

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

DOG CONTROL (AMENDMENT) BILL (NO.2) 1993

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

**Circulated by authority of Bill Wood MLA
Minister for the Environment, Land and Planning**

Outline

The Dog Control Act 1975 (the Act) specifies a regime for the keeping and control of dogs. The Act provides for the registration of dogs, establishes the position of Registrar of Dogs, the appointment of inspectors and imposes an obligation on a person who keeps more than 3 dogs to obtain a licence.

The Dog Control (Amendment) Bill (No.2) 1993 proposes several amendments to the Act. These amendments seek to establish a legislative regime to provide for a dog, or breed of dogs, to be declared a dangerous dog and to impose an obligation on a person not to keep a dog declared a dangerous dog other than in accordance with a licence granted under the Act. The Bill also seeks to increase penalties specified in the Act and specify certain obligations in relation to the keeping of a dangerous dog.

A number of amendments are proposed by the Minister for the Environment, Land and Planning to the Bill. The proposed amendments do not detract from the policy objective of the Bill, ie provide for greater control over dangerous dogs, but introduce a licensing scheme to give effect to this objective. The proposed amendments will provide for two classes of licences:- first a keeper's licence to keep more than 3 dogs and second, a dangerous dog licence to enable a person to keep a dog declared by the Registrar to be dangerous.

Details of Proposed Amendments

Amendment No.1

Amendment No.1 will amend clause 4 of the Bill by omitting the term "definition" and substituting the term "definitions".

Amendment No.2

Amendment No.2 will further amend clause 4 of the Bill by

inserting two further definitions:

- (a) 'dangerous dog licence' to mean a licence granted under section 18L;
- (b) 'keeper's licence' to mean a licence granted under section 18C of the Act.

Amendment No.3

Amendment No.3 will omit clause 5 of the Bill and will substitute clauses 5; 5A; 5B; 5C; 5D; 5E; 5F; 5G and 5H.

New clauses 5; 5A; 5B; 5C; 5D; 5E; 5F; and 5G will make a number of amendments to Part IIA of the Act. Part IIA deals with the keeping of more than 3 dogs and imposes an obligation on a person who keeps more than 3 dogs to obtain a licence. Part IIA also specifies a procedure for applying for, and being granted, a licence to keep more than 3 dogs. The amendments to the Bill will designate this particular licence a 'keeper's licence'. The amendments proposed to Part IIA are consequential and will insert the word "keeper's" in each of the sections in Part IIA. The effect of these amendments is to make the distinction in the Act between the two classes of licences.

New Clause 5H will insert Part IIB into the Act. New Part IIB will consist of new sections 18J; 18K; 18L; 18M; 18N; 18P; 18Q; 18R; 18S; 18T; and 18U and will specify a regime for the keeping of a dangerous dog.

New section 18J will impose an obligation on a person not without reasonable excuse, to keep a dangerous dog other than in accordance with a dangerous dog licence. A breach of the offence provision could attract a fine of \$5,000.

New Section 18K specifies the procedure for applying for a dangerous dog licence. Such an application shall be in accordance with a form approved by the Registrar and shall be

accompanied by the determined fee.

New section 18L deals with grant of a dangerous dog licence. New section 18L specifies that on receipt of an application the Registrar shall grant the licence subject to conditions or refuse to grant the licence. New section 18L will also specify the matters the Registrar is to have regard to when deciding whether to grant a licence and lists two matters that may be specified as a condition of the licence. The Registrar may also impose additional conditions. A refusal to grant a licence or the imposition of a particular condition will be reviewable by the Administrative Appeals Tribunal.

New section 18M deals with the seizure of dangerous dogs. New section 18M imposes an obligation on the Registrar to seize a dangerous dog where the Registrar refuses to grant a dangerous dog licence, cancels a dangerous dog licence or a dangerous dog licence ceases to have effect. New subsection 18M(2) also gives the Registrar the discretion to seize a dangerous dog where the Registrar is satisfied, based on reasonable grounds, that the keeper has failed to comply with a condition of the licence and the failure is such to justify the seizure. A decision to seize a dangerous dog under subsection 18M(2) will be reviewable by the Administrative Appeals Tribunal.

New section 18N empowers the Registrar to destroy a dangerous dog. Where the Registrar seizes a dangerous dog under proposed new section 18M the Registrar may order the dog destroyed. However, the Registrar shall not cause the dog to be destroyed where an appeal may be made to the Administrative Appeals Tribunal for a review of the decision to seize the dog, or a decision of the Tribunal or a court has not become final, until the period for appeals has expired or the decision of the Administrative Appeals Tribunal or the Court has become final.

New section 18P specifies that a dangerous dog licence shall remain in force for a period not exceeding 12 months and may be renewed.

New section 18Q specifies that a dangerous dog licence may be renewed.

New section 18R imposes an obligation on a person who holds a dangerous dog licence to advise the Registrar of any change of address. New subsection 18R(2) also imposes an obligation on the holder of a dangerous dog licence who becomes the keeper of a dangerous dog not listed on the licence to give the Registrar written particulars of the dog within 14 days of becoming the keeper of the unregistered dog. New section 18R also specifies that a person who contravenes the section may be subject to a fine not exceeding \$300.

New section 18S specifies that a person holding a dangerous dog licence may surrender the licence.

New section 18T specifies that if the Registrar proposes to cancel a dangerous dog licence the Registrar must give the licensee written notice of the intention to cancel at least 14 days before the proposed date of cancellation. The notice shall inform the licensee of the proposed cancellation date, the grounds for cancellation and that the licensee may give the Registrar a written response to the matters raised in the notice.

New section 18U empowers the Registrar to cancel a dangerous dog licence. Such a decision will be reviewable by the Administrative Appeals Tribunal.

Amendment No.4

Amendment No.4 will amend clause 6 by reducing the penalty proposed for new subsection 21(4) from \$1,000 to \$500.

Amendment No.5

Amendment No.5 amends clause 7 by inserting a defence of reasonable excuse in respect of the offence created by proposed new section 24A where a keeper fails to ensure that a

dangerous dog that is in a public place, has a muzzle.

Amendment No.6

Amendment No.6 amends clause 8 by reducing the penalty proposed for section 25 of the Act from \$10,000 to \$5,000.

Amendment No.7

Amendment No.7 omits clause 9 and substitutes a new clause 9. New clause 9 will amend section 28 of the Act by omitting from paragraph (1)(a) "or", last occurring, and amending paragraph 28(1)(b) to provide for the inclusion of a new paragraph 28(1)(c) that will provide that an inspector may seize a dangerous dog in a public place if that dog is not wearing a device that is to prevent the dog biting a person or an animal in accordance with new section 24A. New clause 9 will also omit subsection 28(5) and substitute a new subsection (5) that will empower an inspector, who has reasonable cause to believe that a dog that has attacked a person or an animal is on premises occupied by the keeper of the dog, to require the keeper of the dog to produce the dog for inspection and if the inspector believes that the dog is not registered then the inspector may seize the dog.

Amendment No.8

Amendment No.8 omits clause 10 of the Bill and substitutes a new clause 10 that will amend section 31 by adding a new subsection (4). New subsection 31(4) will specify that where a court finds that an action initiated under section 25 is frivolous or vexatious then the cost of impounding the dog shall be borne by the person who instituted the proceedings. The objective of this provision is to prevent the Registrar being involved in a dispute between neighbours that results in unfounded or unjustifiable complaints being made.

Amendment No.9

Amendment No.9 will omit clauses 11 and 12 and substitute a new clause 11. New clause 11 will amend section 32 by making a minor editorial amendment to subsection 32(1) and by amending paragraph 32(2)(a) and subparagraph 32(2)(b)(i) by providing for both a keeper's licence and a dangerous dog licence.

Amendments Nos. 10,11,12 and 13

Amendments Nos. 10, 11, 12, and 13 will make a number of amendments to proposed new subsection 39A(2) to provide for the omission of paragraph 39A(2)(e).

Amendment No.14

Amendment No.14 will insert clause 14 to amend section 40AA of the Act. Section 40AA provides for review by the Administrative Appeals Tribunal of decisions of the Registrar. Clause 14 will insert into section 40AA several new paragraphs that will allow for review of a decision of the Registrar: granting a dangerous dog licence subject to conditions; refusing to grant a dangerous dog licence subject to conditions; refusing to grant a dangerous dog licence; seizing a dangerous dog; ordering the destruction of a dangerous dog and cancelling a dangerous dog licence.