

TASMANIA

DOG CONTROL AMENDMENT BILL 2017

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DOG CONTROL AMENDMENT BILL 2017

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
28 November 2017

*(Brought in by the Minister for Planning and Local
Government, the Honourable Peter Carl Gutwein)*

A BILL FOR

An Act to amend the *Dog Control Act 2000*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Dog Control Amendment Act 2017*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Principal Act

In this Act, the *Dog Control Act 2000** is referred to as the Principal Act.

*No. 102 of 2000

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4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of *effective control* and substituting the following definition:

effective control means –

- (a) in the case of a dog that is not a greyhound, dangerous dog or restricted breed dog, effective control as referred to in section 4; and
 - (b) in the case of a greyhound, effective control as referred to in section 18; and
 - (c) in the case of a dangerous dog or restricted breed dog, effective control as referred to in section 32;
- (b) by inserting the following definition after the definition of *general manager*:

guard dog means a dog used to guard premises that are not residential premises;

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- (c) by inserting the following definition after the definition of *licence*:

microchip number, in relation to a dog, means the unique identifying number associated with an approved microchip implanted in the dog;

- (d) by inserting “and includes private premises and a public place” after “or land” in the definition of *premises*;

- (e) by inserting the following definition after the definition of *premises*:

private premises means premises that are not a public place;

- (f) by inserting the following definition after the definition of *registration disc*:

residential premises means any premises lawfully used as a residence;

- (g) by inserting the following definition after the definition of *tranquilliser device*:

trialling means –

- (a) agility trialling, endurance trialling, herding trialling, lure coursing trialling, obedience trialling, retrieving trialling and tracking trialling; and

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- (b) any other event in which dogs, and persons in charge of those dogs, are engaged in competition in respect of dog behaviours;

5. Section 4 amended (Dog under effective control)

Section 4 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “dog” first occurring and substituting “dog, other than a greyhound, a dangerous dog or a restricted breed dog,”;
- (b) by omitting from subsection (2) “dog” first occurring and substituting “dog, other than a greyhound, a dangerous dog or a restricted breed dog,”;
- (c) by omitting from subsection (2)(d) “obedience or agility trials” and substituting “trailing”;
- (d) by omitting from subsection (3) “the dog” first occurring and substituting “a dog, other than a greyhound, a dangerous dog or a restricted breed dog,”;
- (e) by omitting from subsection (4) “dog” first occurring and substituting “dog, other than a greyhound, a dangerous dog or a restricted breed dog,”;

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- (f) by omitting from subsection (5)(a) “dogs” and substituting “dogs, that are not greyhounds, dangerous dogs or restricted breed dogs,”;
 - (g) by omitting from subsection (5)(b) “dogs” and substituting “dogs, that are not greyhounds, dangerous dogs or restricted breed dogs,”.

6. Section 5 substituted

Section 5 of the Principal Act is repealed and the following section is substituted:

5. Dog at large

A dog is at large if it is –

- (a) in a public place and it is not under the effective control of a person; or
- (b) without the consent of the occupier, in or on a public place that is occupied or private premises that are occupied.

7. Section 9 amended (Application for registration)

Section 9 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2) An application for registration is to –

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- (a) be in an approved form; and
- (b) be accompanied by the appropriate registration fee; and
- (c) include the microchip number of the dog.

8. Section 11 amended (Collars)

Section 11(2)(e) of the Principal Act is amended by omitting “obedience or agility trials” and substituting “trialling”.

9. Section 12 amended (Cancellation of registration)

Section 12 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “registered” after “a”;
- (b) by inserting in subsection (1) “, of the council of the municipal area in which the dog is registered,” after “manager”;
- (c) by omitting paragraph (b) from subsection (1) and substituting the following paragraph:
 - (b) beginning to usually keep the dog on premises in another municipal area.
- (d) by omitting from subsection (2)(b) “transfer to” and substituting “dog

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beginning to be usually kept by its owner
on premises in”.

10. Section 13 amended (Change of owner)

Section 13 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, of the council of the municipal area in which the dog is registered,” after “manager”;
- (b) by omitting from subsection (1) “change” and substituting “transfer”;
- (c) by omitting from subsection (2) “change” first occurring and substituting “transfer”;
- (d) by inserting in subsection (2) “, of the council of the municipal area in which the dog is registered,” after “manager”;
- (e) by omitting from subsection (2) “change” third occurring and substituting “transfer”.

11. Section 14 amended (Change in address)

Section 14 of the Principal Act is amended as follows:

- (a) by inserting “, of the council of the municipal area in which the dog is registered,” after “manager”;

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- (b) by omitting “the transfer of a dog to” and substituting “beginning to usually keep the dog at”;
- (c) by omitting “for a period exceeding 60 days”.

12. Section 15 amended (Register)

Section 15(2) of the Principal Act is amended by inserting after paragraph (f) the following paragraph:

- (fa) the microchip number of the dog; and

13. Section 18 substituted

Section 18 of the Principal Act is repealed and the following section is substituted:

18. Effective control of greyhounds

- (1) A greyhound is under the effective control of a person if –
 - (a) the greyhound is –
 - (i) muzzled; and
 - (ii) secured and restrained by means of a lead that is not more than 2 metres long held by hand by a person able to control the dog; or
 - (b) the greyhound is –

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- (i) muzzled; and
 - (ii) restricted in or on a vehicle so that it is unable to leave the vehicle or attack any person or animal outside the vehicle; or
 - (c) while the greyhound is engaged in trialling or showing –
 - (i) the greyhound is in close proximity to the person; and
 - (ii) the greyhound is in sight of the person; and
 - (iii) the person is able to demonstrate to the satisfaction of an authorised person that the greyhound is immediately responsive to the person's commands; or
 - (d) while the greyhound is engaged in greyhound racing, the greyhound is muzzled during a race in which that greyhound is participating.
- (2) Subsection (1)(a)(i) and subsection (1)(b)(i) do not apply to a greyhound that has successfully

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completed an approved greyhound suitability program.

- (3) The owner or person in charge of a greyhound must ensure that the greyhound, when not on premises at which the dog is usually kept, is under the effective control of a person.

Penalty: Fine not exceeding 5 penalty units.

- (4) A person, at any one time, must not have in his or her charge more than –

(a) 2 greyhounds on a footpath; or

(b) 4 greyhounds in a public place.

Penalty: Fine not exceeding 5 penalty units.

- (5) In this section –

approved greyhound suitability program means a program approved in accordance with section 18A;

greyhound racing means racing conducted under and in accordance with the *Rules of Racing* made under section 11(1)(k) of the *Racing Regulation Act 2004*.

14. Section 18A inserted

After section 18 of the Principal Act, the following section is inserted in Division 1:

18A. Approval of greyhound suitability program

- (1) The Director of Racing may approve a program in respect of the training and assessment of greyhounds for suitability to be without a muzzle when not on premises at which the dog is usually kept.
- (2) In deciding whether to approve a program under subsection (1), the Director of Racing may seek advice from –
 - (a) a veterinary surgeon with expertise relating to greyhounds; or
 - (b) any other person the Director sees fit.
- (3) The Director of Racing may refuse to accept a program for approval.
- (4) In this section –

Director of Racing means the Director of Racing appointed under section 5 of the *Racing Regulation Act 2004*.

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15. Section 19 amended (Dogs attacking persons or animals)

Section 19 of the Principal Act is amended as follows:

(a) by omitting from subsection (4) “guarding non-residential premises” and substituting “being used to guard premises that are not residential premises”;

(b) by omitting subsection (8) and substituting the following subsection:

(8) If an owner of a dog is found guilty of an offence under this section, the court may, in addition to any other order made by the court in respect of the offence, order that the owner pay either or both of the following:

(a) the reasonable costs incurred as a result of the collection or analysis of a sample from a dog in accordance with section 19AA;

(b) compensation for any damage caused or costs incurred as a result of the conduct of the dog.

16. Section 19AA inserted

After section 19 of the Principal Act, the following section is inserted in Division 1:

19AA. Collection and analysis of a sample from a dog

- (1) An authorised person who believes, on reasonable grounds, that an offence under section 19(2), (3) or (4) has been committed may request that a general manager authorise the collection of a sample from a dog for the purposes of determining whether the dog was a dog involved in the offence.
- (2) A general manager who receives a request under subsection (1) in relation to a dog may authorise –
 - (a) an approved person to collect a non-intimate sample from the dog; or
 - (b) a veterinary surgeon to collect an intimate or non-intimate sample from the dog.
- (3) If an approved person or a veterinary surgeon is authorised under subsection (2) to collect a sample from a dog –
 - (a) the authorised person who made a request under subsection (1) in respect of the dog may do one or more of the following:

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- (i) seize the dog and detain it for as long as is required for the approved person or veterinary surgeon to collect the sample as authorised;
 - (ii) if, in the opinion of the authorised person, the dog is aggressive or difficult to manage, direct the owner of the dog to accompany the authorised person, together with the dog, to a pound or other place where the sample may safely be collected;
 - (iii) direct the owner to produce the dog for the purposes of allowing the sample to be collected as authorised; and
 - (b) the approved person or veterinary surgeon may collect such a sample from the dog as authorised.
- (4) If a sample is collected from a dog in accordance with an authorisation under subsection (2), the authorised person who made the request under subsection (1) in relation to the dog is to ensure that –

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- (a) the owner of the dog is advised, before, or as soon as reasonably practicable after, the sample is collected that the sample is collected for the purpose of analysis; and
- (b) both –
 - (i) a person nominated in writing by the owner of the dog, if such a person is so nominated; and
 - (ii) a qualified person –are each provided with a part of the sample that is sufficient for analysis.
- (5) A general manager may authorise a qualified person to conduct analysis of a sample that has been collected in accordance with subsection (2).
- (6) For the purposes of this section, a qualified person is a person approved by a general manager to conduct the analysis of a sample collected in accordance with this section.
- (7) A person must not –
 - (a) obstruct, hinder, delay, impede or threaten an approved person or veterinary surgeon acting in accordance with this section; or

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- (b) disobey a direction given by an authorised person under this section.

Penalty: Fine not exceeding 10 penalty units.

- (8) In this section –

approved person means a person approved by the general manager to collect a non-intimate sample from a dog;

intimate sample means a sample of the blood of a dog;

non-intimate sample means a sample of the saliva, cheek cells, fur, faeces or urine of a dog;

sample, in relation to a dog, means an intimate or non-intimate sample taken from that dog.

17. Section 23 amended (Restricted areas)

Section 23(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “lead.” and substituting “lead; or”;
- (b) by inserting the following paragraph after paragraph (b):
 - (c) at all times.

18. Section 30 amended (Guard dogs)

Section 30(1) of the Principal Act is amended by inserting “premises” after “residential”.

19. Section 32 substituted

Section 32 of the Principal Act is repealed and the following section is substituted:

32. Effective control of dangerous dogs and restricted breed dogs

(1) A dangerous dog or a restricted breed dog is under the effective control of a person when not on premises at which the dog is usually kept, including an area where a dog must be on a lead or is not required to be on a lead, if –

- (a) the person is over the age of 18 years; and
- (b) the dog is wearing a muzzle so as to be unable to bite a person or animal; and
- (c) the dog is –
 - (i) on a lead that is not more than 2 metres long, is held by hand, and is sufficient to control and restrain the dog; or
 - (ii) restricted in or on a vehicle so that it is unable

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to leave the vehicle or
attack any person or
animal outside the
vehicle; and

(d) the dog is wearing an approved
collar.

(2) A dangerous dog is under the effective
control of a person on premises at which
the dog is usually kept if –

(a) the dog is in an enclosure that
complies with the prescribed
requirements; or

(b) the person is over the age of 18
years and the dog –

(i) is wearing a muzzle so as
to be unable to bite a
person or animal; and

(ii) is on a lead that is not
more than 2 metres long,
is held by hand, and is
sufficient to control and
restrain the dog; and

(iii) is wearing an approved
collar.

(3) The owner or person in charge of a
dangerous dog or a restricted breed dog
must ensure that –

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- (a) the dog is under the effective control of a person; and
- (b) the dog wears an approved collar at all times; and
- (c) the microchip implanted in the dog is not removed without the approval of the general manager.

Penalty: Fine not exceeding 20 penalty units.

- (4) A person, at any one time, must not have in his or her charge, on a lead, more than –
 - (a) one dangerous dog; or
 - (b) 2 restricted breed dogs.

Penalty: Fine not exceeding 20 penalty units.

- (5) This section does not apply in respect of a dangerous dog, or a restricted breed dog, that is guarding premises that are not residential premises if the owner of the dog has notified the general manager, in writing, that the dog is a guard dog.

20. Section 34BA inserted

After section 34B of the Principal Act, the following section is inserted in Division 3:

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34BA. Change of municipal area in which dangerous dog or restricted breed dog is usually kept

An owner of a dangerous dog, or a restricted breed dog, who ceases to usually keep the dog on premises situated in a municipal area must, within 14 days of beginning to usually keep the dog on premises situated in another municipal area, notify the general manager of the other municipal area.

Penalty: Fine not exceeding 20 penalty units.

21. Section 39A amended (Destruction of dangerous dog if enclosure not suitable)

Section 39A(6) of the Principal Act is amended by omitting “14” and substituting “28”.

22. Section 41 amended (Attacking dogs)

Section 41 of the Principal Act is amended as follows:

(a) by inserting the following subsection after subsection (3):

(3A) For the purposes of subsection (3), a person is carrying on primary production relating to livestock on rural land if –

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- (a) the person is carrying on a primary production activity, within the meaning of the *Primary Produce Safety Act 2011*, in respect of livestock; and
 - (b) that primary production activity is being carried on on land that is not within any city or town.
- (b) by inserting the following subsection after subsection (4):

(5) In this section –

city has the same meaning as in the *Local Government Act 1993*;

livestock means –

- (a) alpacas, buffalo, camels, cattle, donkeys, deer, emus, goats, horses, llamas, ostriches, pigs, poultry, sheep; and
- (b) any prescribed animal.

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23. Section 42 amended (Destruction of dog)

Section 42(1) of the Principal Act is amended by inserting “, or both seize and destroy a dog,” after “dog”.

24. Section 45 amended (Removal of faeces)

Section 45(1) of the Principal Act is amended by omitting “owned” and substituting “owned, or leased,”.

25. Section 46 amended (Dogs creating nuisance)

Section 46 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “in a public place”;
- (b) by omitting subsection (2).

26. Section 50 substituted

Section 50 of the Principal Act is repealed and the following section is substituted:

50. Keeping several dogs

- (1) A person, without a licence, must not keep or allow to be kept, for any period of time, on any premises –
 - (a) more than 2 dogs, other than working dogs, over the age of 6 months; or

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- (b) more than 4 working dogs over the age of 6 months.

Penalty: Fine not exceeding 5 penalty units.

- (2) Subsection (1) does not apply to any dog in excess of the number of dogs specified in subsection (1) if –

- (a) the dog is owned by a person who does not usually reside at the premises; and
- (b) the dog is being kept at the premises for a limited, or temporary, period that is agreed upon, by both the owner of the dog and the person with responsibility for the premises, before the dog is left at the premises; and
- (c) no consideration has been or is to be paid, in respect of the dog staying at the premises, to the person keeping dogs on the premises.

- (3) In this section –

consideration includes monetary or non-monetary consideration;

owner in relation to a dog, means the person who apparently has

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control of the dog at the relevant
time.

27. Section 51 amended (Application for licences)

Section 51(3)(b) of the Principal Act is amended
by omitting “and breed”.

28. Section 55 amended (Granting application)

Section 55 of the Principal Act is amended as
follows:

- (a) by omitting paragraph (b) from
subsection (2);
- (b) by omitting from subsection (3) “A” and
substituting “If a condition of the licence
relates to the breed or kind of dog to be
kept under the licence, a”.

29. Section 59 amended (Appeals in respect of licence)

Section 59(1) of the Principal Act is amended by
inserting “within 14 days after being notified of
a refusal, cancellation or decision” after
“Division”.

30. Section 61 amended (Other evidence)

Section 61(1) of the Principal Act is amended by
inserting after paragraph (b) the following
paragraph:

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- (ba) a sample from a dog, collected and analysed in accordance with section 19AA, is evidence of the identity of that dog; and

31. Section 72 amended (Entering premises)

Section 72 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “private”;
- (b) by omitting from subsection (2) “the” second occurring.

32. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which this Act commences.