

Dog Control Amendment Bill (No 2)

Government Bill

As reported from the Local Government and Environment Committee

Commentary

Recommendation

The Local Government and Environment Committee has examined the Dog Control Amendment Bill (No 2) and recommends that it be passed with the amendments shown.

Introduction

The purpose of the Dog Control Amendment Bill (No 2) is to extend or improve aspects of the current regime under the Dog Control Act 1996, to help improve dog control and public safety regarding dogs. The bill would provide flexibility for the Government to prescribe dog policy matters that councils would be obliged to consider and address. The bill would make it mandatory for dogs classified as menacing by virtue of belonging to a breed or type listed in Schedule 4 of the Act to be neutered. Also, the process for the addition of a breed or type of dog to Schedule 4 of the Act would be simplified.

We recommend one significant change to the bill as introduced. This commentary addresses the major issue considered and the recommended amendment. All the other amendments we recommend are minor and technical, and are not discussed in this commentary.

Submissions received

We received 23 submissions on the bill representing individuals, organisations and councils. Most submitters did not indicate overall support for or opposition to the bill; rather they focused on particular clauses, the main concern being opposition to breed-specific legislation.

We heard a substantial submission on the bill from the New Zealand Institute of Animal Control Officers Inc. The Institute generally supported the provisions in the bill as introduced, but opposed breed-specific legislation.

The Institute suggested a large number of amendments to the Act in its submission. The submission raised issues which were, in general, significant policy matters, or related to interpretation of the Act. We believe that many of these suggestions warrant further investigation when a full review of the legislation is undertaken. We have not been able to consider the recommended amendments, because they fall outside the narrow scope of the bill. We asked officials to engage directly with the submitter on particular issues that fell outside the scope of this bill. We were advised that the Department of Internal Affairs is also working with the Institute on dog control matters.

Duty of territorial authorities to adopt policy on dogs

Clause 4 amends section 10 of the Act, which requires each territorial authority to adopt a policy in respect of dogs in its district. The bill would require each authority's dog control policy to include any matters prescribed in regulation under the Act. Clause 4(2) sets out when and how the matters relating to the new requirements must be included in a territorial authority's policy.

We were concerned that the 12-month period allowed for a territorial authority to ensure that matters prescribed in regulation are included in its policy is too short to accommodate public consultation, which is a legislative requirement under proposed new subsection (5A) in section 10. It is important to give councils enough time to adopt policy changes, and a longer period would also help smaller councils to adjust their spending gradually to allow for the cost of the consultation process.

We recommend amending new subsection (5A)(a) of section 10, as inserted by clause 4(2), to allow 24 months for this purpose. We are aware that, in some instances, councils may struggle to meet this deadline, and we believe some discretion should be permitted. We also recommend the insertion of new subsection (5B) in section 10 to allow councils to implement dog control policy outside the prescribed timeframe at the discretion of the Minister of Local Government.

Appendix

Committee process

The Dog Control Amendment Bill (No 2) was referred to the committee on 11 December 2007. The closing date for submissions was 29 February 2008. We received and considered 23 submissions from interested groups and individuals. We heard three submissions.

We received advice from the Department of Internal Affairs. The Regulations Review Committee reported to the committee on the powers contained in clause 7.

Committee membership

Moana Mackey (Chairperson)

John Carter (Deputy Chairperson)

Hon David Benson-Pope

Mark Blumsky (until 30 July 2008)

Jacqui Dean

Hon Marian Hobbs

Dr Russel Norman (from 1 July 2008)

Su'a William Sio

Hon Dr Nick Smith

Mētīria Turei (until 1 July 2008)

Nicky Wagner (from 30 July 2008)

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Nanaia Mahuta

Dog Control Amendment Bill (No 2)

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Dog Control Amendment Act **(No 2) 2007**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

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Part 1**Substantive amendments to principal Act****3 Principal Act amended**

This Act amends the Dog Control Act 1996.

4 Duty of territorial authorities to adopt policy on dogs

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- (1) Section 10(3) is amended by adding “; and” and also by adding the following paragraph:

(g) must include any matters prescribed in regulations made under **section 78(1)(ab)**.

- (2) Section 10 is amended by inserting the following ~~subsection~~ subsections after subsection (5):

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- (5A) The territorial authority must fulfil the requirement under **subsection (3)(g)** (to include any matters prescribed in regulations in its policy)—

- (a) not later than ~~12~~ 24 months after the regulations are made; and
 (b) using the special consultative procedure.

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- (5B) Despite **subsection (5A)(a)**, a territorial authority may fulfil the requirement in **subsection (3)(g)** (to include any matters prescribed in regulations in its policy) later than 24 months after the regulations are made if—

- (a) the territorial authority has requested the Minister in writing for an extension of time to fulfil the requirement; and
 (b) the Minister, in his or her absolute discretion, has agreed to an extension of time for the period specified in writing to the territorial authority.

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5 New section 33E substituted

Section 33E is repealed and the following section substituted:

33E Effect of classification as menacing dog

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- (1) If a dog is classified as a menacing dog under section 33A or 33C, the owner of the dog must not allow the dog to be at large or in any public place or in any private way without being muzzled in a manner that prevents the dog from biting but allows it to breathe and drink without obstruction.

- (2) **Subsection (1)** does not apply if—

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- (a) the dog is completely confined within a vehicle or cage; or
- (b) in respect of any dog or class of dog, a territorial authority considers that it need not be muzzled in any specified circumstances (for example, at a dog show).
- (3) If a dog is classified as a menacing dog under section 33A, the owner of the dog must, if required by the territorial authority concerned, not later than 1 month after receiving notice of the classification, produce to the territorial authority a certificate issued by a veterinarian certifying— 5
- (a) that the dog is or has been neutered; or
- (b) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before the date specified in the certificate and, not later than 1 month after that date, produce to the territorial authority a further certificate issued by a veterinarian certifying that the dog is or has been neutered. 10
- (4) If a dog is classified as a menacing dog under section 33C, the owner of the dog must, not later than 1 month after receiving notice of the classification, produce to the territorial authority concerned a certificate issued by a veterinarian certifying— 15
- (a) that the dog is or has been neutered; or
- (b) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before the date specified in the certificate and, not later than 1 month after that date, produce to the territorial authority a further certificate issued by a veterinarian certifying that the dog is or has been neutered. 20
- (5) **Subsection (4)** does not apply if the owner of the dog has previously produced to the territorial authority a certificate issued by a veterinarian certifying that the dog is or has been neutered. 25

6 Regulations

Section 78(1) is amended by inserting the following paragraph after paragraph

- (a): 30
- (ab) specifying matters that a territorial authority must include, in the manner that the territorial authority thinks fit, in its policy on dogs under section 10:

7 New section 78A substituted

Sections 78A, 78B, and 78C are repealed and the following section is substituted: 35

78A Regulations amending Schedule 4

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend Schedule 4 in either or both of the following ways:

- (a) by adding a further breed or type of dog to the schedule:
- (b) by moving the name or description of any dog from a part of the schedule to another part of the schedule:
- (2) Before making a recommendation for the purposes of **subsection (1)**, the Minister must, in respect of each breed or type of dog referred to in the proposed order,— 5
- (a) consult the representatives from local government, animal welfare organisations, dog clubs, and veterinary practices that the Minister considers appropriate; and
- (b) seek advice on— 10
- (i) the tendency of the breed or type to exhibit aggressive behaviour; and
- (ii) the tendency of the breed or type to attack; and
- (iii) the risks to public safety, if any, if the breed or type is not listed in Schedule 4; and 15
- (iv) the companion value of the breed or type, if any; and
- (v) the classification and experience of the breed or type in any other country.
- (3) For the purposes of making a recommendation under **subsection (1)**, the Minister may also— 20
- (a) consult any other person or organisation that he or she thinks relevant; and
- (b) seek advice on, and have regard to, any other matter that he or she thinks relevant.

Part 2 25

Consequential and transitional provisions

Further amendments to principal Act

8 Further amendments to principal Act

The principal Act is amended in the manner set out in **the Schedule**.

Transitional provision 30

9 Transitional provision for owners of dogs classified as menacing under section 33C before commencement of this Act

- (1) The owner of a dog that has been classified as a menacing dog under section 33C before the commencement of this Act must, not later than 6 months after the commencement of this Act, produce to the territorial authority concerned a certificate issued by a veterinarian certifying— 35

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- (a) that the dog is or has been neutered; or
 - (b) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before the date specified in the certificate and, not later than 1 month after that date, produce to the territorial authority a further certificate issued by a veterinarian certifying that the dog is or has been neutered. 5
- (2) **Subsection (1)** does not apply if the owner of the dog has previously produced to the territorial authority a certificate issued by a veterinarian certifying that the dog is or has been neutered.

Schedule Consequential amendments to principal Act

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Section 10(3)(ea)	
Omit “or 33C”.	5
Omit “section 33E(1)(b)” and substitute “ 33E(3) ”.	
Section 10(3)(eb)	
Omit “or 33C”.	
Omit “section 33EB(2)” and substitute “33EB”.	
Section 30(1)(a)(ii)	10
Omit “authority” and substitute “authority; and”.	
<u>Section 31(1)</u>	
<u>Paragraph (a): omit “; and” and substitute “; or”.</u>	
<u>Paragraph (b): omit “; and” and substitute “; or”.</u>	
Section 33A(2)	15
Omit “33E(1)(a),” and substitute “ 33E ”.	
Section 33C(1)	
Omit “33E(1)(a)” and substitute “ 33E ”.	
Section 33EB(1)(a)	
Omit “section 33A or 33C; and” and substitute “section 33A; and”.	20
Section 33EB(1)(b)	
Omit “33E(1)(b);” and substitute “ 33E(3) ;”.	
Section 33EC	
Heading to section 33EC: omit “ 33E(1) ” and substitute “ 33E ”.	
Subsection (1): omit “33E(1)” and substitute “ 33E ”.	25
Subsection (2): omit “33E(1)” in each place where it appears and substitute in each case “ 33E ”.	
Section 33F(2)	
Omit “section 33E(1)(a),” and substitute “ 33E(1) ,”.	
Section 35AB(2)	30
Omit “reponsible” and substitute “responsible”.	

Section 46(3)

Insert “territorial” before “authority”.

Section 55(7)(a)

Omit “as” and substitute “has”.

Section 71A(2)(a)(i)

Omit “33E(1)” and substitute “**33E**”.

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Schedule 4

Heading to Schedule 4: omit “33A, 33C, 78A–78C” and substitute “33C, 33D, **78A**”.

Heading to Schedule 4: omit “**and muzzling**” and substitute “, **muzzling, and neutering**”.

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Legislative history

21 November 2007

11 December 2007

Introduction (Bill 176–1)

First reading and referral to Local Government and Environment Committee