

Dog Control Amendment Bill (No 2)

Government Bill

Explanatory note

General policy statement

The purpose of the Bill is to extend or improve aspects of the current regime under the Dog Control Act 1996 (the **Act**) to help improve dog control and public safety around dogs. The Bill will provide flexibility for government to prescribe dog policy matters for councils to consider and address. The Bill will 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 will be simplified.

Clause by clause analysis

Clause 1 is the title clause.

Clause 2 is the commencement clause. The Bill comes into force on the day after the date on which it receives the Royal assent.

Part 1

Substantive amendments to principal Act

Clause 3 states that the Bill amends the Dog Control Act 1996 (the **principal Act**).

Clause 4 amends section 10 of the principal Act. Section 10 requires each territorial authority to adopt a policy in respect of dogs in its district. Section 10(3) states what must be included in a policy.

Clause 4(1) adds a further element, by requiring a policy to include any matters prescribed in regulations made under *new section*

78(1)(ab). *New section 78(1)(ab)* is inserted by *clause 6* and is discussed under that clause.

Clause 4(2) sets out when and how the matters relating to the new requirement under *subclause (1)* must be included in a territorial authority's policy.

Clause 5 repeals current section 33E of the principal Act and substitutes a *new section 33E*. The only substantive change to the current section is the requirement that a dog classified as a menacing dog under section 33C of the Act must be neutered. Under current section 33E, the territorial authority concerned has a discretion as to whether to require the owner of the dog to have it neutered. The dogs to which both the current and *new section 33E* apply are those listed in Schedule 4 of the principal Act, being breeds or types of dogs that may not be imported into New Zealand but, if already in the country, must be muzzled when at large or in any public place or in any private way.

Clause 6 inserts *new paragraph (ab)* into section 78(1) of the principal Act. Section 78(1) is the regulation-making section of the principal Act. *New paragraph (ab)* authorises the Governor-General to make regulations 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 of the principal Act.

Clause 7 repeals sections 78A, 78B, and 78C of the principal Act and substitutes a *new section 78A*. Sections 78A, 78B, and 78C all relate to the way in which a breed or type of dog may be added to Schedule 4 of the principal Act. As explained in relation to the amendments in *clause 5*, Schedule 4 of the principal Act lists the breeds or types of dogs that may not be imported into New Zealand but, if already in the country, are subject to muzzling requirements. *New section 78A* simplifies the procedure by which a breed or type of dog may be added to Schedule 4 or moved between parts of the Schedule. Under the current provisions, a resolution of the House is required before the Schedule can be amended. *New section 78A* only requires the usual Order in Council process.

Part 2

Consequential and transitional provisions

Clause 8 provides for further amendments to the principal Act as set out in the *Schedule* to the Bill. These are consequential amendments and amendments to correct typographical errors.

Clause 9 is a transitional provision. It provides a 6-month period, running from the commencement of the Bill, for the owners of dogs affected by the new requirement under Schedule 4 (that menacing dogs be neutered) to comply with that requirement.

Hon Nanaia Mahuta

Dog Control Amendment Bill (No 2)

Government Bill

Contents

| | | Page |
|--|--|------|
| 1 | Title | 1 |
| 2 | Commencement | 2 |
| Part 1 | | |
| Substantive amendments to principal Act | | |
| 3 | Principal Act amended | 2 |
| 4 | Duty of territorial authorities to adopt policy on dogs | 2 |
| 5 | New section 33E substituted | 2 |
| | 33E Effect of classification as menacing dog | 2 |
| 6 | Regulations | 3 |
| 7 | New section 78A substituted | 3 |
| | 78A Regulations amending Schedule 4 | 3 |
| Part 2 | | |
| Consequential and transitional provisions | | |
| <i>Further amendments to principal Act</i> | | |
| 8 | Further amendments to principal Act | 4 |
| <i>Transitional provision</i> | | |
| 9 | Transitional provision for owners of dogs classified as menacing under section 33C before commencement of this Act | 4 |
| Schedule | | 6 |
| Consequential amendments to principal Act | | |

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.

Part 1**Substantive amendments to principal Act**

5

3 Principal Act amended

This Act amends the Dog Control Act 1996.

4 Duty of territorial authorities to adopt policy on dogs

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

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

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

“(5A) The territorial authority must fulfil the requirement under **subsection (3)(g)** to include any matters prescribed in regulations in its policy— 15

“(a) not later than 12 months after the regulations are made; and

“(b) using the special consultative procedure.” 20

5 New section 33E substituted

Section 33E is repealed and the following section substituted:

“33E Effect of classification as menacing dog

- “(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. 25

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

“(a) the dog is completely confined within a vehicle or cage; or 30

“(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 35

- classification, produce to the territorial authority a certificate issued by a veterinarian certifying—
- “(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
- “(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— 10
- “(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. 15 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.”
- 6 Regulations 25**
- Section 78(1) is amended by inserting the following paragraph after paragraph (a):
- “(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:”. 30
- 7 New section 78A substituted**
- Sections 78A, 78B, and 78C are repealed and the following section is substituted:
- “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: 35
 - “(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
- “(iv) the companion value of the breed or type, if any; 15
- 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**. 30

Transitional provision

- 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, 35

produce to the territorial authority concerned a certificate issued by a veterinarian certifying—

- (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. 10

s 8

Schedule**Consequential amendments to principal Act****Section 10(3)(ea)**

Omit “or 33C”.

Omit “section 33E(1)(b)” and substitute “**33E(3)**”.

5

Section 10(3)(eb)

Omit “or 33C”.

Omit “section 33EB(2)” and substitute “33EB”.

Section 30(1)(a)(ii)

Omit “authority” and substitute “authority; and”.

10

Section 33A(2)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”.

15

Section 33EB(1)(b)Omit “33E(1)(b);” and substitute “**33E(3)**”.**Section 33EC**Heading to section 33EC: omit “**33E(1)**” and substitute “**33E**”.

20

Subsection (1): omit “33E(1)” and substitute “**33E**”.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)**”.

25

Section 35AB(2)

Omit “reponsible” and substitute “responsible”.

Section 55(7)(a)

Omit “as” and substitute “has”.

Section 71A(2)(a)(i)Omit “33E(1)” and substitute “**33E**”.

30

Schedule 4Heading 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**”.

35

