

House of Representatives

Supplementary Order Paper

Tuesday, 29 June 2004

Local Government Law Reform Bill (No 3)

Proposed amendments

Hon Chris Carter, in Committee, to move the following amendments:

Clause 2

To omit from *subclause (1A)* the words “new **section 69(2A)(a)**” (line 1 on page 4), and substitute the words “**section 69A(2A)** of the principal Act”.

To omit from *subclause (2)* the words “new **section 69(2A)(a)**” (line 3 on page 4), and substitute the words “**section 69A(2A)** of the principal Act”.

Clause 14C: new section 35A

To omit *subsection (1)* (line 26 on page 8 to line 3 on page 9), and substitute the following subsection:

- “(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).

To omit from *subsection (2)* the word “only” (line 4 on page 9).

To insert in *subsection (2)(c)*, after the words “person or organisation” (line 12 on page 9), the words “must be treated as if the person or organisation”.

Clause 14C: new section 35B

To omit *subsections (1) and (2)* (line 29 on page 9 to line 8 on page 10), and substitute the following subsections:

- “(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.

New clause 14D

To insert after *clause 14C* (after line 13 on page 10), the following clause:

14D 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”.

Clause 15

To insert in *paragraph (c) of new subsection (3A)*, after the words “the breed,” (line 22 on page 11), the word “the”.

To omit from *paragraph (d) of new subsection (3A)* the words “label, or disc” (line 24 on page 11), and substitute the words “label or disc”.

To insert in *paragraph (b) of new subsection (5)*, after the word “classified” (line 34 on page 11), the words “as dangerous or menacing”.

To omit *new subsection (5A)* (lines 4 to 11 on page 12), and substitute the following subsection:

- “(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.”

Clause 15A

To omit *new subsection (4)* (lines 26 to 28 on page 12), and substitute the following subsection:

- “(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.”

Clause 17(1)

To omit the words “in each case by omitting the expression “subsection (1)”, and substituting” (lines 13 to 15 on page 13), and substitute the words “by omitting the expression “subsection (1)” in both places where it occurs, and substituting in each case”.

Clause 18: new section 69A

To insert in the heading to this section, after the word “**microchipped**” (line 7 on page 14), the words “**and registered**”.

To omit *subsection (2A)* (lines 15 to 20 on page 14), and substitute the following subsections:

“(2A) 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.

“(2B) 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.

To omit from *subsection (3)* the expression “**(2A)(b)**” (line 21 on page 14), and substitute the expression “**(2B)**”.

To omit from *subsection (3)(b)* the word “if” (line 26 on page 14).

Clause 29(1)

To omit the expression “Section 79” (line 17 on page 20), and substitute the expression “Section 79(1)”.

Clause 36(1)

To omit the expression “Regulation 4” (line 24 on page 21), and substitute the expression “Regulation 4(1)”.

Clause 43: new section 72

To omit from the heading to this section the words “**and associated**” (line 6 on page 25).

Clause 54

To omit *subclause (7)* (line 1 on page 32 to line 5 on page 33), and substitute the following subclause:

(7) Schedule 7 of the principal Act is amended by omitting clause 24, and substituting the following clause:

“24 **Voting**

“(1) The acts of a local authority must be done, and the questions before the local authority must be decided, at a meeting by—

“(a) vote; and

“(b) the majority of members that are present and voting.

“(2) For the purposes of **subsection (1)**, the mayor or chairperson or other person presiding at the meeting—

“(a) has a deliberative vote; and

- “(b) in the case of equality of votes, does not have a casting vote (and therefore the act or question is defeated and the status quo is preserved).
- “(3) An act or question coming before the local authority must be done or decided by open voting.
- “(4) **Subsections (1) and (2)** apply unless—
- “(a) this Act provides otherwise; or
 - “(b) the standing orders of the local authority expressly provide otherwise.”

Clause 62A: new section 28B(a)

To omit the words “all owners” (line 23 on page 49), and substitute the words “every owner”.

Clause 62A: new section 28D(2)

To omit the words “all owners” (line 18 on page 50), and substitute the words “every owner”.

Explanatory note

This Supplementary Order Paper amends the Local Government Law Reform Bill (No 3) to correct drafting errors. It also makes one substantive amendment to clause 54(7) (which amends clause 24 of Schedule 7 of the Local Government Act 2002).

Clause 54(7), as reported from the Local Government and Environment Select Committee, authorises a local authority to provide in its standing orders for the mayor, chairperson, or other presiding member to have, at a meeting of the local authority, a casting vote in addition to his or her deliberative vote. Clause 54(7) goes on to prescribe the circumstances in which the casting vote may be exercised. The Local Government Act 2002 currently prohibits any use of a casting vote.

The amendment to clause 54 in this Supplementary Order Paper restores the voting requirements of a local authority to that which operated under the Local Government Act 1974, but reverses the default position to that of no casting vote for the mayor, chairperson, or other presiding member. Consequently, if a local authority wishes to have a system of voting that provides for a casting vote, the local authority must expressly provide for this event in its standing orders.

