



## ANALYSIS

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1986, No. 17

An Act to provide for the consolidation and amendment of the law relating to the registration and control of dogs and the liability for injuries caused by dogs

(11 December 1986)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title and Commencement - This Act may be cited as the Dogs Registration Act 1986 and shall come into force on the first day of January 1987.

2. Interpretation - In this Act, unless the context otherwise requires:-

"Constable" means any officer of the Department holding the rank of Constable or above;

"Department" means the Department of Police under the Police Act 1981;

"Dog" means an animal of the canine species;

"Dog control fee" means any fee set under section 18;

"Dog control officer" means a person appointed under section 5;

"Minister" means the Minister of Police;

"Owner", in relation to any dog, means every person who -

(a) owns the dog; or

(b) has the dog in his possession, whether the dog is at large or in confinement, otherwise than for the purpose of preventing the dog causing damage or for the sole purpose of restoring a lost dog to its owner; or

(c) the parent or guardian of a person under the age of 16 years who -

(i) is the owner of the dog pursuant to paragraph (a) or paragraph (b) of this definition; and

(ii) is a member of his household living with and dependent on him -

but does not include any person who has seized or taken custody of the dog under this Act or any order made under this Act;

"Public place" means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and includes any aircraft, ship or other vessel, or vehicle carrying or available to carry passengers for reward;

"Registrar" means the Commissioner of Police;

"Registration year" means a period commencing with the 1st day of April in any year and expiring with the 31st day of March in the next succeeding year.

## PART I

### GENERAL ADMINISTRATION

3. Administration - This Act shall be administered by the Department of Police.

4. Dog control account - (1) The Registrar shall maintain and operate a dog control account.

(2) There may be appropriated by Parliament to the dog control account such funds as may be necessary for the purposes of this Act.

(3) The Registrar shall expend such funds as are appropriated by Parliament as provided for in subsection (2), for the registration and general control of dogs, and any other purposes authorised by this Act.

5. Dog control officers - (1) The Registrar shall appoint one or more dog control officers, and may appoint such other staff as he considers necessary for the purposes of this Act.

(2) A person shall only be eligible for appointment as a dog control officer under this Act if he is a constable.

PART IIREGISTRATION AND FEES

6. Dogs register - (1) The Registrar shall cause to be kept a register of dogs.

(2) The register shall show the following information,-

- (a) the name and address of the owner of the dog;
- (b) the address at which the dog is ordinarily kept;
- (c) a description of the dog, which may include the breed, colour, and any distinguishing marks;
- (d) the age of the dog;
- (e) the sex of the dog, including whether the dog is neutered or not;
- (f) a description of any tattoo or other permanent identification on the dog;
- (g) the registration number of the disc issued for that dog;
- (h) such other relevant information as the Registrar considers necessary.

(3) The register may be examined by any person during office hours free of charge.

7. Application for registration - (1) Except as provided in subsections (2) and (3), every person who owns a dog shall,-

- (a) in respect of the registration year ending 31 March 1987, make application within one month after the commencement of this Act to register that dog in respect of the balance of that registration year remaining after the commencement of this Act;
- (b) in respect of every succeeding registration year make application on or before the first day of April in every year to the Registrar to register that dog in respect of the forthcoming registration year.

(2) Where a dog is of the age of 6 months or less, the application to register the dog shall be made before the dog attains the age of 6 months.

(3) Except as provided in section 10 where an unregistered dog is purchased or otherwise acquired the application to register the dog shall be made forthwith or before the day on which the dog attains the age of 6 months, whichever is the later.

(4) Every application to register a dog -

(a) shall be made in the form prescribed by the Registrar and signed by or on behalf of the owner; and

(b) shall contain the matters specified in paragraphs (a) to (f) of section 6.

8. Penalty for false statement relating to application for registration - Every person commits an offence and is liable on conviction to a fine not exceeding \$500 who, in making an application for the registration of a dog, makes any statement knowing that statement to be false.

9. Offence of failing to register dog - (1) Except as provided in sections 10 and 30, every person commits an offence and is liable on conviction to a fine not exceeding \$500 who owns or keeps any dog of a greater age than 6 months unless the dog is for the time being registered under the provisions of this Act for the current registration year.

(2) Where any person is convicted of an offence against subsection (1) and the dog remains in his ownership and unregistered, a dog control officer may seize and impound the dog, and for that purpose may at any reasonable time enter on to the land or premises, other than a dwellinghouse, of the owner of the dog.

10. Registration of impounded dog - Where any dog that is not registered under this Act but ought to be so registered is impounded under this Act, no offence against section 9 is committed by any person operating the pound or having the custody of the dog.

11. Dog not wearing proper disc deemed unregistered - Any dog not wearing a collar having a current registration disc attached shall, until the contrary is proved be deemed to be unregistered.

12. Burden of proof on owner of dog - In any proceedings under this Act, the proof that a dog was duly

registered, or is not over the age of 6 months, shall be on the defendant.

13. Issue of disc and completion of registration

(1) On receipt of the properly completed application form and the dog control fee, the Registrar shall, issue to the owner of the dog a receipt for the fee paid and a disc for the registration year, and upon the issue of such disc, registration shall be deemed to have been duly made.

(2) The owner of the dog shall ensure that the disc issued by the Registrar is attached to a collar worn on the neck of the dog so registered.

(3) If the Registrar is satisfied that a current disc for any dog has been lost or stolen, he shall, on receipt of the prescribed fee, issue a replacement disc.

(4) Every person commits an offence and is liable on conviction to a fine not exceeding \$500, who procures or attempts to procure a replacement disc for any dog knowing that a current disc for that dog has not been lost or stolen.

14. Change of ownership of registered dog - (1)

Where the ownership of a registered dog is changed, the registration of the dog shall continue in force, but the previous owner and the new owner shall each within 14 days give written notice to the Registrar of the change of ownership and of the residential address of the new owner and the address at which the dog will ordinarily be kept.

(2) The Registrar shall, without fee, record the changes in his register.

(3) Every person who fails to comply with the requirements of subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$50.

(4) It shall be a defence to a charge of failing to comply with the requirements of subsection (1) if the defendant satisfies the Court that the previous owner or the new owner, as the case may be, complied with the requirements of that subsection.

15. Transfer of registered dog from one address to another - (1)

Where the owner of any registered dog changes his address, he shall, within 14 days, give notice in writing of his change of address to the Registrar.

(2) The Registrar shall, without fee, record the changes in his register.

(3) Every owner who fails to comply with the requirements of subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$50.

16. Dog not wearing proper disc may be impounded

(1) Except as provided in section 30 where any dog over the age of 6 months not wearing a collar having a current registration disc attached is found,-

(a) any dog control officer or constable may seize and impound the dog; or

(b) the occupier or person in charge of the land, premises, or public place may seize the dog and deliver it to the custody of a dog control officer or constable for impounding.

(2) Nothing in this section shall authorise any person to seize any dog that is under the control of any other person.

17. Offences relating to collars, and discs

(1) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$500, who, with intent to deceive,-

(a) removes from a dog a collar bearing a disc issued under this Act; or

(b) removes any such disc attached to any collar worn by any dog; or

(c) attaches to any dog or owns any dog wearing any disc issued in respect of another dog; or

(d) makes or counterfeits or, knowing the same to be false or counterfeit, purchases, uses, or has in his possession, any disc resembling or apparently intended to resemble or pass for a disc issued under this Act.

18. Fees - (1) The dog control fees payable to the Registrar shall be those fees prescribed by the Queens Representative by Order in Executive Council.

(2) Any Regulations passed pursuant to subsection (1) may,-

(a) fix fees for neutered dogs that are lower than the fee for dogs that have not been neutered;

- (b) fix different fees according to the sex of dogs;
- (c) fix fees for dogs under a specified age (not exceeding 12 months) that are lower than the fee that would otherwise be payable for those dogs;
- (d) fix by way of penalty an additional fee for the registration of any dog on or after the 1st day of April in any registration year, being a dog that was required to be registered by its present owner on the 1st day of April in that registration year;
- (e) fix a fee for the issue of a replacement registration disc for any dog.

19. Fees for part of year - Where any dog to which subsection (2) or subsection (3) of section 7 applies is first required to be registered after the 1st day of April in any year, the fee payable shall be one-twelfth of the annual fee for each complete month remaining in the registration year after the date of such requirement.

### PART III

#### CONTROL OF DOGS

20. Control of dogs - (1) The owner of any dog shall keep that dog under control at all times.

(2) Without limiting the generality of subsection (1), a dog shall be deemed to be not under control,-

- (a) if it is found at large on any land or premises other than a public place without the consent (express or implied) of the occupier or person in charge of that land or those premises; or
- (b) if it is found at large in any public place in contravention of any of the provisions of this Act.

(3) Where a dog is not under control, a dog control officer or constable may seize the dog and cause it to be impounded.

(4) Where in the opinion of,-



(a) the occupier of any land or premises, or of any other person acting with the authority of such occupier (whether express or implied); or

(b) any person in any public place -  
a dog is likely to cause annoyance or distress to any person or animal or damage any property on the land or premises or in any public place, the occupier or person may seize the dog and cause the dog to be delivered into the custody of a dog control officer or constable.

(5) Where a dog is delivered into the custody of a dog control officer or constable under subsection (4), the dog control officer or constable may cause the dog to be returned to its owner or impounded.

(6) Nothing in this section shall authorise a dog control officer or constable to enter upon any land or premises other than a public place for the purposes of this section without the consent (express or implied) of the occupier or person for the time being in apparent charge of that land or those premises.

21. Dogs attacking persons or stock or rushing at vehicles - (1) Any person who sees a dog attacking or startling any person, stock, or poultry, or rushing any vehicle, or who is himself attacked or startled or his vehicle rushed by any such dog, may forthwith either seize or destroy the dog.

(2) Any constable or dog control officer who has reasonable grounds to believe that a dog has attacked or startled any person, stock, or poultry or rushed any vehicle may, if that dog is at large,-

(a) seize that dog; or

(b) if the seizure of the dog is not practicable, and he is satisfied that the dog has been sufficiently identified, destroy the dog.

(3) Where pursuant to subsection (1) a dog is seized by any person other than a dog control officer or constable, that person shall ensure that the dog is forthwith delivered into the custody of a dog control officer or constable.

(4) The owner of any dog that makes any such attack commits an offence and is liable on conviction to a fine not exceeding \$500 in addition to any liability he may incur for any damage caused by the attack, and

where the dog has not been destroyed, the Court may, on convicting the owner, make an order for the destruction of the dog.

(5) Nothing in this section shall apply in respect of any dog,-

- (a) kept by the Police while being used for the purpose of carrying out any lawful function, duty or power of the police, or
- (b) which while on the property of the owner, attacks or startles any wandering stock, or poultry on the property of its owner; or
- (c) which while on the property of the owner rushes any person who is at that time on that property without lawful justification or excuse.

22. Owner liable for damage done by dog - (1) The owner of a dog shall be liable for damage done by a dog, and it shall not be necessary for the person seeking damages to show a previous mischievous propensity in the dog, or the owner's knowledge of any such mischievous propensity, or that the damage was attributable to neglect on the part of the owner of the dog.

(2) This section shall not apply in respect of any damage done by a dog kept by the Police while it is being used for the purpose of carrying out any of the functions, duties, or powers of the Police if, had this section not been enacted, there could be no claim against the Police for the damage.

23. Procedure where order made for destruction of dog - (1) Where any Court makes an order for the destruction of any dog, any person having custody or control of the dog shall cause the dog to be destroyed forthwith.

(2) Where any such person does not cause the dog to be destroyed forthwith any constable or dog control officer may seize and destroy the dog.

(3) In the exercise of his powers under subsection (2), any constable or dog control officer may, at any reasonable time enter on any land or premises, including any dwellinghouse, and remove any dog that is the subject of any order for destruction.

(4) Where any dog is destroyed by any dog control officer or constable acting under the authority

of this section the reasonable costs of the collection, destruction, and disposal of the dog shall constitute a debt recoverable by the Registrar from the owner of the dog.

#### PART IV

#### IMPOUNDING

24. Provision of pound facilities - The Registrar shall make such provision as is necessary for the proper custody, care, and exercise of dogs impounded, seized, or committed to his custody or the custody of a dog control officer or constable under this Act, and for that purpose shall,-

- (a) establish, maintain, and operate a dog pound;
- (b) enter into an agreement with any person, upon such terms and conditions as he thinks fit, for that person to provide proper custody, care, and exercise for such dogs.

25. Pound fees - (1) The Queens Representative by Order in Executive Council may from time to time set reasonable poundage fees and reasonable fees for the following matters,-

- (a) the seizure of dogs by dog control officers or constables under this Act;
- (b) the sustenance of any dog impounded under this Act;
- (c) the destruction of any dog impounded under this Act.

(2) Any fee fixed under this section shall, if so required by the Registrar, be paid before the dog is released from the pound.

26. Impounding and subsequent disposal of dog - (1) Except as provided in subsection (7), where any constable or dog control officer, is given custody of any dog under this Act, that dog shall, unless it is returned to its owner under subsection (3) or subsection (5) of section 20, be impounded until it is disposed of in accordance with this Act.

(2) As soon as practicable after any dog has been impounded, the Registrar shall, in the case of a

dog wearing a current registration disc or where the owner of the dog is known through some other means, notify the owner that the dog has been impounded and that unless the dog is claimed and any fee paid within 5 days of the receipt of that notice, it may be sold, destroyed, or otherwise disposed of in such manner as the Registrar thinks fit; and after the expiry of that period, the Registrar may so dispose of the dog.

(3) Where the owner of the dog is not known and cannot be identified from the dog registration disc, the Registrar may, after the expiration of 5 days after the date of seizure of the dog, sell, destroy, or otherwise dispose of the dog in such manner as he thinks fit.

(4) The proceeds of the sale of any dog under subsection (2) or subsection (3), shall be offset against any fees payable under this Part of this Act and any surplus proceeds on the sale shall not be refunded to the former owner of the dog.

(5) The Registrar shall maintain a record of each dog impounded by it and the method of disposal of that dog.

(6) The sale, destruction, or other disposal of a dog under this section shall not relieve the former owner of the dog of the liability for the payment of any fees payable under this Part of this Act.

(7) Nothing in subsection (1) to (3) shall apply in any case where a constable or dog control officer, seizes or is given custody of a dog pursuant to an order of the Court that the dog be destroyed.

#### PART V

#### MISCELLANEOUS

27. Diseased, injured or distressed dogs - Notwithstanding anything in this Act, a dog control officer or constable, if he is satisfied that for humanitarian reasons a dog is so diseased, distressed, or injured that it should be destroyed, may destroy that dog forthwith.

28. No liability where dog wounded in attempt to destroy - (1) No person who is entitled under this Act to destroy any dog, and who does so in a reasonable manner or who wounds or maims the dog in the course of

attempting to so destroy it, shall be under any criminal or civil liability for the injury done to the dog or its death.

(2) Nothing in subsection (1) shall apply to any person who wounds or maims a dog in the course of attempting to destroy it and does not take all reasonable steps to terminate its suffering.

29. Limitation of liability for damage - No constable, dog control officer, Registrar or Department, shall be liable for any loss or damage caused to the owner of any dog or other property or land that is necessitated by the due administration of this Act.

30. Miscellaneous Offences - Every person commits an offence and is liable on conviction to a fine not exceeding \$500 who,-

- (a) being a person appearing to be in charge of any dog or appearing to be the occupier of any land or premises on which any dog is, and having been requested by a constable or dog control officer to state the name and address of the owner of the dog, wilfully fails or refuses to do so, or wilfully states a false name or address in respect of the owner; or
- (b) wilfully obstructs or hinders any dog control officer or constable in the exercise of his powers.

31. Transitional Provisions - (1) No person shall be guilty of an offence against this Act for owning or keeping an unregistered dog during the first month after the commencement of this Act.

(2) No dog shall be seized or impounded for not wearing a collar having a current registration disc during the first month after the commencement of this Act.

32. Repeals - The Rarotonga Dogs Registration Act 1970 is hereby repealed.

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This Act is administered by the Police Department

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