

DOG (AMENDMENT) BILL, 1981

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Local Government (Dog) Amendment Bill, 1981, is cognate with this Bill.

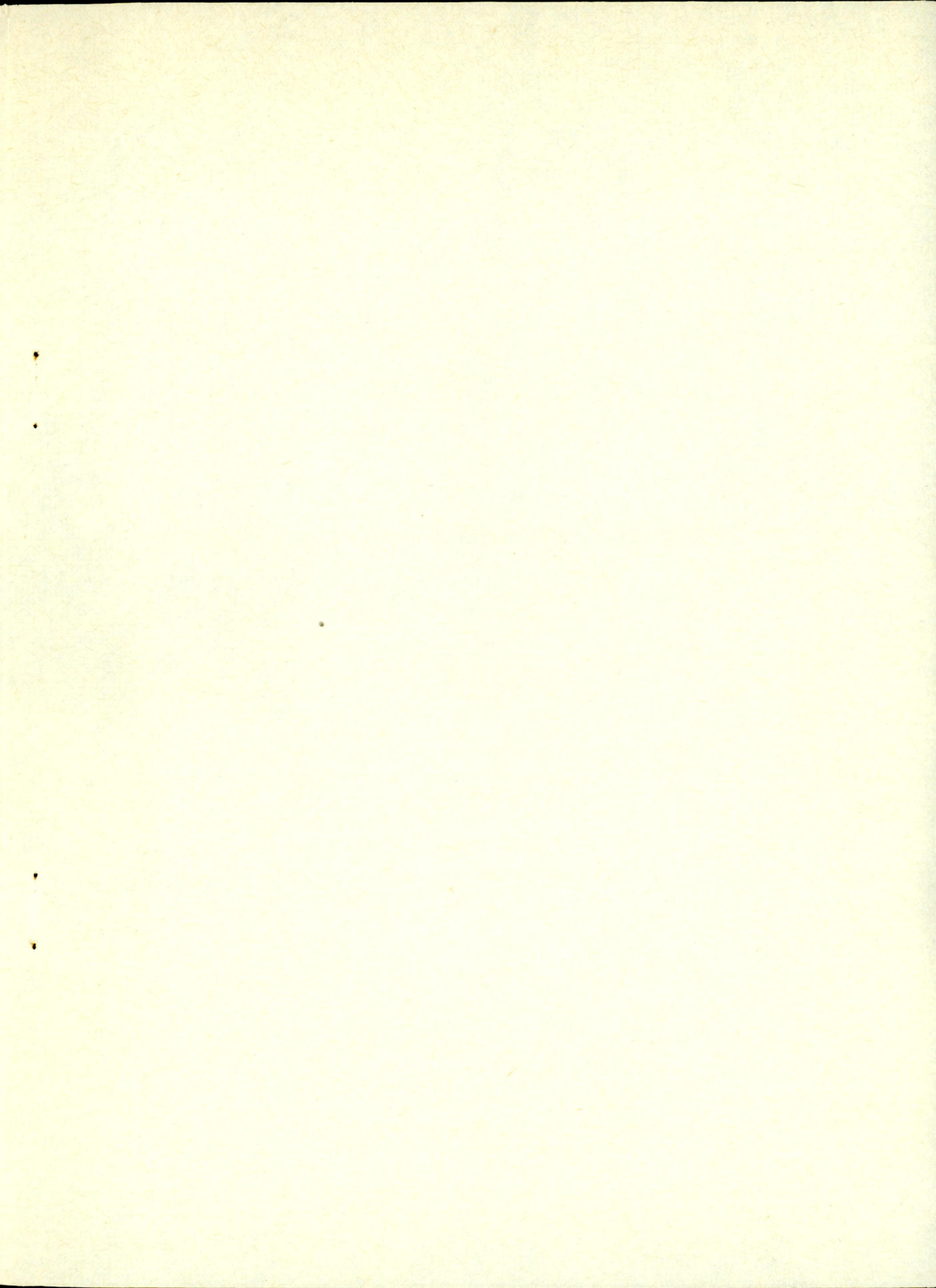
The object of this Bill is to amend the Dog Act, 1966 ("the Principal Act"),
so as—

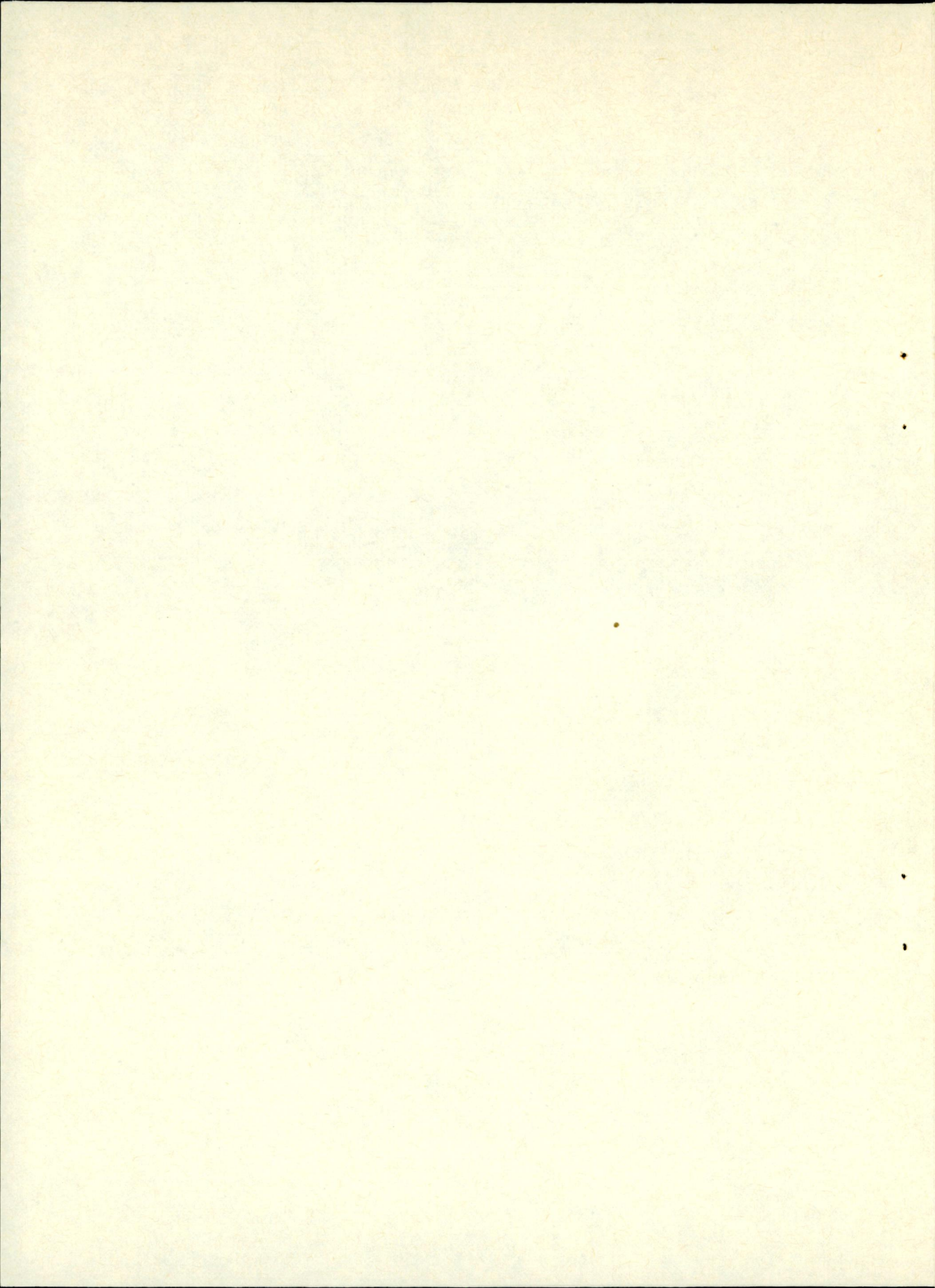
- (a) to provide that a person who ordinarily keeps a dog, a person who is the occupier of land or premises on which a dog is ordinarily kept or the person who is the registered owner of a dog (but not more than any one of those persons) can be prosecuted or sued, as the case may require, in respect of an offence or action arising under the Principal Act (Schedule 1 (2) (b), (f));
- (b) to allow a court, where it convicts the owner of a dog which has attacked or caused injury to a person or animal, to order the owner to destroy the dog or cause the dog to be destroyed or to take such other action as the court thinks necessary to prevent, or reduce the likelihood of, the dog attacking or causing injury to persons or animals (Schedule 1 (4));
- (c) to provide that, except in certain prescribed circumstances, the owner of a dog which is in or on a public place and is not under the effective control of some competent person by means of a chain, cord or leash shall be guilty of an offence (Schedule 1 (6) (proposed section 8));
- (d) subject to certain exceptions, to prohibit dogs from entering public bathing areas, schoolgrounds, children's playgrounds, areas provided or set apart for the preparation or consumption of food, shopping arcades and shopping complexes by providing that the owner of a dog which is in or on any such area shall be guilty of an offence (Schedule 1 (6) (proposed section 9));
- (e) to provide that the owner of a dog which defecates in or on a pathway or any part of a road (other than the carriageway of the road), or in or on any other public place to which a council applies the provision, shall be guilty of an offence unless the faeces are immediately removed and properly disposed of (Schedule 1 (6) (proposed section 9B));

- (f) to insert in the Principal Act provisions similar to the provisions of ordinances under the Local Government Act, 1919, relating to the leading or exercising of greyhounds in or on roads (the provisions of the Local Government Act, 1919, authorising the making of such ordinances are to be repealed) (Schedule 1 (6) (proposed section 9c));
- (g) to make it an offence to rescue a dog that has been seized (or impounded) under the Principal Act (Schedule 1 (7) (b));
- (h) to allow a council to determine the charges payable for the maintenance of dogs seized under the Principal Act (Schedule 1 (8) (c), (e), (f));
- (i) to make provision for the recovery of maintenance charges where a dog is sold or destroyed by a council under the Principal Act (Schedule 1 (8) (e));
- (j) to ensure that any person who is registered as the owner of a dog is legally responsible, that is, of or over the age of 18 years (or is a corporation), and, for this purpose, to require the nomination and consent of such a person at the time of registration of a dog (Schedule 1 (10) (a));
- (k) to allow councils to determine the registration fees applicable in their areas (subject to a limit to be prescribed by regulation) (Schedule 1 (10) (a), (18) (a));
- (l) to provide that the registration fee for a desexed dog or bitch shall be one-third of the general registration fee (Schedule 1 (10) (a));
- (m) to make further provisions relating to the admission of completely or partially blind persons accompanied by guide dogs to places open to or used by the public, in particular to provide that—
 - (i) admission shall not be refused without reasonable cause and a defence related to the presence of the dog cannot be availed of (Schedule 1 (13) (b)–(d)); and
 - (ii) additional charges shall not be imposed on such persons unless it was reasonably necessary to supply additional accommodation for a dog or additional expenses were reasonably incurred because of the presence of a dog (Schedule 1 (13) (d)–(f) (proposed section 17A (2B), (2C), (3A)–(3C)));
- (n) to remove the limit of \$100 on the amount of compensation that a court may order to be paid by a person who has illegally sold or destroyed a dog (Schedule 1 (15)); and
- (o) to increase the penalties for offences against the Principal Act (Schedule 2).

The Bill also contains—

- (a) a savings provision (clause 6); and
 - (b) amendments to the Principal Act by way of statute law revision (Schedule 3), and other amendments of a minor, consequential or ancillary nature.
-





DOG (AMENDMENT) BILL, 1981

No. , 1981.

A BILL FOR

An Act to amend the Dog Act, 1966, to make further provisions with respect to the control and registration of dogs, to increase penalties, and in certain other respects.

[MR JENSEN—27 *November*, 1980.]

See also Local Government (Dog) Amendment Bill, 1981.

Dog (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 Short title.

1. This Act may be cited as the "Dog (Amendment) Act, 1981".

Commencement.

2. (1) Except as provided in subsections (2) and (3), this
10 Act shall commence on the date of assent to this Act.

(2) The several provisions of Schedules 1 and 2 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 (3) Section 5 shall, in its application to a provision of Schedules 1-3, commence on the day on which that provision commences.

Principal Act.

3. The Dog Act, 1966, is referred to in this Act as the
20 Principal Act.

Schedules.

4. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

25 SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO PENALTIES.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT BY
WAY OF STATUTE LAW REVISION.

Dog (Amendment).

Amendment of Act No. 2, 1966.

5. The Principal Act is amended in the manner set forth in Schedules 1-3.

Savings.

- 5 6. An amendment made to a provision of the Principal Act by section 5 and Schedule 2 does not affect any penalty which may be imposed in respect of an offence committed against that provision before the commencement of that amendment.

SCHEDULE 1.

(Sec. 5.)

10

AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 2, matter relating to Part II—
Omit "9", insert instead "9C".

15

- (2) (a) Section 4 (1), definition of "Alsatian dog"—
Omit the definition.

20

- (b) Section 4 (1), definition of "Owner"—

After the definition of "Municipality", insert :—

"Owner", in relation to a dog, means (whether or not the dog is a registered dog), the person by whom the dog is ordinarily kept and includes—

25

- (a) where the dog (whether or not it is a registered dog) is, at any particular time, ordinarily kept on any land or on any premises, the person who is the occupier of that land or those premises at that time; and

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5

(b) where the dog is, at any particular time, a registered dog, the person recorded under section 16 as the registered owner of the dog at that time.

(c) Section 4 (1), definition of "Public place"—

In paragraph (a), after "any", insert "pathway,".

10

(d) Section 4 (1), definition of "Registered owner"—

After the definition of "Registered dog", insert :—

15

"Registered owner", in relation to a dog, means a person nominated as the registered owner of the dog for the purposes of this Act and recorded as the registered owner of the dog under section 16.

(e) Section 4 (1), definition of "Road"—

After the definition of "Regulations", insert :—

20

"Road" means the whole of a road, including the footways, the carriageway, any bridge and any gardens, reserves and the like.

(f) Section 4 (2), (2A), (2B)—

Omit section 4 (2), insert instead :—

25

(2) A reference in this Act to the owner of a dog or to the owner of a registered dog is, except where otherwise expressly provided, a reference to any person who is an owner of the dog.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2A) In any prosecution of, or action against, the owner of a dog arising under this Act—

- 5 (a) where a person is the occupier of any land or premises on which the dog is ordinarily kept at any particular time, he shall not be treated, by virtue of paragraph (a) of the definition of "Owner" in subsection (1), as being the owner of the dog at that time if he satisfies the court that at that time the dog is ordinarily kept by some other person of or over the age of 18 years; or
- 10
- 15 (b) where a person is recorded under section 16 as the registered owner of a dog at any particular time, he shall not be treated, by virtue of paragraph (b) of the definition of "Owner" in subsection (1), as being the owner of the dog at that time if he satisfies the court that at that time the person who made the application or gave the notice by virtue of which that person became so recorded has ceased to be the owner of the dog.
- 20

25 (2B) In any prosecution of the owner of a dog in respect of an offence against this Act it shall be a sufficient defence if the defendant proves that—

- 30 (a) another owner of the dog has been convicted of an offence arising out of the same circumstances; or
- 35 (b) the commission by another owner of the dog of an offence arising out of the same circumstances has been proved but a court has made an order under section 556A of the Crimes Act, 1900, in respect of the offence.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(g) Section 4 (3)—

5 Omit “Notwithstanding the provisions of subsection (2)”, insert instead “For the purposes of the definition of “Owner” (paragraph (b) excepted) in subsection (1),”.

(h) Section 4 (5)—

After section 4 (4), insert :—

10 (5) A reference in this Act to an adequate chain, cord or leash, is, in relation to a dog of a species, kind or class in respect of which a type of chain, cord or leash has been prescribed, a reference to that type of chain, cord or leash.

15 (3) (a) Section 5 (1) (d), (d1), (d2)—

Omit section 5 (1) (d), insert instead :—

20 (d) who fails, within 14 days after becoming the owner of a registered dog (that owner not being a person referred to in paragraph (b) of the definition of “Owner” in section 4 (1)), to give notice, in or to the effect of the prescribed form, to the registration clerk for the area in which the dog is registered under this Act and, where the dog is intended to be
25 ordinarily kept in another area, to the registration clerk for that other area that the person has become, and of the date on which he became, such an owner of the dog;

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (d1) who fails to include in or lodge with a notice required under paragraph (d) to be given by him to the registration clerk for the area in which a dog is intended to be ordinarily kept a nomination of one person (being, subject to subsection (1A), the person required to give the notice or some other person) as the person
10 to be the registered owner of the dog for the purposes of this Act;

15 (d2) who, being an owner (as defined in subsection (1B)) of a registered dog, fails, within 14 days after his ceasing to be such an owner, to give notice, in or to the effect of the prescribed form, to the registration clerk for the area in which the dog is registered under
20 this Act of the date that he ceased to be the owner of the dog and of the name and address of the person who appears to him to be the person by whom the dog is intended to be ordinarily kept;

(b) Section 5 (1A), (1B)—

After section 5 (1), insert :—

25 (1A) A nomination of a person as the person to be the registered owner of a dog as referred to in subsection (1) (d1) shall be of no effect unless the person nominated—

30 (a) is a person of or over the age of 18 years or is a body corporate; and

(b) has, where he or it is not the person giving notice under subsection (1) (d) in respect of the dog, consented in writing to his or

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 its being nominated as the person to be the registered owner of the dog for the purposes of this Act.

(1B) In subsection (1) (d2), “owner”, in relation to a dog, means the person for the time being recorded under section 16 (2) (a) as the owner of the dog.

(c) Section 5 (4) (a)—

10 Omit “paragraph (a), (b), (c) or (d) of subsection (1)”, insert instead “subsection (1) (a), (b), (c), (d), (d1) or (d2)”.

(4) Section 6—

Omit the section, insert instead :—

15 **Dogs attacking or injuring persons or animals.**

6. (1) The owner of a dog that attacks or causes injury to a person or animal shall be guilty of an offence against this Act and liable to a penalty not exceeding \$200.

20 (2) Subsection (1) does not apply if the attack or injury by the dog—

(a) occurs on any land, vehicle or premises—

(i) of which the owner of the dog is an occupier; or

(ii) on which the dog is ordinarily kept;

25 (b) is in immediate response to, and is wholly induced by, intentional cruelty to, or intentional provocation of, the dog by a person other than the owner of the dog, his servants or his agents; or

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (c) is on or to an animal in immediate response to,
and is wholly induced by, an attack on the dog
made by the animal.

(3) Where—

- 10 (a) the owner of a dog is convicted before a court of
an offence referred to in subsection (1); or
- (b) the commission by the owner of a dog of an
offence referred to in subsection (1) has been
proved but a court has made an order under
section 556A of the Crimes Act, 1900, in respect
of that offence,

the court may—

- 15 (c) order that owner to destroy that dog or cause
that dog to be destroyed;
- (d) order that dog to be destroyed by some person
authorised by the court; or
- 20 (e) order that owner to take such other action as
the court directs, being action which is, in the
opinion of the court, necessary to prevent, or
reduce the likelihood of, that dog attacking or
causing injury to persons or animals,

25 within such period as is specified in the order, and may,
where it makes an order under paragraph (d), order that
owner to take, within such period as is specified in the
order, such action as is, in the opinion of the court, neces-
sary to enable the order made under paragraph (d) to be
carried out (including an order for the payment of any
30 costs incurred).

(4) A person authorised to destroy a dog pursuant
to subsection (3) (d) may destroy that dog.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (5) A person who neglects or fails to comply with an order under subsection (3) (paragraph (d) excepted) shall be guilty of an offence against this Act and liable to a penalty not exceeding \$200.

(5) Section 7 (2) (a)—

Omit the paragraph, insert instead :—

(a) while it is on any land, vehicle or premises—

10 (i) of which the owner of the dog is an occupier; or

(ii) on which the dog is ordinarily kept; or

(6) Sections 8, 9, 9A, 9B, 9C—

Omit sections 8 and 9, insert instead :—

15 **Control of Dogs.**

8. (1) The owner of a dog shall, if the dog is in or on a public place and is not under the effective control of some competent person by means of an adequate chain, cord or leash, be guilty of an offence against this Act and
20 liable to a penalty not exceeding \$100.

(2) Without limiting the generality of subsection (1), a greyhound shall, for the purposes of that subsection, be deemed not to be under the effective control of a person if it is 1 of more than 4 greyhounds under the control of
25 that person at the one time.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (3) Subsection (1) does not apply to a dog—
- (a) while it is being exhibited for show purposes;
 - (b) while it is participating in an obedience trial; or
 - (c) while it is engaged in the driving of animals,
- and is under the effective control of some competent person.
- (4) Subsection (1) does not apply—
- 10 (a) to a dog in or on a public place or part of a public place within the area of a council, being a public place or part of a public place for the time being declared by the council by order to
- 15 be a public place or part of a public place to which subsection (1) does not apply; or
- (b) in such circumstances as may be prescribed.
- (5) A prosecution for an offence against this section shall not be instituted except by—
- 20 (a) the council of the area in which the offence occurred or a person authorised by it; or
- (b) a member of the police force.
- (6) A council may make orders for the purposes of subsection (4) (a).

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.***Dogs prohibited from entering certain places.**

9. (1) In this section—

5 “prohibited place” means any public place or any part
of a public place which is—

- (a) within 10 metres of any playing apparatus provided, in that public place or part, for the use of children;
- 10 (b) within 10 metres of any apparatus provided, in that public place or part, for the preparation of food for human consumption or for the consumption of food by humans; or
- 15 (c) provided or set apart by a council or other public authority for the playing of organised games and—
 - 20 (i) in or on which the council or public authority, as the case may be, has ordered that dogs are prohibited; and
 - 25 (ii) in which, or near the boundaries of which, there are conspicuously exhibited by the council or public authority at reasonable intervals notices to the effect that dogs are prohibited in or on that public place or part;

30 “public bathing area” means any public place or any part of a public place—

- (a) which is used for or in conjunction with public bathing;
- 25 (b) in or on which the council or a public authority having control thereof has ordered that dogs are prohibited; and

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (c) in which, or near the boundaries of which, there are conspicuously exhibited by the council or public authority, as the case may be, at reasonable intervals notices to the effect that dogs are prohibited in or on that public place;

10 “schoolground” means any land occupied or used for a purpose connected with the conduct of a public school or a technical school and any land which belongs to and is occupied or used for a purpose connected with the conduct of a school registered under the Bursary Endowment Act, 1912, or any certified school under the Public Instruction (Amendment) Act, 1916, but does not include any land which is used for a residence or the curtilage of a residence;

20 “shopping area” means a shopping arcade and any part of a shopping complex (of the kind commonly known as a shopping plaza) which is used by the public for parking or access to shops but does not include a part of a shop.

25 (2) The owner of a dog shall, if the dog is in or on a prohibited place, a public bathing area, a schoolground or a shopping area, be guilty of an offence against this Act and liable to a penalty not exceeding \$100.

30 (3) Subsection (2) does not apply to a dog that is in or on a schoolground with the permission of the person controlling the schoolground.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Subsection (2) does not apply to a dog that is in or on a place within a shopping area—

- 5 (a) with the permission of the person controlling the place; or
- (b) for the purpose of taking that dog to or from a pet shop, the premises of a veterinary surgeon or a like establishment.

10 (5) A council or other public authority may make orders and exhibit notices for the purposes of subsection (1).

No double jeopardy under ss. 8 (1) and 9 (2).

15 9A. A person who, but for this section, would be liable to conviction for offences under both sections 8 (1) and 9 (2) in respect of the same matter shall be liable to be convicted in respect of one only of those offences.

Fouling of footpaths, etc.

9B. (1) This section applies—

- 20 (a) to a public place which is a pathway;
- (b) to a public place which is any part of a road, other than the carriageway of the road; and
- (c) in relation to a particular council, to any other public place or any part of a public place—
- 25 (i) which is within the area of that council; and
- (ii) subject to subsection (2), to which that council has, by order, applied this section and in which, or near the boundaries of which, there are conspicuously exhibited
- 30

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 by the council at reasonable intervals
notices to the effect that this section
applies to that public place or part of a
public place.

10 (2) A council shall not, under subsection (1) (c)
(ii), apply this section to the carriageway of a road or
any part of the carriageway of a road and any order to
the extent to which it purports to apply this section to the
carriageway of a road or any part of the carriageway of a
road shall be of no effect.

15 (3) The owner of a dog which defecates in or on
a public place to which this section applies shall be guilty
of an offence against this Act and liable to a penalty not
exceeding \$100.

20 (4) The owner of a dog which defecates in or on
a public place to which this section applies shall not be
convicted of an offence arising under subsection (3) if he
satisfies the court that the faeces were immediately removed
from that public place and properly disposed of or were
properly disposed of within that public place or any other
public place.

25 (5) A council may make orders and exhibit notices
for the purposes of subsection (1) (c) (ii).

Greyhounds in or on roads.

30 9c. (1) A council may, by an order made with the
prior approval of the Minister and published in accordance
with subsection (2), declare that the leading or exercising
of greyhounds in or on roads or parts of roads (being
roads or parts of roads which the public are entitled to
use and which are specified in the order) is prohibited.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (2) Notice of an order made under subsection (1) (including particulars of the roads or parts of roads specified in the order) shall be published in a newspaper circulating in the district in which the roads or parts of roads are situated.

10 (3) The owner of a greyhound that is being led or exercised in or on a road or part of a road to which a prohibition notified under subsection (2) applies shall be guilty of an offence against this Act and liable to a penalty not exceeding \$100.

(7) (a) Section 10 (1)—

Omit the subsection, insert instead :—

15 (1) If, in a municipality or shire—

(a) a dog is found in or on a public place and the dog is not under the effective control of some competent person by means of an adequate chain, cord or leash; or

20 (b) a dog is found on land or within premises of which the owner of the dog is not the occupier and the dog—

25 (i) is on that land or within those premises without the consent of the occupier of that land or those premises; and

(ii) is not under the effective control of some competent person,

30 the dog may be seized by a servant of the council in whose area the dog is found, by a member of the police force or by any other person.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 10 (3)–(5)—

After section 10 (2), insert :—

5 (3) A person who rescues a dog seized under this section or a dog lawfully detained after seizure under this section shall be guilty of an offence against this Act and liable to a penalty not exceeding \$200.

10 (4) A person convicted of an offence under subsection (3) in relation to a dog lawfully detained by a council shall, in addition to any penalty imposed, be liable to pay the charges for the maintenance of the dog while it was detained by the council (being charges determined by the council under section 11 (9) and (10)).

15 (5) Where 2 or more persons are convicted in respect of the one offence under subsection (3), any charges payable under subsection (4) shall, if the court so orders, be payable in full by one of those persons or shall be payable by any or all of those persons in such proportions as the court orders.

(8) (a) Section 11 (2) (a)—

Omit the paragraph, insert instead :—

25 (a) where a registration badge is attached to a collar worn by the dog, to the person, if any, who appears from the records kept by that registration clerk to be the registered owner of the dog; and

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 11 (2) (b)—

5 Omit “(whether or not the dog is registered in the area in which it was seized)”.

(c) Section 11 (3), (5)—

10 Omit “the prescribed charges for its maintenance” wherever occurring, insert instead “the charges for its maintenance while it was detained by the council (being charges determined by the council under subsections (9) and (10))”.

(d) Section 11 (4) (c)—

Omit “the address”, insert instead “his address as”.

(e) Section 11 (6)—

15 Omit “and the prescribed charges for its maintenance while it was detained by the council”, insert instead
20 “, the charges for its maintenance while it was detained by the council (being charges determined by the council under subsections (9) and (10)) and, if the council so resolves, the whole or part of any expenses reasonably incurred by the council in selling the dog”.

(f) Section 11 (7)–(10)—

After section 11 (6), insert :—

25 (7) Where a dog is sold by a council under this section and the proceeds of the sale are insufficient to pay—

(a) the prescribed fees for the release of the dog;

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (b) the charges determined for its maintenance while it was detained by the council (being charges determined by the council under subsections (9) and (10)); and
- 10 (c) if the council resolves that the whole or part of any expenses reasonably incurred by the council in selling the dog should be paid to it, the whole or that part of those expenses,
- 15 the council may recover from the person who was the owner of the dog at the time it was seized the whole or part of the difference between the proceeds of the sale and the total of the amounts referred to in paragraphs (a), (b) and (c).
- (8) Where a dog is destroyed by a council under this section, the council may recover from the person who was the owner of the dog at the time it was seized—
- 20 (a) the charges for its maintenance while it was detained by the council (being charges determined by the council under subsections (9) and (10)); and
- 25 (b) the whole or part of any expenses reasonably incurred by the council in destroying the dog.
- (9) A council may determine the general charges applicable in its area for the maintenance of dogs detained by it under this Act.
- 30 (10) Different charges may be determined under subsection (9) in respect of different species, kinds or classes of dogs.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) Section 13—

5 Omit “occupied by the owner of the dog”, insert instead “of which the owner of the dog is an occupier or on which the dog is ordinarily kept”.

(10) (a) Section 14 (1), (1A), (1B), (1C)—

Omit section 14 (1), insert instead :—

10 (1) An application for the registration of a dog shall—

(a) be made by the owner of the dog or by some person on his behalf;

(b) be made in or to the effect of the prescribed form;

15 (c) include the address of the land or premises on which the dog is intended to be ordinarily kept;

20 (d) subject to subsection (1A), contain a nomination of one person, being the applicant or some other person, as the person to be the registered owner of the dog for the purposes of this Act;

(e) contain any consent required to be obtained under subsection (1A) (b);

25 (f) be accompanied by the registration fee determined or prescribed under subsection (1B); and

30 (g) be lodged with the registration clerk for the area in which the dog is intended to be ordinarily kept.

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (1A) An application under subsection (1) for the registration of a dog shall be of no effect unless the person nominated as referred to in subsection (1) (d)—
- (a) is a person of or over the age of 18 years or is a body corporate; and
- 10 (b) has, where he or it is not the applicant for registration of the dog, consented in writing to his or its being nominated as the person to be the registered owner of the dog for the purposes of this Act.
- (1B) The registration fee for a dog shall be—
- 15 (a) except as provided in paragraph (b), the registration fee (not exceeding an amount prescribed for the purposes of this paragraph) determined by the council of the area in which the dog is intended to be
- 20 ordinarily kept as the general registration fee applicable in that area; or
- (b) where the person applying for registration of the dog—
- 25 (i) lodges with the appropriate registration clerk a statutory declaration, or a certificate signed by a veterinary surgeon, declaring or certifying, as the case may be, that the dog has been desexed or is permanently incapable of reproduction;
- 30 or
- (ii) otherwise satisfies the council of the area in which the dog is intended to be ordinarily kept that the dog

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

has been desexed or is permanently incapable of reproduction,

5 one-third of the general registration fee applicable in that area (disregarding any fraction of a cent).

10 (1c) A reference in subsection (1) (a) to the owner of a dog does not, where a person other than the applicant for registration is already recorded under section 16 as the registered owner of that dog (in the area in which the dog is kept or intended to be kept or in any other area), include a reference to that person.

15 (b) Section 14 (2) (a)—
 Omit “prescribed fee”, insert instead “registration fee”.

(11) (a) Section 15—
 Omit “by him”.

20 (b) Section 15—
 Omit “duplicate”.

(12) Section 16—
 Omit the section, insert instead :—

Records to be kept.

25 16. (1) A registration clerk shall keep a record showing particulars in respect of—

 (a) every dog registered by him under the provisions of this Act; and

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) every dog in respect of which he has received a notice referred to in section 5 (1) (d) or (d2).
- 5 (2) Subject to subsection (3), the particulars referred to in subsection (1) shall, in relation to a dog, include—
- 10 (a) the name and address of the owner by whom the application for registration was made or the owner giving notice under section 5 (1) (d);
- (b) the address stated in the application for registration, or in the notice given under section 5 (1) (d), as the address of the land or premises where the dog is intended to be ordinarily kept;
- 15 (c) the name and address of the person nominated under this Act as the registered owner of the dog; and
- (d) the registration number allocated in respect of the dog.
- 20 (3) Where—
- (a) a person nominated under this Act as the registered owner of a dog is not the person recorded under subsection (2) (a) as the owner of the dog;
- 25 (b) the person so nominated has requested that his name and address be removed from a record kept pursuant to subsection (1); and

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (c) the person recorded under subsection (2) (a) as the owner of the dog has nominated a person, being himself or some other person, as the person to be the registered owner of the dog for the purposes of this Act,
- the registration clerk who keeps the record referred to in paragraph (b) shall—
- 10 (d) remove from that record the name and address of the person referred to in paragraph (b); and
- (e) enter in that record the name and address of the person nominated as referred to in paragraph (c).
- 15 (4) A nomination referred to in subsection (3) (c) shall be of no effect unless the person nominated—
- (a) is a person of or over the age of 18 years or is a body corporate; and
- 20 (b) has, where he or it is not the person recorded under subsection (2) (a) as the owner of the dog, consented in writing to his or its being nominated as the person to be the registered owner of that dog for the purposes of this Act.
- 25 (5) A record required to be kept under this section may be inspected, without fee, by any person at any reasonable time during office hours.
- (13) (a) Section 17A (1A)—
- After section 17A (1), insert :—
- 30 (1A) A person shall not be guilty of an offence against section 9 or 9B in respect of a dog if, at the time of the act which would (but for this subsection)

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 have constituted the offence, the dog was being used bona fide by a completely or partially blind person as a guide.

(b) Section 17A (2)—

After “shall not”, insert “, without reasonable cause,”.

(c) Section 17A (2)—

10 Omit “unless that occupier or firstmentioned person would be lawfully entitled to so refuse if that last-mentioned person were not accompanied by such a dog”.

(d) Section 17A (2A)–(2C)—

After section 17A (2), insert :—

15 (2A) A person prosecuted for contravening the provisions of subsection (2) in relation to a dog accompanying a completely or partially blind person shall not be entitled to avail himself of any defence to that prosecution which relies for its efficacy on the
20 presence of the dog.

(2B) An occupier or person having the charge or control of a building or place open to or used by the public or a person having the charge or control of any public transport shall not impose a charge on or
25 in respect of a person—

(a) who is completely or partially blind and is accompanied by a dog used bona fide by him as a guide; and

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (b) who is taking the dog into or on to, or is entering or is in or on, that building or place or public transport,

unless the charge is a charge that would have been imposed on or in respect of that person if he was not accompanied by the dog.

10 (2C) A person shall be deemed not to have contravened the provisions of subsection (2B) in respect of a dog accompanying a completely or partially blind person if he proves that—

15 (a) it was reasonably necessary for him to supply accommodation for the dog additional to that supplied for the completely or partially blind person; or

(b) he has reasonably incurred additional expense because of the presence of the dog,

20 and that the charge imposed for the additional accommodation or to recompense him for that additional expense was a reasonable charge in the circumstances.

(e) Section 17A (3)—

After “(2)”, insert “or (2B)”.

(f) Section 17A (3A)–(3C)—

25 After section 17A (3), insert :—

30 (3A) Where a person is convicted of an offence under subsection (2B) in respect of a charge imposed on a completely or partially blind person, the court may, upon application made by the completely or partially blind person, order the person so convicted to refund the amount of that charge.

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (3B) An order under subsection (3A) shall operate as an order for the payment of money under the Courts of Petty Sessions (Civil Claims) Act, 1970, and be enforceable as such an order under the provisions of that Act.
- 10 (3C) For the purpose of enforcing an order under subsection (3A), the order may be entered in the records of the court exercising jurisdiction under the Courts of Petty Sessions (Civil Claims) Act, 1970, at the place where the order was made in such manner as may be prescribed by rules made under that Act.
- 15 (14) Section 18 (2)—
 At the end of section 18, insert :—
- (2) A dog, the destruction of which is ordered under section 6, shall be destroyed in a manner that causes it to die quickly and without unnecessary suffering.
- 20 (15) Section 19 (2)—
 Omit “compensation not exceeding one hundred dollars”, insert instead “such amount by way of compensation as it specifies in the order”.
- (16) (a) Section 20B (1)—
 After “animal”, insert “(whether or not a dog)”.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 20B (2) (c)—

Omit the paragraph, insert instead :—

5 (c) a dog attacking or causing injury to another animal, where its doing so is in immediate response to, and is wholly induced by, an attack on the dog made by the other animal.

(17) Section 21 (2)—

10 At the end of section 21, insert :—

15 (2) In any legal proceedings, a copy of any particulars, a record of which is required to be kept by the registration clerk for an area under section 16, is, if the copy is certified under the hand of the registration clerk for that area to be a true copy of those particulars as at a particular time or during a particular period, admissible in evidence and is prima facie evidence of the matters set out therein.

(18) (a) Section 27 (1) (a)—

Omit the paragraph, insert instead :—

20 (a) for or with respect to the determination by a council of fees for the registration of dogs intended to be ordinarily kept in the council's area;

(b) Section 27 (1) (b)—

25 Omit "and charges for the maintenance of any such dogs detained by a council".

(c) Section 27 (2)–(4)—

Omit the subsections.

Dog (Amendment).

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

- (1) (a) Section 5 (4) (a)—
5 Omit “ten dollars”, insert instead “\$40”.
- (b) Section 5 (4) (b)—
Omit “twenty dollars”, insert instead “\$100”.
- (2) Section 7 (1)—
Omit “forty dollars”, insert instead “\$100”.
- 10 (3) Section 17—
Omit “ten dollars”, insert instead “\$100”.
- (4) Section 17A (3)—
Omit “twenty dollars”, insert instead “\$200”.
- (5) Section 19 (1)—
15 Omit “forty dollars”, insert instead “\$200”.
-

Dog (Amendment).

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION.

- 5 (1) (a) Section 1 (2)—
Omit “upon the first day of October, one thousand
nine hundred and sixty-six”, insert instead “on 1st
October, 1966”.
- (b) Section 1 (3)—
- 10 Omit “upon the first day of August, one thousand
nine hundred and sixty-six”, insert instead “on 1st
August, 1966”.
- (2) (a) Section 4 (1), definitions of “Area”, “Council”,
“Municipality”, “Shire”—
- 15 Omit “, as amended by subsequent Acts” wherever
occurring.
- (b) Section 4 (1), definition of “Prescribed”—
Omit the definition.
- (3) (a) Section 5 (1) (a)—
- 20 Omit “six”, insert instead “6”.
- (b) Section 5 (2)—
Omit “Paragraphs (b) and (c) of subsection (1)”,
insert instead “Subsection (1) (b) and subsection
(1) (c)”.
- 25 (c) Section 5 (2) (a)—
Omit “, as amended by subsequent Acts”.

Dog (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

- (d) Section 5 (3)—
5 Omit “paragraph (g) of subsection (1)”, insert
instead “subsection (1) (g)”.
- (e) Section 5 (3)—
Omit “paragraph (c) of subsection (2) of section 14”,
insert instead “section 14 (2) (c)”.
- 10 (f) Section 5 (4) (b)—
Omit “paragraph (e), (f) or (g) of subsection (1)”,
insert instead “subsection (1) (e), (f) or (g)”.
- (4) Section 10 (2)—
15 Omit “paragraph (b) of section 23”, insert instead
“section 23 (b)”.
- (5) (a) Section 11 (3)—
Omit “fourteen”, insert instead “14”.
- (b) Section 11 (5)—
Omit “seven”, insert instead “7”.
- 20 (c) Section 11 (6)—
Omit “sold by the council”, insert instead “sold by a
council”.
- (6) Section 12—
Omit “as amended by subsequent Acts,”.

Dog (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(7) Section 14 (3)—

- 5 Omit “the thirtieth day of” wherever occurring, insert instead “30th”.

(8) (a) Section 19 (3)—

- 10 Omit “Small Debts Recovery Act, 1912, as amended by subsequent Acts”, insert instead “Courts of Petty Sessions (Civil Claims) Act, 1970”.

(b) Section 19 (4)—

Omit “Small Debts Court exercising jurisdiction”, insert instead “court exercising jurisdiction under the Courts of Petty Sessions (Civil Claims) Act, 1970”.

15 (c) Section 19 (4)—

Omit “the Small Debts Recovery Act, 1912, as amended by subsequent Acts”, insert instead “that Act”.

(9) Section 22—

- 20 Omit “two”, insert instead “2”.

(10) Section 23 (c)—

Omit “subsection (2) of section 10”, insert instead “section 10 (2)”.

(11) Section 25—

- 25 Omit “of the council”, insert instead “of a council”.

Dog (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(12) Section 26 (2)—

5 Omit “as amended by subsequent Acts,”.

(13) (a) Section 27 (1) (b)—

Omit “subsection (2) of section 10”, insert instead
“section 10 (2)”.

(b) Section 27 (5)—

10 Omit the subsection, insert instead :—

(5) Section 41 of the Interpretation Act, 1897,
applies in respect of a regulation as if this Act had
been passed after the commencement of the
Interpretation (Amendment) Act, 1969.

15 (c) Section 27 (6)—

Omit the subsection.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981

(80c)

SCHEDULE 3—continued

AMENDMENTS TO THE FINANCIAL ACT BY WAY OF STATUTE
LAW REVISION—continued

(12) Section 26 (2) —

Omit "as amended by subsequent Acts".

(13) (a) Section 27 (1) (b) —

Omit subsection (2) of section 10, insert instead
section 10 (2).

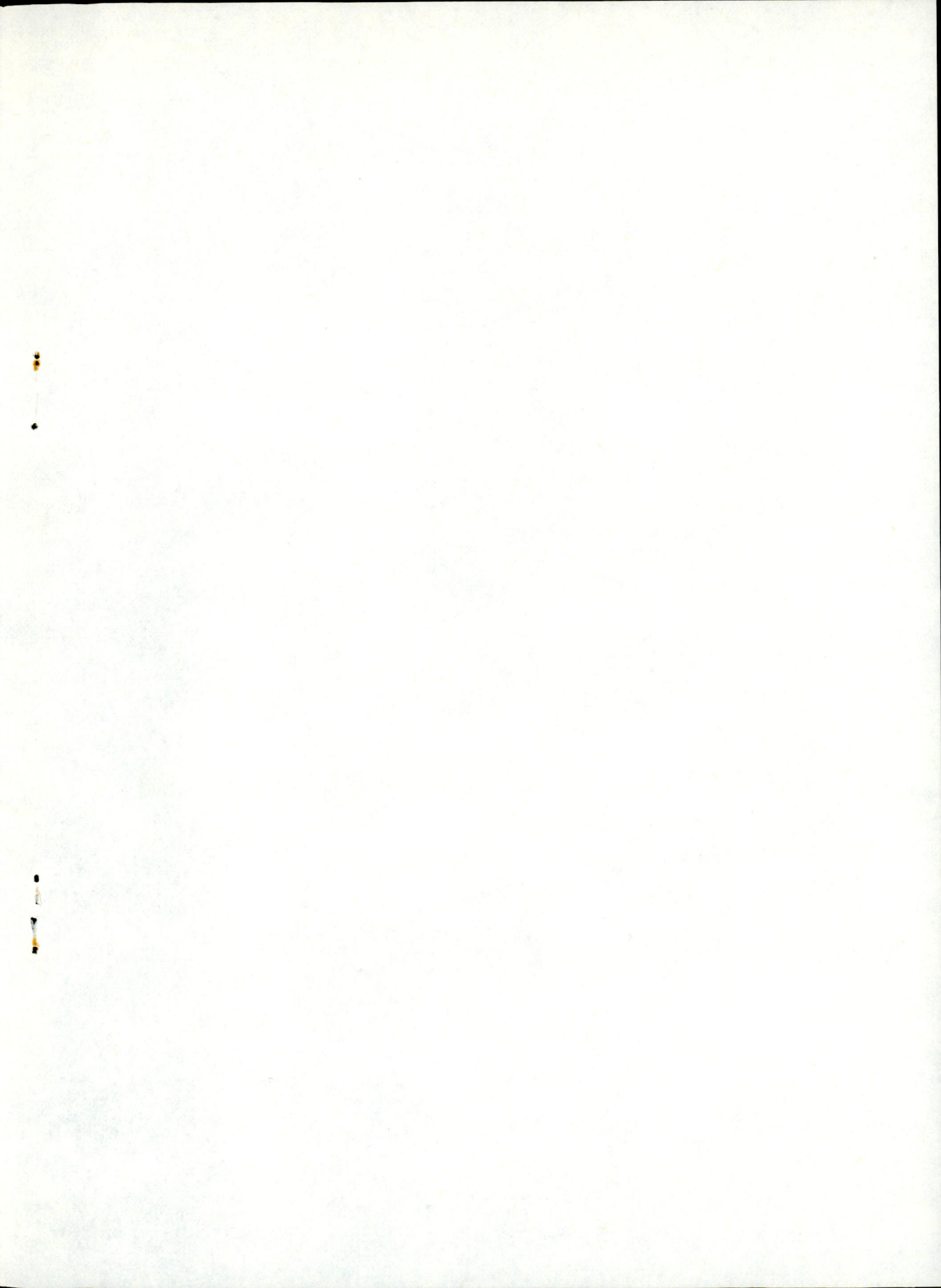
(b) Section 27 (2) —

Omit the subsection, insert instead —

(2) Section 41 of the Interpretation Act 1987
applies in respect of a regulation as if that Act had
been passed with the commencement of the
Interpretation (Amendment) Act 1989.

(c) Section 27 (6) —

Omit the subsection.



**DOG (AMENDMENT) ACT, 1981,
No. 13**

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 13, 1981.

An Act to amend the Dog Act, 1966, to make further provisions with respect to the control and registration of dogs, to increase penalties, and in certain other respects. [Assented to, 22nd April, 1981.]

See also Local Government (Dog) Amendment Act, 1981.

Dog (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the "Dog (Amendment) Act, 1981".

Commencement.

2. (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) The several provisions of Schedules 1 and 2 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 5 shall, in its application to a provision of Schedules 1–3, commence on the day on which that provision commences.

Principal Act.

3. The Dog Act, 1966, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO PENALTIES.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT BY
WAY OF STATUTE LAW REVISION.

Dog (Amendment).

Amendment of Act No. 2, 1966.

5. The Principal Act is amended in the manner set forth in Schedules 1-3.

Savings.

6. An amendment made to a provision of the Principal Act by section 5 and Schedule 2 does not affect any penalty which may be imposed in respect of an offence committed against that provision before the commencement of that amendment.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 2, matter relating to Part II—

Omit "9", insert instead "9C".

(2) (a) Section 4 (1), definition of "Alsatian dog"—

Omit the definition.

(b) Section 4 (1), definition of "Owner"—

After the definition of "Municipality", insert :—

"Owner", in relation to a dog, means (whether or not the dog is a registered dog), the person by whom the dog is ordinarily kept and includes—

(a) where the dog (whether or not it is a registered dog) is, at any particular time, ordinarily kept on any land or on any premises, the person who is the occupier of that land or those premises at that time; and

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) where the dog is, at any particular time, a registered dog, the person recorded under section 16 as the registered owner of the dog at that time.
- (c) Section 4 (1), definition of “Public place”—
In paragraph (a), after “any”, insert “pathway”.
- (d) Section 4 (1), definition of “Registered owner”—
After the definition of “Registered dog”, insert :—
“Registered owner”, in relation to a dog, means a person nominated as the registered owner of the dog for the purposes of this Act and recorded as the registered owner of the dog under section 16.
- (e) Section 4 (1), definition of “Road”—
After the definition of “Regulations”, insert :—
“Road” means the whole of a road, including the footways, the carriageway, any bridge and any gardens, reserves and the like.
- (f) Section 4 (2), (2A), (2B)—
Omit section 4 (2), insert instead :—
(2) A reference in this Act to the owner of a dog or to the owner of a registered dog is, except where otherwise expressly provided, a reference to any person who is an owner of the dog.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2A) In any prosecution of, or action against, the owner of a dog arising under this Act—

- (a) where a person is the occupier of any land or premises on which the dog is ordinarily kept at any particular time, he shall not be treated, by virtue of paragraph (a) of the definition of "Owner" in subsection (1), as being the owner of the dog at that time if he satisfies the court that at that time the dog is ordinarily kept by some other person of or over the age of 18 years; or
- (b) where a person is recorded under section 16 as the registered owner of a dog at any particular time, he shall not be treated, by virtue of paragraph (b) of the definition of "Owner" in subsection (1), as being the owner of the dog at that time if he satisfies the court that at that time the person who made the application or gave the notice by virtue of which that person became so recorded has ceased to be the owner of the dog.

(2B) In any prosecution of the owner of a dog in respect of an offence against this Act it shall be a sufficient defence if the defendant proves that—

- (a) another owner of the dog has been convicted of an offence arising out of the same circumstances; or
- (b) the commission by another owner of the dog of an offence arising out of the same circumstances has been proved but a court has made an order under section 556A of the Crimes Act, 1900, in respect of the offence.

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(g) Section 4 (3)—

Omit “Notwithstanding the provisions of subsection (2)”, insert instead “For the purposes of the definition of “Owner” (paragraph (b) excepted) in subsection (1),”.

(h) Section 4 (5)—

After section 4 (4), insert :—

(5) A reference in this Act to an adequate chain, cord or leash, is, in relation to a dog of a species, kind or class in respect of which a type of chain, cord or leash has been prescribed, a reference to that type of chain, cord or leash.

(3) (a) Section 5 (1) (d), (d1), (d2)—

Omit section 5 (1) (d), insert instead :—

(d) who fails, within 14 days after becoming the owner of a registered dog (that owner not being a person referred to in paragraph (b) of the definition of “Owner” in section 4 (1)), to give notice, in or to the effect of the prescribed form, to the registration clerk for the area in which the dog is registered under this Act and, where the dog is intended to be ordinarily kept in another area, to the registration clerk for that other area that the person has become, and of the date on which he became, such an owner of the dog;

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d1) who fails to include in or lodge with a notice required under paragraph (d) to be given by him to the registration clerk for the area in which a dog is intended to be ordinarily kept a nomination of one person (being, subject to subsection (1A), the person required to give the notice or some other person) as the person to be the registered owner of the dog for the purposes of this Act;

(d2) who, being an owner (as defined in subsection (1B)) of a registered dog, fails, within 14 days after his ceasing to be such an owner, to give notice, in or to the effect of the prescribed form, to the registration clerk for the area in which the dog is registered under this Act of the date that he ceased to be the owner of the dog and of the name and address of the person who appears to him to be the person by whom the dog is intended to be ordinarily kept;

(b) Section 5 (1A), (1B)—

After section 5 (1), insert :—

(1A) A nomination of a person as the person to be the registered owner of a dog as referred to in subsection (1) (d1) shall be of no effect unless the person nominated—

- (a) is a person of or over the age of 18 years or is a body corporate; and
- (b) has, where he or it is not the person giving notice under subsection (1) (d) in respect of the dog, consented in writing to his or

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

its being nominated as the person to be the registered owner of the dog for the purposes of this Act.

(1B) In subsection (1) (d2), “owner”, in relation to a dog, means the person for the time being recorded under section 16 (2) (a) as the owner of the dog.

(c) Section 5 (4) (a)—

Omit “paragraph (a), (b), (c) or (d) of subsection (1)”, insert instead “subsection (1) (a), (b), (c), (d), (d1) or (d2)”.

(4) Section 6—

Omit the section, insert instead :—

Dogs attacking or injuring persons or animals.

6. (1) The owner of a dog that attacks or causes injury to a person or animal shall be guilty of an offence against this Act and liable to a penalty not exceeding \$200.

(2) Subsection (1) does not apply if the attack or injury by the dog—

(a) occurs on any land, vehicle or premises—

(i) of which the owner of the dog is an occupier; or

(ii) on which the dog is ordinarily kept;

(b) is in immediate response to, and is wholly induced by, intentional cruelty to, or intentional provocation of, the dog by a person other than the owner of the dog, his servants or his agents; or

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) is on or to an animal in immediate response to, and is wholly induced by, an attack on the dog made by the animal.

(3) Where—

- (a) the owner of a dog is convicted before a court of an offence referred to in subsection (1); or
- (b) the commission by the owner of a dog of an offence referred to in subsection (1) has been proved but a court has made an order under section 556A of the Crimes Act, 1900, in respect of that offence,

the court may—

- (c) order that owner to destroy that dog or cause that dog to be destroyed;
- (d) order that dog to be destroyed by some person authorised by the court; or
- (e) order that owner to take such other action as the court directs, being action which is, in the opinion of the court, necessary to prevent, or reduce the likelihood of, that dog attacking or causing injury to persons or animals,

within such period as is specified in the order, and may, where it makes an order under paragraph (d), order that owner to take, within such period as is specified in the order, such action as is, in the opinion of the court, necessary to enable the order made under paragraph (d) to be carried out (including an order for the payment of any costs incurred).

- (4) A person authorised to destroy a dog pursuant to subsection (3) (d) may destroy that dog.

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) A person who neglects or fails to comply with an order under subsection (3) (paragraph (d) excepted) shall be guilty of an offence against this Act and liable to a penalty not exceeding \$200.

(5) Section 7 (2) (a)—

Omit the paragraph, insert instead :—

(a) while it is on any land, vehicle or premises—

(i) of which the owner of the dog is an occupier; or

(ii) on which the dog is ordinarily kept; or

(6) Sections 8, 9, 9A, 9B, 9C—

Omit sections 8 and 9, insert instead :—

Control of Dogs.

8. (1) The owner of a dog shall, if the dog is in or on a public place and is not under the effective control of some competent person by means of an adequate chain, cord or leash, be guilty of an offence against this Act and liable to a penalty not exceeding \$100.

(2) Without limiting the generality of subsection (1), a greyhound shall, for the purposes of that subsection, be deemed not to be under the effective control of a person if it is 1 of more than 4 greyhounds under the control of that person at the one time.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Subsection (1) does not apply to a dog—

- (a) while it is being exhibited for show purposes;
- (b) while it is participating in an obedience trial; or
- (c) while it is engaged in the driving of animals,

and is under the effective control of some competent person.

(4) Subsection (1) does not apply—

- (a) to a dog in or on a public place or part of a public place within the area of a council, being a public place or part of a public place for the time being declared by the council by order to be a public place or part of a public place to which subsection (1) does not apply; or
- (b) in such circumstances as may be prescribed.

(5) A prosecution for an offence against this section shall not be instituted except by—

- (a) the council of the area in which the offence occurred or a person authorised by it; or
- (b) a member of the police force.

(6) A council may make orders for the purposes of subsection (4) (a).

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.***Dogs prohibited from entering certain places.**

9. (1) In this section—

“prohibited place” means any public place or any part of a public place which is—

- (a) within 10 metres of any playing apparatus provided, in that public place or part, for the use of children;
- (b) within 10 metres of any apparatus provided, in that public place or part, for the preparation of food for human consumption or for the consumption of food by humans; or
- (c) provided or set apart by a council or other public authority for the playing of organised games and—
 - (i) in or on which the council or public authority, as the case may be, has ordered that dogs are prohibited; and
 - (ii) in which, or near the boundaries of which, there are conspicuously exhibited by the council or public authority at reasonable intervals notices to the effect that dogs are prohibited in or on that public place or part;

“public bathing area” means any public place or any part of a public place—

- (a) which is used for or in conjunction with public bathing;
- (b) in or on which the council or a public authority having control thereof has ordered that dogs are prohibited; and

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) in which, or near the boundaries of which, there are conspicuously exhibited by the council or public authority, as the case may be, at reasonable intervals notices to the effect that dogs are prohibited in or on that public place;

“schoolground” means any land occupied or used for a purpose connected with the conduct of a public school or a technical school and any land which belongs to and is occupied or used for a purpose connected with the conduct of a school registered under the Bursary Endowment Act, 1912, or any certified school under the Public Instruction (Amendment) Act, 1916, but does not include any land which is used for a residence or the curtilage of a residence;

“shopping area” means a shopping arcade and any part of a shopping complex (of the kind commonly known as a shopping plaza) which is used by the public for parking or access to shops but does not include a part of a shop.

(2) The owner of a dog shall, if the dog is in or on a prohibited place, a public bathing area, a schoolground or a shopping area, be guilty of an offence against this Act and liable to a penalty not exceeding \$100.

(3) Subsection (2) does not apply to a dog that is in or on a schoolground with the permission of the person controlling the schoolground.

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Subsection (2) does not apply to a dog that is in or on a place within a shopping area—

- (a) with the permission of the person controlling the place; or
- (b) for the purpose of taking that dog to or from a pet shop, the premises of a veterinary surgeon or a like establishment.

(5) A council or other public authority may make orders and exhibit notices for the purposes of subsection (1).

No double jeopardy under ss. 8 (1) and 9 (2).

9A. A person who, but for this section, would be liable to conviction for offences under both sections 8 (1) and 9 (2) in respect of the same matter shall be liable to be convicted in respect of one only of those offences.

Fouling of footpaths, etc.

9B. (1) This section applies—

- (a) to a public place which is a pathway;
- (b) to a public place which is any part of a road, other than the carriageway of the road; and
- (c) in relation to a particular council, to any other public place or any part of a public place—
 - (i) which is within the area of that council; and
 - (ii) subject to subsection (2), to which that council has, by order, applied this section and in which, or near the boundaries of which, there are conspicuously exhibited

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

by the council at reasonable intervals notices to the effect that this section applies to that public place or part of a public place.

(2) A council shall not, under subsection (1) (c) (ii), apply this section to the carriageway of a road or any part of the carriageway of a road and any order to the extent to which it purports to apply this section to the carriageway of a road or any part of the carriageway of a road shall be of no effect.

(3) The owner of a dog which defecates in or on a public place to which this section applies shall be guilty of an offence against this Act and liable to a penalty not exceeding \$100.

(4) The owner of a dog which defecates in or on a public place to which this section applies shall not be convicted of an offence arising under subsection (3) if he satisfies the court that the faeces were immediately removed from that public place and properly disposed of or were properly disposed of within that public place or any other public place.

(5) A council may make orders and exhibit notices for the purposes of subsection (1) (c) (ii).

Greyhounds in or on roads.

9c. (1) A council may, by an order made with the prior approval of the Minister and published in accordance with subsection (2), declare that the leading or exercising of greyhounds in or on roads or parts of roads (being roads or parts of roads which the public are entitled to use and which are specified in the order) is prohibited.

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) Notice of an order made under subsection (1) (including particulars of the roads or parts of roads specified in the order) shall be published in a newspaper circulating in the district in which the roads or parts of roads are situated.

(3) The owner of a greyhound that is being led or exercised in or on a road or part of a road to which a prohibition notified under subsection (2) applies shall be guilty of an offence against this Act and liable to a penalty not exceeding \$100.

(7) (a) Section 10 (1)—

Omit the subsection, insert instead :—

(1) If, in a municipality or shire—

(a) a dog is found in or on a public place and the dog is not under the effective control of some competent person by means of an adequate chain, cord or leash; or

(b) a dog is found on land or within premises of which the owner of the dog is not the occupier and the dog—

(i) is on that land or within those premises without the consent of the occupier of that land or those premises; and

(ii) is not under the effective control of some competent person,

the dog may be seized by a servant of the council in whose area the dog is found, by a member of the police force or by any other person.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 10 (3)–(5)—

After section 10 (2), insert :—

(3) A person who rescues a dog seized under this section or a dog lawfully detained after seizure under this section shall be guilty of an offence against this Act and liable to a penalty not exceeding \$200.

(4) A person convicted of an offence under subsection (3) in relation to a dog lawfully detained by a council shall, in addition to any penalty imposed, be liable to pay the charges for the maintenance of the dog while it was detained by the council (being charges determined by the council under section 11 (9) and (10)).

(5) Where 2 or more persons are convicted in respect of the one offence under subsection (3), any charges payable under subsection (4) shall, if the court so orders, be payable in full by one of those persons or shall be payable by any or all of those persons in such proportions as the court orders.

(8) (a) Section 11 (2) (a)—

Omit the paragraph, insert instead :—

(a) where a registration badge is attached to a collar worn by the dog, to the person, if any, who appears from the records kept by that registration clerk to be the registered owner of the dog; and

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 11 (2) (b)—

Omit “(whether or not the dog is registered in the area in which it was seized)”.

(c) Section 11 (3), (5)—

Omit “the prescribed charges for its maintenance” wherever occurring, insert instead “the charges for its maintenance while it was detained by the council (being charges determined by the council under subsections (9) and (10))”.

(d) Section 11 (4) (c)—

Omit “the address”, insert instead “his address as”.

(e) Section 11 (6)—

Omit “and the prescribed charges for its maintenance while it was detained by the council”, insert instead “, the charges for its maintenance while it was detained by the council (being charges determined by the council under subsections (9) and (10)) and, if the council so resolves, the whole or part of any expenses reasonably incurred by the council in selling the dog”.

(f) Section 11 (7)–(10)—

After section 11 (6), insert :—

(7) Where a dog is sold by a council under this section and the proceeds of the sale are insufficient to pay—

- (a) the prescribed fees for the release of the dog;

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) the charges determined for its maintenance while it was detained by the council (being charges determined by the council under subsections (9) and (10)); and
- (c) if the council resolves that the whole or part of any expenses reasonably incurred by the council in selling the dog should be paid to it, the whole or that part of those expenses,

the council may recover from the person who was the owner of the dog at the time it was seized the whole or part of the difference between the proceeds of the sale and the total of the amounts referred to in paragraphs (a), (b) and (c).

(8) Where a dog is destroyed by a council under this section, the council may recover from the person who was the owner of the dog at the time it was seized—

- (a) the charges for its maintenance while it was detained by the council (being charges determined by the council under subsections (9) and (10)); and
- (b) the whole or part of any expenses reasonably incurred by the council in destroying the dog.

(9) A council may determine the general charges applicable in its area for the maintenance of dogs detained by it under this Act.

(10) Different charges may be determined under subsection (9) in respect of different species, kinds or classes of dogs.

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) Section 13—

Omit “occupied by the owner of the dog”, insert instead “of which the owner of the dog is an occupier or on which the dog is ordinarily kept”.

(10) (a) Section 14 (1), (1A), (1B), (1C)—

Omit section 14 (1), insert instead :—

(1) An application for the registration of a dog shall—

- (a) be made by the owner of the dog or by some person on his behalf;
- (b) be made in or to the effect of the prescribed form;
- (c) include the address of the land or premises on which the dog is intended to be ordinarily kept;
- (d) subject to subsection (1A), contain a nomination of one person, being the applicant or some other person, as the person to be the registered owner of the dog for the purposes of this Act;
- (e) contain any consent required to be obtained under subsection (1A) (b);
- (f) be accompanied by the registration fee determined or prescribed under subsection (1B); and
- (g) be lodged with the registration clerk for the area in which the dog is intended to be ordinarily kept.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(1A) An application under subsection (1) for the registration of a dog shall be of no effect unless the person nominated as referred to in subsection (1) (d)—

- (a) is a person of or over the age of 18 years or is a body corporate; and
- (b) has, where he or it is not the applicant for registration of the dog, consented in writing to his or its being nominated as the person to be the registered owner of the dog for the purposes of this Act.

(1B) The registration fee for a dog shall be—

- (a) except as provided in paragraph (b), the registration fee (not exceeding an amount prescribed for the purposes of this paragraph) determined by the council of the area in which the dog is intended to be ordinarily kept as the general registration fee applicable in that area; or
- (b) where the person applying for registration of the dog—
 - (i) lodges with the appropriate registration clerk a statutory declaration, or a certificate signed by a veterinary surgeon, declaring or certifying, as the case may be, that the dog has been desexed or is permanently incapable of reproduction; or
 - (ii) otherwise satisfies the council of the area in which the dog is intended to be ordinarily kept that the dog

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

has been desexed or is permanently incapable of reproduction,

one-third of the general registration fee applicable in that area (disregarding any fraction of a cent).

(1c) A reference in subsection (1) (a) to the owner of a dog does not, where a person other than the applicant for registration is already recorded under section 16 as the registered owner of that dog (in the area in which the dog is kept or intended to be kept or in any other area), include a reference to that person.

(b) Section 14 (2) (a)—

Omit “prescribed fee”, insert instead “registration fee”.

(11) (a) Section 15—

Omit “by him”.

(b) Section 15—

Omit “duplicate”.

(12) Section 16—

Omit the section, insert instead :—

Records to be kept.

16. (1) A registration clerk shall keep a record showing particulars in respect of—

(a) every dog registered by him under the provisions of this Act; and

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) every dog in respect of which he has received a notice referred to in section 5 (1) (d) or (d2).

(2) Subject to subsection (3), the particulars referred to in subsection (1) shall, in relation to a dog, include—

- (a) the name and address of the owner by whom the application for registration was made or the owner giving notice under section 5 (1) (d);
- (b) the address stated in the application for registration, or in the notice given under section 5 (1) (d), as the address of the land or premises where the dog is intended to be ordinarily kept;
- (c) the name and address of the person nominated under this Act as the registered owner of the dog; and
- (d) the registration number allocated in respect of the dog.

(3) Where—

- (a) a person nominated under this Act as the registered owner of a dog is not the person recorded under subsection (2) (a) as the owner of the dog;
- (b) the person so nominated has requested that his name and address be removed from a record kept pursuant to subsection (1); and

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) the person recorded under subsection (2) (a) as the owner of the dog has nominated a person, being himself or some other person, as the person to be the registered owner of the dog for the purposes of this Act,

the registration clerk who keeps the record referred to in paragraph (b) shall—

- (d) remove from that record the name and address of the person referred to in paragraph (b); and
(e) enter in that record the name and address of the person nominated as referred to in paragraph (c).

(4) A nomination referred to in subsection (3) (c) shall be of no effect unless the person nominated—

- (a) is a person of or over the age of 18 years or is a body corporate; and
(b) has, where he or it is not the person recorded under subsection (2) (a) as the owner of the dog, consented in writing to his or its being nominated as the person to be the registered owner of that dog for the purposes of this Act.

(5) A record required to be kept under this section may be inspected, without fee, by any person at any reasonable time during office hours.

(13) (a) Section 17A (1A)—

After section 17A (1), insert :—

(1A) A person shall not be guilty of an offence against section 9 or 9B in respect of a dog if, at the time of the act which would (but for this subsection)

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

have constituted the offence, the dog was being used bona fide by a completely or partially blind person as a guide.

(b) Section 17A (2)—

After “shall not”, insert “, without reasonable cause.”.

(c) Section 17A (2)—

Omit “unless that occupier or firstmentioned person would be lawfully entitled to so refuse if that last-mentioned person were not accompanied by such a dog”.

(d) Section 17A (2A)–(2C)—

After section 17A (2), insert :—

(2A) A person prosecuted for contravening the provisions of subsection (2) in relation to a dog accompanying a completely or partially blind person shall not be entitled to avail himself of any defence to that prosecution which relies for its efficacy on the presence of the dog.

(2B) An occupier or person having the charge or control of a building or place open to or used by the public or a person having the charge or control of any public transport shall not impose a charge on or in respect of a person—

- (a) who is completely or partially blind and is accompanied by a dog used bona fide by him as a guide; and

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) who is taking the dog into or on to, or is entering or is in or on, that building or place or public transport,

unless the charge is a charge that would have been imposed on or in respect of that person if he was not accompanied by the dog.

(2C) A person shall be deemed not to have contravened the provisions of subsection (2B) in respect of a dog accompanying a completely or partially blind person if he proves that—

- (a) it was reasonably necessary for him to supply accommodation for the dog additional to that supplied for the completely or partially blind person; or

(b) he has reasonably incurred additional expense because of the presence of the dog, and that the charge imposed for the additional accommodation or to recompense him for that additional expense was a reasonable charge in the circumstances.

- (e) Section 17A (3)—

After “(2)”, insert “or (2B)”.

- (f) Section 17A (3A)–(3C)—

After section 17A (3), insert :—

(3A) Where a person is convicted of an offence under subsection (2B) in respect of a charge imposed on a completely or partially blind person, the court may, upon application made by the completely or partially blind person, order the person so convicted to refund the amount of that charge.

Dog (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3B) An order under subsection (3A) shall operate as an order for the payment of money under the Courts of Petty Sessions (Civil Claims) Act, 1970, and be enforceable as such an order under the provisions of that Act.

(3C) For the purpose of enforcing an order under subsection (3A), the order may be entered in the records of the court exercising jurisdiction under the Courts of Petty Sessions (Civil Claims) Act, 1970, at the place where the order was made in such manner as may be prescribed by rules made under that Act.

(14) Section 18 (2)—

At the end of section 18, insert :—

(2) A dog, the destruction of which is ordered under section 6, shall be destroyed in a manner that causes it to die quickly and without unnecessary suffering.

(15) Section 19 (2)—

Omit “compensation not exceeding one hundred dollars”, insert instead “such amount by way of compensation as it specifies in the order”.

(16) (a) Section 20B (1)—

After “animal”, insert “(whether or not a dog)”.

Dog (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 20B (2) (c)—

Omit the paragraph, insert instead :—

- (c) a dog attacking or causing injury to another animal, where its doing so is in immediate response to, and is wholly induced by, an attack on the dog made by the other animal.

(17) Section 21 (2)—

At the end of section 21, insert :—

- (2) In any legal proceedings, a copy of any particulars, a record of which is required to be kept by the registration clerk for an area under section 16, is, if the copy is certified under the hand of the registration clerk for that area to be a true copy of those particulars as at a particular time or during a particular period, admissible in evidence and is prima facie evidence of the matters set out therein.

(18) (a) Section 27 (1) (a)—

Omit the paragraph, insert instead :—

- (a) for or with respect to the determination by a council of fees for the registration of dogs intended to be ordinarily kept in the council's area;

(b) Section 27 (1) (b)—

Omit "and charges for the maintenance of any such dogs detained by a council".

(c) Section 27 (2)–(4)—

Omit the subsections.

Dog (Amendment).

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

(1) (a) Section 5 (4) (a)—

Omit “ten dollars”, insert instead “\$40”.

(b) Section 5 (4) (b)—

Omit “twenty dollars”, insert instead “\$100”.

(2) Section 7 (1)—

Omit “forty dollars”, insert instead “\$100”.

(3) Section 17—

Omit “ten dollars”, insert instead “\$100”.

(4) Section 17A (3)—

Omit “twenty dollars”, insert instead “\$200”.

(5) Section 19 (1)—

Omit “forty dollars”, insert instead “\$200”.

Dog (Amendment).

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION.

(1) (a) Section 1 (2)—

Omit “upon the first day of October, one thousand nine hundred and sixty-six”, insert instead “on 1st October, 1966”.

(b) Section 1 (3)—

Omit “upon the first day of August, one thousand nine hundred and sixty-six”, insert instead “on 1st August, 1966”.

(2) (a) Section 4 (1), definitions of “Area”, “Council”, “Municipality”, “Shire”—

Omit “, as amended by subsequent Acts” wherever occurring.

(b) Section 4 (1), definition of “Prescribed”—

Omit the definition.

(3) (a) Section 5 (1) (a)—

Omit “six”, insert instead “6”.

(b) Section 5 (2)—

Omit “Paragraphs (b) and (c) of subsection (1)”, insert instead “Subsection (1) (b) and subsection (1) (c)”.

(c) Section 5 (2) (a)—

Omit “, as amended by subsequent Acts”.

Dog (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(d) Section 5 (3)—

Omit “paragraph (g) of subsection (1)”, insert instead “subsection (1) (g)”.

(e) Section 5 (3)—

Omit “paragraph (c) of subsection (2) of section 14”, insert instead “section 14 (2) (c)”.

(f) Section 5 (4) (b)—

Omit “paragraph (e), (f) or (g) of subsection (1)”, insert instead “subsection (1) (e), (f) or (g)”.

(4) Section 10 (2)—

Omit “paragraph (b) of section 23”, insert instead “section 23 (b)”.

(5) (a) Section 11 (3)—

Omit “fourteen”, insert instead “14”.

(b) Section 11 (5)—

Omit “seven”, insert instead “7”.

(c) Section 11 (6)—

Omit “sold by the council”, insert instead “sold by a council”.

(6) Section 12—

Omit “as amended by subsequent Acts,”.

Dog (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(7) Section 14 (3)—

Omit “the thirtieth day of” wherever occurring, insert instead “30th”.

(8) (a) Section 19 (3)—

Omit “Small Debts Recovery Act, 1912, as amended by subsequent Acts”, insert instead “Courts of Petty Sessions (Civil Claims) Act, 1970”.

(b) Section 19 (4)—

Omit “Small Debts Court exercising jurisdiction”, insert instead “court exercising jurisdiction under the Courts of Petty Sessions (Civil Claims) Act, 1970”.

(c) Section 19 (4)—

Omit “the Small Debts Recovery Act, 1912, as amended by subsequent Acts”, insert instead “that Act”.

(9) Section 22—

Omit “two”, insert instead “2”.

(10) Section 23 (c)—

Omit “subsection (2) of section 10”, insert instead “section 10 (2)”.

(11) Section 25—

Omit “of the council”, insert instead “of a council”.

Dog (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(12) Section 26 (2)—

Omit “as amended by subsequent Acts.”

(13) (a) Section 27 (1) (b)—

Omit “subsection (2) of section 10”, insert instead
“section 10 (2)”.

(b) Section 27 (5)—

Omit the subsection, insert instead :—

(5) Section 41 of the Interpretation Act, 1897,
applies in respect of a regulation as if this Act had
been passed after the commencement of the
Interpretation (Amendment) Act, 1969.

(c) Section 27 (6)—

Omit the subsection.

*In the name and on behalf of Her Majesty I assent to this
Act.*

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 22nd April, 1981.*

1115 11.15
1115 11.15 1115 11.15 1115 11.15



