

CLAUSE NOTES

Dog Control Amendment Bill 2017

Clause 1: Short title

Clause 1 is a formal provision specifying the title of the proposed Act.

Clause 2: Commencement

Clause 2 is a formal provision specifying that the Dog Control Amendment Bill 2017 (the Bill) will commence on the day it receives Royal Assent.

Clause 3: Principal Act

Clause 3 identifies that the amendments contained in the Bill relate to the *Dog Control Act 2000* (the Act).

Clause 4: Section 3 amended (Interpretation)

Clause 4 includes changes to the definitions contained in the interpretation section that apply to this Act.

Subclause (a) inserts a new definition of effective control of dogs in general (which are not greyhounds, dangerous or restricted breed dogs), the effective control of greyhounds and the effective control of dangerous or restricted breed dogs.

Subclause (b) inserts a new definition of 'guard dog'.

Subclause (c) inserts a new definition of 'microchip number'.

Subclause (d) clarifies that 'premises' includes private premises and public land.

Subclause (e) inserts a new definition of 'private premises'.

Subclause (f) inserts a new definition of 'residential premises'.

Subclause (g) inserts a new definition of 'trailing'.

Clause 5: Section 4 amended (Dog under effective control)

Clause 5 amends section 4 to clarify that a 'dog under effective control' referred to in section 4 does not include greyhounds, dangerous or restricted breed dogs.

Clause 6: Section 5 substituted (Dog at large)

Clause 6 replaces the current section 5 of the Act to clarify that a dog is at large if it is in a public place and is not under effective control of a person or is in or on an occupied public place or private residence without the consent of the occupier.

- Clause 7: Section 9 amended (Application for registration)**
Clause 7 amends subsection 9(2) of the Act to require the microchip number of the dog to be included on an application for registration.
- Clause 8: Section 11 amended (Collars)**
Clause 8 amends section 11(2)(e) to substitute 'obedience or agility trials' with 'trialling'.
- Clause 9: Section 12 amended (Cancellation of registration)**
Subsection 12(1) is amended to clarify that the owner of a dog that has been registered must inform the general manager of the council in the area in which the dog is registered if the dog is moved to another municipal area.
- Subsection 12(2)(b) is amended to require that the general manager who is notified that a registered dog is going to be moved to another municipal area must notify the general manager of the municipal area in which the dog will begin being kept.
- Clause 10: Section 13 amended (Change of owner)**
Clause 10 is amended to provide consistency of the use of the term 'transfer' and clarification about notifying the general manager when a dangerous or restricted breed dog moves to a new address.
- Clause 11: Section 14 amended (Change in address)**
Clause 11 amends section 14 of the Act to clarify that the general manager of the council where the dog is usually kept must be notified when the dog moves to a new address in the same municipal area.
- Clause 12: Section 15 amended (Register)**
Clause 12 amends section 15 so that a register of dogs kept by a general manager must also include the microchip number.
- Clause 13: Section 18 substituted (Effective control of greyhounds)**
Clause 13 replaces section 18 of the Act and clarifies when a greyhound is under effective control of a person and when a muzzle is required. The Clause inserts a new provision that allows a greyhound that has been through an approved suitability program that trains and assesses greyhounds to be certified to go without a muzzle in public places.
- Clause 14: Section 18A inserted (Approval of greyhound suitability program)**
Clause 14 inserts a new section that enables the Director of Racing to approve programs that train and assess the suitability of greyhounds to be in a public place without a muzzle.
Subsection (4) defines the Director of Racing and subsection (2) defines who can provide advice to the Director to assist with making decisions about the suitability of programs.
- Clause 15: Section 19 amended (Dogs attacking persons or animals)**
Clause 15 amends section 19(4) of the Act to provide consistency with the definition of guard dog.

Subsection 19(8) enables councils to recover costs from the owner of a dog for the collection and analysis of DNA samples from dogs who were suspected of and proven to be involved in an attack.

Clause 16: Section 19AA inserted (Collection and analysis of a sample from a dog)

Clause 16 inserts a new section 19AA which authorises the general manager to request that a DNA sample is collected by an authorised person from a dog suspected of being involved in an attack.

The new section 19AA provides that a dog may be seized and detained if necessary to collect a DNA sample and the notification requirements if a sample is collected.

Clause 16 provides the general manager with power to authorise a qualified person to conduct analysis of the collected sample.

The new section 19AA provides that the dog may be seized and detained if necessary to collect a DNA sample and imposes a new fine of 10 penalty units for a person who obstructs, hinders, impedes or threatens a person authorised to take a sample or disobeys a direction given by an authorised person under this section.

The new subsection 19AA(8) defines an approved person and the types of samples that can be collected.

Clause 17: Section 23 amended (Restricted areas)

Clause 17 amends section 23 of the Act to allow councils to restrict dogs, other than guide dogs or hearing dogs, from entering areas controlled by councils at specified times or on a permanent basis.

Clause 18: Section 30 amended (Guard dogs)

Clause 18 amends section 30 of the Act to provide consistency of the terms when referring to 'residential premises'.

Clause 19: Section 32 substituted (Effective control of dangerous dogs and restricted breed dogs)

Clause 19 replaces section 32 of the Act and clarifies the requirements to ensure a dangerous or restricted breed dog is under effective control at all times. Clause 19 clarifies how many dangerous or restricted breed dogs can be on a lead held by a person as this is not stated in the current Act.

Clause 20: Section 34BA inserted (Change of municipal area in which dangerous dog or restricted breed dog is usually kept)

Clause 20 amends the Act by inserting a new subsection 34BA to clarify that the owner of a dangerous or restricted breed dog must notify the general manager of a council when the dog is moved to another council area.

- Clause 21: Section 39A amended (Destruction of dangerous dog if enclosure not suitable)**
Clause 21 amends section 39A so that the time an owner has to respond to the Magistrates Court (Administrative Appeals Division) when they receive a dangerous dog destruction notice is increased from 14 days to 28 days to be consistent with other appeal timeframes within the *Magistrates Court (Administration Appeals Division) Act 2001*.
- Clause 22: Section 41 amended (Attacking dogs)**
Clause 22 amends section 41 by inserting a new subsection to clarify what is meant by 'primary production relating to livestock on rural land' that is consistent with other legislation. The list of livestock has been amended to include livestock as suggested by local government.
- Clause 23: Section 42 amended (Destruction of dog)**
Clause 23 amends section 42(1) to clarify that an authorised person or a veterinary surgeon may seize and destroy a dog, if the other provisions of section 42 are met. Currently the Act states seize or destroy.
- Clause 24: Section 45 amended (Removal of faeces)**
Clause 24 amends section 45(1) to exempt owners or those leasing property from the requirement to remove or dispose of dog faeces immediately.
- Clause 25: Section 46 amended (Dogs creating nuisance)**
Clause 25 amends section 46 so that the owner or a person in charge of a dog may not allow them to create a nuisance anywhere.
- Clause 26: Section 50 substituted (Keeping several dogs)**
Clause 26 clarifies that a kennel licence is needed when a person is keeping more than a specified number of dogs on premises for monetary consideration.

Subsection 50(2) provides that a licence is not required if no consideration has been or is to be paid in respect of the dogs staying on at the premises.
- Clause 27: Section 51 amended (Application for licences)**
Clause 27 amends section 51(3)(b) to remove the mandatory requirement to specify the breed or kind of dog that is subject to the licence.
- Clause 28: Section 55 amended (Granting application)**
Clause 28 amends section 55 to remove the condition that the general manager must specify breed on the issued licence.

Clause 28 amends section 55(3) to enable the general manager to include breed as a condition that may be applied to a licence.
- Clause 29: Section 59 amended (Appeals in respect of licence)**
Clause 29 amends section 59 to provide consistency in the Act by including a timeframe to apply for a review in respect to a licence.

Clause 30: Section 61 amended (Other evidence)

Clause 30 amends section 61 to allow DNA samples to be used as evidence in legal proceedings.

Clause 31: Section 72 amended (Entering premises)

Clause 31 amends section 72 to provide consistent use of the term premises.

Clause 32: Repeal of Act

Clause 32 is a formal provision that repeals this Amendment Act on the 365th day from Royal Assent.