



New South Wales

Companion Animals Regulation 1998

under the
Companion Animals Act 1998

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Companion Animals Act 1998*.

ERNIE PAGE, M.P.,
Minister for Local Government

Explanatory note

The object of this Regulation is to provide for matters of a machinery, and savings and transitional, nature consequent on the commencement of certain provisions of the *Companion Animals Act 1998* (the **1998 Act**) and the repeal of certain provisions of the *Dog Act 1966* (the **1966 Act**).

The new Regulation deals with the following matters:

- (a) the extension of certain references in the 1998 Act to cover registration and related matters under the 1966 Act when used in relation to dogs registered under the 1966 Act (clause 5).
- (b) the designation of the Centennial Park and Moore Park Trust as the local authority for the Trust lands of those Parks for the purposes of exercising certain functions under the 1998 Act (clause 6).
- (c) the continuing operation under the 1998 Act of orders made under the 1966 Act relating to the declaration of off-leash areas and the prohibition of dogs from entering certain places (clauses 7 and 8).
- (d) the phasing-in of certain responsibilities relating to the provision of off-leash areas and of rubbish receptacles for disposal of dog faeces (clause 9).

1998 No 496

Companion Animals Regulation 1998

Explanatory note

- (e) the phasing-in of certain control requirements for dangerous dogs under the 1998 Act in so far as they relate to dogs declared dangerous under the 1966 Act (clause 10),
- (f) the phasing-in of a control requirement for restricted dogs under the 1998 Act in so far as it relates to dogs registered under the 1966 Act that are restricted dogs under the 1998 Act (clause 11),
- (g) penalty notices under the 1998 Act (clauses 12 and 13, and Schedule 1).

This Regulation is made under the *Companion Animals Act 1998*, including sections 6 (meaning of “local authority”) and 92 (penalty notices), clause 1 of Schedule 3 (savings and transitional regulations) and section 96 (the general regulation-making power).

Contents

	Page
1 Name of Regulation	3
2 Commencement	3
3 Definitions	3
4 Notes	3
5 Extension of references in 1998 Act	3
6 Centennial Park and Moore Park Trust to exercise functions of local authority	4
7 Orders declaring off-leash areas	4
8 Orders prohibiting dogs from entering certain places	4
9 Phasing-in of certain responsibilities of local authorities	4
10 Phasing-in of control requirements for dangerous dogs	5
11 Phasing-in of control requirement for restricted dogs	5
12 Penalty notice offences	6
13 Short descriptions of offences	6
Schedule 1 Penalty notice offences and short descriptions	8

Companion Animals Regulation 1998

1 Name of Regulation

This Regulation is the *Companion Animals Regulation 1998*.

2 Commencement

This Regulation commences on 1 September 1998.

3 Definitions

In this Regulation:

the 1998 Act means the *Companion Animals Act 1998*.

the 1966 Act means the *Dog Act 1966*.

4 Notes

The explanatory note and table of contents do not form part of this Regulation.

5 Extension of references in 1998 Act

A reference in the 1998 Act to:

- (a) the Register is taken to include a reference to the registration records required to be kept under section 16 of the 1966 Act (in relation to the registration of a dog under that Act), and
- (b) being registered is taken to include a reference to being registered under the 1966 Act, and
- (c) a registered owner is taken to include a reference to a person who is a registered owner under the 1966 Act, and
- (d) a registration fee is taken to include a reference to a registration fee that is payable under the 1966 Act (in relation to the registration of a dog under that Act), and
- (e) a registration tag is taken to include a reference to a current registration badge issued under the 1966 Act.

6 Centennial Park and Moore Park Trust to exercise functions of local authority

In accordance with section 6 (2) of the 1998 Act, the functions of the local authority for Trust lands under the *Centennial Park and Moore Park Trust Act 1983* are to be exercised by the Centennial Park and Moore Park Trust:

- (a) for the purposes of sections 13, 14 and 20 of the 1998 Act, and
- (b) for the purposes of authorising its employees to exercise the functions of authorised officers in relation to those sections.

7 Orders declaring off-leash areas

An order under section 8 of the 1966 Act that is in force immediately before 1 September 1998 is taken to be an order made under section 13 (6) of the 1998 Act.

8 Orders prohibiting dogs from entering certain places

An order under section 9 of the 1966 Act that is in force immediately before 1 September 1998 is, to the extent that such an order is contemplated by section 14 of the 1998 Act, taken to be an order made under section 14 (7) of the 1998 Act.

9 Phasing-in of certain responsibilities of local authorities

For a period of 3 months starting from 1 September 1998, a local authority that has not already done so is not required:

- (a) to ensure that at all times there is at least one public place in the area of the local authority that is an off-leash area (as required by section 13 (6) of the 1998 Act), or
- (b) to provide sufficient rubbish receptacles for the proper disposal of the faeces of dogs that defecate in a place commonly used for exercising dogs (as required by section 20 (2) of the 1998 Act).

10 Phasing-in of control requirements for dangerous dogs

- (1) A local authority must give the owner of a dog declared dangerous under the 1966 Act (being a declaration in force immediately before 1 September 1998) written notice of the requirements set out in section 51 (1) (a) and (c) of the 1998 Act.
- (2) The notice is to be given during the period of 1 September 1998 to 14 September 1998 (or as soon as possible after that period ends).
- (3) For a period of 28 days starting on the date the owner receives the notice:
 - (a) he or she is not liable for an offence under section 51 (2) of the 1998 Act for failure to comply with either or both those requirements. and
 - (b) the dog the subject of the declaration cannot be seized under section 52 of the 1998 Act on the ground that those requirements are not reasonably capable of being complied with.
- (4) A local authority is also to give the owner referred to in subclause (1) written notice of the other requirements set out in section 51 (1) of the 1998 Act during the period of 1 September 1998 to 14 September 1998 (or as soon as possible after that period ends). However, failure to provide the notice does not affect.
 - (a) the liability of the owner for an offence under section 51 (2) of the 1998 Act for failure to comply with any of those other requirements, or
 - (b) the authority of an authorised officer to exercise his or her powers under section 52 of the 1998 Act.

11 Phasing-in of control requirement for restricted dogs

- (1) A local authority must give the owner of a restricted dog that is registered under the 1966 Act immediately before 1 September 1998 written notice of the requirement set out in section 56 (1) (a) of the 1998 Act.

1998 No 496

Clause 11 Companion Animals Regulation 1998

- (2) The notice is to be given during the period of 1 September 1998 to 14 September 1998 (or as soon as possible after that period ends).
- (3) For a period of 28 days starting on the date the owner receives the notice:
 - (a) he or she is not liable for an offence under section 56 (2) of the 1998 Act for failure to comply with the requirement, and
 - (b) the dog the subject of the declaration cannot be seized under section 57 of the 1998 Act on the ground that the requirement is not reasonably capable of being complied with.
- (4) A local authority is also to give the owner referred to in subclause (1) written notice of the other requirements set out in section 56 (1) of the 1998 Act during the period of 1 September 1998 to 14 September 1998 (or as soon as possible after that period ends). However, failure to provide the notice does not affect:
 - (a) the liability of the owner for an offence under section 56 (2) of the 1998 Act for failure to comply with any of those other requirements, or
 - (b) the authority of an authorised officer to exercise his or her powers under section 57 of the 1998 Act.

12 Penalty notice offences

For the purposes of section 92 of the 1998 Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 3 of Schedule 1.

13 Short descriptions of offences

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 1 is:
 - (a) the expression specified in Column 2 of that Schedule. or

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- (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 1, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

1998 No 496

Companion Animals Regulation 1998

Schedule 1 Penalty notice offences and short descriptions

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(Clauses 12 and 13)

Column 1	Column 2	Column 3
Offence under 1998 Act	Prescribed expression	Penalty
Section 12 (2) (a)	own dog without collar and tags	\$110
Section 12 (2) (b)	own dangerous/restricted dog without collar and tags	\$440
Section 13 (2) (a)	own dog uncontrolled in public place	\$110
Section 13 (2) (b)	own dangerous/restricted dog uncontrolled in public place	\$440
Section 14 (2) (a)	own dog found in prohibited place	\$110
Section 14 (2) (b)	own dangerous/restricted dog found in public place	\$440
Section 15 (2)	own unmuzzled greyhound/prescribed dog	\$110
Section 20 (1)	own dog that defecates in public place	\$220
Section 21 (5)	fail to comply with nuisance dog order	\$110
Section 30 (2)	own cat found in prohibited place	\$55
Section 31 (5)	fail to comply with nuisance cat order	\$55
Section 36 (1)	fail to control and muzzle dog	\$440
Section 51 (2)	fail to comply with control requirements for dangerous dog	\$440
Section 56 (2)	fail to comply with control requirements for restricted dog	\$440
Section 60 (1)	deny assistance animal entry to public building/place/transport	\$110
Section 61 (1)	charge assistance animal to enter public building/place/transport	\$110
Section 62 (2)	fail to take seized animal to owner/council pound	\$440
Section 91	obstructing authorised officer	\$110