be an area into which dogs are not permitted to be taken for a period not exceeding 3 months.

(6) A ban declared under subsection (5) shall not take effect until the expiration of a period of 7 days after the council has announced the making of the resolution declaring the ban by an advertisement placed in a daily newspaper circulating in the municipality which complies with the prescribed requirements.

(7) A council may, by a further resolution and a further newspaper advertisement which complies with the prescribed requirements, extend the ban declared under subsection (5) for a further period not exceeding 3 months.

(8) Any person who takes a dog into an area in respect of which a resolution under subsection (5) or (7) is in effect is guilty of an offence and is liable on summary conviction to a penalty not exceeding 1 penalty unit.

32—(1) Where a council has made a resolution under section 31 (1), any person who objected to the proposed making of the resolution pursuant to section 31 (3) may appeal to a magistrate. Appeals in respect of animal exercise areas.

(2) An appeal under this section shall—

(a) be instituted by giving written notice to the clerk of petty sessions;

(b) be accompanied by the prescribed fee;

(c) be made within the prescribed time; and

(d) otherwise be instituted in the prescribed manner.

(3) At the hearing of an appeal under this section, the magistrate, unless he dismisses the appeal, may—

(a) uphold the resolution of the council; or

(b) quash the resolution of the council,

subject to such conditions, if any, as he thinks fit.

(4) A council shall comply with any directions given to it by a magistrate.

(5) The decision of a magistrate on the hearing of an appeal under this section is final.

(6) Subject to this section, an appeal shall be heard and determined as may be prescribed in the regulations.

Division 2—Dangerous dogs

Dogs attacking
persons or
animals.

33—(1) If a dog attacks, harasses, or chases any person, or any farm animal or domestic animal owned by or in the charge of some other person, the owner of the dog is guilty of an offence and is liable on summary conviction to a penalty not exceeding 5 penalty units.

(2) A person who sets on or urges a dog to attack, harass, or chase any person, any farm animal or domestic animal owned by or in the charge of some other person is guilty of an offence and is liable on summary conviction to a penalty not exceeding 7·5 penalty units.

(3) It is a defence to a charge under this section if it is proved—

- (a) the dog was at the material time being bona fide used in the reasonable defence of any person or property, or for the droving or removal of any animal found trespassing; or
- (b) the owner or person in charge of the farm animal or domestic animal had consented to the dog being used for the droving of the animal.

(4) It shall not be necessary for the purposes of any charge under this section to prove that any actual injury was caused to any person or animal.

Dangerous
dogs.

34—(1) The owner of a dog known to be dangerous within the meaning of this Act shall not—

- (a) permit the dog to be at large;
- (b) fail to ensure that the dog, when in a public place, is muzzled so as to prevent it biting any person or other animal; or
- (c) permit the dog to be unchained at any time, unless it is being used in droving or is securely confined.

(2) Any person referred to in subsection (1) who fails to comply with that subsection is guilty of an offence and is liable on summary conviction to a penalty not exceeding 5 penalty units.

35—If a dog in any premises causes bodily injury to any person or damage to the property of any person lawfully entering those premises, or menaces such a person, the owner of the dog is guilty of an offence and is liable on summary conviction to a penalty not exceeding 4 penalty units.

Dogs attacking persons lawfully entering premises.

36—(1) It shall be lawful for a person holding a certificate of competency in the operation of a tranquillizer gun or other prescribed device to use such a device to subdue a dog that is at large in order to effect its apprehension, where a dog is either known to be dangerous, or is observed behaving in such a manner as to give the apprehending person reasonable cause to believe it is likely to attack.

Use of tranquillizer guns, &c.

(2) The appropriate authority may cause to be examined by such persons and in such manner as he thinks fit all candidates presenting themselves for the purpose of being examined as to their competence in the operation of devices in accordance with subsection (1) and shall issue certificates of competency to those candidates who he is satisfied have successfully passed the examination.

(3) A person holding a certificate of competency shall—

- (a) record and report to the registrar all instances of application of the device referred to in subsection (1);
- (b) take all reasonable precautions to secure the device against theft or unauthorized use; and
- (c) account to the registrar for all stocks of tranquillizing agents.

(4) A person holding a certificate of competency shall submit himself, at prescribed regular intervals, to the appropriate authority for review of the person's continued suitability to hold a certificate of competency.

(5) A candidate presenting himself for examination under subsection (2) or review under subsection (4) shall pay to the appropriate authority the prescribed fee.

(6) Any person holding a certificate of competency who fails to comply with any provision of this section is guilty of an offence and is liable on summary conviction to a penalty not exceeding

4 penalty units and may, if convicted of an offence against this subsection, have his certificate of competency cancelled at the discretion of the appropriate authority.

(7) Upon the registrar becoming aware of the conviction of a person of an offence under subsection (6) he shall provide a report on the circumstances of the conviction to the appropriate authority.

(8) In this section “appropriate authority” means the person for the time being holding, or acting in, the office of Director of Local Government.

Division 3—Seizure of dogs

Seizure of
dogs at large.

37—(1) An authorized person may seize and detain any dog at large.

(2) Where a dog is seized under this section and is not forthwith returned to its owner, it shall be detained in the corporation’s pound or any other suitable premises, and while there it shall be kept safely with sufficient food, shelter, and water, until it is released to its owner or the dog is otherwise disposed of pursuant to this section.

(3) Subject to subsection (5), where a registered dog is seized under this section the registrar shall notify the owner of the dog by a notice in the prescribed form that the dog has been seized and detained.

(4) If, within 5 working days after the giving of the notice to the owner under subsection (3), the dog has not been released to its owner, the dog may be disposed of either by destruction, sale, or other means.

(5) Where an unregistered dog or a dog without a collar bearing the proper registration disc required under section 25 (1) is seized under this section it becomes the property of the corporation, and the registrar may, not less than 2 working days after its seizure, authorize the destruction of the dog or sell it to any person at the corporation’s own price.

(6) The owner of a dog seized under this section shall not be entitled to the return of the dog unless—

(a) he pays—

(i) any dog release fees which may be prescribed in relation to the seizure and detaining of the dog;

- (ii) the reasonable cost of maintaining the dog during the period of detention; and
- (iii) any other fees or charges relating to the dog which ought to have been paid, but had not been paid, under this Act; and

(b) in the case of an unregistered dog, he registers the dog by paying the appropriate registration fee.

(7) A dog seized under this section shall, subject to this section, be delivered up to a person who produces satisfactory evidence that he is entitled to the possession of the dog.

38—(1) An authorized person may seize and detain any dog in respect of which he has reasonable cause to believe that an offence against Division 2 has been committed. Seizure and detention of attacking, dangerous dog.

(2) Where a dog is seized by an authorized person under this section, the dog shall be detained in such form of custody as the authorized person directs, until—

- (a) if proceedings for an offence against Division 2 are instituted within 7 days after the day on which the dog was seized—the completion of those proceedings; or
- (b) if proceedings for an offence against Division 2 are not instituted within that period of 7 days—the expiration of that period of 7 days.

(3) Where a court orders the destruction of a dog that is seized and detained under this section, the costs of detaining and destroying the dog shall be borne by the owner.

(4) Where the costs of detaining a dog are borne by the corporation on behalf of the owner, the costs may be recovered by the corporation in a court of competent jurisdiction as a debt due to the corporation by the owner.

(5) Where—

- (a) proceedings referred to in subsection (2) are instituted but the court does not order the destruction of the dog; or
- (b) proceedings referred to in that subsection are not instituted within 7 days after the day on which the dog was seized,

the registrar shall cause the dog to be returned to its owner on payment of whatever fines or costs are ordered to be paid by the court, if any.

(6) Where—

- (a) the owner declines to take possession of the dog which the registrar attempted to return to him pursuant to subsection (5); or
 - (b) proceedings referred to in that subsection are not instituted because the dog is unregistered and is not claimed, the dog becomes the property of the corporation and the registrar may—
 - (c) in the case referred to in paragraph (a), not less than 48 hours after the attempt was made to return the dog; or
 - (d) in the case referred to in paragraph (b), after the expiration of the period of 7 days after the day on which the dog was seized and detained,
- authorize the destruction of the dog or sell it to any person at the corporation's own price.

Interference with, or removal of, dogs from pounds.

39—A person who—

- (a) rescues or removes, or interferes with, or attempts to rescue or remove or interfere with, any dog seized under section 37 or 38; or
- (b) destroys or damages, or attempts to destroy or damage, any structure, enclosure, or pound, or part of any structure, enclosure, or pound, in which dogs seized under section 37 or 38 are detained,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding 4 penalty units.

Division 4—Destruction of dogs

Special council resolution.

40—A council may, if satisfied that a dog on any premises, including premises of the Crown, poses a threat to the health of human beings or other animals, by resolution, direct and empower an authorized person to enter upon those premises, there to seize or cause to be destroyed any dog that is at large on those premises.

Power of veterinary surgeon, &c., to destroy dog in certain circumstances.

41—(1) Any dog which is behaving in such a manner and in such circumstances that it is likely to cause death or serious bodily injury to any person or which is found distressed or disabled to

such an extent that its existence involves continued suffering may be destroyed by a veterinary surgeon or any authorized person.

(2) If a dog that is destroyed pursuant to subsection (1) was wearing a registration disc, the veterinary surgeon or, as the case may be, the authorized person, shall notify the registrar of the destruction of the dog.

(3) Where the registrar receives a notification under subsection (2), the registrar shall cause a notice of the destruction of the dog to be served by post on the owner of the dog.

42—The owner or occupier of any enclosed paddock, field, yard, or other place in which farm animals are confined, or any person acting under the authority of that owner or occupier, may lawfully destroy any dog at large that is found in that place or elsewhere on the property.

Power of occupier to destroy dog.

43—A person who—

(a) is bitten or attacked by a dog that is at large; or

(b) sees a dog that is at large biting or attacking a person or a farm animal or domestic animal,

may destroy that dog.

Destruction of attacking, &c., dogs.

44—(1) 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 with due care and consideration for the safety and property of others, for the destruction of a dog under the provisions of this Act, unless such person fails to destroy the dog quickly and without causing undue suffering.

No liability for lawful destruction of dog.

(2) The immunity from liability granted under this section relates only to the destruction of the dog and not to any associated negligence which may accompany the destruction of the dog.

Poison or bait
for dog.

45—(1) Where it is necessary for the protection of farm animals confined or depasturing on any land, the owner or occupier of that land or a person acting under his authority may lawfully lay poison on that land in baits likely to be taken by dogs at large if—

- (a) the poison is not laid within 20 metres of any road, reserve, or public place;
- (b) the poison is not laid in contravention of any other Act;
- (c) the poison is not laid in such a way as to endanger children or indigenous birds or animals;
- (d) the laying of the poison is carried out under the supervision of a person employed in the Department of Agriculture;
- (e) a notice in the prescribed form is conspicuously displayed on the land in the prescribed manner at least 1 day before the poison is laid; and
- (f) a notice advertising the laying of the poison is published in a daily newspaper circulating in the municipality at least 7 days before the poison is laid.

(2) A person who lays poison for dogs otherwise than in compliance with subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 4 penalty units.

Penalty for
unauthorized
seizure, &c.,
of dog.

46—A person who seizes, destroys, sells, or injures any dog, not being authorized to do so by the owner or pursuant to the provisions of this Act or any other Act, is guilty of an offence and is liable on summary conviction to a penalty not exceeding 4 penalty units.

Destruction
without
cruelty.

47—Any person purporting to destroy a dog pursuant to the provisions of this Act who fails to destroy it speedily, without cruelty, and without causing it unnecessary suffering is guilty of an offence and is liable on summary conviction to a penalty not exceeding 4 penalty units.

Division 5—Nuisances

48—(1) Subject to this section, a person shall not—

Dogs in shops,
schools, &c.

- (a) take a dog into the grounds of any school, pre-school centre, kindergarten, or other place for the reception of children at a time when children are in those grounds, without the permission of the principal or other person in charge of the school or place;
- (b) take a dog into any shopping centre or shop, not being a pet shop, pet grooming parlour, or premises used for the purposes of the practice of a veterinary surgeon;
or
- (c) take a dog onto the playing area of a sports ground on which organized sport is being played, or cause a dog to go onto the area at such a time.

(2) Any person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 1 penalty unit and, in the case of a second or subsequent offence, 2 penalty units.

(3) This section does not apply if—

- (a) the owner or keeper of the dog resides in the grounds or areas mentioned under this section; or
- (b) the dog is not in a public place.

(4) This section does not apply in respect of a guide dog that is accompanying a blind or deaf person.

49—(1) If a dog, while in the control of any person, defecates in a public place or in any private property which is not owned by the person in control of the dog, that person shall immediately remove the faeces and shall dispose of them in a lawful and suitable manner.

Removal of
faeces.

(2) Any person referred to in subsection (1) who fails to comply with that subsection is guilty of an offence and is liable on summary conviction to a penalty not exceeding 0·2 penalty unit and, in the case of a second or subsequent offence, 0·5 penalty unit.

(3) This section does not apply in respect of a guide dog that is accompanying a blind or deaf person.

Dogs creating
nuisance.

50—(1) Subject to subsection (3), the occupier of any premises where a dog is kept or suffered or permitted to remain and who suffers or permits that dog, either of itself or together with other dogs (whether or not in the same ownership), to be or become a nuisance is guilty of an offence and is liable on summary conviction to a penalty not exceeding 4 penalty units.

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

- (a) it behaves in a manner which is injurious or dangerous to the health of any person; or
- (b) it creates a noise, by barking or otherwise, which 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 other premises or public place.

(3) Proceedings for an offence against subsection (1) shall not be commenced—

- (a) except upon the complaint of the corporation for the municipality in which the premises are situated; and
- (b) unless—

- (i) a person signs and lodges a notice of complaint in the prescribed form with the prescribed fee or, if no fee is prescribed, \$10, alleging the existence of a nuisance created by the dog;

- (ii) the corporation, on being satisfied the allegation is justified, serves on the occupier of the premises in which the dog is being kept or suffered or permitted to remain, a notice requiring the occupier to abate the nuisance within 7 days of the service of the notice; and

- (iii) the person fails to comply with the notice.

(4) If a notice of complaint is lodged in the manner prescribed by this section, the corporation shall be obliged to investigate it as soon as possible after lodgment.

(5) On completion of an investigation referred to in subsection (4) the corporation shall refund the fee referred to in subsection (3) (b) (i) to the person who lodged the notice of complaint unless it is of the opinion that the notice of complaint was lodged for frivolous or vexatious reasons.

(6) A notice of complaint may be lodged by an authorized person but he shall not be required to lodge the fee referred to in subsection (3) (b) (i) with that notice.

51—(1) The owner of a dog shall take all reasonable precautions against the dog becoming infested by tapeworms or other parasites and, if the dog appears to be suffering from any infectious or contagious disease, the owner of the dog shall cause the dog to be examined by a veterinary surgeon and take all practicable steps to ensure that the condition is controlled or eradicated.

Dogs infested
by parasites.

(2) Where an authorized person has reasonable grounds for believing that the provisions of subsection (1) have not been complied with, he may, by notice in writing, require the owner of the dog to have the dog available at a specified place for veterinary examination at the cost of that person, by a veterinary surgeon, within the period specified in the notice (being a period of not less than 3 days).

(3) Any person who, without reasonable excuse, fails to comply with the requirements of a notice given under subsection (2) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 4 penalty units.

(4) Where pursuant to an examination made by him under this section a veterinary surgeon considers that a dog is a danger to the health of human beings or other animals, he may require an authorized person to seize and detain the dog for isolation or destruction or he may, if he considers it necessary, destroy the dog forthwith.

52—(1) If a medical officer of health or health surveyor appointed under the *Local Government Act 1962* or an authorized person is of the opinion that any pen, building, or premises used for the keeping of any dog is in a condition or situation such as to render its use prejudicial to health or constitute a nuisance, he may, by notice, require—

Unhealthy
conditions.

(a) any person to discontinue the use of the pen, building, or premises from a date specified in the notice; and

(b) the owner of the pen, building, or premises to cleanse the pen, building, or premises to the officer's satisfaction within a period of time specified in the notice.

(2) A person who fails to comply with a notice under subsection (1) (a) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 0·2 penalty unit for each day on which the pen, building, or premises was used after the date specified in the notice.

(3) A person who fails to comply with a notice under subsection (1) (b) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 4 penalty units.

(4) If a person served with a notice under subsection (1) (b) fails to comply with the notice within the period specified in the notice, the corporation may do the work necessary to cleanse the pen, building, or premises in accordance with the notice.

(5) Where a person is found guilty of an offence against subsection (3), the court which made the finding may, in addition to any penalty which it may impose for the offence, order the person to pay to the corporation an amount equal to the expense incurred by the corporation in cleansing the pen, building, or premises in accordance with the notice.

(6) Section 78 of the *Justices Act 1959* applies to an amount ordered to be paid under subsection (5) in the same way as it applies to a sum adjudged to be paid as referred to in that section.

(7) In this section, the term "prejudicial to health" can refer to either or both the health of humans or animals, as the circumstances dictate.

PART V

LEGAL PROCEEDINGS

Division 1—Liability and compensation

53—(1) Subject to this section, the owner of a dog is liable in damages for any injury caused by the dog.

(2) The keeper of a dog is subject to all liabilities, both civil and criminal, in respect of the dog as if he were its owner except where the dog is being kept by the person as an employee on behalf of his employer.

Liability and compensation for injuries, &c., caused by dogs.

(3) In proceedings to recover damages arising from personal injury or damage to property, it is a defence for the defendant to prove that—

- (a) the personal injury was suffered by the plaintiff while the plaintiff was, without lawful excuse, on land or premises occupied by the defendant;
- (b) the plaintiff failed to take reasonable care for his own safety; or
- (c) the plaintiff provoked the dog.

(4) In proceedings to recover damages arising from injury to a domestic animal or a farm animal, it is a defence for the defendant to prove that the injury was suffered by the animal while it was on land or premises occupied by the defendant or that the animal attacked had provoked the dog by which it was attacked.

(5) Damages in respect of any injury caused by a dog may be recovered whether or not a prosecution for an offence against this Act has been instituted against the owner of the dog and, where such a prosecution has been instituted, notwithstanding that the owner has been acquitted of the offence charged.

(6) In proceedings to recover damages for any injury caused by a dog, it is not necessary for any party seeking damages to show a previous mischievous propensity in the dog, or the owner's knowledge of its mischievous propensity or that the injury was attributable to neglect on the part of the owner of the dog.

(7) Nothing in this section affects any right that a person has to recover damages or compensation apart from this section.

(8) In any proceedings for an offence against this Act or in any civil proceedings in relation to any injury, caused by a dog, it shall be a defence for a person who was the owner, or is deemed to have been the owner, of the dog at the material time, if he proves that the dog was at that time in the possession or control of another person without his consent.

Division 2—Evidentiary and procedural matters

Evidence of
ownership
of dog.

54—In any proceedings for an offence against this Act or in any civil proceedings in relation to any injury or nuisance caused by a dog—

- (a) except as provided in section 24 (3), any person who is shown in any register maintained under this Act to have been the person in whose name the dog was last registered in that register before the material time shall be deemed to have been the owner of the dog at the material time, whether or not the dog had continued to be registered in his name, unless he proves that the dog had been subsequently registered in the name of another person; and
- (b) where any dog, whether registered or unregistered, is proved to have been habitually in the apparent ownership of any person, that person shall, in the absence of proof to the contrary, be deemed to have been and to continue to be the owner of that dog.

Further
evidence of
ownership
of dog.

55—In any proceedings for an offence against this Act or in any civil proceedings arising out of an attack by a dog upon any farm animal or domestic animal or the worrying or chasing of farm animals or domestic animals, the fact that the dog was immediately prior to the activity in company with, and closely following, a person shall, in the absence of proof to the contrary, be deemed to prove that the person was the owner of that dog.

Evidence.

56—(1) In any proceedings for an offence against this Act—

- (a) an averment in a complaint that a specified person was the owner of a dog or that any dog was at any specified time unregistered shall, in the absence of proof to the contrary, be accepted as proof of the matters so averred to; and
- (b) the onus of proving that a dog was duly registered or was at the material time under the age of 4 months lies on the person making that assertion.

(2) Except as provided in section 25 (2), a dog without a collar bearing the proper registration disc required under section 25 (1) shall, until the contrary is established, be deemed to be an unregistered dog.

(3) Proof that any person is the occupier of any dwelling or premises or part of any dwelling or premises where a dog is usually kept or harboured or permitted to remain shall, until the contrary is established, be accepted as evidence in any proceedings that such person is the owner of the dog.

(4) A municipal or private poundkeeper shall be deemed to have supplied sufficient quantities of wholesome food and water as provided in section 37 (2) unless the contrary is proven.

57—In any proceedings for an offence against this Act a copy of, or extract from, any entry in a municipal dog register kept under section 21 certified under the hand of a registrar shall, until the contrary is established, be evidence of the matters so certified.

Entries in register to be evidence.

58—Proceedings for offences against this Act shall be disposed of summarily.

Summary proceedings.

59—(1) Where a dog is shown to the satisfaction of a court to be unduly mischievous, dangerous, or has killed farm animals or domestic animals, the court may order that the dog be destroyed in accordance with this section.

Court may order destruction of dog.

(2) An order for the destruction of a dog may be made by any court hearing any proceedings under this Act.

(3) Where a court is empowered to make an order for the destruction of a dog under this section, the court may, in addition to the order, or in lieu of making the order, do one or more of the following things:—

- (a) direct that the order shall be remitted in specified circumstances;
- (b) order the seizure and detention of the dog, whether or not an order is made for the destruction of the dog;

- (c) make an order requiring that the dog be controlled, or be controlled in a specified manner;
 - (d) make an order requiring that the dog be disposed of, or be disposed of in a specified manner;
 - (e) direct an authorized person to give effect to the order;
 - (f) give all necessary directions to make the order effective; and
 - (g) make an order against the owner of the dog as to costs incurred in making the order effective, as to the payment of compensation to any person who has suffered any bodily injury or damage to property as a result of the actions of the dog, and as to the costs incurred by the corporation in detaining the dog.
- (4) 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.
- (5) Where the destruction of a dog is ordered or authorized under this section, it shall be effected without cruelty.
- (6) An order of the kind referred to in this section shall be implemented notwithstanding that the ownership of the dog has changed or is not known, or that the dog is no longer being kept in the same place, unless on an application made to the court making the original order, the court is satisfied that the changed circumstances are such that the order may be varied.
- (7) An authorized person may execute an order under subsection (3) and, for that purpose, the authorized person may enter upon any premises in which he has reasonable grounds for believing the dog to which the order relates may be found.

Continuing
offences.

60—(1) A person convicted of a continuing offence—

- (a) is liable, in addition to the penalty otherwise applicable to that offence, to a penalty for each day during which the act or omission constituting the offence continued of not more than the amount equal to one tenth of the maximum penalty prescribed for that offence; and

(b) if the act or omission continues after the person is convicted, is guilty of a further offence against that section and is liable on summary conviction for that further offence, in addition to the penalty otherwise applicable to that further offence, to a penalty for each day during which the act or omission constituting the offence continued after that conviction of not more than the amount equal to one tenth of the maximum penalty prescribed for that offence.

(2) Where an offence against a provision of this Act consists of an omission to do something that is required or directed to be done, the omission shall, for the purposes of subsection (1), be deemed to continue for so long as the thing required or directed to be done remains not done after the expiration of the period for compliance with the requirement or direction.

(3) In this section, "continuing offence" means an offence against section 24, 50, or 77.

Division 3—Infringement notices

61—Where an authorized person has reason to believe that any person is guilty of any offence under section 14, 25, 26, 28, 29, 30, 31 (8), 39, 48, 49, 52 (2) or (3), 74, or 77, he may serve on that person an infringement notice as provided in this Division.

Power to
serve infringe-
ment notice.

62—An infringement notice may be served—

(a) by personally serving the notice upon the alleged offender;
or

(b) by sending the notice by certified mail addressed to him at his last known place of residence or business.

Service of
infringement
notice.

63—An infringement notice shall be in the prescribed form and shall contain—

Form and
content of
notice.

(a) a statement to the effect that if the amount of the penalty fixed in the regulations for the particular infringement is tendered at the place referred to in the notice proceedings will not be instituted under this Act unless, before the expiration of the period specified in the notice as the time for the payment of the penalty, notice is given that the infringement notice has been withdrawn; and

- (b) such other particulars and instructions as are referred to in section 66.

Withdrawal
of notice.

64—An infringement notice may be withdrawn whether the appropriate penalty has been paid or not, at any time within 28 days after the service of the notice, by the sending by post of a notice in the prescribed form, signed by the authorized person giving the infringement notice, to the effect that the infringement notice has been withdrawn, addressed to the person on whom the infringement notice was originally served, at his last known place of residence or business.

Refund of
penalty upon
withdrawal.

65—Where the amount of the penalty for the infringement has been paid before the infringement notice is withdrawn, the amount so paid shall be refunded upon the notice of withdrawal being given.

Particulars
to be shown
on notice
served on
offender.

66—An infringement notice served on a person shall have clearly shown on the notice—

- (a) the date, time, and place the alleged offence occurred;
- (b) the penalty for such infringement;
- (c) the place or places at which the penalty may be paid;
- (d) the date of issue of the notice and a statement that the penalty may be paid within a period of 14 days after that date;
- (e) a summary of the provisions of this Act relating to the withdrawal of infringement notices; and
- (f) such other particulars as are prescribed.

Payment to
expiate
infringement.

67—If, before the expiration of the period specified in the infringement notice for the payment of the penalty or, where the authorized person giving the notice so allows, at any time before service of a summons in respect of the infringement, the amount of the penalty so shown is paid at the appropriate place—

- (a) no further proceedings shall, except in the case of an offence against section 14, be taken in respect of the infringement; and
- (b) a conviction for the infringement shall not be recorded.

68—Payment of any penalty under this Division may be effected by cash, cheque, or money order either lodged at or sent by post to the place referred to in the notice, but in the case of a cheque payment shall be deemed not to be made unless and until the cheque is honoured upon presentation.

Mode of payment.

69—Where an infringement notice has been served in accordance with this Division and the amount of the penalty is not paid before the expiration of the period specified in the notice as the time for payment or where the notice has been withdrawn, nothing in this Division shall in any way prejudice the institution or prosecution of proceedings for the offence in question.

Notice not to prejudice further proceedings.

70—(1) A person on whom an infringement notice is personally served may accept or refuse to accept such notice after being advised by the authorized person beforehand that—

Acceptance, or refusal to accept, infringement notice.

- (a) refusal to accept the notice means that the authorized person can seize the dog and remove the dog as a dog at large; and
- (b) any misleading information given by the owner of the dog shall be considered as an offence against this Act.

(2) Acceptance of an infringement notice 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.

PART VI

MISCELLANEOUS

Division 1—Additional powers of authorized persons

71—(1) An authorized person may—

- (a) enter and remain in or on any private premises at any reasonable time; or

Entering private land.

(b) if authorized by a resolution of the council, enter and remain in or on any private premises during any times specified in the authorization,

for the purpose of demanding the payment of registration fees due and payable under this Act from any person.

(2) An authorized person may require the occupier of any premises, upon at least 24 hours' notice, to produce for inspection by the authorized person on those premises all dogs of which the occupier is the owner and all other dogs kept on those premises.

(3) Nothing in this section shall be taken to empower an authorized person to enter any dwelling on any private land without the permission of the owner or occupier of the dwelling.

Entering dwellings.

72—(1) Where an authorized person has reason to believe that the owner of a dog may have committed an offence against section 14, 33, or 34, he may, after furnishing evidence of his authority, enter the premises of that person, but not enter any dwelling on those premises, and search for and seize any dog found on those premises.

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

Authorized person may require name and place of abode.

73—(1) An authorized person who finds a person committing an offence against this Act or who finds a person whom, on reasonable grounds, he suspects of having committed or attempted to commit any such offence may demand from that person his name and place of abode.

(2) A person who upon demand made under subsection (1) fails or refuses to state his name or place of abode, or gives a false name or place of abode is guilty of an offence and is liable on summary conviction to a penalty not exceeding 2 penalty units.

74—Any person who—Obstructing,
&c., authorized
person.

- (a) delays, obstructs, hinders, impedes, threatens, or assaults an authorized person in the performance of his functions or the exercise of his powers under this Act;
- (b) uses improper or abusive language to an authorized person;
- (c) instigates or incites another person to do any of the things mentioned in paragraph (a) or (b);
- (d) gives an answer to a question asked by an authorized person made under a power given in this Act which, to his knowledge, is false or misleading in a material particular; or
- (e) fails without lawful excuse to produce any certificate or other document issued to him under this Act, or any dog in his possession or control, when required to do so by an authorized person exercising a power under this Act, or fails to allow an authorized person, on having produced the certificate, document, or dog, to make an examination of it,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding 2 penalty units.

Division 2—Fees and penalties

75—(1) Except as provided in subsection (2), all fees received under this Act and the proceeds from the sale of any dog under this Act, unless a private agreement with an animal welfare organization has been made pursuant to the provisions of this Act, shall be paid to the corporation concerned and shall only be used for the purposes of this Act.

Appropriation
of fees.

(2) All fees received under section 36 shall be paid into the Consolidated Fund.

76—(1) A penalty for an offence against this Act that is recovered on the complaint of a corporation or a dog control officer or a registrar or by virtue of an infringement notice served by an authorized person on behalf of a corporation shall be paid to that corporation.

Appropriation
of penalties.

(2) A penalty for an offence against this Act that is recovered other than in the manner referred to in subsection (1) shall be paid into the Consolidated Fund.

Division 3—Licensed kennels

Unlicensed
kennels.

77—A person who keeps on any premises, not being licensed premises, more than 2 dogs (or, in the case of working dogs, 4 dogs) over the age of 4 months is guilty of an offence and is liable on summary conviction to a penalty not exceeding 2 penalty units.

Application
for kennel
licence.

78—(1) An application for a kennel licence shall be made to the registrar of the corporation for the municipality in which the dogs are kept or intended to be kept.

(2) An applicant for a kennel licence shall cause a notice of his intention to apply for the licence to be published in the prescribed form in a daily newspaper circulating throughout the municipality.

(3) An application for a kennel licence shall—

- (a) be in the prescribed form and contain the prescribed particulars;
- (b) contain proof that the notice referred to in subsection (2) has been published; and
- (c) be accompanied by the prescribed fee, which may be varied according to the number of dogs in respect of which the licence is required.

(4) Any person residing within 200 metres of the premises to which the application relates may, by writing under his hand addressed to the registrar, object to the granting of the licence within 14 days after the publication of the notice referred to in subsection (2) and shall set out the reasons for his objection in the notice of objection.

(5) A corporation shall not consider an application for a kennel licence until 21 days after the notice referred to in subsection (2) has been published.

(6) In reaching a decision as to whether a kennel licence may be issued, and, if so, whether it shall be subject to any conditions, the corporation may take into account any objections raised by persons referred to in subsection (4) which relate to the matters referred to in subsection (7).

(7) The corporation may refuse to issue a kennel licence if in the opinion of the corporation—

- (a) the premises in respect of which it is sought are unfit for the purpose for which they are to be used; or
- (b) it is in the public interest that the licence should not be issued.

(8) The regulations may require that dogs kept in licensed premises shall be kept in kennels and yards—

- (a) appropriate to the breed or kind in question;
- (b) constructed to specifications of a standard not less than those prescribed;
- (c) sited and maintained in accordance with the requirements under laws relating to public health and environmental protection; and
- (d) which are adequately secured.

(9) Where the registrar is satisfied that adequate provisions for the health, welfare and adequate control of all dogs on any premises are provided, that no nuisance to any other persons will occur, and that all requirements under laws relating to public health and environmental protection will be satisfied, the corporation may issue a kennel licence for the keeping of more than 2 (or, in the case of working dogs, 4) but up to a specified maximum number of dogs on any premises other than in kennels or yards which shall not be required to comply with regulations made under subsection (8).

(10) A person who keeps, or permits or suffers to be kept, any dog over the age of 4 months of a breed or kind to which a kennel licence applies at licensed premises otherwise than in accordance with the licence relating to that establishment is guilty of an offence and is liable on summary conviction to a penalty not exceeding 1 penalty unit.

(11) Unless it is earlier cancelled, a kennel licence has effect for a period that expires on 30th June in each year.

79—(1) Subject to this section, a kennel licence is renewable for a period of up to 12 months upon payment of the prescribed fee.

Renewal of
kennel licence.

(2) The corporation may refuse to renew a kennel licence if in the opinion of the corporation—

- (a) the requirements of this Act and the *Public Health Act* 1962 in respect of the licensed premises are not being complied with;

- (b) the situation or condition of the premises is such as to create a nuisance;
- (c) the requirements of the regulations are not being complied with; or
- (d) it is in the public interest that the licence not be renewed.

Cancellation
of kennel
licence.

80—(1) A corporation may cancel a kennel licence at any time in accordance with this section if the registrar is satisfied that the premises do not comply with the standards prescribed by the regulations or, in the case of premises referred to in section 78 (9), that the conditions referred to in that section have not been adequately complied with.

(2) Before cancelling a kennel licence the corporation shall give to the holder of the licence one month's notice in writing to show cause on or before a day specified in the notice why the licence should not be cancelled, and shall give consideration to any representations which the holder may then make in that respect.

(3) The cancellation of a kennel licence under this section shall be effected by the service of a notice on the holder of the licence notifying him that the licence expires at the end of the period specified in the notice, which shall be a period of not less than 3 months, unless the normal expiry of 30th June in each year is first reached.

Appeals in
respect of
kennel
licences.

81—(1) Where—

- (a) the corporation refuses to grant or renew a kennel licence;
or
- (b) the corporation advises the holder of a kennel licence of its intention to cancel the licence,

the applicant or the holder of the licence, as the case may be, may appeal to a magistrate.

(2) An appeal under this section shall—

- (a) be instituted by giving written notice to the clerk of petty sessions;
- (b) be accompanied by the prescribed fee;
- (c) be made within the prescribed time; and
- (d) otherwise be instituted in the prescribed manner.

(3) At the hearing of an appeal under this section, the magistrate, unless he dismisses the appeal, may—

(a) direct the corporation to grant or renew the licence; or

(b) quash the decision of the corporation to cancel the licence, subject to such conditions, if any, as he thinks fit.

(4) A corporation shall comply with any directions given to it by a magistrate.

(5) The decision of a magistrate on the hearing of an appeal under this section is final.

(6) Subject to this section, an appeal shall be heard and determined as may be prescribed in the regulations.

Division 4—Miscellaneous provisions

82—(1) Where an inspector of the Royal Society for the Prevention of Cruelty to Animals takes care of an injured or sick dog, the associated cost of transport and of providing veterinary services for the dog may be recovered by the Society in a court of competent jurisdiction from the owner of the dog as a debt due to the Society.

Injured or sick dogs in the hands of R.S.P.C.A.

(2) If an injured or sick dog referred to in subsection (1), in the opinion of a veterinary surgeon, has to be destroyed, the surgeon may take whatever action is necessary and the owner of the destroyed dog is not entitled to any claim for compensation for the loss of the dog.

83—(1) A person shall not drive a vehicle on a public street with a dog on or in the vehicle if the dog is outside the cabin of the vehicle.

Transporting, &c., dogs.

(2) Subsection (1) does not apply if the dog is secured in a safe manner outside the cabin of the vehicle or if the dog is a working dog.

(3) A person shall not have in his charge or under his control a dog in any public place while the person is riding a bicycle or motor cycle.

(4) Subsection (3) does not apply if the dog is a working dog or if the dog is enclosed in a suitable container secured in a safe manner in the pillion area of the motor cycle.

(5) Any person who contravenes subsection (1) or (3) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 1 penalty unit.

Greyhounds to
be muzzled.

84—(1) The person in control of a greyhound shall ensure that the dog is muzzled at all times when in a public place.

(2) Any person referred to in subsection (1) who fails to comply with that subsection is guilty of an offence and is liable on summary conviction to a penalty not exceeding 2 penalty units.

(3) Subsection (1) does not apply in respect of a greyhound participating in an obedience trial, a class or a show, or any other exhibition or function organized or approved by the Kennel Control Council of Tasmania.

Service of
documents.

85—(1) Any notice or other document required or authorized by this Act to be served or given by any person and not otherwise provided for in this Act shall be deemed to have been duly served or given—

(a) where the person on whom the notice or other document is to be served or given is not a registrar, authorized person, or clerk on behalf of a corporation, if it is delivered or sent by certified mail to—

(i) the person's customary or last known address;
or

(ii) if the person is the owner of a registered dog, the address appearing on the register in respect of that person;

(b) where the person is a registrar or an authorized person, if it is delivered or sent by prepaid post to the place of employment of the registrar or authorized person;
or

(c) where the person is a clerk acting on behalf of a corporation, if it is addressed to the corporation and delivered or sent by prepaid post to the municipal office.

(2) A notice or other written notification served or given pursuant to subsection (1) shall, in the absence of evidence to the contrary, be deemed to have been effected at the time at which the notice or other written notification is delivered personally or at the time at which it would be delivered in the ordinary course of post.

Municipal
contributions
to private
agencies.

86—The corporation of a municipality may apply out of its Municipal Fund any sum of money for or in connection with assistance to any animal welfare society or for subsidized veterinary services for the sterilization of dogs.

87—The corporation of a municipality shall account separately within the Municipal Fund for revenue received and expenditure incurred under this Act. Accounting within the Municipal Fund.

88—(1) The Governor may make regulations for the purposes of this Act. Regulations.

(2) Without limiting the generality of subsection (1), the Governor may make regulations for or in respect of the following matters:—

- (a) effective and positive compulsory identifying of dogs;
- (b) prescribing minimum standards and guidelines for—
 - (i) the construction of dog pounds;
 - (ii) the construction of dog kennels;
 - (iii) the conduct and operation of dog pounds; and
 - (iv) the maintenance of dog pounds;
- (c) prescribing maximum fees for the purposes of this Act, which may vary according to such factors as may be prescribed;
- (d) regulating the keeping and control of dogs of a prescribed class;
- (e) prohibiting the keeping of dogs of a prescribed class in prescribed places or areas;
- (f) providing for the sterilization or destruction of dogs of a prescribed class in prescribed circumstances;
- (g) prescribing the method of identifying dogs of a prescribed class;
- (h) prescribing the procedures in respect of applications for the variation of conditions of kennel licences;
- (i) prescribing the penalties which shall apply in respect of different offences for which an infringement notice may be used.

(3) The regulations may provide for a contravention of, or failure to comply with, any provision of the regulations to be an offence and for the imposition of a penalty not exceeding 1 penalty unit for such an offence.

Consequential
amendments.

89—(1) Sections 214, 537, 799, 800 (1) and (3), and 838 of the *Local Government Act 1962* are repealed.

(2) Part III of the *Law of Animals Act 1962* is repealed.

(3) Sections 13 (1) (c), (10), (11), (12), and (13), and 15E (1) (b) of the *Police Offences Act 1935* are repealed.

(4) Section 3 (3) of the *Guide Dogs Act 1967* is omitted and the following subsection is substituted:—

(3) This section has effect only in relation to a guide dog that is registered as required by section 14 of the *Dog Control Act 1987* and has attached to its collar the registration disc issued for the relevant financial year under section 20 of that Act.

Savings and
transitional.

90—(1) Where dog tax has been paid in respect of a dog under section 214 of the *Local Government Act 1962*, the dog shall be deemed to be registered under this Act until the expiration of the period in respect of which the dog tax was paid under the *Local Government Act 1962*.

(2) A kennel licence issued under the *Local Government Act 1962* shall be deemed to be a kennel licence issued under this Act and shall be valid until the expiration of the period for which it was issued under the *Local Government Act 1962*.