

Companion Animals and Other Legislation Amendment Act 2018 No 27

[2018-27]



New South Wales

Status Information

Currency of version

Repealed version for 1 September 2018 to 1 July 2019 (accessed 18 July 2024 at 2:24)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

This Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 2.7.2019.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Companion Animals and Other Legislation Amendment Act 2018 No 27



New South Wales

An Act to amend the *Companion Animals Act 1998* and other legislation to make further provision about the welfare of animals and the duties and responsibilities of their owners, including by giving effect to some of the recommendations of the Inquiry into Companion Animal Breeding Practices in New South Wales.

1 Name of Act

This Act is the *Companion Animals and Other Legislation Amendment Act 2018*.

2 Commencement

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

3 Amendment of *Greyhound Racing Act 2017 No 13*

The *Greyhound Racing Act 2017* is amended by omitting Schedule 7.3 [5].

Schedule 1 Amendment of *Companion Animals Act 1998 No 87*

[1]-[5] (Repealed)

[6] Part 2A

Insert after Part 2:

Part 2A Annual permits for certain companion animals

Division 1 Requirement for permit

11B Annual permit required for cats that are not desexed

- (1) A permit is required to own a cat that is 4 months old or older, unless the cat is desexed.
- (2) The owner of a cat that is not desexed and for which a permit is required is

guilty of an offence if a permit is not in force in relation to the cat.

Maximum penalty: 50 penalty units.

- (3) The following grace periods apply to an offence against this section:
- (a) the period of 2 months after a cat reaches 4 months of age,
 - (b) the period of 2 months (or any other period prescribed by the regulations) after a person acquires ownership of a cat.
- (4) A person cannot be proceeded against, and a section 11E notice cannot be issued, for an offence committed in relation to a cat during a grace period for an offence against this section if the person duly applies for a permit for the cat by the end of the grace period.

11C Annual permit required for dangerous dogs

- (1) A permit is required to own a dangerous dog. The permit is required on and from the date that is 7 days after the declaration that the dog is a dangerous dog takes effect.
- (2) The owner of a dangerous dog is guilty of an offence if a permit is not in force in relation to the dog on or after the date from which it is required under this section.

Maximum penalty: 60 penalty units.

- (3) This section applies to a dog whether or not the dog is also a restricted dog and, accordingly, another permit will be required by section 11D if that section applies.

11D Annual permit required for restricted dogs

- (1) A permit is required to own a restricted dog. The permit is required on and from the following date:
- (a) if the dog is an American pit bull terrier, pit bull terrier, Japanese tosa, dogo Argentino or fila Brasileiro, Perro de Presa Canario or Presa Canario—the date that the animal is 6 months old,
 - (b) if the dog is of a breed, kind or description whose importation into Australia is prohibited by or under the *Customs Act 1901* of the Commonwealth—21 days after the importation of the breed, kind or description of the dog was first prohibited,
 - (c) if the dog is declared to be a restricted dog by an authorised officer of a council under Division 6 of Part 5—21 days after the declaration takes effect,

(d) if the dog is of a breed, kind or description prescribed by the regulations for the purposes of section 55—21 days after the day that the breed, kind or description was first prescribed.

(2) The owner of a restricted dog is guilty of an offence if a permit is not in force in relation to the dog on or after the date from which it is required under this section.

Maximum penalty: 60 penalty units.

(3) This section applies to a dog whether or not the dog is also a dangerous dog and, therefore, another permit will be required by section 11C if that section applies.

11E Notice requiring permit for companion animal

(1) If this Division requires a permit to own a companion animal, the council of the area in which the animal is ordinarily kept may give the owner of the animal a notice, in the approved form, requiring the owner to apply for a permit in relation to the animal within 14 days after the date the notice is given.

(2) The owner of the companion animal must comply with the notice.

Maximum penalty:

(a) in the case of a cat—50 penalty units, or

(b) in the case of a dangerous dog or restricted dog—60 penalty units.

(3) A notice under this section may be given on more than one occasion to the owner of a companion animal (but only after an interval of at least 3 months since the last such notice was given).

11F Exemptions for animals in custody of rehoming organisations

(1) This Division does not apply to a companion animal that is in the custody of any of the following:

(a) a council, or an operator of a council pound that is not a council,

(b) the Animal Welfare League NSW,

(c) The Cat Protection Society of NSW Inc,

(d) the Royal Society for the Prevention of Cruelty to Animals; New South Wales.

(2) This Division does not apply to a companion animal that is in the custody of any other organisation that is, for the time being, designated as a rehoming organisation by the Departmental Chief Executive under section 88B, if the

animal has not been in the custody of that organisation or any other rehoming organisation for more than 12 months.

11G Further exemptions

This Division does not apply to any of the following companion animals:

- (a) a dog that is ordinarily used by a police officer on official duty,
- (b) a dog that is ordinarily used on official duty by a correctional officer (within the meaning of the *Crimes (Administration of Sentences) Act 1999*),
- (c) a dog used by a Commonwealth officer on official duty,
- (d) a companion animal in the custody of an accredited research establishment within the meaning of the *Animal Research Act 1985*, or the holder of an animal research authority or an animal supplier's licence within the meaning of that Act, for purposes in connection with animal research, as authorised under that Act,
- (e) a companion animal kept at a licensed animal display establishment within the meaning of the *Exhibited Animals Protection Act 1986* and lawfully exhibited in accordance with that Act,
- (f) a companion animal prescribed by, or of a class prescribed by, the regulations.

11H Continuing offences

A person who commits an offence under section 11B, 11C or 11D commits another, separate, offence under that section each calendar month that the contravention of that section continues.

Note—

This section does not limit the number of times a person may be prosecuted under section 11E (Notice requiring permit for companion animal).

Division 2 Permit scheme

11I Application for permit

- (1) An application for a permit must be made to the Departmental Chief Executive in accordance with the regulations.
- (2) The application fee prescribed by the regulations must be paid when the application is made or within any other period that is approved by the Departmental Chief Executive.
- (3) The application must include or be accompanied by any information and particulars that are prescribed by the regulations.

- (4) On receiving an application for a permit, the Departmental Chief Executive may carry out any investigations and inquiries that the Departmental Chief Executive considers necessary to enable the Departmental Chief Executive to consider the application properly.
- (5) Section 12 of the *Criminal Records Act 1991* does not apply in relation to an application for a permit.
- (6) A person does not commit an offence against Division 1 in respect of the ownership of a companion animal during any period in which an application for a permit duly made by the person is pending before the Departmental Chief Executive for determination.

11J Issuing of permit

- (1) The Departmental Chief Executive may, after considering an application for a permit:
 - (a) issue a permit to the applicant, or
 - (b) refuse to issue a permit to the applicant.
- (2) The regulations may prescribe mandatory or discretionary grounds for refusing to issue a permit.

11K Conditions of permit

- (1) A permit is subject to the following conditions:
 - (a) any condition prescribed by the regulations,
 - (b) any conditions imposed on the permit by the Departmental Chief Executive, whether at the time the permit is issued or at any later time.
- (2) The Departmental Chief Executive may, at any time, by notice in writing served on the holder of the permit:
 - (a) revoke or vary any condition imposed on the permit (other than a condition prescribed by the regulations), or
 - (b) impose new conditions on the permit.
- (3) The Departmental Chief Executive may impose, revoke or vary conditions on a permit for any reason, and in circumstances, that the Departmental Chief Executive considers appropriate or necessary.
- (4) The holder of a permit must comply with any condition to which the permit is subject.

Maximum penalty: 20 penalty units.

11L Term of permit

A permit for a cat, dangerous dog or restricted dog continues in force for a period of 12 months from the date on which it was issued, or from another date specified in the permit, unless it is sooner surrendered or revoked or otherwise ceases to be in force.

11M Sale of animal subject to permit

- (1) If a companion animal that is the subject of a permit is sold, the permit continues to apply to the companion animal for the remainder of the term of the permit unless it is sooner surrendered or revoked or otherwise ceases to be in force.
- (2) For the purposes of this Part, the person to whom the companion animal is sold is taken to be the holder of the permit, which is taken to be subject to the same conditions as those to which the permit was subject immediately before the sale of the animal.

Division 3 General

11N Regulations—permits

The regulations may make provision for or with respect to any of the following:

- (a) the making of an application for a permit (including the form of an application and the information and evidence to accompany an application),
- (b) the requirements for the issue of a permit (including any identification requirements),
- (c) the grounds for refusal of a permit,
- (d) the fees payable in connection with a permit or an application for the issue or renewal of a permit (including any late payment fees or fees for the issue of a replacement permit),
- (e) any exemptions from, or reductions in, any fee payable,
- (f) the renewal of permits,
- (g) the revocation of permits,
- (h) the notification, by the holder of a permit, of the sale of a companion animal that is subject to a permit,
- (i) enabling the functions of the Departmental Chief Executive under this Part to be

exercised by a council or any other person, or class of persons, appointed by the Departmental Chief Executive.

[7]-[8] (Repealed)

[9] Section 51 Owner of dangerous or menacing dog must comply with control requirements

Insert after section 51 (1) (k):

(l) The dog must be the subject of a permit issued under this Act, as required by section 11C.

[10] (Repealed)

[11] Section 56 Owner of restricted dog must comply with control requirements

Insert after section 56 (1) (h):

(i) **Permit required**

The dog must be the subject of a permit issued under this Act, as required by section 11D.

[12]-[15] (Repealed)

[16] Section 84 Establishment of Fund

Insert “, permit fees” after “registration fees” in section 84 (1) (a).

[17] (Repealed)

[18] Section 86A

Insert before section 87:

86A Ear-marking or tattooing of animals

- (1) A veterinary practitioner who desexes a female companion animal is to ear-mark or tattoo the animal, for the purpose of indicating that the animal is desexed, at the time that it is under anaesthetic for the desexing procedure.
- (2) Subsection (1) does not authorise or require any ear-marking or tattooing procedure to be undertaken without the consent of the owner of the companion animal.
- (3) Subsection (1) does not apply if:

- (a) the veterinary practitioner has sought the consent of the owner of the companion animal and the owner has denied consent to the ear-marking or tattooing procedure, or
 - (b) the veterinary practitioner considers that the ear-marking or tattooing procedure cannot be undertaken safely and humanely at that time.
- (4) For the purposes of this section, the Departmental Chief Executive may, from time to time, prepare, adopt or vary guidelines relating to ear-marking or tattooing of companion animals.

[19]-[22] (Repealed)

**Schedule 2 Amendment of [Prevention of Cruelty to Animals Act 1979](#)
No 200**

[1] Long title

Insert “and for the promotion of their welfare” after “animals”.

[2] Section 3 Objects of Act

Insert at the end of section 3 (b) (iii):

, and

- (c) to promote the welfare of dogs and cats by requiring information about them to be provided when they are advertised for sale.

[3] (Repealed)

[4] Section 23A

Insert after section 23:

23A Information required when dogs or cats are advertised for sale or for giving away

- (1) A person must not advertise a regulated dog or cat as being available for sale, to be given away, or to be transferred by any other means, unless the advertisement includes at least one of the following:
 - (a) the microchip identification number allocated to the microchip implanted in the animal:
 - (i) in connection with the identification of the animal for the purposes of section 8 of the [Companion Animals Act 1998](#), or

- (ii) in compliance with the greyhound racing rules,
- (b) the breeder identification number of the person, that is, the number allocated to the person:
 - (i) under section 83M of the *Companion Animals Act 1998*, or
 - (ii) by any recognised breeders' organisation (within the meaning of Part 9 of the *Companion Animals Act 1998*) of which the person is a member, or
 - (iii) at the time of registration under the greyhound racing rules of the animal from whose litter the greyhound being advertised was born,
- (c) in the case where the dog or cat is being sold or given away by an organisation that is, at the time the advertisement is made, a rehoming organisation (within the meaning of the *Companion Animals Act 1998*)—the rehoming organisation number allocated to the organisation under section 83N of that Act.

Maximum penalty: 50 penalty units.

Note—

In order to comply with the requirements of this section, a person who advertises a companion animal must either obtain a breeder identification number or a rehoming organisation number, or have the animal microchipped (in which case the advertisement may include the microchip number). In the case of a companion animal that has not been born yet, the owner must have a breeder identification number or a rehoming organisation number.

- (2) A person who, when advertising a regulated dog or cat for sale, or when doing something in relation to that advertising, gives a microchip identification number, breeder identification number or rehoming organisation number that the person knows, or ought reasonably to have known, is false is guilty of an offence.

Maximum penalty: 50 penalty units.

- (3) A person is not liable to be convicted in respect of the same act or omission of both an offence under this section and an offence under section 52A (1) or 57A (1) of the *Companion Animals Act 1998*.

Note—

Sections 52A (1) and 57A (1) of the *Companion Animals Act 1998* make it an offence to sell or advertise the sale of a dangerous, menacing or restricted dog or a dog that is proposed to be a dangerous, menacing or restricted dog.

- (4) In this section:

greyhound racing rules means the racing rules:

- (a) made by Greyhound Racing New South Wales under the *Greyhound Racing*

Act 2009 and in force before the repeal of that Act, or

- (b) made by the Greyhound Welfare and Integrity Commission under the *Greyhound Racing Act 2017*.

regulated dog or cat means any of the following:

- (a) a dog or cat that is or will be required by the *Companion Animals Act 1998* to be identified (including by being microchipped), including a dog or cat that has not been born or has not yet reached the age at which identification is required,
- (b) a greyhound (whether or not it is registered in accordance with the greyhound racing rules), including a greyhound that has not been born,
- (c) a dog or cat that is in the custody of a council (including a council pound),
- (d) a dog or cat that is in the custody of the Animal Welfare League NSW,
- (e) a dog or cat that is in the custody of The Cat Protection Society of NSW Inc,
- (f) a dog or cat that is in the custody of the Royal Society for the Prevention of Cruelty to Animals; New South Wales.

[5] Section 24G Powers of inspectors in relation to land used for certain commercial purposes

Insert after section 24G (2) (a1):

- (a2) inspect any advertisement, or means of publishing or broadcasting an advertisement, that is on the land,

[6] Section 24JA

Insert after section 24]:

24JA Powers of inspectors generally to examine advertisements

An inspector may examine an advertisement, or any means of publishing or broadcasting an advertisement, if the inspector suspects, on reasonable grounds, that an offence against section 23A is being, has been or is about to be committed in respect of the advertisement or other thing.

[7] Section 24NA Power to question persons and require production of documents

Insert “or produce documents” after “answer questions” in section 24NA (1).

[8]-[11] (Repealed)