

## CLAUSE NOTES

### CRIMINAL CODE AMENDMENT (DANGEROUS DOGS) BILL 2013

#### **Part 1 – Preliminary**

**Clause 1:** Contains the short title of the Act.

**Clause 2:** This clause provides that the Act will commence on Royal Assent.

**Clause 3:** Provides that the amendment Act will be repealed automatically on the three hundred and sixty fifth day from the day on which the Act commences. This is a standard clause in all amending Acts.

#### **Part 2 – Criminal Code Act 1924 Amended**

**Clause 4:** Provides the interpretive statement that in Part 2 of the Act, the *Criminal Code Act 1924* is the “Principal Act”.

**Clause 5:** Inserts a new section in to the *Criminal Code Act 1924* which creates the offence of causing death or grievous bodily harm by dangerous or restricted breed dog. The offence applies to a person with care or charge of a dog that is a restricted breed under the *Dog Control Act 2000* or a dog that has been declared dangerous under the *Dog Control Act 2000* because the dog has caused a serious injury to a person or there is reasonable cause to believe the dog will cause serious injury to a person. The offence applies when such a restricted breed or declared dangerous dog

attacks and kills, or causes grievous bodily harm to, another person. The person with the care or charge of the dog at the time of the attack must have known or been reckless as to the fact that the dog is a dangerous or restricted breed dog. The person with the care or charge of the dog at the time of the attack must have failed to take reasonable steps to ensure the dog was under effective control. The person must also have known, or ought to have known, that the failure to keep the dog under effective control could expose any person to a risk of death or grievous bodily harm. The term “any person” is used in the broadest possible sense here.

The clause also provides a number of definitions relevant to the offence. In particular, ‘care and charge’ is defined to include a person who is the owner of the dog, has control, possession or custody of the dog or is the operator or manager of a premises where the dog is held for commercial purposes. One or more persons may have care or charge of a dog at any one time.

### **Part 3 - Dog Control Act 2000 Amended**

**Clause 6:** Provides the interpretive statement that in Part 3 of the Act the *Dog Control Act 2000* is the Principal Act.

**Clause 7:** Amends section 29 of the *Dog Control Act 2000* by inserting a new subsection in relation to the keeping of records by Councils in relation to dogs declared dangerous under the Principal Act. Section 29 of the Principal Act allows a

Council to declare a dog dangerous if the dog has caused serious injury to a person or another animal; or there is reasonable cause to believe that the dog is likely to cause serious injury to a person or another animal. This new subsection specifies that where a dog has been declared dangerous because of actions or a likelihood of actions against a person the information about the dog and events are to be recorded and kept by the Council for at least 15 years.

This allows for a dog declared dangerous because of actions or likely actions in relation to another animal to be clearly distinguished from a dog whose actions or likely actions were directed towards a person. These offences are only to apply to a dog that has been declared dangerous in relation to actions against or a likelihood of actions against a person as opposed to actions against animals.

The Council will be able to keep a record, in whatever manner they see fit, of declarations made in relation to actions against a person.