TASMANIA

DOG CONTROL AMENDMENT ACT 2019

No. 53 of 2019

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DOG CONTROL AMENDMENT ACT 2019

No. 53 of 2019

An Act to amend the *Dog Control Act 2000*

[Royal Assent 18 December 2019]

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

1. Short title

This Act may be cited as the *Dog Control Amendment Act 2019*.

2. Commencement

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

3. Principal Act

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

4. Section 7 amended (Dog management policy)

Section 7 of the Principal Act is amended as follows:

(a) by inserting in subsection (1) “, make” after “develop”;

(b) by omitting paragraph (b) from subsection (2) and substituting the following paragraph:

(b) the policy in relation to declarations made, or to be made, under Division 2 of Part 3;

(c) by inserting in subsection (3)(a) “or an amendment of the policy” after “policy”;

(d) by omitting from subsection (3)(c) “finalising the policy” and substituting “making the policy or the amendment”.

5. Section 18 amended (Effective control of greyhounds)

Section 18 of the Principal Act is amended as follows:

*No. 102 of 2000

(a) by inserting in subsection (1) "in a public place or on private premises" after "of a person";

(b) by inserting the following paragraph after paragraph (b) in subsection (1):

(ba) where the greyhound is in a declared area – the conditions, in relation to all dogs or to greyhounds, that are specified in the declaration of the area under Division 2 of Part 3 are not being contravened in relation to the greyhound; or

(c) by inserting the following subsection after subsection (1):

(1A) A greyhound is also under the effective control of a person on private premises if the greyhound is securely confined to those premises.

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

Section 19 of the Principal Act is amended as follows:

(a) by omitting subsection (3) and substituting the following subsections:

(3) If a dog that is not a dangerous dog or a restricted breed dog

attacks or bites any person and causes a serious injury to the person, the owner of the dog is guilty of an offence.

Penalty: Fine not exceeding 30 penalty units.

(3A) If a dog that is not a dangerous dog or a restricted breed dog attacks or bites any animal and causes a serious injury or death to the animal, the owner of the dog is guilty of an offence.

Penalty: Fine not exceeding 20 penalty units.

(b) by omitting subsection (6) and substituting the following subsection:

(6) In any proceedings under this section, it is not necessary to prove that an actual injury was caused to a person in order to prove that the person was rushed at, chased, attacked or bitten.

(c) by inserting in subsection (8)(b) “in relation to the commission of the offence” after “dog”.

7. Section 19AA amended (Collection and analysis of a sample from a dog)

Section 19AA(1) of the Principal Act is amended by omitting "section 19(2), (3) or (4)" and substituting "19(2), (3), (3A) or (4)".

8. Sections 19AB and 19AC inserted

After section 19AA of the Principal Act, the following sections are inserted in Division 1:

19AB. Dogs must not injure or kill sensitive wildlife

(1) If a dog injures, or kills, any sensitive wildlife that is in a sensitive area in relation to the wildlife, the owner of the dog is guilty of an offence.

Penalty: Fine not exceeding 30 penalty units.

(2) The Minister administering Part 4 of the *Nature Conservation Act 2002* may, by order, specify –

(a) that –

(i) a species of wildlife that is specified in the order is sensitive wildlife; or

(ii) each species of wildlife, that is a member of a class of wildlife that is specified in the order, is sensitive wildlife; and

(b) that –

(i) an area of land specified in the order is a sensitive area in relation to the sensitive wildlife; or

(ii) each area of land, that is within a class of land that is specified in the order, is a sensitive area in relation to the sensitive wildlife.

(3) The Minister administering Part 4 of the *Nature Conservation Act 2002* may only specify a species of wildlife, or a class of wildlife, in an order under subsection (2) if the wildlife, or each member of the class of wildlife, is –

(a) partly protected wildlife, within the meaning of the *Nature Conservation Act 2002*; or

(b) wildlife that is prescribed under the *Nature Conservation Act 2002* to be protected wildlife; or

(c) wildlife that is prescribed under the *Nature Conservation Act 2002* to be specially protected wildlife.

(4) The Minister administering Part 4 of the *Nature Conservation Act 2002* may, by order –

(a) vary an order made under subsection (2), if the order as so varied is an order that may be made under that subsection; or

(b) revoke an order made under subsection (2).

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

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

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

(c) compensation for any damage caused as a result of the conduct of the dog in relation to the commission of the offence;

(d) compensation for any costs incurred as a result of the conduct of the dog in relation to the commission of the offence.

(6) Without limiting the generality of subsection (5)(d), costs incurred as a result of the conduct of the dog in relation to the commission of the offence include the costs of providing medical treatment of wildlife, and ensuring the recovery from injury of wildlife, affected by that conduct.

(7) If the owner of a dog is found guilty of an offence under this section, the court may order that the dog be destroyed.

(8) In this section –

sensitive area, in relation to sensitive wildlife, means an area of land that is specified, in an order under subsection (2), to be a sensitive area in relation to the wildlife;

sensitive wildlife means a species of wildlife that is specified, in an order under subsection (2), to be sensitive wildlife;

wildlife has the same meaning as in the *Nature Conservation Act 2002*.

19AC. Collection of sample by authorised officer, &c.

(1) An authorised officer who believes, on reasonable grounds, that a dog was involved in an offence committed under section 19AB(1) may collect a sample from the dog.

(2) An authorised officer who believes, on reasonable grounds, that an offence under section 19AB(1) has been committed may request that a general manager authorise the collection of a sample from a dog by a veterinary surgeon for the purposes of determining whether the dog was a dog involved in the offence.

(3) A general manager who receives a request under subsection (2) in relation to a dog may authorise a veterinary surgeon to collect an intimate or non-intimate sample from the dog.

(4) If a veterinary surgeon –

(a) is a government veterinary surgeon – the veterinary surgeon may collect a sample from a dog and advise an authorised officer of the collection of the sample; or

(b) is a veterinary surgeon who has been authorised under subsection (3) in relation to a dog – the veterinary surgeon may collect a sample from the dog.

(5) If an authorised officer, or a veterinary surgeon, may, under subsection (1) or (4), collect a sample from a dog, an authorised officer may do one or more of the following:

(a) seize the dog and detain it for as long as is required for the authorised officer or veterinary surgeon to collect the sample as authorised;

(b) if, in the opinion of the authorised officer, the dog is aggressive or difficult to manage, direct the owner of the dog to accompany the authorised officer, together with the dog, to a pound or other place where the sample may be safely collected;

(c) direct the owner to produce the dog for the purposes of allowing the sample to be collected as authorised.

(6) If a sample is collected from a dog by a person under subsection (1) or (4), the responsible person in relation to the sample is to ensure that –

(a) the owner of the dog is advised, before, or as soon as reasonably practicable after, the sample is collected that the sample is collected for the purpose of analysis; and

(b) both –

(i) a person nominated in writing by the owner of

the dog, if such a person is so nominated; and

(ii) a qualified person –

are each provided with a part of the sample that is sufficient for analysis.

(7) For the purposes of subsection (6), the responsible person in relation to a sample is –

(a) the authorised officer who collected the sample under subsection (1); or

(b) if the sample was collected under subsection (4) by a veterinary surgeon who is a government veterinary surgeon – an authorised officer who is notified by the veterinary surgeon of the collection of the sample; or

(c) if the sample was collected under subsection (4) by a veterinary surgeon who is not a government veterinary surgeon – the authorised officer who made, in relation to the veterinary surgeon, the request under subsection (2) in relation to the collection of the sample.

(8) A government veterinary surgeon is authorised to conduct analysis of a

sample that has been collected in accordance with subsection (1) or (4).

(9) A general manager may authorise a person to conduct analysis of a sample that has been collected in accordance with subsection (1) or (4).

(10) A person must not –

(a) obstruct, hinder, delay, impede or threaten an authorised officer or veterinary surgeon acting in accordance with this section; or

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

Penalty: Fine not exceeding 10 penalty units.

(11) In this section –

authorised officer means –

(a) a police officer; or

(b) a person who is a ranger under the *Nature Conservation Act 2002*;

government veterinary surgeon means a veterinary surgeon who is a State Service officer or State Service employee;

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

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

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

9. Section 20 amended (Exercise areas)

Section 20 of the Principal Act is amended by omitting "specified conditions" and substituting "conditions specified in the declaration".

10. Section 21 amended (Training areas)

Section 21 of the Principal Act is amended by omitting "specified conditions" and substituting "conditions specified in the declaration".

11. Section 22 amended (Prohibited areas)

Section 22 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

(2) The owner of a dog, other than a guide dog that is accompanying the owner, or a hearing dog that is accompanying the owner, must ensure that the dog does not enter a prohibited area.

Penalty: Fine not exceeding 20 penalty units.

12. Section 61 amended (Other evidence)

Section 61(1)(ba) of the Principal Act is amended by inserting "or section 19AC" after "19AA".

13. Repeal of Act

This Act is repealed on the first anniversary of the day on which it commenced.

[Second reading presentation speech made in:–
House of Assembly on 30 October 2019
Legislative Council on 28 November 2019]

Government Printer, Tasmania