



AUSTRALIAN CAPITAL TERRITORY

Dog Control (Amendment) Act (No. 2) 1993

No. 72 of 1993

An Act to amend the *Dog Control Act 1975*

[Notified in ACT Gazette S215: 22 October 1993]

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 (No. 2) 1993*.

Commencement

2. This Act commences on the day on which it is notified in the *Gazette*.

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 by inserting in subsection (1) the following definitions:

“ ‘dangerous dog’ means a dog referred to in section 39A;

‘dangerous dog licence’ means a licence granted under section 18L;

‘keeper’s licence’ means a licence granted under section 18C;”.

Keeping more than 3 dogs

5. Section 18A of the Principal Act is amended by inserting in subsection (1) “keeper’s” before “licence”.

Keeper’s licence—application

6. Section 18B of the Principal Act is amended by inserting “keeper’s” before “licence”.

Keeper’s licence—grant

7. Section 18C of the Principal Act is amended—

- (a) by inserting in subsection (1) “keeper’s” before “licence” (first occurring); and
- (b) by inserting in subsection (3) “keeper’s” before “licence”.

Keeper’s licence—duration

8. Section 18D of the Principal Act is amended by inserting “keeper’s” before “licence” (first occurring).

Keeper’s licence—amendment

9. Section 18E of the Principal Act is amended by omitting from subsections (1) and (2) “licensee” and substituting “person holding a keeper’s licence”.

Keeper’s licence—cancellation

10. Section 18F of the Principal Act is amended—

- (a) by inserting in subsection (1) “keeper’s” before “licence”;
- (b) by inserting in subsection (2) “keeper’s” before “licence” (first occurring); and
- (c) by inserting in subsection (3) “keeper’s” before “licence”.

Keeper’s licence—notice of proposed cancellation

11. Section 18G of the Principal Act is amended by inserting in subsection (1) “keeper’s” before “licence” (first occurring).

Powers of inspection—keeping 3 or more dogs

12. Section 18H of the Principal Act is amended by omitting from subsection (1) “Part” and substituting “Act”.

Insertion

13. After Part IIA of the Principal Act the following Part is inserted:

“PART IIB—DANGEROUS DOG LICENCES

Keeping a dangerous dog

“18J. (1) A person shall not, without reasonable excuse, keep a dangerous dog.

Penalty: \$5,000.

“(2) Subsection (1) does not apply if a dangerous dog is kept in accordance with a dangerous dog licence.

Dangerous dog licence—application

“18K. An application for a dangerous dog licence shall be—

- (a) in accordance with a form approved by the Registrar; and
- (b) lodged with the Registrar together with the determined fee (if any).

Dangerous dog licence—grant

“18L. (1) On application for a dangerous dog licence, the Registrar shall—

- (a) grant the licence subject to any specified conditions; 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 type of dog to which the application relates;
- (b) the size and nature of the relevant premises;
- (c) the security of the premises;
- (d) the adequacy of the facilities for keeping the dog on the premises;
- (e) the likelihood of any nuisance to the occupiers of neighbouring premises;
- (f) any other relevant matter.

“(3) The conditions that may be specified under paragraph (1) (a) include the following:

- (a) conditions relating to confining the dog in a yard;
- (b) restrictions on the dog leaving the keeper’s premises.

Seizure of dangerous dogs

“18M. (1) Where—

- (a) the Registrar refuses to grant a dangerous dog licence;
- (b) the Registrar cancels a dangerous dog licence; or
- (c) a dangerous dog licence ceases to be in force in relation to a dangerous dog;

the Registrar shall cause the dog to be seized.

“(2) If the Registrar is satisfied on reasonable grounds that the keeper of a dangerous dog has failed to comply with a condition of the licence, he or she may cause the dog to be seized, subject to subsection (3).

“(3) The Registrar shall only seize a dangerous dog under subsection (2) if, in his or her opinion based on reasonable grounds, the failure to comply with the condition of the licence is of such a nature as to justify the seizure.

Destruction of dangerous dogs

“18N. (1) Where the Registrar seizes a dog under section 18M, he or she shall order it to be destroyed if—

- (a) in the case of a dog seized under subsection 18M (2)—in the Registrar’s opinion based on reasonable grounds, the failure to comply with the condition of the licence is of such a nature as to justify the destruction; or
- (b) in any case—in the Registrar’s opinion based on reasonable grounds, the circumstances are such as to justify the destruction.

“(2) Subject to subsection (3), if the Registrar makes an order under subsection (1) for the destruction of a dangerous dog, he or she shall cause the dog to be destroyed.

“(3) The Registrar shall not cause a dog to be destroyed under subsection (2) if—

- (a) the period within which application may be made to the Administrative Appeals Tribunal for review of the decision of the Registrar under subsection (1) has not elapsed;
- (b) a decision of the Administrative Appeals Tribunal or a court relating to the decision of the Registrar under subsection (1) has not become final; or
- (c) the Administrative Appeals Tribunal or a court sets aside the decision of the Registrar under subsection (1).

“(4) For the purposes of paragraph (3) (b), a decision of the Administrative Appeals Tribunal or a court referred to in that paragraph is to 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.

Dangerous dog licence—duration

“18P. Subject to this Part, a dangerous dog licence remains in force for the period (not exceeding 12 months) specified in the licence commencing on the date on which it is granted, and may be renewed in accordance with section 18Q.

Dangerous dog licence—renewal

“18Q. On application in writing accompanied by the determined fee (if any), the Registrar shall, before the expiration of a dangerous dog licence, renew the licence for a further specified period.

Dangerous dog licence—amendment

“18R. (1) A person holding a dangerous dog licence 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 person holding a dangerous dog licence who becomes the keeper of a dangerous dog not specified in the licence shall give the Registrar written particulars of the dog within 14 days of becoming the keeper of the unspecified dog.

“(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.

Dangerous dog licence—surrender

“18S. A person holding a dangerous dog licence may surrender the licence by notice in writing to the Registrar, with effect from the date of the notice or such later date as is specified in the notice.

Dangerous dog licence—notice of proposed cancellation

“18T. If the Registrar proposes to cancel a dangerous dog licence under subsection 18U (1), no later than 14 days before the date of the proposed cancellation he or she shall give the licensee a notice in writing that—

- (a) informs the licensee of the proposed cancellation date;

- (b) specifies the grounds on which the Registrar proposes to cancel the licence;
- (c) states the facts or circumstances that, in the Registrar's opinion, constitute those grounds; and
- (d) 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.

Dangerous dog licence—cancellation

“18U. (1) No earlier than 14 days after giving the holder of a dangerous dog licence a notice under section 18T, the Registrar may cancel the licence if—

- (a) a ground for refusing to grant the licence exists;
- (b) the licensee fails to comply with a condition specified in the licence; or
- (c) the licence was obtained by fraud or misrepresentation.

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

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

- (a) the date on which notice of the cancellation is given to the person under subsection 40AB (1); or
- (b) if a later date of effect is specified in that notice—on that later date.”.

Dogs in public places

14. Section 21 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:

“(4) Where a dog is in a public place and is not—

- (a) restrained by a competent person by means of a leash; and
- (b) under the control of that person;

the keeper of the dog is guilty of an offence.

Penalty: \$500.”.

Insertion

15. After section 24 of the Principal Act the following section is inserted:

Muzzles on dangerous dogs

“24A. (1) Where a dangerous dog is in a public place and is not wearing a device that is effective to prevent the dog biting a person or an animal, the keeper of the dog is guilty of an offence.

Penalty: \$1,000.

“(2) It is a defence to a prosecution under subsection (1) if the keeper of the dog proves he or she had a reasonable excuse.”.

Dog attacking or worrying person or animal

16. Section 25 of the Principal Act is amended by omitting from subsection (1) “\$1,000” and substituting “\$5,000”.

Seizure

17. Section 28 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “or” (last occurring);
- (b) by omitting paragraph (1) (b) and substituting the following paragraphs:
 - “(b) the dog is not restrained in accordance with subsection 21 (4); or
 - (c) in the case of a dangerous dog—the dog is not wearing a device in accordance with section 24A.”; and
- (c) by omitting subsection (5) and substituting the following subsection:

“(5) Where an inspector has reasonable cause to believe that a dog that has attacked a person, a domestic animal, a farm-animal or wildlife is on premises occupied by the keeper of the dog, the inspector may—

 - (a) require the keeper to produce the dog for inspection; and
 - (b) in the case of a dog the inspector believes on reasonable grounds not to be registered—seize the dog.”.

Detention of dogs

18. Section 31 of the Principal Act is amended by adding at the end the following subsection:

“(4) Where proceedings for an offence against section 25 are found by the court to be frivolous or vexatious, the costs of impounding the dog shall be borne by the person who instituted the proceedings.”.

Destruction and sale of dogs

19. Section 32 of the Principal Act is amended—

- (a) by omitting from subsection (1) “the dog” (first occurring) and substituting “a dog”;
- (b) by omitting from paragraph (2) (a) “licence” and substituting “keeper’s licence or dangerous dog licence”; and
- (c) by omitting from subparagraph (2) (b) (i) “licence” and substituting “keeper’s licence or dangerous dog licence”.

Insertion

20. After section 39 of the Principal Act the following section is inserted:

Dangerous dogs

“39A. (1) For the purposes of this Act, a dog is to be taken to be dangerous if—

- (a) the Registrar, by instrument, declares the dog to be dangerous; or
- (b) the dog is of a breed prescribed by the Regulations.

“(2) The Registrar may make a declaration under paragraph (1) (a)—

- (a) if the dog has caused serious injury to a person or animal by attacking that person or animal;
- (b) if the dog has behaved in such a way that a person reasonably feared they were going to be attacked by that dog;
- (c) if the dog has been trained as a guard dog or is kept as a guard dog for the purpose of guarding non-residential premises; or
- (d) if the dog has been declared a dangerous dog under the law of a State or other Territory.”.

Appeals

21. Section 40AA of the Principal Act is amended—

- (a) by inserting in paragraphs (a), (b) and (c) “keeper’s” before “licence”; and
- (b) by adding at the end the following paragraphs:
 - “(d) granting a dangerous dog licence under section 18L subject to conditions;
 - (e) refusing to grant a dangerous dog licence under section 18L;
 - (f) seizing a dangerous dog under subsection 18M (2);
 - (g) ordering a dangerous dog to be destroyed under subsection 18N (1);
 - (h) cancelling a dangerous dog licence under subsection 18U (1).”.

NOTE

1. Reprinted as at 31 July 1992. See also Acts No. 45, 1992 and No. 29, 1993.

[Presentation speech made in Assembly on 16 June 1993]