



AUSTRALIAN CAPITAL TERRITORY

Dog Control (Amendment) Act 1991

No. 96 of 1991

An Act to amend the *Dog Control Act 1975*

[Notified in ACT Gazette S 155: 24 December 1991]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Dog Control (Amendment) Act 1991*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on the day fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, “Principal Act” means the *Dog Control Act 1975*.¹

Interpretation

4. Section 5 of the Principal Act is amended—

(a) by omitting from subsection (1) the definitions of “pensioner” and “unemployed person”; and

(b) by inserting in subsection (1) the following definitions:

“ ‘authorised officer’ means the Registrar, a Deputy Registrar or an inspector;

‘determined fee’ means the fee determined under section 40A for the purposes of the provision in which the expression occurs;

‘leash’ includes a chain and a cord;

‘occupier’, in relation to premises, includes a person who is or is reasonably believed to be in charge of the premises;

‘wildlife’ has the same meaning as in the *Nature Conservation Act 1980*.”.

Insertion

5. After section 7 of the Principal Act the following sections are inserted in Part I:

Identity cards

“7A. The Minister shall issue to each inspector an identity card that specifies the name and appointment of the inspector and on which appears a recent photograph of the inspector.

Return of identity cards

“7B. A person appointed to be an inspector shall not, without reasonable excuse, fail to return his or her identity card to the Registrar upon ceasing to be an inspector.

Penalty: \$100.

Declared exercise areas

“7C. (1) The Minister may, by notice published in the *Gazette*, declare a specified area to be an exercise area for the purposes of this Act.

“(2) A declaration is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.”.

Substitution

6. Section 9 of the Principal Act is repealed and the following section substituted:

Application for registration

“9. An application for the registration of a dog shall be—

- (a) in accordance with the form approved by the Registrar and shall specify the name, address and age of the applicant and particulars of the dog and of the premises at which the dog is ordinarily to be kept; and
- (b) lodged with the Registrar together with the determined fee (if any).”.

Registration

7. Section 10 of the Principal Act is amended—

- (a) by omitting from subsection (1) “and to section 11,”;
- (b) by omitting from subsection (2) “, and every renewal of registration”; and
- (c) by omitting subsection (3).

Certificate of registration etc.

8. Section 12 of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) Subsection (1) shall not be taken to require the Registrar to issue a registration tag upon reregistering a dog if the registration number allotted in respect of the dog is the number allotted previously in respect of the dog.”.

Repeal

9. Section 13 of the Principal Act is repealed.

Notice of change of address

10. Section 15 of the Principal Act is amended—

- (a) by omitting from subsection (1) “dog” (first occurring) and substituting “registered dog”;
- (b) by adding at the end of subsection (1) the following penalty:
“Penalty: \$300.”; and

- (c) by omitting from paragraph (3) (b) “prescribed” and substituting “determined”.

Lost certificate etc.

11. Section 18 of the Principal Act is amended by omitting “prescribed” and substituting “determined”.

Insertion

12. After Part II of the Principal Act the following Part is inserted:

‘PART IIA—KEEPERS’ LICENCES

Keeping more than 3 dogs

“18A. (1) A person shall not, except in accordance with a licence, keep a dog on residential premises in the City Area if the number of dogs kept on the premises would exceed 3.

Penalty: \$500.

“(2) Subsection (1) does not apply if—

- (a) the dog has not attained the age of 3 months;
- (b) the dog has been or is to be kept by that person for a period not exceeding 14 days;
- (c) the person has been resident in the Territory for a period not exceeding 3 weeks; or
- (d) the dog is a guide dog or hearing dog.

Applications

“18B. An application for a licence shall be—

- (a) in accordance with a form approved by the Registrar and shall specify the name, address and age of the applicant and particulars relevant for the purposes of section 18C; and
- (b) be lodged with the Registrar together with the determined fee (if any).

Grant or refusal of licence

“18C. (1) Where an application for a licence has been made, the Registrar shall—

- (a) grant the licence subject to the conditions (if any) specified in the licence; or
- (b) refuse to grant the licence.

“(2) For the purpose of making a decision under subsection (1), the Registrar shall have regard to the following matters:

- (a) the number and type of dogs to which the application relates;
- (b) the size and nature of the relevant premises;
- (c) the security of the premises for the purpose of confining the dogs;
- (d) the adequacy of the facilities for keeping the dogs on the premises;
- (e) the likelihood of any nuisance to the occupiers of neighbouring premises;
- (f) any other relevant matter.

“(3) Without limiting the generality of subsection (2), the Registrar shall refuse to grant a licence in relation to a dog unless satisfied that—

- (a) the dog will be confined in a yard, no part of which is less than 9 metres from a dwelling house (other than the keeper’s dwelling house) or 2 metres from a boundary fence, and which will allow the dog adequate freedom of movement;
- (b) there is adequate shelter for the dog;
- (c) the yard and associated facilities are properly ventilated and so constructed as to permit them to be kept in a sanitary condition; and
- (d) proper arrangements exist for the sanitary disposal of waste.

Duration of licence

“18D. Subject to this Part, a licence remains in force for the period (not exceeding 12 months) specified in the licence, commencing on the date on which it is granted.

Change of circumstances

“18E. (1) A licensee who changes his or her residential address shall give the Registrar written particulars of the new address within 14 days after the date of the change.

“(2) A licensee who becomes the keeper of a dog not specified in the licence shall give the Registrar written particulars of the dog within 14 days of becoming the keeper.

“(3) A person who contravenes subsection (1) or (2), without reasonable excuse, is guilty of an offence punishable on conviction by a fine not exceeding \$300.

Cancellation of licence

“18F. (1) The Registrar shall cancel a licence on request by the licensee.

“(2) Subject to section 18G, the Registrar may cancel a licence if—

- (a) a ground for refusing to grant the licence exists in relation to the licensee; or
- (b) the licensee has failed to comply with a condition specified in the licence.

“(3) The cancellation of a licence takes effect on—

- (a) the date on which written notice of the cancellation is given to the person; or
- (b) if a later date of effect is specified in the notice—on that later date.

Notice of proposed cancellation

“18G. (1) The Registrar shall not cancel a licence under subsection 18F (2) unless the Registrar has given the person a notice in writing that—

- (a) specifies the grounds on which the Registrar proposes to cancel the licence;
- (b) states the facts or circumstances that, in the Registrar’s opinion, constitute that ground; and
- (c) informs the licensee that the licensee may, within 14 days after the date of the notice, give the Registrar a written response to the matters raised in the notice.

“(2) For the purpose of making a decision under subsection 18F (2), the Registrar shall have regard to the response (if any) given in accordance with a notice under subsection (1).

Powers of inspection

“18H. (1) For the purposes of this Part, an inspector may enter and inspect residential premises—

- (a) at any reasonable time; or
- (b) at any time with the consent of the occupier;

if the inspector believes on reasonable grounds that a person is keeping a dog on the premises in contravention of section 18A.

“(2) An inspector who enters premises under subsection (1), is not authorised to remain in the premises if, on request by or on behalf of the occupier of the premises, the inspector does not produce his or her identity card.

“(3) An inspector who is entitled to remain on the premises may, for the purposes of this Part—

- (a) inspect, examine, take measurements of, or conduct tests concerning, the premises or any facilities that appear to the inspector to be used in connection with keeping a dog;
- (b) take such photographs, video recordings, or make such sketches or other recordings, as the inspector believes on reasonable grounds to be necessary.”.

Keeping of an unregistered dog

13. Section 19 of the Principal Act is amended by omitting from paragraph (2) (a) “6” and substituting “3”.

Insertion

14. After section 20 of the Principal Act the following section is inserted:

Preventing escape

“20A. A person who has possession or control of a dog in or on premises or a vehicle shall take reasonable precautions to prevent the dog from escaping into—

- (a) a public place; or
- (b) another person’s premises or vehicle without the consent of that person.

Penalty: \$500.”.

Dogs in public places

15. Section 21 of the Principal Act is amended—

- (a) by omitting from subsection (1) “against this section”; and
- (b) by omitting subsections (3) and (4) and substituting the following subsections:

“(3) In a prosecution for an offence against subsection (1)—

- (a) it is not a defence that the dog was under the control of a competent person; and

- (b) it is a defence that the keeper had taken reasonable precautions to prevent the dog from being in a public place.

“(4) Where a dog is in a public place and is not restrained by a competent person by means of a leash, the keeper of the dog is guilty of an offence punishable, on conviction, by a fine not exceeding \$500.

“(5) It is a defence to a prosecution for an offence against subsection (4) that the keeper had taken reasonable precautions to avoid contravening subsection (4).

“(6) Subsection (4) does not apply if the dog is—

- (a) in an exercise area declared under section 7C;
- (b) a working dog working livestock;
- (c) participating in a dog show, field trial or obedience trial; or
- (d) participating in a dramatic performance or other entertainment;

and is under the control of a competent person.”.

Dog attacking or worrying person or animal

16. Section 25 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (b) “or”; and
- (b) by inserting after paragraph (1) (c) the following word and paragraph:
“; or (d) a dog attacks wildlife;”.

Seizure

17. Section 28 of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting the following subsection:
“(1) An inspector may seize a dog that is in a public place if—
 - (a) in circumstances referred to in paragraph 21 (6) (a), (b), (c) or (d)—the dog is not under the control of a competent person; or
 - (b) in any other case—the dog is not restrained in accordance with subsection 21 (4).”;

- (b) by omitting from subsections (2) and (3) “or a farm-animal” and substituting “, farm-animal or wildlife”;
- (c) by inserting after subsection (4) the following subsection:

“(4A) An inspector may seize a dog that is kept in contravention of section 18A.”; and
- (d) by omitting from subsection (5) “or a farm-animal” and substituting “, farm-animal or wildlife”.

Notice of seizure

18. Section 29 of the Principal Act is amended by omitting “subsection 28 (1)” and substituting “subsection 28 (1) or (4A)”.

Return of impounded dog

19. Section 30 of the Principal Act is amended—

- (a) by omitting from subsection (1) “subsection (3)” and “prescribed” and substituting “subsections (2) and (3)” and “determined” respectively;
- (b) by omitting from subsection (3) “(3)” and substituting “(2)”; and
- (c) by adding at the end the following subsection:

“(3) The Registrar shall not return a dog to the keeper or a person claiming on behalf of the keeper if the Registrar believes on reasonable grounds that the dog would not be kept in accordance with a licence under Part IIA.”.

Detention of dogs that have attacked or worried persons or animals

20. Section 31 of the Principal Act is amended—

- (a) by omitting from paragraphs (1) (a) and (b) “7” and substituting “14”; and
- (b) by omitting from paragraph (1) (b) “9” and substituting “16”.

Destruction of dogs by Registrar

21. Section 32 of the Principal Act is amended by adding at the end the following subsections:

“(2) The Registrar shall not sell or destroy a dog if—

- (a) at the end of the relevant period referred to in subsection (1) an application for a licence in relation to the dog is pending with the Registrar; or

- (b) a decision of—
- (i) the Registrar in respect of a licence in relation to the dog;
or
 - (ii) a decision of the Administrative Appeals Tribunal or a court relating to the decision of the Registrar;
- has not become final.

“(3) For the purposes of paragraph (2) (b), a decision referred to in that paragraph shall be taken to have become final if no application for review has been made, or appeal instituted, within 28 days after the date of the decision.”.

Estimated purchase price

22. Section 32A of the Principal Act is amended by omitting from paragraph (2) (a) “the fees determined under section 40A” and substituting “the determined fees”.

Destruction of attacking dog

23. Section 34 of the Principal Act is amended by omitting from subsection (2) “or a farm-animal” and substituting “, farm-animal or wildlife”.

Certified copy of certificate of registration

24. Section 36 of the Principal Act is amended by omitting from subsections (2) and (3) “prescribed” and substituting “determined”.

Inspection of Register

25. Section 38 of the Principal Act is amended by omitting “prescribed” and substituting “determined”.

Compensation for injuries caused by dog

- 26.** Section 40 of the Principal Act is amended—
- (a) by omitting paragraph (1) (c) and substituting the following paragraph:
 - “(c) a dog attacks an animal that is a domestic animal, a farm-animal or wildlife and, by reason of the attack, the animal dies or is injured;”;
 - (b) by omitting from subsection (1) “domestic animal or farm-animal” and substituting “animal”; and

- (c) by omitting from subsection (4) “for loss resulting from injury to a domestic animal or a farm-animal”.

Insertion

27. After section 40 of the Principal Act the following sections are inserted:

Appeals

“40AA. Application may be made to the Administrative Appeals Tribunal for review of any of the following decisions of the Registrar:

- (a) granting a licence under section 18C subject to conditions;
- (b) refusing to grant a licence under section 18C;
- (c) cancelling a licence under subsection 18F (2).

Notification

“40AB. (1) The Registrar shall, within 7 days after making a decision of a kind referred to in section 40AA in respect of a person, give notice in writing of the decision to the person.

“(2) The notice shall set out the reasons for the decision and—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.

“(3) The validity of a decision referred to in subsection (1) shall not be taken to be affected by a failure to comply with subsection (2).

Infringement notices

“40AC. (1) In this section—

- ‘due date’, in relation to a prescribed penalty, means the due date fixed in accordance with subsection (4);
- ‘prescribed offence’ means a provision of this Act specified in the first column in Schedule 2;

‘prescribed penalty’, in relation to a prescribed offence, means the penalty specified in the second column in Schedule 2 opposite to that offence.

“(2) Where an authorised officer believes on reasonable grounds that a person has committed a prescribed offence, the officer may serve an infringement notice on the person.

“(3) An infringement notice shall—

- (a) identify the officer who served the notice;
- (b) specify the day on which, and the time and place at which, the prescribed offence is alleged to have been committed;
- (c) specify the nature of the alleged offence;
- (d) contain a statement to the effect that, if the person does not wish the matter to be dealt with by a court, the person may pay the prescribed penalty to the Registrar by the due date;
- (e) specify the place at which, and the manner in which, the penalty may be paid; and
- (f) contain a statement setting out the procedures under this section relating to the withdrawal of notices and the consequences of withdrawal.

“(4) For the purposes of paragraph (3) (d), the due date, in relation to the payment of a prescribed penalty is—

- (a) where paragraph (b) does not apply—the 28th day after the date of the relevant infringement notice; or
- (b) if an application by the person to the Registrar for an extension of the due date is pending on that 28th day—the date fixed in accordance with subsection (5).

“(5) The Registrar may—

- (a) upon application in writing made before a due date; and
- (b) by notice in writing given to the applicant;

fix as the new due date the date specified in the notice, being a date not less than 14 days after the date of the notice.

“(6) An authorised officer may withdraw an infringement notice by notice in writing given to the person within 28 days after the date of the infringement notice.

“(7) Upon payment of the prescribed penalty before the due date—

- (a) the person’s liability in respect of the offence is discharged;
- (b) the person shall not be taken to have been convicted of the offence; and
- (c) proceedings may not be instituted against the person in respect of the offence.

“(8) The Registrar shall refund an amount equal to the amount paid pursuant to an infringement notice that is subsequently withdrawn.

“(9) In proceedings for the prosecution of a prescribed offence, a certificate by an authorised officer stating that—

- (a) an infringement notice was served on a specified person on a specified date;
- (b) no extension of the due date for payment of the prescribed penalty was given to the person under subsection (5);
- (c) a specified person did not pay the prescribed penalty for a specified offence before the due date; or
- (d) an infringement notice was withdrawn;

is evidence of the matter so stated.”.

New Schedule 2

28. The Principal Act is amended by adding at the end the Schedule set out in Schedule 1.

Increases in penalties

29. The Principal Act is amended as set out in Schedule 2.

SCHEDULE 1

Section 28

NEW SCHEDULE 2

SCHEDULE 2

Section 40AC

PRESCRIBED OFFENCES AND PENALTIES

Prescribed Offence	Prescribed Penalty
Subsection 15 (1)	\$50
Subsection 15 (2)	\$50
Subsection 18A (1)	\$50
Subsection 18E (1)	\$50
Subsection 18E (2)	\$50
Subsection 19 (1)	\$75
Section 20A	\$75
Subsection 20 (1)	\$50
Subsection 21 (1)	\$75
Subsection 21 (4)	\$75
Subsection 22 (1)	\$50
Subsection 23 (1)	\$75
Subsection 23 (2)	\$75
Subsection 23 (3)	\$75
Subsection 23 (4)	\$75
Subsection 26 (1)	\$75
Subsection 26 (2)	\$75

SCHEDULE 2

Section 29

INCREASES IN PENALTIES

Provision	Omit—	Substitute—
Subsection 15 (2)	\$40	\$300
Subsection 19 (1)	\$40	\$500
Subsection 20 (1)	\$40	\$300
Subsection 21 (1)	\$140	\$500
Subsection 22 (1)	\$40	\$300
Subsections 23 (1), (2), (3) and (4)	\$100	\$500
Subsection 24 (3)	\$100	\$500
Subsection 25 (1)	\$200	\$1,000
Section 26	\$20	\$300
Section 27	\$200	\$1,000
Subsection 28 (7)	\$100	\$500

NOTE

1. Ordinance No. 18, 1975 as amended by No. 11, 1976; No. 42, 1977; No. 36, 1981; No. 65, 1982; No. 23, 1983; No. 48, 1984; Nos. 14 and 37, 1985; No. 31, 1986; No. 84, 1988; Nos. 21 and 38, 1989; Act No. 22, 1991.

[Presentation speech made in Assembly on 5 December 1991]

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