

COMPANION ANIMALS BILL

Schedule of the amendments referred to in the Legislative Council's Message of
3 July 1998 P.M.

No. 1

Page 2. Insert after line 7:

3 Application of Act to working dogs

- (1) The following provisions of this Act do not apply to or in respect of a working dog:
 - (a) Part 2,
 - (b) section 10,
 - (c) Parts 6 and 8.
- (3) In this section, *working dog* means a dog used primarily for the purpose of droving, tending, working or protecting stock, and includes a dog being trained as a working dog.

No. 2

Page 2. Insert after line 7:

3 Policy regarding animal welfare

It is declared that the protection of native birds and animals is an objective of animal welfare policy in the State.

No. 3

Page 3, clause 3 (1). Insert after line 14:

council pound means:

- (a) a public or private pound established by a council under the *Impounding Act 1993*, or
- (b) any other place approved by a council or the Board as a place for the holding of animals seized under this Act.

No. 4

Page 4, clause 3 (1). Insert after line 5:

pound operator, in relation to a council pound referred to in paragraph (b) of the definition of that term, means the person or body that manages or has control of the pound.

No. 5

Page 4, clause 3. Insert after line 26:

- (2) A reference in Part 7 to a council is, in relation to a council pound referred to in paragraph (b) of the definition of that term, a reference to the pound operator.

No. 6

Page 5, clause 5 (1) (c), lines 12-14. Omit all words on those lines.

No. 7

Page 5, clause 5 (1) (e), line 16. Omit all words on that line.

- No. 8 Page 12, clause 12, line 24. Insert "or public recreation (including a beach)" after "public bathing".
- No. 9 Page 14, clause 12 (6). Insert after line 5:
- (a) in a vehicle that is secured in such a way as to prevent the dog from escaping from it, or
- No. 10 Page 15, clause 14 (1), line 2. Omit "worries". Insert instead "harasses".
- No. 11 Page 15, clause 14 (2) (e), line 19. Insert "or the training of the dog in the working of stock" after "dog".
- No. 12 Page 15, clause 15 (1), line 22. Omit "worry". Insert instead "harass".
- No. 13 Page 16, clause 15 (2) (e), line 8. Omit all words on that line.
- No. 14 Page 16. Insert after line 8:

16 Dog that has attacked or bitten may be secured or seized

- (1) If a dog attacks or bites any person or animal (other than vermin) otherwise than in the circumstances referred to in section 14 (2), an authorised officer may, at any time within 4 hours after the attack or bite:
 - (a) secure the dog in accordance with this section, or
 - (b) seize the dog.
- (2) Any other person may seize the dog if the dog is on property owned or occupied by the person.
- (3) However, a dog is not to be seized under this section if the dog:
 - (a) is adequately secured on land occupied by the dog's owner, or
 - (b) is under the effective control of its owner (unless the owner set on or urged the dog to attack or bite the person or animal concerned).
- (4) If an authorised officer has reason to believe that the dog is on land occupied by the dog's owner, the authorised officer may seize the dog only if the authorised officer is unable to secure the dog on that land.
- (5) An authorised officer may enter any land (but not premises) for the purpose of exercising the authorised officer's powers under this section.
- (6) This section applies whether or not any injury is caused to a person or animal by the dog's attack or bite.

17 Procedure concerning securing or seizure of dog that has attacked or bitten

- (1) A person who seizes a dog under the authority of section 16 (2) is not required to comply with section 59 (Seized animals to be taken to council pound) if the person delivers the dog to its owner or to an authorised officer.
- (2) An authorised officer who secures or seizes a dog on land that the authorised officer has reason to believe is land occupied by the dog's owner must, before leaving that land, prepare a notice setting out:
 - (a) the reasons why the dog has been secured or seized, and
 - (b) the method by which the dog has been secured, or the place to which it has been taken, as the case may be.
- (3) The notice must be left:
 - (a) in a conspicuous place on the land, or
 - (b) with a person (being a person apparently above the age of 16 years) who appears to be an occupier of the land.

- No. 15 Page 17, clause 17 (1) (c), line 1. Omit "or urinates".
- No. 16 Page 17, clause 17 (1) (d), line 5. Insert "and, in relation to an animal, otherwise than in the course of droving, tending, working or protecting stock" after "vermin".
- No. 17 Page 17, clause 17 (1) (e), line 7. Insert "and, in relation to an animal, otherwise than in the course of droving, tending, working or protecting stock" after "vermin".
- No. 18 Page 17, clause 17 (1) (f), line 8. Omit all words on that line.
- No. 19 Page 17, clause 17 (1) (g), line 9. Omit "damages". Insert instead "causes substantial damage to".
- No. 20 Page 17, clause 18. Insert after line 33:
- (3) However, subsection (2) does not authorise the seizure of, injury to or destruction of a dog that is engaged in the droving, tending, working or protection of stock unless the action is reasonable and necessary for the protection of a person from injury or death.
- No. 21 Page 18, clause 18 (6) (b), line 24. Insert "returned to its owner or" after "to be".
- No. 22 Page 18, clause 18. Insert after line 26:
- (7) An authorised officer is not to give a direction under this section for the purpose of causing a dog to be taken to a council pound unless the authorised officer is satisfied that the owner of the dog cannot be identified.

No. 23 Page 19, clause 19 (3) (a), line 28. Omit all words on that line.

No. 24 Page 20. Insert after line 11:

20 Appeal against disqualification from owning dog

- (1) A person against whom an order disqualifying the person from owning a dog is made under section 19 may appeal to the District Court, in accordance with the rules of that Court, against the order.
- (2) An appeal may be made only within 28 days after the date on which the order is made.
- (3) An appeal that is duly lodged operates to stay the order of disqualification pending the determination of the appeal.
- (4) The District Court has jurisdiction to hear and determine an appeal made under this section.

No. 25 Page 20, clause 20 (1) (a), line 15. Insert "or attacking" after "wounding".

No. 26 Page 21, clause 21, line 2. Insert "or attacking" after "wounding".

No. 27 Page 21, clause 21, lines 5 and 6. Omit "wounding, the wounding". Insert instead "wounding or attack, the wounding or attack".

No. 28 Page 21, clause 22 (2). Insert after line 20:

- (b) a dog attacking or chasing another animal in the course of droving, tending, working or protecting stock, or

No. 29 Page 23, clause 24, lines 2 to 22. Omit the clause. Insert instead:

24 Cat to wear form of identification

- (1) A cat must wear a form of identification that enables a local authority to ascertain the following information:
 - (a) the name of the cat and the address or telephone number of the owner of the cat,
 - (b) (once the cat is registered) the information contained on the current registration tag for the cat.
- (2) The identification may take any of the following forms:
 - (a) a collar worn around the cat's neck with a tag or tags attached,
 - (b) a microchip,
 - (c) any other form of identification prescribed by the regulations.

- (3) The owner of the cat is guilty of an offence if this section is not complied with.

Maximum penalty: 5 penalty units.

- (4) This section does not affect the operation of section 6.

- (5) This section does not apply to:

- (a) a cat on property of which the owner of the cat is the occupier, or
- (b) a cat being exhibited for show purposes or proceeding immediately to or from a place at which it will be, or has been, exhibited for show purposes.

No. 30 Page 23, clause 25 (1) (a), lines 25-28. Omit all words on those lines.

No. 31 Page 24, clause 25 (1) (c)-(e), lines 1-19. Omit all words on those lines.

No. 32 Page 24, clause 25 (3), lines 31-36. Omit all words on those lines. Insert instead:

- (3) Any person (including an authorised officer) who finds a cat that is in a place in which cats are prohibited under this section may seize the cat for the cat's own protection.
- (4) If the owner of the cat is present, an authorised officer (but no other person) may seize the cat (whether or not for the cat's own protection), but only if the owner fails to remove the cat from the place when the officer directs the owner to do so.

No. 33 Page 25, clause 25 (5) and (6), lines 4-12. Omit all words on those lines.

No. 34 Page 25, clause 26. Omit the clause.

No. 35 Page 25, clause 27 (1), lines 31-35. Omit all words on those lines.

No. 36 Page 26, clause 28, line 20. Omit "**and property**".

No. 37 Page 27, clause 28 (5) (b), line 13. Insert "returned to its owner or" after "to be".

No. 38 Page 27, clause 28. Insert after line 15:

- (6) An authorised officer is not to give a direction under this section for the purpose of causing a cat to be taken to a council pound unless the authorised officer is satisfied that the owner of the cat cannot be identified.

No. 39 Pages 27 and 28, clause 29. Omit the clause.

No. 40 Page 36, clause 48. Insert after line 6:

- (b) The dog must not at any time be in sole charge of a person under the age of 18 years.

- No. 41 Page 36, clause 48 (1) (b), lines 8 and 9. Omit "under effective control so as to prevent it from attacking or chasing any person or animal". Insert instead "in a child-proof enclosure".
- No. 42 Page 36, clause 48. Insert after line 39:
- (g) The dog must not be sold to a person under the age of 18 years.
- No. 43 Page 37, clause 48 (1) (g), lines 1-13. Omit all words on those lines. Insert instead:
- (g) The owner must notify the council of the area in which the dog is ordinarily kept of the following matters within the time specified in relation to each of those matters:
- (i) that the dog (with or without provocation) has attacked or injured a person or animal (other than vermin) - notice to be given within 24 hours after the attack or injury,
- (ii) that the dog cannot be found - notice to be given within 24 hours after the dog's absence is first noticed,
- (iii) that the dog has died - notice to be given as soon as practicable after the death,
- (iv) that the ownership of the dog has changed - notice to be given within 24 hours after the change of ownership,
- (v) that the dog is no longer being ordinarily kept in the area of the council - notice to be given as soon as practicable after the change of location,
- (vi) that the dog is being ordinarily kept at a different location in the area of the council - notice to be given as soon as practicable after the change of location.
- No. 44 Page 39, clause 53 (1) (a), lines 14 and 15. Omit "under effective control so as to prevent it from attacking or chasing any person or animal". Insert instead "in a child-proof enclosure".
- No. 45 Page 39, clause 53. Insert after line 15:
- (b) The dog must not at any time be in the sole charge of a person under the age of 18 years.
- No. 46 Page 40, clause 53. Insert after line 4:
- (e) The dog must not be sold to a person under the age of 18 years.

- No. 47 Page 40, clause 53 (1) (e), lines 5 to 17. Omit all words on those lines. Insert instead:
- (e) The owner must notify the council of the area in which the dog is ordinarily kept of the following matters within the time specified in relation to each of those matters:
 - (i) that the dog (with or without provocation) has attacked or injured a person or animal (other than vermin) - notice to be given within 24 hours after the attack or injury,
 - (ii) that the dog cannot be found - notice to be given within 24 hours after the dog's absence is first noticed,
 - (iii) that the dog has died - notice to be given as soon as practicable after the death,
 - (iv) that the ownership of the dog has changed - notice to be given within 24 hours after the change of ownership,
 - (v) that the dog is no longer being ordinarily kept in the area of the council - notice to be given as soon as practicable after the change of location,
 - (vi) that the dog is being ordinarily kept at a different location in the area of the council - notice to be given as soon as practicable after the change of location.
- No. 48 Page 44, clause 59, line 3. Omit **"Seized animals to be taken to council pound"**. Insert instead **"Seized animals to be returned to owner or taken to council pound"**.
- No. 49 Page 44, clause 59, line 6. Insert "to its owner if the owner can be identified or otherwise" after "as soon as possible".
- No. 50 Page 44, clause 59, lines 8 and 9. Omit "(being a place provided by the council for the holding of animals seized under this Act)".
- No. 51 Page 44, clause 59. Insert after line 9:
- (2) A person who seizes an animal and does not comply with the requirements of this section is guilty of an offence.
- Maximum penalty: 20 penalty units.
- No. 52 Page 44, clause 60 (1), lines 13 and 14. Omit "from reasonable inquiries made by the person". Insert instead "from the best endeavours of the person in charge to establish who the owner is".
- No. 53 Page 44, clause 60 (1), line 15. Omit "reasonable inquiries". Insert instead "best endeavours".

No. 54 Page 44, clause 60 (2), lines 17-20. Omit all words on those lines. Insert instead:

(2) Without limiting the requirement that the person in charge of a pound use his or her best endeavours to establish who the owner of an animal is, the person must make the following inquiries:

(a) inquiries to determine whether the animal is registered or identified as required by this Act and, if so, a search of the Register to

No. 55 Page 46, clause 63, lines 6 to 27. Omit the clause. Insert instead:

63 Owner not entitled to compensation for sale of animal

(1) A council that sells an animal under this Part may transfer the proceeds of sale to such of its funds as it considers appropriate. The money then becomes the property of the council.

(2) A person who claims to be the owner of an animal sold by a council under this Part is not entitled to any compensation for the sale.

(3) If the proceeds of sale of an animal are less than the release fees and maintenance charges determined by the council under this Part (together with any expenses reasonably incurred by the council in selling the animal), the council is entitled to recover from the person who was the owner of the animal at the time it was seized the whole or part of the difference between the proceeds of the sale and the amount of those fees, charges and expenses.

No. 56 Page 47, clause 65 (1), line 6. Omit "20 penalty units". Insert instead "5 penalty units".

No. 57 Page 53, clause 76. Insert after line 28:

(3) Of the members holding office under subsection (1) (d) from time to time, no fewer than the number of members specified in subsection (4) as the minimum animal welfare organisation membership must be members appointed on the nomination of organisations that the Minister considers to be recognised animal welfare organisations. Each such member must be appointed on the nomination of a different organisation, unless subsection (5) applies.

(4) The minimum animal welfare organisation membership is:

(a) 1 member, for a membership under subsection (1) (d) of from 2 to 5 members, or

(b) 2 members, for a membership under subsection (1) (d) of from 6 to 8 members, or

(c) 3 members, for a membership under subsection (1)
(d) of 9 members.

(5) If, for the purposes of subsection (3), a sufficient number of nominations of persons for appointment as members is not duly made within the time and in the manner specified by the Minister in a notice published in the Gazette calling for nominations, the Minister may appoint, in addition to any persons nominated, as many persons (being persons referred to in subsection (1) (d)) as are necessary to cure the deficiency.
