

# Dog Control Amendment Act 2004

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## Contents

	Page
1 Title	2
2 Commencement	2
3 Power of dog control officer or dog ranger to feed and shelter dogs	3
4 Classification of probationary owners	3
5 Territorial authority may require probationary owner to undertake training	3
6 Obligation of probationary owners to dispose of unregistered dogs	3
7 Disqualification of owners	4
8 Maintenance of records and provision of information	4
9 Effect of classification as dangerous dog	4
10 Territorial authority may classify dog as menacing	5
11 Dogs belonging to breed or type listed in Schedule 4 to be classified as menacing	5
12 Effect of classification as menacing dog	5
13 Dogs register	5
14 Supply of register information	5
15 New sections 35A and 35AB substituted	6
35A National dog control information database	6
35AB National dog control information database may contain additional information supplied by territorial authority	7
16 Application for registration	7

17	Microchip transponder must be implanted in certain dogs	7
18	Offence of failing to register dog	9
19	Section 43 repealed	9
20	Owner must use or carry leash in public	9
21	Allowing dogs known to be dangerous to be at large unmuzzled	10
22	Infringement offences	10
23	Infringement notices	10
24	New section 69A substituted	10
	69A Impounded dog must be microchipped and registered before release	10
25	New section 72A inserted	11
	72A Power of dog control officer or dog ranger to seize released dog	11
26	New Schedule 1 substituted	11
27	Consequential amendments to Dog Control Amendment Act 2003	12
	<b>Schedule</b>	12
	<b>New Schedule 1 substituted in Dog Control Act 1996</b>	

**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Dog Control Amendment Act 2004.
- (2) In this Act, the Dog Control Act 1996 is called “the principal Act”.

**2 Commencement**

- (1) Sections 10 and 11 come into force on 1 November 2004.
- (2) Section 24 (except in relation to section 69A(3) of the principal Act) comes into force on 1 July 2006.
- (3) Section 24 (in relation to section 69A(3) of the principal Act) and the rest of this Act come into force on the day after the date on which the Act receives the Royal assent.

### **3 Power of dog control officer or dog ranger to feed and shelter dogs**

- (1) Section 15(3)(a) of the principal Act is amended by omitting the word “property”, and substituting the words “land or premises”.
- (2) Section 15(4) of the principal Act is amended by omitting the word “property” in both places where it occurs, and substituting in each case the words “land or premises”.

### **4 Classification of probationary owners**

Section 21 of the principal Act is amended by adding the following subsection:

- “(5) This section applies only if section 25(1A) applies.”

### **5 Territorial authority may require probationary owner to undertake training**

- (1) Section 23A of the principal Act is amended by omitting the expression “section 21(1)”, and substituting the expression “section 21”.
- (2) Section 23A of the principal Act is amended by adding, as subsection (2), the following subsection:

“(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who, without reasonable excuse, fails to comply with a requirement under subsection (1).”

### **6 Obligation of probationary owners to dispose of unregistered dogs**

Section 24 of the principal Act is amended by adding the following subsection:

- “(5) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who—
- “(a) fails to comply with subsection (1); or
  - “(b) fails, in disposing of a dog under subsection (1), to comply with subsection (2); or
  - “(c) at any time while classified as a probationary owner becomes the registered owner of a dog (unless the person was the registered owner of the dog on the date of the offence or the date of the third infringement offence in

respect of which the classification was made under section 21); or

- “(d) disposes or gives custody or possession of any dog to any person, knowing that the person is disqualified under section 25.”

#### **7 Disqualification of owners**

- (1) Section 25(1) of the principal Act is amended by omitting the words “, unless it is satisfied that the circumstances of an offence or offences do not warrant disqualification or probationary ownership,”.
- (2) Section 25 of the principal Act is amended by inserting, after subsection (1), the following subsection:
- “(1A) Subsection (1) does not apply if the territorial authority is satisfied that the circumstances of the offence or offences are such that—
- “(a) disqualification is not warranted; or
- “(b) the territorial authority will instead classify the person as a probationary owner under section 21.”

#### **8 Maintenance of records and provision of information**

- (1) Section 30(2) of the principal Act is amended by omitting the word “Every”, and substituting the words “Subject to subsection (6), every”.
- (2) Section 30 of the principal Act is amended by repealing subsection (5), and substituting the following subsections:
- “(5) A territorial authority may comply with this section by entering the required information directly into the national dog control information database referred to in section 35A.
- “(6) A territorial authority that complies with subsection (5) is not required to answer any request made under subsection (2). Instead the request must be treated as if it were a request made to the territorial authority referred to in section 35A(2).”

#### **9 Effect of classification as dangerous dog**

- (1) Section 32(1)(d) of the principal Act is amended by omitting the expression “paragraph (c):”, and substituting the words “paragraph (c)(i); and”.

- (2) Section 32(1)(e) of the principal Act is amended by omitting the words “dangerous dog:”, and substituting the words “dangerous dog; and”.

**10 Territorial authority may classify dog as menacing**

Section 33A(3) of the principal Act is amended by inserting, after the words “written notice”, the words “in the prescribed form”.

**11 Dogs belonging to breed or type listed in Schedule 4 to be classified as menacing**

Section 33C(2) of the principal Act is amended by inserting, after the words “written notice”, the words “in the prescribed form”.

**12 Effect of classification as menacing dog**

Section 33E(5) of the principal Act is amended by omitting the words “or controlled on a leash”.

**13 Dogs register**

Section 34 of the principal Act is amended by repealing subsection (6), and substituting the following subsection:

- “(6) A territorial authority may comply with this section by entering the required information directly into the national dog control information database referred to in section 35A.”

**14 Supply of register information**

- (1) Section 35(2) of the principal Act is amended by omitting the word “Where”, and substituting the words “Subject to subsection (6), if”.

- (2) Section 35 of the principal Act is amended by adding the following subsection:

- “(6) A territorial authority that complies with section 34(6) is not required to answer any request made under subsection (2)(c). Instead the request must be treated as a request made to the territorial authority referred to in section 35A(2).”

**15 New sections 35A and 35AB substituted**

The principal Act is amended by repealing section 35A and substituting the following sections:

**“35A National dog control information database**

- “(1) For the purposes of compiling and maintaining a national dog control information database, a territorial authority must provide to a person or organisation nominated by the Secretary for Local Government, in electronic form, the information that the territorial authority is required to keep under sections 30(1) and 34(2)(a) to (h) (which relates to offences, infringement notices, probationary and disqualified dog owners, and dog registration).
- “(2) For the purpose of sections 30(2) and 35(2)(c),—
- “(a) the person or organisation responsible for the database must be treated as if the person or organisation were a territorial authority; and
  - “(b) the information that the person or organisation holds under subsection (1) must be treated as if it were information that was collected for the purposes of sections 30 and 35; and
  - “(c) the person or organisation must be treated as if the person or organisation were permitted to disclose the information it holds only—
    - “(i) to any other territorial authority; and
    - “(ii) by either—
      - “(A) disclosing the information to the territorial authority in accordance with sections 30(2) and 35(2)(c), or
      - “(B) allowing the territorial authority to access the information directly from the person’s or organisation’s database.
- “(3) Despite subsection (2), the person or organisation may supply the information that it holds to the Secretary for Local Government for the purposes of evaluating dog control policy in New Zealand, as long as the information does not allow the identification of individual records of dog owners or dogs.

**“35AB National dog control information database may contain additional information supplied by territorial authority**

- “(1) The person or organisation responsible for the national dog control information database under section 35A may include in the database any information that a territorial authority—
- “(a) holds under section 34(2)(i); and
  - “(b) chooses to provide to the person or organisation.
- “(2) Without limiting the information that the person or organisation responsible for the database may include in the database under subsection (1), the person or organisation may include any information a territorial authority provides that relates to any of the following:—
- “(a) any dog identifier used by the territorial authority;
  - “(b) the year a dog is born;
  - “(c) the year a dog dies;
  - “(d) contact details of a dog owner.
- “(3) Any information provided under this section to the person or organisation responsible for the database is subject to the same limits on disclosure by the person or organisation as the information provided to the person or organisation under section 35A.”

**16 Application for registration**

Section 36(3) of the principal Act is amended by omitting the words “Except as provided in section 43 of this Act, where”, and substituting the word “Where”.

**17 Microchip transponder must be implanted in certain dogs**

- (1) Section 36A of the principal Act is amended by repealing subsection (3), and substituting the following subsections:
- “(3) Subsection (2) is complied with by the owner,—
- “(a) for a dog that is classified as dangerous or menacing, by making the dog available, in accordance with the reasonable instructions of the territorial authority, for verification that it has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location;
  - “(b) for a dog that is registered for the first time on or after 1 July 2006, by—

- “(i) making the dog available, in accordance with the reasonable instructions of the territorial authority, for verification that it has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location; or
  - “(ii) providing to the territorial authority a certificate issued by a registered veterinary surgeon certifying—
    - “(A) that the dog is or has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location; or
    - “(B) that, for the reasons that are specified in the certificate, the dog will not be in a fit condition to be implanted with a functioning microchip transponder of the prescribed type and in the prescribed location before a date specified in the certificate.
- “(3A) A certificate issued by a registered veterinary surgeon under subsection (3)(b)(ii) must include the following information:—
- “(a) the unique identifier of the microchip transponder (if subsection (3)(b)(ii)(A) applies); and
  - “(b) the name and sex of the dog; and
  - “(c) a physical description of the dog, which may include the breed, the colour, and any distinguishing marks; and
  - “(d) if the dog is registered, the registration number of the label or disc issued for the dog; and
  - “(e) the name, date of birth, and address of the owner of the dog.”
- (2) Section 36A of the principal Act is amended by repealing subsection (5), and substituting the following subsections:
- “(5) The owner must comply with subsection (2)—
- “(a) within 2 months from 1 July 2006, if the dog is classified as dangerous or menacing on or after 1 December 2003 but before 1 July 2006; or
  - “(b) within 2 months after the date on which the dog is classified as dangerous or menacing or is registered (as the case may be), in any other case.



“(5A) Subsection (2) does not apply if—

- “(a) as a requirement of this Act, the dog has been previously implanted with a functioning microchip transponder of the prescribed type and in the prescribed location; or
- “(b) in any other case, the territorial authority has verified that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.”

## **18 Offence of failing to register dog**

Section 42 of the principal Act is amended by repealing subsection (3), and substituting the following subsections:

“(3) This section does not apply to any person operating a pound or facility, or having custody of an unregistered dog for the purposes of—

- “(a) impounding the dog under this Act; or
- “(b) confining the dog in a transitional facility or containment facility approved under section 39 of the Biosecurity Act 1993; or
- “(c) keeping the dog in the custody of a society established to prevent cruelty to animals pending the dog’s—
  - “(i) recovery by its owner; or
  - “(ii) disposal to a new owner.

“(4) However,—

- “(a) a person to whom subsection (3)(a) applies must not dispose of a dog other than in accordance with section 69A; and
- “(b) a person to whom subsection (3)(b) or subsection (3)(c) applies must not dispose of a dog (other than by destroying it), unless the dog is first registered under this Act.”

## **19 Section 43 repealed**

Section 43 of the principal Act is repealed.

## **20 Owner must use or carry leash in public**

(1) Section 54A of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(1) The owner of a dog must carry a leash when in a public place if—

- “(a) the dog is with the owner; and
- “(b) the dog is not otherwise required to be controlled on a leash by or under this Act or any other enactment.”

- (2) Section 54A(3) of the principal Act is amended by adding the words “in relation to the working dog”.

**21 Allowing dogs known to be dangerous to be at large unmuzzled**

- (1) Section 62(3) and (4) of the principal Act is amended by omitting the expression “subsection (1)” in both places where it occurs, and substituting in each case the expression “subsection (2)”.
- (2) Section 62(5) of the principal Act is amended by omitting the expression “subsection (2)”, and substituting the expression “subsection (3)”.

**22 Infringement offences**

Section 65(1) of the principal Act is amended by omitting the words “the First Schedule to this Act”, and substituting the expression “Schedule 1”.

**23 Infringement notices**

Section 66(4)(b) of the principal Act is amended by omitting the words “the First Schedule to this Act”, and substituting the expression “Schedule 1”.

**24 New section 69A substituted**

The principal Act is amended by repealing section 69A, and substituting the following section:

**“69A Impounded dog must be microchipped and registered before release**

- “(1) A registered dog that has been impounded by a territorial authority under this Act may not be released to any person (other than for the purposes of destroying it) without first being implanted with a functioning microchip transponder of the prescribed type and in the prescribed manner.
- “(2) Subsection (1) does not apply to a registered dog that has been impounded by the territorial authority for the first time.

- “(3) An unregistered dog that has been impounded by a territorial authority under this Act may not be released to any person (other than for the purposes of destroying it) without first being registered under this Act.
- “(4) An unregistered dog that has been impounded by a territorial authority under this Act may not be released to any person (other than for the purposes of destroying it) without first being implanted with a functioning microchip transponder of the prescribed type and in the prescribed manner.
- “(5) Subsections (1) and (4) do not apply if,
- “(a) as a requirement of this Act, the dog has been previously implanted with a functioning microchip transponder of the prescribed type and in the prescribed location; or
  - “(b) in any other case, the territorial authority has verified that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.”

**25 New section 72A inserted**

The principal Act is amended by inserting, after section 72, the following section:

**“72A Power of dog control officer or dog ranger to seize released dog**

A dog control officer or dog ranger may—

- “(a) seize and impound a dog that has been released or uplifted in breach of section 72; and
- “(b) retain custody of the dog until the dog control officer, dog ranger, or territorial authority (as the case may be) is satisfied that the requirements under this Act in relation to the initial impounding of the dog have been complied with.”

**26 New Schedule 1 substituted**

The principal Act is amended by repealing Schedule 1, and substituting the schedule set out in the Schedule of this Act.

**27 Consequential amendments to Dog Control Amendment Act 2003**

- (1) Section 42 of the Dog Control Amendment Act 2003 is repealed.
- (2) Section 2(2) of the Dog Control Amendment Act 2003 is consequentially amended by omitting the expression “Sections 24 and .42 come”, and substituting the expression “Section 24 comes”.

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**Schedule**

s 26

**New Schedule 1 substituted in Dog Control Act 1996**

**Schedule 1**

s 65(1)

**Infringement offences and fees**

Section	Brief description of offence	Infringement fee (\$)
18	Wilful obstruction of dog control officer or ranger	750
19(2)	Failure or refusal to supply information or wilfully providing false particulars	750
19A(2)	Failure to supply information or wilfully providing false particulars about dog	750
20(5)	Failure to comply with any bylaw authorised by the section	300
28(5)	Failure to comply with effects of disqualification	750
32(2)	Failure to comply with effects of classification of dog as dangerous dog	300
32(4)	Fraudulent sale or transfer, of dangerous dog	500

Schedule 1—*continued*

Section	Brief description of offence	Infringe- ment fee (\$)
33E(2)	Failure to comply with effects of classification of dog as menacing dog	300
36A(6)	Failure to implant microchip transponder in dog	300
41	False statement relating to dog registration	750
42	Failure to register dog	300
46(4)	Fraudulent procurement or attempt to procure replacement dog registration label or disc	500
48(3)	Failure to advise change of dog ownership	100
49(4)	Failure to advise change of address	100
51(1)	Removal, swapping, or counterfeiting of registration label or disc	500
52A	Failure to keep dog controlled or confined	200
53(1)	Failure to keep dog under control	200
54(2)	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	300
54A	Failure to carry leash in public	100
62(4)	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	300

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**Legislative history**

29 March 2004	Introduction, (Bill 111-1)
7 April 2004	First reading and referral to the Local Government and Environment Committee
14 June 2004	Reported from the Select Committee (Bill 111-2)
June 2004	Supplementary Order Papers 2004 Nos 230, 227, 232 and 234
29 June 2004	Divided from Local Government Law Reform Bill (No 3), third reading

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