

Passed by both Houses



New South Wales

Companion Animals Amendment Bill 2001

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2001*



New South Wales

Companion Animals Amendment Bill 2001

Act No , 2001

An Act to amend the *Companion Animals Act 1998* in relation to dangerous dogs and to make further provision with respect to the control, registration and identification of companion animals; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Companion Animals Amendment Act 2001*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Companion Animals Act 1998 No 87

The *Companion Animals Act 1998* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 5 Definitions

Omit the definition of *compulsory identification* from section 5 (1) (and the note following the definition).

[2] Section 5 (1)

Insert in alphabetical order:

identified companion animal means a companion animal that is identified as referred to in section 70 (1).

[3] Section 7 Meaning of “owner”

Omit the second sentence of the note following section 7 (2).

[4] Section 7 (3)

Omit the subsection.

[5] Sections 10A and 10B

Insert after section 10:

10A Unregistered companion animal

The owner of an unregistered companion animal that is required to be registered is guilty of an offence on each occasion the animal is in a place other than where it is ordinarily kept.

Maximum penalty:

- (a) 2 penalty units except in the case of a dangerous or restricted dog, or
- (b) 5 penalty units in the case of a dangerous or restricted dog.

10B Notice requiring companion animal to be registered

- (1) If a companion animal that is required to be registered is not registered, the council of the area in which the animal is ordinarily kept may give the owner of the animal a notice, in the form approved by the Director-General, requiring the owner to register the animal within 28 days after the date the notice is given.
- (2) The owner of the companion animal must comply with the notice.
Maximum penalty:
 - (a) 2 penalty units except in the case of a dangerous or restricted dog, or
 - (b) 5 penalty units in the case of a dangerous or restricted dog.
- (3) A notice under this section may be given on more than one occasion to the owner of an unregistered companion animal that is required to be registered (but only after an interval of at least 6 months since the last such notice was given).

[6] Section 11 Owner required to notify certain changes and events

Omit “a registered companion animal” from section 11 (1).
Inset instead “an identified companion animal (whether or not it is registered)”.

[7] Part 3, heading

Omit “of owners”. Insert instead “for control”.

[8] Section 13 Responsibilities while dog in public place

Omit section 13 (2). Insert instead:

- (2) If this section is contravened:
 - (a) the owner of the dog, or
 - (b) if the owner is not present at the time of the offence and another person who is of or above the age of 16 years is in charge of the dog at that time—that other person,
is guilty of an offence.

Maximum penalty:

- (a) 5 penalty units except in the case of a dangerous or restricted dog, or
- (b) 20 penalty units in the case of a dangerous or restricted dog.

[9] Section 13 (3)

Insert “A reference in this subsection to the owner of the dog includes a reference to the person who is for the time being in charge of the dog.” after “contravention.”.

[10] Section 14 Dogs prohibited in some public places

Omit section 14 (2). Insert instead:

- (2) If a dog is found in a place in which dogs are prohibited under this section:
 - (a) the owner of the dog, or
 - (b) if the owner is not present at the time of the offence and another person who is of or above the age of 16 years is in charge of the dog at that time—that other person,is guilty of an offence.

Maximum penalty:

- (a) 5 penalty units except in the case of a dangerous or restricted dog, or
- (b) 20 penalty units in the case of a dangerous or restricted dog.

[11] Section 14 (3)

Insert “A reference in this subsection to the owner of the dog includes a reference to the person who is for the time being in charge of the dog.” after “so.”.

[12] Section 15 Greyhounds and other breeds to be muzzled

Omit section 15 (2). Insert instead:

- (2) If this section is contravened:
 - (a) the owner of the greyhound or other dog, or
-

- (b) if the owner is not present at the time of the offence and another person who is of or above the age of 16 years is in charge of the greyhound or other dog at that time—that other person,

is guilty of an offence.

Maximum penalty: 5 penalty units.

[13] Section 16 Offences where dog attacks person or animal

Omit section 16 (1). Insert instead:

- (1) If a dog rushes at, attacks, bites, harasses or chases any person or animal (other than vermin), whether or not any injury is caused to the person or animal:

- (a) the owner of the dog, or

- (b) if the owner is not present at the time of the offence and another person who is of or above the age of 16 years is in charge of the dog at that time—that other person,

is guilty of an offence.

Maximum penalty:

- (a) 10 penalty units except in the case of a dangerous or restricted dog, or

- (b) 100 penalty units in the case of a dangerous or restricted dog.

[14] Section 16 (1A)

Insert after section 16 (1):

(1A) The owner of a dangerous dog is guilty of an offence if:

- (a) the dog attacks or bites any person (whether or not any injury is caused to the person), and

- (b) the incident occurs as a result of the owner's failure to comply with any one or more of the requirements of section 51 in relation to the dog.

Maximum penalty: 200 penalty units or imprisonment for 2 years, or both.

[15] Section 17 Dog must not be encouraged to attack

Omit section 17 (1) (b). Insert instead:

- (b) 100 penalty units or 6 months imprisonment, or both, in the case of a dangerous or restricted dog (except in the circumstances referred to in paragraph (c)), or
- (c) 200 penalty units or imprisonment for 2 years, or both, in the case of a dangerous or restricted dog that has attacked or bitten a person.

[16] Section 18 Dog that has attacked or bitten may be secured or seized

Omit section 18 (3) (b). Insert instead:

- (b) is under the effective control of its owner or other person for the time being in charge of the dog (unless the owner or other person set on or urged the dog to attack or bite the animal concerned).

[17] Section 20 Dogs defecating in public place

Omit section 20 (1). Insert instead:

- (1) If a dog defecates in a public place:
 - (a) the owner of the dog, or
 - (b) if the owner is not present at the relevant time and another person who is of or above the age of 16 years is in charge of the dog at that time—that other person,must immediately remove the dog's faeces and properly dispose of them.

Maximum penalty: 5 penalty units.

[18] Section 23 Disqualification from owning dog

Omit section 23 (1). Insert instead:

- (1) A person who is convicted of any of the following offences is permanently disqualified from owning a dog:
 - (a) an offence under section 16 (1A),

- (b) an offence under section 17 where the dog concerned was a dangerous or restricted dog at the time of the offence,
- (c) an offence under section 35A of the *Crimes Act 1900*.

[19] Section 23 (2) (b)

Omit the paragraph. Insert instead:

- (b) section 16 (1),

[20] Part 4, heading

Omit “of owners”. Insert instead “for control”.

[21] Section 30 Cats prohibited in some public places

Omit section 30 (2). Insert instead:

- (2) If a cat is found in a place in which cats are prohibited under this section:
 - (a) the owner of the cat, or
 - (b) if the owner is not present at the time of the offence and another person who is of or above the age of 16 years is in charge of the cat at that time—that other person,is guilty of an offence.
Maximum penalty: 5 penalty units.

[22] Section 30 (4)

Insert “A reference in this subsection to the owner of the cat includes a reference to the person who is for the time being in charge of the cat.” after “so.”.

[23] Section 47 Control orders

Omit section 47 (2) (a). Insert instead:

- (a) in proceedings for an offence under section 16, 17, 49, or 51 of this Act, or under section 35A of the *Crimes Act 1900*,

[24] Section 48 Destruction orders

Omit section 48 (2) (a). Insert instead:

- (a) on conviction of the owner of the dog of an offence under section 35A of the *Crimes Act 1900*, or under section 16, 17, 49 or 51 of this Act,

[25] Section 51 Owner of dangerous dog must comply with control requirements

Omit section 51 (1) (a). Insert instead:

- (a) The dog must be desexed (if it is not already desexed) within 28 days after it is declared a dangerous dog. If the owner appeals against the declaration, the operation of this paragraph is stayed until the appeal is either withdrawn or determined.

[26] Section 51 (1) (k)

Insert after section 51 (1) (j):

- (k) The dog must, regardless of its age, be registered under this Act (if not already so registered) within 7 days after it is declared a dangerous dog.

[27] Section 51 (1), note

Omit “Section 9” from the note. Insert instead “Section 11”.

[28] Section 52 Dangerous dog can be seized if owner cannot comply with control requirements

Insert “of the council of the area in which the dog is ordinarily kept” after “authorised officer” in section 52 (3).

[29] Section 56 Owner of restricted dog must comply with control requirements

Insert after section 56 (1) (g):

- (h) The dog must, if more than 6 months old, be registered under this Act if not already so registered.

[30] Section 57 Restricted dog can be seized if owner cannot comply with control requirements

Insert “of the council of the area in which the dog is ordinarily kept” after “authorised officer” in section 57 (3).

[31] Section 64 Unclaimed animals can be sold or destroyed

Omit section 64 (1). Insert instead:

- (1) If a seized animal has not been claimed, the council may sell or destroy the animal:
 - (a) if the required seizure notice has been given—after the period of 14 days following the giving of the notice, or
 - (b) if such a notice is not required to be given—after the period of 7 days following the delivery of the animal to the pound.

[32] Section 70 Identification

Omit section 70 (1). Insert instead:

- (1) The regulations may make provision for the identification of companion animals:
 - (a) for the purposes of section 8, or
 - (b) otherwise than for the purposes of that section.

[33] Section 70 (2) (a)

Omit “required to be”.

[34] Section 70 (2) (b) and (c)

Omit “compulsory” wherever occurring.

[35] Section 75 Access to Register

Omit section 75 (4) and (5). Insert instead:

- (4) The Director-General may give different degrees of access to the Register to different classes of authorised persons, having regard to the different functions that they perform.

[36] Section 76 Offence of interfering with identification of animal

Omit “compulsory” from section 76 (1).

[37] Section 89

Omit the section. Insert instead:

89 Confidentiality of certain information

(1) In this section:

confidential information means:

- (a) any information contained in, or acquired from, the Register, or
- (b) any other information obtained in connection with the enforcement or administration of this Act or the regulations.

Note. Examples of information obtained in connection with the enforcement or administration of this Act include information relating to identification of companion animals and their owners that is collected by authorised identifiers such as veterinary surgeons, and information gathered by authorised officers in the course of their enforcement functions.

(2) A person must not:

- (a) access or attempt to access confidential information, or
- (b) allow a person to have access to confidential information, or
- (c) directly or indirectly make a record of confidential information, or
- (d) directly or indirectly disclose or pass confidential information to any person, or
- (e) use confidential information, or
- (f) alter, delete, destroy or interfere with any record comprising confidential information, or
- (g) make any entry in the Register.

Maximum penalty:

- (a) 25 penalty units except in the case of confidential information that is suppressed, or

- (b) 100 penalty units in the case of confidential information that is suppressed.
- (3) For the purposes of subsection (2), confidential information is *suppressed* if:
 - (a) the information contains the personal details of a person who is the owner of a companion animal, and
 - (b) the information is entered in the Register, and
 - (c) the person has requested the Director-General to keep the information confidential, and
 - (d) the Director-General is satisfied that the request is made because the person is concerned that disclosure of the information could jeopardise the safety of the person or any member of the person's family, and
 - (e) it is indicated in the Register that the information is suppressed.
- (4) It is not an offence under this section for a person to do anything referred to in subsection (2) (a)–(g):
 - (a) for the purposes of, or in connection with, the lawful exercise of functions under the Act, or
 - (b) as authorised or required by or under section 75, or
 - (c) as authorised or directed by the Director-General, or
 - (d) for the purposes of listing the identification or registration information in respect of a companion animal on a database that is of a class prescribed by the regulations, but only if the owner of the companion animal has expressly consented to that information being so listed.
- (5) It is not an offence under this section for a person to disclose confidential information if the person is required to do so by law.
- (6) This section does not apply to the disclosure of confidential information to any of the following:
 - (a) the Independent Commission Against Corruption,
 - (b) the National Crime Authority,
 - (c) the New South Wales Crime Commission,

- (d) the Ombudsman,
 - (e) any other person or body prescribed for the purposes of this subsection.
- (7) This section does not apply to the disclosure of the name of the owner of a companion animal to a person who seeks that information for the purpose of bringing legal proceedings against the owner in respect of the animal's behaviour, but only if:
- (a) the person has requested the disclosure of that information in writing, and
 - (b) the animal's behaviour concerned has been reported to a police officer or a council.
- (8) In subsection (7), *person* includes the person's legal representative.

[38] Schedule 3 Savings and transitional provisions

Insert at the end of clause 1 (1):

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