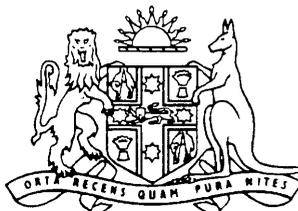


[Act 1998 No 87]



New South Wales

Companion Animals Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The object of this Bill is to provide for the effective and responsible care and management of companion animals (dogs and cats) by providing for the following:

- (a) the compulsory identification and registration of companion animals (with exceptions, and transitional provisions for dogs already registered under the *Dog Act 1966*),
- (b) the responsibilities of the owners of companion animals with respect to keeping their animals under proper and effective control and preventing them from being a nuisance,
- (c) special provisions for dangerous dogs, including the mechanism for declaring a dog dangerous and the increased responsibilities of their owners.
- (d) the liabilities of the owner of a dog for injury or death caused by the dog.

* Amended in committee—see table at end of volume.

- (e) procedures for seizing and impounding companion animals and for their return, or sale or destruction if unclaimed,
- (f) special privileges for companion animals used to assist persons with disabilities,
- (g) the establishment of a Companion Animals Advisory Board which is to advise and make recommendations to the Minister on various matters under the Act,
- (h) the establishment of a Companion Animals Fund to fund the administration of the Act and the operations of the Board.

The Bill will also repeal the *Dog Act 1966* and the regulations under that Act.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 defines *local authority*.

Clause 5 defines *owner*.

Part 2 Compulsory identification and registration of companion animals

Clause 6 requires a companion animal to be identified in the manner required by the regulations from the time the animal is 12 weeks old.

Clause 7 requires a companion animal to be identified in the manner required by the regulations before it is sold (or its ownership is otherwise transferred).

Clause 8 requires a companion animal to be registered under the Act from the time it is 6 months old.

Clause 9 provides for the regulations to require companion animals (not otherwise required to be registered) to be registered.

Clause 10 requires the owner of a registered companion animal to notify the Director-General of certain changes and events concerning the animal (such as a change of owner or change of address).

Part 3 Responsibilities of dog owners

Division 1 General responsibilities

Clause 11 requires that a dog wear a collar when not on its owner's property, with an identification and registration tag attached to it.

Clause 12 requires that a dog on private property must be kept securely confined whenever it is not under the effective control of some competent person. A dog can be seized and impounded if the requirement is not complied with.

Clause 13 requires dogs in public places to be under the effective control of some competent person by means of a chain, cord or leash no more than 2 metres in length. The requirement does not apply in designated "off-leash" areas. Exceptions are also made for other dogs, such as dogs being exhibited for show purposes, police dogs and working dogs. Offending dogs can be seized and impounded. A person cannot have more than 4 dogs under their control in a public place (including an "off-leash" area).

Clause 14 prohibits dogs being in any of the following places:

- (a) within 10 metres of a children's play area,
- (b) within 10 metres of public areas used for food preparation or consumption.
- (c) public recreation areas where dogs are prohibited by signage,
- (d) public bathing areas where dogs are prohibited by signage,
- (e) school grounds (except by permission),
- (f) child care centres (except by permission),
- (g) shopping areas where dogs are prohibited by signage.
- (h) wildlife protection areas declared by a local authority.

Offending dogs can be seized and impounded if not removed. There is an exception for police dogs and assistance animals for persons with a disability.

Clause 15 requires greyhounds and other dogs to which the clause is extended by regulation to be muzzled at all times when outside the property or a vehicle of the owner or where the dog is ordinarily kept.

Clause 16 makes the owner of a dog guilty of an offence if the dog rushes at, attacks, bites, worries or chases any person or animal. There are exceptions for dogs that have been provoked or are acting in reasonable defence of a person or property, and other exceptions.

Clause 17 creates the offence of urging a dog to attack, bite, worry or chase a person or animal. There are exceptions for police dogs and other dogs.

Clause 18 requires the owner of a dog that defecates in a public place to clean up after the dog.

Clause 19 makes the owner of a dog guilty of an offence if the dog chases a vehicle.

Clause 20 provides for the making of orders against the owner of a dog that is causing a nuisance (such as by barking or damaging property). The order requires the owner to prevent the dog being a nuisance and a failure to comply is an offence.

Clause 21 authorises a person to injure or destroy a dog in certain circumstances, such as where the dog is threatening to injure or kill a person or animal or to damage property.

Clause 22 provides for the disqualification of a person from owning a dog for various periods as a result of the person being convicted of various offences.

Division 2 Liability for injury or death caused by dog

Clause 23 makes the owner of a dog liable for bodily injury to a person and damage to the person's clothing caused by the dog attacking the person. There are exceptions for dogs that attack to protect property in the case of an unlawful entry, or as a result of being provoked.

Clause 24 provides for the entitlement to damages conferred by clause 23 to survive the death of the victim for the purposes of compensation to relatives.

Clause 25 makes the owner of a dog that attacks another animal liable for any injury to the other animal. There are exceptions for attacks that occur on property of the dog's owner, attacks that occur as a result of provocation or an attack on the dog.

Clause 26 provides for the defence of contributory negligence in the context of the liabilities created by this Part.

Part 4 Responsibilities of owners of cats

Clause 27 requires that a cat wear a collar when not on its owner's property, with an identification and registration tag attached to the collar. There are exceptions for cats being exhibited for show purposes.

Clause 28 prohibits cats being in any of the following places:

- (a) within 10 metres of a children's play area,
- (b) within 10 metres of public areas used for food preparation or consumption,
- (c) school grounds (except by permission),
- (d) child care centres (except by permission),
- (e) shopping areas where cats are prohibited by signage,
- (f) wildlife protection areas declared by a local authority.

Offending cats can be seized and impounded.

Clause 29 makes the owner of a cat guilty of an offence if the cat rushes at, attacks, bites, worries or chases any person or animal. There are exceptions for cats that have been provoked or where the attack occurs on property of the owner.

Clause 30 provides for the making of orders against the owner of a cat that is causing a nuisance (such as by making a noise or damaging property). The order requires the owner to prevent the cat being a nuisance and a failure to comply is an offence.

Clause 31 authorises a person to injure or destroy a cat in certain circumstances to protect a person or animal from injury or death.

Clause 32 provides for the disqualification of a person from owning a cat for various periods as a result of the person being convicted of various offences.

Part 5 Dangerous dogs

Division 1 Power of councils to declare dogs dangerous

Clause 33 defines *dangerous*.

Clause 34 authorises councils to declare dogs to be dangerous.

Clause 35 requires the owner of a dog to be notified of a proposed dangerous dog declaration.

Clause 36 puts certain increased responsibilities (muzzling and keeping the dog on a leash) on the owner of a dog that is the subject of a proposed dangerous dog declaration whenever the dog is away from the property where it is ordinarily kept. In addition, a dog can be seized and impounded if it appears that the dog cannot be securely confined on the property on which it is kept.

Clause 37 gives the owner of a dog the opportunity to object to the proposed dangerous dog declaration and requires the council to consider those objections.

Clause 38 requires the council to notify the dog owner of its decision on the proposal to declare the dog dangerous, informing the owner of the requirements imposed on the owner of a dog declared dangerous.

Clause 39 provides for the revocation of a dangerous dog declaration but only by the council of the area in which the dog is ordinarily kept.

Clause 40 requires a council to notify the Director-General of the making or revocation of a dangerous dog declaration.

Clause 41 provides for an appeal to a Local Court against a dangerous dog declaration.

Clause 42 provides for the determination of an appeal to a Local Court.

Clause 43 provides for the manner in which a notice required under the Division is to be given.

Division 2 Power of Local Court to declare dogs dangerous

Clause 44 gives a Local Court power to declare a dog to be dangerous.

Clause 45 provides for the circumstances in which a Local Court can declare a dog to be dangerous.

Clause 46 provides for the revocation of a dangerous dog declaration made by a Local Court.

Division 3 Power of Courts to make destruction and control orders

Clause 47 authorises a Court hearing various criminal and appeal proceedings concerning a dog to make a control order to prevent or reduce the likelihood of the dog attacking or injuring persons or animals.

Clause 48 authorises a Court that convicts a person of various offences concerning a dog or that confirms a council's dangerous dog declaration to order the destruction of the dog concerned.

Clause 49 makes failure to comply with a destruction or control order an offence.

Clause 50 authorises a Court to make ancillary orders to enable the destruction of a dog that is the subject of a destruction order.

Division 4 Responsibilities of owners of dangerous dogs

Clause 51 imposes strict requirements on the owners of dangerous dogs. The requirements include the desexing of the dog and the erection of warning signs around the property where the dog is kept.

Clause 52 allows an authorised officer to seize and impound a dangerous dog if it appears that the owner cannot comply with the usual confinement requirements and the additional strict requirements.

Clause 53 provides for the additional strict requirements applicable to dangerous dogs to override any inconsistent agreement.

Clause 54 provides that a dangerous dog declaration does not have any effect on the civil liability of the owner beyond that provided for in the Act.

Division 5 Special restrictions for other dogs

Clause 55 lists the dogs that are restricted dogs for the purposes of the Act. They include pit bull terriers and various fighting dogs. The list can be extended by regulation.

Clause 56 requires the owner of a restricted dog to comply with additional stricter requirements similar to those applicable to dangerous dogs.

Clause 57 allows an authorised officer to seize and impound a restricted dog if it appears that the owner cannot comply with the usual confinement requirements and the additional stricter requirements.

Clause 58 provides that the fact that a dog is a restricted dog does not have any effect on the civil liability of the owner beyond that provided for in the Act.

Part 6 Assistance animals

Clause 59 provides that a person with a disability is entitled to be accompanied by a trained assistance animal in any public building or place and on public transport.

Clause 60 makes it an offence to deny entry to a person with a disability accompanied by a trained assistance animal to a public building or place or public transport.

Clause 61 makes it unlawful to impose any discriminatory charge for entry to a public building or place or for use of public transport by a person with a disability accompanied by a trained assistance animal.

Part 7 Procedures for dealing with seized animals

Clause 62 requires animals seized under the Act to be taken to a council pound.

Clause 63 requires reasonable efforts to be made to find and notify the owner of an impounded animal.

Clause 64 allows impounded animals that remain unclaimed for a certain time to be destroyed or sold.

Clause 65 provides for the determination of the fees and charges to be paid for the maintenance and release of an impounded animal.

Clause 66 provides for the claiming of the proceeds of sale of an impounded animal.

Clause 67 provides for the recovery of various fees and charges from the owner of an impounded animal that has been destroyed.

Clause 68 makes it an offence to rescue or attempt to rescue an impounded animal.

Clause 69 provides protections to councils and council officers dealing with impounded animals and persons who buy impounded animals.

Part 8 Identification and registration procedures

Clause 70 provides for the making of regulations with respect to the compulsory identification of companion animals.

Clause 71 provides for the making of regulations with respect to the registration of companion animals and provides that a companion animal is registered when the registration information for the animal is entered on the Register.

Clause 72 provides for the issue of a certificate of registration to the owner of a registered companion animal and for the certificate to be evidence of registration and other matters.

Clause 73 provides for the issue of a registration tag for a registered companion animal.

Clause 74 establishes and provides for the administration of the Register of Companion Animals.

Clause 75 provides for access to the information on the Register.

Clause 76 creates an offence of interfering with the compulsory identification of a companion animal.

Clause 77 creates the offence of improperly interfering with the registration tag of a companion animal.

Part 9 Companion Animals Advisory Board

Clause 78 constitutes the Companion Animals Advisory Board.

Clause 79 deals with the membership of the Board.

Clause 80 deals with the procedure of the Board.

Clause 81 lists the functions of the Board.

Clause 82 provides for the Board to establish committees.

Clause 83 protects the members of the Board and others from personal liability.

Part 10 Companion Animals Fund

Clause 84 establishes the Companion Animals Fund and provides for the amounts that are to be paid into the Fund.

Clause 85 provides for the purposes for which money in the Fund is to be used.

Clause 86 authorises the investment of money in the Fund.

Part 11 General

Clause 87 provides for the Act to bind the Crown.

Clause 88 confers power on the Director-General to delegate functions under the Act.

Clause 89 imposes a duty of confidentiality on persons who obtain information in the course of the administration of the Act.

Clause 90 gives an authorised officer power to demand a person's name and address if the person is reasonably suspected of having committed an offence.

Clause 91 creates an offence of wilfully obstructing an authorised officer.

Clause 92 provides for the issue of penalty notices.

Clause 93 provides for the taking of proceedings for offences.

Clause 94 gives relief against the possibility of double jeopardy.

Clause 95 is a regulation-making power.

Clause 96 provides for a review of the Act after 5 years.

Clause 97 gives effect to the Schedule of savings and transitional provisions.

Clause 98 repeals the *Dog Act 1966* and the regulations under that Act and gives effect to the Schedule of consequential amendments of other Acts.

Schedules

Schedule 1 contains provisions relating to members of the Board.

Schedule 2 provides for the procedure of the Board.

Schedule 3 contains savings and transitional provisions.

Schedule 4 makes consequential amendments to other Acts.