

DOG (AMENDMENT) ACT 1993 No. 22

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Dog Act 1966 No. 2

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL OF DANGEROUS DOGS

- Definition of “provocation”
Item (1)—section 4
- Additional measures for controlling dogs
Item (2)—Part 2, Division 1, heading
Item (3)—section 5
Item (4)—section 6
Item (5)—Part 2, Divisions 2–5 (sections 9D–9W)
Item (6)—section 18
Item (7)—sections 19A, 19B
Item (8)—section 20
Item (9)—section 20B
Item (10)—section 27

SCHEDULE 2—OTHER AMENDMENTS

- Notes appearing in the Act
Item (1)—section 2
- Increases in monetary penalties
Item (2)—section 6
Item (3)—sections 7–9, 9B, 9C, 17
Item (4)—sections 10, 17A, 19, 21A

Dog (Amendment) Act 1993 No. 22

- Administrative provisions relating to registration of dogs
 - Item (5)—section 14
 - Item (6)—section 27
 - Proof of registration of dog
 - Item (7)—section 21
 - Statute law revision
 - Item (8)—sections 8, 10
 - Item (9)—section 21A
 - Item (10)—section 22A
-

DOG (AMENDMENT) ACT 1993 No. 22

NEW SOUTH WALES



Act No. 22, 1993

An Act to amend the Dog Act 1966 to make further provision with respect to the control of dogs and for other purposes. [Assented to 8 June 1993]

See also Crimes (Dogs) Amendment Act 1993.

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Dog (Amendment) Act 1993.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Dog Act 1966 No. 2

3. The Dog Act 1966 is amended as set out in Schedules 1 and 2.

**SCHEDULE 1—AMENDMENTS RELATING TO THE
CONTROL OF DANGEROUS DOGS**

(Sec. 3)

Amendment: definition of “provocation”

(1) Section 4 (**Definitions**):

Insert in section 4 (1) in alphabetical order:

“Provocation” of a dog:

(a) by a person—includes:

- teasing, tormenting or abusing the dog; or
- any act of cruelty towards the dog; or
- entry without lawful excuse on any land, vehicle or premises of which the owner of the dog is an occupier or on which the dog is ordinarily kept; or
- attacking the owner of the dog, or any person towards whom the dog could reasonably be expected to be protective, in front of the dog; and

(b) by another animal—includes:

- an attack on the dog made by the other animal; or
- the entry of the other animal on any land, vehicle or premises of which the owner of the dog is an occupier or on which the dog is ordinarily kept.

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF DANGEROUS DOGS—*continued*

Amendments: additional measures for controlling dogs

- (2) Part 2, Division 1, heading:
Before section 5, insert:

Division 1—Control of dogs generally

- (3) Section 5 (**Liability of owners of dogs**):

- (a) In section 5 (1) (a), after “6 months or over”, insert “(not being a dog declared to be dangerous under this Act)”.
- (b) After section 5 (1) (a), insert:
- (a1) who is the owner of a dog that is declared to be dangerous under this Act, that is ordinarily kept in a municipality or shire and is not a registered dog;
- (c) Omit section 5 (4), insert instead:
- (4) A person guilty of an offence under this section is liable to a penalty not exceeding:
- in the case of an offence under subsection (1) (a1)—10 penalty units; or
 - in any other case—5 penalty units.

- (4) Section 6 (**Dogs attacking or injuring persons or animals**):

- (a) Omit section 6 (2) (a) and (b), insert instead:
- (a) occurs on any land, vehicle or premises:
- (i) of which the owner of the dog is an occupier; or
- (ii) on which the dog is ordinarily kept,
- but only if the dog is not a dog declared to be dangerous under this Act; or
- (b) is in immediate response to, and is wholly induced by, intentional provocation of the dog by a person other than the owner of the dog or the owner’s servants or agents; or
- (b) Omit section 6 (3)–(5).

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF DANGEROUS DOGS—*continued*

(5) Part 2, Divisions 2–5 (sections 9D–9W):

After section 9C, insert:

**Division 2—Power of councils to declare dogs
dangerous**

Council may declare a dog to be dangerous

9D. (1) A council may, on the council's own initiative or on the written application of a police officer or any other person, declare a dog that is ordinarily kept in the council's area to be dangerous.

(2) A council is to cause a record to be kept showing particulars of any declaration made by it under this Division and of any declaration made by a Local Court under Division 3 of which the council is notified by the Court.

When can a council declare a dog to be dangerous?

9E. The council may make a declaration only if it is satisfied that:

- (a) the dog has, without provocation, attacked or killed a person or an animal; or
- (b) the dog has, without provocation, repeatedly:
 - threatened to attack
 - chased,

a person or an animal; or

- (c) a declaration made by another council is in force in respect of the dog.

NOTE: Section 9M also gives a Local Court the power to declare a dog dangerous in certain circumstances.

Council must notify dog owner of proposed declaration

9F. (1) The council must give notice to the owner of a dog of the council's intention to declare the dog to be dangerous.

(2) The notice must set out:

- (a) the requirements with which the owner will be required to comply if the declaration is made; and

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF DANGEROUS DOGS—*continued*

- (b) the owner's right to object to the proposed declaration in writing to the council within 7 days after the date the notice is given.

Council must consider dog owner's objections

9G. A council may declare a dog to be dangerous after 7 days from the date notice was given to the owner of the dog of the council's intention to make the declaration if no objection has been received from the owner within that time or after the council has considered any objection received within that time.

Council to notify dog owner of making of declaration and consequences

9H. (1) A council must, within 7 days after declaring a dog to be dangerous, give notice to the owner of the dog that the council has made the declaration.

(2) The notice must:

- (a) set out the requirements imposed on the owner by section 9T and specify the date or dates by which the owner must comply with those requirements; and
(b) set out the owner's right to appeal against the declaration.

(3) A declaration has effect from the date specified in the notice or the date on which notice is given, whichever is the later.

Council may revoke its declaration of a dog as dangerous

9I. (1) A council may revoke a declaration made by the council on the application of the owner of the dog concerned:

- (a) in the circumstances (if any) prescribed by the regulations; or
(b) if it is satisfied that it is appropriate to do so.

(2) The council must, as soon as practicable, give notice to the owner of the dog:

- (a) that the declaration has been revoked; or
(b) that the council has refused to revoke the declaration.

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF DANGEROUS DOGS—*continued*

What appeals can be made against the decisions of a council concerning a declaration?

9J. (1) The owner of a dog may appeal to a Local Court constituted by a Magistrate sitting alone:

- (a) against the declaration by the council that the dog is dangerous; or
- (b) against the refusal by the council to revoke its declaration that the dog is dangerous.

(2) An appeal may only be made within 28 days after the date the owner of the dog is given notice by the council that it has made the declaration or that it has refused to revoke the declaration.

Determination of appeals by Local Court

9K. A Local Court may determine any appeal by confirming the decision of the council or by revoking the declaration.

NOTE: A Local Court has power under Division 4 to make other orders to control a dog on an appeal from a decision of a council concerning a declaration (e.g. the Court may order that the owner of a dog take such action as the Court thinks necessary to prevent the dog attacking persons or other animals).

How notice is to be given under this Division

9L. (1) A requirement of this Division that the owner of a dog be given notice by a council is a requirement that the owner be given notice in writing either personally or by post.

(2) In the case of notice given by post to the owner of a dog under section 9H (1) or 9I (2) (b), the notice is to be given by certified mail.

(3) For the purposes of section 76 of the Interpretation Act 1987, a notice served by post on the owner of a dog for the purposes of this Division is to be treated as being properly addressed if it is addressed to the last address of the owner known to the council.

Division 3—Power of Local Court to declare dogs dangerous

Local Court may declare a dog to be dangerous

9M. In any proceedings under this Act before a Local Court (other than an appeal against a declaration by a council

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF DANGEROUS DOGS—*continued*

that a dog is dangerous or against a refusal by a council to revoke such a declaration), the Court may declare a dog to be dangerous.

When can a Local Court declare a dog to be dangerous?

9N. (1) The Local Court may make a declaration only if the Court is satisfied that:

- (a) the dog has, without provocation, attacked or killed a person or an animal; or
- (b) the dog has, without provocation, repeatedly:
 - threatened to attack; or
 - chased,
 a person or an animal; or
- (c) a declaration made by a council is in force in respect of the dog.

(2) A declaration under this Division has effect throughout the State.

Local Court may revoke its declaration of a dog as dangerous

90. A Local Court may revoke a declaration made by a Court under this Division on the application of the owner of the dog concerned if the Court is satisfied that it is appropriate to do so in the circumstances.

Division 4—Destruction and control orders

Power of Courts to make destruction and control orders

9P. (1) Destruction or control orders may be made by a Local Court. A Local Court may make:

- (a) an order that the owner of a dog destroy the dog or cause the dog to be destroyed, or that a dog be destroyed by some person authorised by the Court, within the period specified in the order (a “**destruction order**”); or
- (b) an order that the owner of a dog take such other action as the Court thinks necessary to prevent, or reduce the likelihood of, the dog attacking or causing injury to persons or animals within the period specified in the order (a “**control order**”).

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF DANGEROUS DOGS—*continued*

(2) Destruction order may be made by certain other Courts. A Court that deals with an offence under section 35A of the Crimes Act 1900 on indictment may make a destruction order.

(3) Authority to destroy dog. A dog may be destroyed in accordance with a destruction order.

When can a destruction or control order be made?

9Q. **(1) Destruction orders made by Local Courts.** A destruction order may be made by a Local Court in the following circumstances:

- (a) on conviction of the owner of the dog of an offence under section 6, 9R or 9T;
- (b) on the making of an order under section 556A of the Crimes Act 1900 in respect of the owner of a dog charged with such an offence;
- (c) on conviction of a person of an offence under section 35A of the Crimes Act 1900;
- (d) on the making of an order under section 556A of the Crimes Act 1900 in respect of a person charged with an offence under section 35A of the Crimes Act 1900;
- (e) on confirming a council's declaration that a dog is dangerous or a council's refusal to revoke such a declaration.

(2) Destruction orders made by certain other Courts. A destruction order may be made by a Court in proceedings on indictment for an offence under section 35A of the Crimes Act 1900 in the following circumstances:

- (a) on conviction of a person of an offence under that section;
- (b) on the making of an order under section 556A of the Crimes Act 1900 in respect of a person charged with such an offence.

(3) Control orders made by Local Courts. A control order may be made by a Local Court in the following circumstances:

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF DANGEROUS DOGS—*continued*

- (a) in proceedings for an offence under section 6,9R or 9T of this Act or section 35A of the Crimes Act 1900;
- (b) on an appeal against a council's declaration that a dog is dangerous or against a council's refusal to revoke such a declaration;
- (c) on the Court declaring the dog to be dangerous under Division 3.

(4) **Destruction and control orders may be made in addition to any other order.** A destruction or control order may be made in addition to any other order made by the Court in the proceedings concerned.

Failure to comply with destruction or control order

9R. The owner of a dog who does not comply with a destruction or control order is guilty of an offence.

Maximum penalty: 10 penalty units.

Court may make ancillary orders to enable destruction order to be carried out

9S. (1) A Court may, if it makes a destruction order that a dog be destroyed by some person authorised by the Court, require the owner of the dog to take, within such period as is specified in the destruction order, such action as is, in the opinion of the Court, necessary to enable the destruction order to be carried out.

(2) The Court may also make an order for the payment of any costs incurred in destroying the dog.

(3) The owner of a dog who does not comply with an order under subsection (1) is guilty of an offence.

Maximum penalty: 10 penalty units.

Division 5—Responsibilities of owners of dangerous dogs

Owner of dog declared dangerous must comply with control requirements

9T. (1) The owner of a dog that is declared to be dangerous under this Act, or any person who subsequently becomes the owner of such a dog, must ensure that the following requirements are complied with while the declaration is in force:

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL OF DANGEROUS DOGS—*continued*(a) **Dog to be restrained on land or premises where ordinarily kept**

While the dog is on land or premises on which the dog is ordinarily kept, the dog must be kept under effective control so as to prevent it from attacking any person or animal.

(b) **Warning signs to be displayed on land or premises where dog ordinarily kept**

One or more signs (containing the words “Warning—Dangerous Dog” in letters clearly visible from the boundaries of land or premises on which the dog is ordinarily kept) must be displayed on that land or those premises.

(c) **Leashing of dog if away from land or premises where ordinarily kept**

Despite any other provision of this Act, the dog must be under the effective control of some competent person by means of an adequate chain, cord or leash when the dog is away from land or premises where the dog is ordinarily kept. This paragraph does not apply to a dog that is being kept temporarily on land or premises in accordance with paragraph (d).

(d) **Dog owner to ensure compliance with certain requirements if dog kept elsewhere temporarily**

If the dog is taken by the owner to any land or premises on which the dog is to be kept temporarily (for example, the premises of a veterinary surgeon or a boarding kennel), the owner must ensure that while the dog is on that land or those premises:

- the dog is under the effective control of some competent person by means of an adequate chain, cord or leash; or
- the dog is otherwise under effective control so as to prevent it from attacking any person or animal and one or more signs (containing the words “Warning—Dangerous Dog” in letters clearly visible from the boundaries of that land or those premises) are displayed on that land or premises.

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL OF DANGEROUS DOGS—*continued*

(e) **Dog owner who transfers ownership of dog must inform new owner of declaration and control requirements**

On or before a change of ownership of the dog, the person transferring ownership must inform the person to whom ownership is transferred that the declaration is in force and of the requirements of this section.

(f) **Dog owner to notify council of certain events**

The owner must notify the council of the area in which the dog is ordinarily kept of the following matters as soon as practicable after their occurrence:

- that the dog (with or without provocation) has attacked or injured a person or an animal
- that the dog cannot be located
- that the dog has died
- that the ownership of the dog has changed
- that the dog is no longer being ordinarily kept in the area of the council
- that the dog is being ordinarily kept at a different location in the area of the council.

(g) **Dog owner to advise other councils**

If the owner intends to keep the dog in the area of a council that is not the area in which the dog was ordinarily kept when the declaration was made, the owner must notify the council of the area in which the dog is intended to be ordinarily kept of his or her intention to do so.

(2) An owner of a dog who does not comply with any of the requirements of this section is guilty of an offence.

Maximum penalty: 10 penalty units.

(3) A person who becomes the owner of a dog while a declaration in respect of the dog is in force is not guilty of an offence under this section if, before or when the person became the owner of the dog, the person was not informed both that:

- (a) the declaration was in force; and
- (b) the person was required to comply with this section.

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF DANGEROUS DOGS—*continued*

(4) The requirements imposed under this section on the owner of a dog that is declared to be dangerous are additional to the other requirements of this Act imposed on the owner of a dog.

No double jeopardy under section 9T and certain other provisions of Act

9U. A person, who but for this section, would be liable to conviction' for offences:

- (a) under both sections 5 (1) (d) and 9T in respect of the same matter; or
- (b) under both sections 5 (1) (d2) and 9T in respect of the same matter; or
- (c) under both sections 8 (1) and 9T in respect of the same matter,

is liable to be convicted in respect of one only of the offences referred to in paragraph (a), (b) or (c).

Inconsistency between section 9T and agreements etc.

9V. In the event of an inconsistency between section 9T and the provisions of any agreement, covenant or instrument, section 9T is to prevail, but to the extent only of the inconsistency.

NOTE: An example of how section 9V would apply is as follows—the requirement under section 9T that the owner of a dog declared to be dangerous display a warning sign on premises would override a provision in a lease prohibiting the fixing of any sign to a building.

Liability of owner of dog declared dangerous

9W. The mere fact that a dog has at any time been declared to be dangerous under this Act does not affect the civil liability of the owner of the dog in any proceedings (other than proceedings under this Act).

(6) Section 18 (**Manner of destroying dogs**):

From section 18 (2), omit “section 6”, insert instead “section 9P”.

Dog (Amendment) Act 1993 No. 22

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL OF DANGEROUS DOGS—*continued*

(7) Sections 19A, 19B:

After section 19, insert:

Disqualification from owning a dog

19A. (1) In any proceedings for an offence under this Act or under section 35A of the Crimes Act 1900, the Court may disqualify a person from owning a dog if the person has been convicted 2 or more times of a relevant offence.

(2) The maximum period of disqualification that the Court may impose is 2 years.

(3) The making of an order by a Court under section 556A of the Crimes Act 1900 in respect of a person charged with an offence is to be treated as a conviction for the purposes of this section.

(4) In this section, a “**relevant offence**” means an offence:

- (a) under section 6 (as in force after the commencement of this section); or
- (b) under section 35A of the Crimes Act 1900.

Offence of owning a dog while disqualified

19B. A person is guilty of an offence if the person is the owner of any dog during any period in which the person is disqualified under this Act from owning a dog.

Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.

(8) Section 20 (**Liability for injury to a person or damage to person’s clothing**):

Omit section 20 (2), insert instead:

(2) Subsection (1) does not apply in the case of:

- (a) an attack by a dog occurring on any land, vehicle or premises:
 - (i) of which the owner of the dog is an occupier; or
 - (ii) on which the dog is ordinarily kept,

but only if the dog is not a dog declared to be dangerous under this Act; or

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF DANGEROUS DOGS—*continued*

- (b) an attack by a dog which is in immediate response to, and is wholly induced by, intentional provocation of the dog by a person other than the owner of the dog or the owner's servants or agents.

(9) Section 20B (**Liability for injury to animal**):

- (a) From section 20B (1), omit “, worrying”.

- (b) Omit section 20B (2) (a) and (b), insert instead:

- (a) a dog attacking or chasing another animal on any land, vehicle or premises:

(i) of which the owner of the dog is an occupier; or

(ii) on which the dog is ordinarily kept,

but only if the dog is not a dog declared to be dangerous under this Act; or

- (b) a dog attacking or chasing another animal where the attacking or chasing is in immediate response to, and is wholly induced by, intentional provocation of the dog by a person other than the owner of the dog or the owner's servants or agents; or

(10) Section 27 (**Regulations**):

After section 27 (1) (d), insert:

- (d1) prescribing the circumstances in which a council may revoke a declaration made by it that a dog is dangerous;

SCHEDULE 2—OTHER AMENDMENTS

(Sec. 3)

Amendment: notes appearing in the Act

(1) Section 2:

After section 1, insert:

Notes

2. Matter appearing under the heading “NOTE” does not form part of this Act.

SCHEDULE 2—OTHER AMENDMENTS—*continued***Amendments: increases in monetary penalties**

- (2) Section 6 (**Dogs attacking or injuring persons or animals**):
From section 6 (1), omit “2 penalty units”, insert instead “10 penalty units”.
- (3) Sections 7–9, 9B, 9C, 17:
From sections 7 (1), 8 (1), 9 (2), 9B (3), 9C (3) and 17, omit “1 penalty unit” wherever occurring, insert instead “5 penalty units”.
- (4) Sections 10, 17A, 19, 21A:
From sections 10 (3), 17A (3), 19 (1) and 21A (2), omit “2 penalty units” wherever occurring, insert instead “5 penalty units”.

Amendments: administrative provisions relating to registration of dogs

- (5) Section 14 (**Mode of registration**):
- (a) Omit section 14 (1B), insert instead:
(1B) The registration fee for a dog is to be the registration fee (not exceeding any maximum amount prescribed by the regulations) determined by the council of the area in which the dog is intended to be ordinarily kept as the general registration fee applicable in that area for the period of registration of the dog.
- (b) Omit section 14 (3), insert instead:
(3). The regulations may provide for the period that the registration of a dog is to be in force.
- (6) Section 27 (**Regulations**):
- (a) After section 27 (1) (c), insert:
- (c1) providing for the reduction of the fee for the registration of a dog if the dog has been desexed or is permanently incapable of reproduction;
- (c2) providing for the reduction of the fee for the registration of a dog where the fee is paid for more than one period of registration;

SCHEDULE 2—OTHER AMENDMENTS— *continued*

(b) After section 27 (1), insert:

(1A) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

Amendment: proof of registration of dog

(7) Section 21 (**Proof of registration**):

Omit section 21 (1), insert instead:

(1) In any proceedings under this Act, the onus of proving the due registration of a dog is on the person asserting that the dog is a registered dog.

(1A) For that purpose:

(a) the receipt issued by a registration clerk on the registration of a dog or on the issue of a duplicate registration badge under section 15; or

(b) a copy of any such receipt certified as a true copy under the hand of the registration clerk,

is evidence of the registration of the dog until the contrary is proved.

Amendments: statute law revision

(8) Sections 8, 10:

From sections 8 (5) (c) and 10 (1), omit “a member of the police force” wherever occurring, insert instead “a police officer”.

(9) Section 21A (**Requirement to state name and address**):

(a) From section 21A (1), omit “a member of the police force”, insert instead “a police officer”.

(b) From section 21A (3), omit “the member of the police force”, insert instead “the police officer”

SCHEDULE 2—OTHER AMENDMENTS—*continued*

(10) Section 22A (**Penalty notices for certain offences**):

Omit section 22A (9) (c), insert instead:

(c) a police officer.

*[Minister's second reading speech made in—
Legislative Assembly on 21 April 1993
Legislative Council on 19 May 1993]*