

Dog Control Amendment Act 2003

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Dog Control Amendment Act 2003.
- (2) In this Act, the Dog Control Act 1996 is called “the principal Act”.

2 Commencement

- (1) Section 32 comes into force on 1 June 2004.
- (2) Section 24 comes into force on 1 July 2006.
- (3) Section 23 comes into force on a date to be appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made appointing different dates for different provisions and for different purposes.
- (4) The rest of this Act comes into force on 1 December 2003.
Subsection (2) was amended, as from 7 July 2004, by section 27(2) Dog Control Amendment Act 2004 (2004 No 61) by substituting the words “Section 24 comes” for the words “Sections 24 and 42 come”.

3 Interpretation

- (1) Section 2 of the principal Act is amended by inserting, after the definition of infringement offence, the following definition:
“**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.”

- (2) Section 2 of the principal Act is amended by inserting, after the definition of **registration year**, the following definition:

“**specified agency** —

“(a) means—

“(i) the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990:

“(ii) the Department of Conservation:

“(iii) the Department of Corrections:

“(iv) the Ministry of Agriculture and Forestry:

“(v) the Ministry of Defence:

“(vi) the Ministry of Fisheries:

“(vii) the New Zealand Customs Service:

“(viii) the New Zealand Defence Force:

“(ix) the New Zealand Police; and

“(b) includes the Director of Civil Defence and Emergency Management.”

- (3) Section 2 of the principal Act is amended by inserting, after paragraph (b)(iv) of the definition of **working dog**, the following subparagraphs:

“(iva) kept by the Department of Corrections or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department; or

“(ivb) kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990, or any officer or employee of that Service solely or principally for the purposes of carrying out the functions, duties, and powers of that Service; or

“(ivc) certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties, and powers conferred by the Civil Defence Emergency Management Act 2002; or.”

4 **Objects**

Section 4(a)(ii) of the principal Act is amended by adding the words “and menacing dogs”.

Part 1
Functions, duties, and powers of
territorial authorities

5 Duty of territorial authorities to adopt policy on dogs

(1) Section 10 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:

“(4) In adopting a policy under this section, the territorial authority must have regard to—

“(a) the need to minimise danger, distress, and nuisance to the community generally; and

“(b) the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and

“(c) the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and

“(d) the exercise and recreational needs of dogs and their owners.”

(2) Section 10 of the principal Act is amended by repealing subsection (6), and substituting the following subsection:

“(6) The territorial authority must give effect to a policy adopted under this section—

“(a) by making the necessary bylaws, which must come into force not later than the 60th day after the adoption of the policy; and

“(b) by repealing, before the 60th day after the adoption of the policy, any bylaws that are inconsistent with the policy.”

(3) Section 10 of the principal Act is amended by inserting, after subsection (8), the following subsection:

“(8A) The adoption of a policy or amended policy in accordance with this section satisfies the requirements of sections 86, 155, and 156(1) of the Local Government Act 2002 in respect of any bylaw to which subsection (6) applies.”

6 New section 10A inserted

The principal Act is amended by inserting, after section 10, the following section:

“10A Territorial authority must report on dog control policy and practices

- “(1) A territorial authority must, in respect of each financial year, report on the administration of—
- “(a) its dog control policy adopted under section 10; and
 - “(b) its dog control practices.
- “(2) The report must include, in respect of each financial year, information relating to—
- “(a) the number of registered dogs in the territorial authority district;
 - “(b) the number of probationary owners and disqualified owners in the territorial authority district;
 - “(c) the number of dogs in the territorial authority district classified as dangerous under section 31 and the relevant provision under which the classification is made;
 - “(d) the number of dogs in the territorial authority district classified as menacing under section 33A or section 33C and the relevant provision under which the classification is made;
 - “(e) the number of infringement notices issued by the territorial authority;
 - “(f) the number of dog related complaints received by the territorial authority in the previous year and the nature of those complaints;
 - “(g) the number of prosecutions taken by the territorial authority under this Act.
- “(3) The territorial authority must give public notice of the report—
- “(a) by means of a notice published in—
 - “(i) 1 or more daily newspapers circulating in the territorial authority district; or
 - “(ii) 1 or more other newspapers that have at least an equivalent circulation in that district to the daily newspapers circulating in that district; and
 - “(b) by any means that the territorial authority thinks desirable in the circumstances.

- “(4) The territorial authority must also, within 1 month after adopting the report, send a copy of it to the Secretary for Local Government.”

Part 2

Dog control officers and dog rangers

7 New section 15 substituted

The principal Act is amended by repealing section 15, and substituting the following section:

“15 Power of dog control officer or dog ranger to feed and shelter dogs

- “(1) A dog control officer or dog ranger who has reasonable grounds to suspect that a dog is without access to proper and sufficient food, water, or shelter may enter on any land or premises where the dog is present and do 1 or more of the following things:
- “(a) supply the dog with food, water, or shelter:
 - “(b) enter onto the land or premises from time to time to continue to supply the dog with food, water, or shelter:
 - “(c) seize the dog and remove it from the land or premises.
- “(2) A dog may be seized and removed under subsection (1)(c) only if the dog control officer or dog ranger—
- “(a) is satisfied that the dog is without access to proper and sufficient food, water, or shelter; and
 - “(b) has reasonable cause to suspect that (but for the food, water, or shelter supplied by the dog control officer or dog ranger) the dog will not be given access to proper and sufficient food, water, or shelter within the next 24 hours.
- “(3) If a dog is seized under subsection (1)(c), the dog control officer or dog ranger—
- “(a) must give written notice in the prescribed form to the owner of the dog or, if the owner is not present, to the person for the time being appearing to be in charge of the property; and
 - “(b) may retain custody of the dog until such time as the dog control officer or dog ranger is satisfied that the dog will

receive proper and sufficient food, water, or shelter from its owner.

- “(4) For the purposes of subsection (3), if no person is present on the property, the dog control officer or dog ranger must leave the notice in a conspicuous place on the property.
- “(5) All reasonable costs incurred in the seizure, custody, sustenance, and transport of a dog under this section may be recovered as a debt from the owner of the dog.
- “(6) Section 70 applies to a dog removed under subsection (1)(c) as if the dog had been removed under section 56; and accordingly section 70 applies with all necessary modifications.”

8 Wilful obstruction of dog control officer or dog ranger

Section 18 of the principal Act is amended by omitting the expression “\$1,500”, and substituting the expression “\$3,000”.

9 Power of constable, dog control officer, or dog ranger to request information

- (1) The heading to section 19 of the principal Act is amended by adding the words “about owner”.
- (2) Section 19 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:
- “(1) A constable, dog control officer, or dog ranger may, for the purposes of this Act, request the following persons to state his or her full name, date of birth, address, telephone contact number, and place of work (if applicable):
- “(a) any person appearing to be in charge of a dog; or
- “(b) any person appearing to be the occupier of any land or premises on which a dog for the time being is being kept.
- “(1A) If a person referred to in subsection (1)(a) or (b) claims not to be the owner of the dog, the person must state the name, address, and place of work of the owner of the dog (if known).
- “(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who, without reasonable excuse, fails or refuses to comply with a lawful request

under subsection (1), or wilfully provides false information in response to a request to provide the information.”

10 New section 19A inserted

The principal Act is amended by inserting, after section 19, the following section:

“19A Power of constable, dog control officer, or dog ranger to request information about dog

“(1) A constable, dog control officer, or dog ranger may, for the purposes of this Act, request the owner of a dog to state the name, gender, and a description of the dog.

“(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 lawful request under subsection (1), or wilfully provides false information in response to a request to provide the information.”

11 Classification of probationary owners

Section 21(2) of the principal Act is amended by inserting, after the word “offences”, the words “(not relating to a single incident or occasion)”.

12 Probationary owners

Section 23(3) to (7) is repealed.

Part 3

Probationary and disqualified owners

13 New section 23A inserted

The principal Act is amended by inserting, after section 23, the following section:

“23A Territorial authority may require probationary owner to undertake training

If a person is classified as a probationary owner under section 21(1), the territorial authority may require the person to undertake, at his or her own expense, a dog owner education programme or a dog obedience course (or both) approved by the territorial authority.”

14 New section 25 substituted

The principal Act is amended by repealing section 25, and substituting the following section:

“25 Disqualification of owners

- “(1) A territorial authority must, unless it is satisfied that the circumstances of an offence or offences do not warrant disqualification or probationary ownership, disqualify a person from being an owner of a dog if—
- “(a) the person commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months; or
 - “(b) the person is convicted of an offence (not being an infringement offence) against this Act; or
 - “(c) the person is convicted of an offence against Part 1 or Part 2 of the Animal Welfare Act 1999, section 26ZZP of the Conservation Act 1987, or section 56I of the National Parks Act 1980.
- “(2) For the purposes of subsection (1)(a), a person must be treated as having committed an infringement offence if—
- “(a) the person has been ordered to pay a fine and costs under section 78A(1) of the Summary Proceedings Act 1957, or is deemed to have been ordered to do so under section 21(5) of that Act, in respect of the offence; or
 - “(b) the infringement fee specified on the infringement notice in respect of the offence issued to the person under section 66 has been paid.
- “(3) A disqualification under subsection (1) continues in force for a period specified by the territorial authority not exceeding 5 years from the date of the third infringement offence or offences (as the case may be) in respect of which the person is disqualified.
- “(4) If a person is disqualified under subsection (1), the territorial authority must, as soon as practicable, give written notice in the prescribed form to the person of that decision.”

15 Effect of disqualification

- (1) Section 28 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) Subject to this section, if a person is disqualified from owning a dog under section 25 the person must,—
- “(a) within 14 days of the date on which notice of the decision is given to the person, dispose of every dog owned by the person; and
 - “(b) not subsequently be in possession of a dog at any time, except for the purpose of—
 - “(i) preventing a dog from causing injury, damage, or distress; or
 - “(ii) returning, within 72 hours, a lost dog to the territorial authority for the purpose of restoring the dog to its owner.”
- (2) Section 28(2) of the principal Act is amended by omitting the words “subsection (1)”, and substituting the words “subsection (1)(a)”.
- (3) Section 28(3) of the principal Act is amended by omitting the expression “section 25(5)” in both places it appears, and substituting in each case the expression “section 25(4)”.
- (4) Section 28(4) of the principal Act is amended by omitting the expression “section 25(5)”, and substituting the expression “section 25(4)”.
- (5) Section 28(5) of the principal Act is amended by omitting the expression “\$1,500”, and substituting the expression “\$3,000”.

16 Maintenance of records and provision of information

- (1) Section 30(1)(d)(i) of the principal Act is amended by omitting the words “subsection (1) or subsection (2) of section 25 of this Act”, and substituting the expression “section 25(1)”.
- (2) Section 30(2)(a)(i) of the principal Act is amended by omitting the words “section 25(3) of this Act”, and substituting the expression “section 25(2)”.
- (3) Section 30 of the principal Act is amended by adding the following subsection:
- “(5) If a territorial authority keeps the records required by this section in electronic form, the territorial authority may comply with this section by entering the records directly into the national dog control information database under section 35A.”.

Part 4
**Prohibited, dangerous, and menacing
dogs**

17 New heading and section 30A inserted

The principal Act is amended by inserting, after section 30, the following heading and section:

“Prohibition on import of certain dogs

“30A Prohibition on import of dogs listed in Schedule 4

- “(1) No person may import into New Zealand any dog that belongs wholly or predominantly to 1 or more breed or type of dog listed in Schedule 4.
- “(2) No person may import a dog into New Zealand unless the dog is accompanied by—
- “(a) evidence of registration in New Zealand; or
 - “(b) an exempting statutory declaration.
- “(3) The exempting statutory declaration required by subsection (2)(b) must also be accompanied by a veterinarian’s certificate in relation to the dog that—
- “(a) is issued—
 - “(i) in the country from which the dog is imported or is to be imported; and
 - “(ii) by a veterinarian registered in that country; and
 - “(iii) before the arrival of the dog in New Zealand; and
 - “(b) is to the effect that to the best of the veterinarian’s knowledge and belief, the dog is not a dog listed in Schedule 4.
- “(4) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$3,000.
- “(5) Subsection (1) does not apply in respect of—
- “(a) any guide dog, hearing ear dog, or companion dog accompanying a blind or partially sighted person, a deaf or hearing impaired person, a person with any other disability, or a person genuinely engaged in training the guide dog, hearing ear dog, or companion dog; or
 - “(b) any dog—
 - “(i) that is kept, used, or certified for use by a specified agency; and

“(ii) is being used for the purpose of carrying out in a lawful manner any function, duty, or power of that agency.

“(6) In this section,—

“**dog** includes the embryo, ova, or semen of a dog that belongs wholly or predominantly to 1 or more breed or type of dog listed in Schedule 4

“**exempting statutory declaration**, in relation to any dog, means a statutory declaration—

“(a) that is made in New Zealand by or on behalf of the importer of the dog; and

“(b) that is to the effect that, to the best of the knowledge and belief of the importer of the dog or of the importer’s agent, the dog does not belong wholly or predominantly to 1 or more breed or type of dog listed in Schedule 4.”

18 Territorial authority to classify dangerous dogs

Section 31(1)(a) of the principal Act is amended by omitting the words “section 57(6) of this Act”, and substituting the expression “section 57A(2)”.

19 New section 32 substituted

The principal Act is amended by repealing section 32, and substituting the following section:

“32 Effect of classification as dangerous dog

“(1) If a dog is classified as a dangerous dog under section 31, the owner of the dog—

“(a) must ensure that, from a date not later than 1 month after the receipt of notice of classification, the dog is kept within a securely fenced portion of the owner’s property that it is not necessary to enter to obtain access to at least 1 door of any dwelling on the property; and

“(b) must not allow the dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being—

“(i) muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and

- “(ii) controlled on a leash (except when in a dog exercise area specified in a bylaw made under section 20(1)(d)); and
 - “(c) must produce to the territorial authority, within 1 month after the receipt of notice of classification, a certificate issued by a registered veterinary surgeon and certifying—
 - “(i) that the dog is or has been neutered; or
 - “(ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
 - “(d) must, if a certificate under paragraph (c)(ii) is produced to the territorial authority, produce to the territorial authority, within 1 month after the date specified in that certificate, a further certificate under paragraph (c):
 - “(e) must, in respect of every registration year commencing after the date of receipt of the notice of classification, be liable for dog control fees for that dog at 150% of the level that would apply if the dog were not classified as a dangerous dog:
 - “(f) must not, without the written consent of the territorial authority in whose district the dog is to be kept, dispose of the dog to any other person.
- “(2) Every person who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$3,000.
- “(3) If a court convicts a person of an offence against subsection (2), the court must also make an order for the destruction of the dog unless satisfied that the circumstances of the offence were exceptional and do not warrant destruction of the dog.
- “(4) Every person who sells or otherwise transfers, or offers to sell or transfer, to any other person any dog known by that person to be classified as a dangerous dog without disclosing the fact of that classification to that other person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000.
- “(5) If a person fails to comply with subsection (1), a dog control officer or dog ranger may—

- “(a) seize and remove the dog from the person’s possession; and
 - “(b) retain custody of the dog until the territorial authority has reasonable grounds to believe that the person has demonstrated a willingness to comply with subsection (1).
- “(6) Section 70 applies to a dog removed under subsection (5) as if it were removed under section 56; and accordingly section 70 applies with all necessary modifications.”

20 Territorial authority’s consent to disposal of dangerous dog

Section 33(b) of the principal Act is amended by omitting the word “section 25(1) of this Act”, and substituting the expression “sections 25(1)(b) and (c)”.

21 New heading and sections 33A to 33F inserted

The principal Act is amended by inserting, after section 33, the following heading and sections:

“Menacing dogs

“33A Territorial authority may classify dog as menacing

- “(1) This section applies to a dog that—
- “(a) has not been classified as a dangerous dog under section 31; but
 - “(b) a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—
 - “(i) any observed or reported behaviour of the dog; or
 - “(ii) any characteristics typically associated with the dog’s breed or type.
- “(2) A territorial authority may, for the purposes of section 33E(1)(a), classify a dog to which this section applies as a menacing dog.
- “(3) If a dog is classified as a menacing dog under subsection (2), the territorial authority must immediately give written notice to the owner of—
- “(a) the classification; and

- “(b) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and
- “(c) the right to object to the classification under section 33B.

“33B Objection to classification of dog under section 33A

- “(1) If a dog is classified under section 33A as a menacing dog, the owner—
 - “(a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and
 - “(b) has the right to be heard in support of the objection.
- “(2) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—
 - “(a) the evidence which formed the basis for the classification; and
 - “(b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and
 - “(c) the matters relied on in support of the objection; and
 - “(d) any other relevant matters.
- “(3) The territorial authority must, as soon as practicable, give written notice to the owner of—
 - “(a) its determination of the objection; and
 - “(b) the reasons for its determination.

“33C Dogs belonging to breed or type listed in Schedule 4 to be classified as menacing

- “(1) A territorial authority must, for the purposes of section 33E(1)(a), classify as menacing any dog that the territorial authority has reasonable grounds to believe belongs wholly or predominantly to 1 or more breeds or types listed in Schedule 4.
- “(2) If a dog is classified as menacing under subsection (1), the territorial authority must immediately give written notice to the owner of—
 - “(a) the classification; and
 - “(b) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and

“(c) the right to object to the classification under section 33D.

“33D Objection to classification of dog under section 33C

“(1) If a dog is classified as a menacing dog under section 33C, the owner—

“(a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and

“(b) has the right to be heard in support of the objection.

“(2) If an owner objects to the classification, he or she must provide evidence that the dog is not of a breed or type listed in Schedule 4.

“(3) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—

“(a) the evidence which formed the basis for the classification; and

“(b) the matters relied on in support of the objection; and

“(c) any other relevant matters.

“(4) The territorial authority must, as soon as practicable, give written notice to the owner of—

“(a) its determination of the objection; and

“(b) the reasons for its determination.

“33E Effect of classification as menacing dog

“(1) If a dog is classified as a menacing dog under section 33A or section 33C, the owner of the dog—

“(a) must not allow the dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and

“(b) must, if required by the territorial authority, within 1 month after receipt of notice of the classification, produce to the territorial authority a certificate issued by a registered veterinary surgeon certifying—

“(i) that the dog is or has been neutered; or

- “(ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
 - “(c) must, if a certificate under paragraph (b)(ii) is produced to the territorial authority, produce to the territorial authority, within 1 month after the date specified in that certificate, a further certificate under paragraph (b)(i).
- “(2) A person who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$3,000.
- “(3) If a person fails to comply with subsection (1), a dog control officer or dog ranger may—
- “(a) seize and remove the dog from the person’s possession; and
 - “(b) retain custody of the dog until the territorial authority has reasonable grounds to believe that the person has demonstrated a willingness to comply with subsection (1).
- “(4) Section 70 applies to a dog removed under subsection (3) as if it were removed under section 56; and accordingly section 70 applies with all necessary modifications.
- “(5) Subsection (1)(a) does not apply in respect of any dog or class of dog that the territorial authority considers need not be muzzled or controlled on a leash in any specified circumstances (for example, at a dog show).
- “33F Owner must advise person with possession of dangerous or menacing dog of requirement to muzzle and leash dog in public**
- “(1) This section applies to an owner whose dog has been classified as—
- “(a) dangerous under section 31; or
 - “(b) menacing under section 33A or section 33C.
- “(2) If the dog is in the possession of another person for a period not exceeding 72 hours, the owner must advise the person of the requirement to comply with section 32(1)(b) or section

33E(1)(a), as the case may be (which relate to the requirement to muzzle and leash the dog in public).

- “(3) Every person who fails to comply with subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$500.”

22 Dogs register

- (1) Section 34(2) of the principal Act is amended by inserting, after paragraph (e), the following paragraph:

“(ea) whether the dog is classified as a menacing dog under section 33A or section 33C and the relevant provision under which the classification is made:.”

- (2) Section 34(2) of the principal Act is amended by repealing paragraph (g), and substituting the following paragraph:

“(g) a description of any tattoo, or the unique identifier of any microchip transponder, that provides permanent identification of the dog:.”

- (3) Section 34 of the principal Act is amended by adding the following subsection:

“(6) If a territorial authority keeps the register required by this section in electronic form, the territorial authority may comply with this section by entering the information directly into the national dog control information database under section 35A.”

23 New sections 35A and 35B inserted

The principal Act is amended by inserting, after section 35, the following sections:

“35A National dog control information database

- “(1) A territorial authority must provide the information that it is required to keep and maintain under section 30(1) and section 34(2) to the person or organisation nominated by the Secretary for Local Government for the purpose of compiling a national dog control information database.

- “(2) The information required to be provided under subsection (1) must be provided to the person or organisation in electronic form.

“(3) No information received by the person or agency under this section may be disclosed by the person or organisation except in accordance with the provisions of section 30 or section 35.

“(4) Subsection (1) is subject to section 30(5) and section 34(6).

“35B Levy to fund costs of national dog control information database

“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, impose a levy on territorial authorities in each financial year to fund the costs of maintaining the national dog control information database.

“(2) Subsection (1) does not apply to the costs of establishing the national dog control information database.

“(3) The order—

“(a) must specify the amount of the levy or the way that the levy must be calculated; and

“(b) may authorise—

“(i) the deduction of over-recoveries in respect of a financial year from a levy payable in subsequent financial years; or

“(ii) the addition of under-recoveries in respect of a financial year to a levy payable in subsequent financial years; and

“(c) may prescribe how and when the levy must be paid or collected.

“(4) A territorial authority must pay a levy required by regulations made under subsection (1).

“(5) The amount of unpaid levy is recoverable in a court of competent jurisdiction as a debt due to the Crown.

“(6) An order made under subsection (1) is a regulation under the Regulations (Disallowance) Act 1989.”

24 New section 36A inserted

The principal Act is amended by inserting, after section 36, the following section:

“36A Microchip transponder must be implanted in certain dogs

“(1) This section applies to a dog that—

- “(a) is classified as dangerous under section 31 on or after 1 December 2003; or
 - “(b) is classified as menacing under section 33A or section 33C on or after 1 December 2003; or
 - “(c) is registered for the first time on or after 1 July 2006.
- “(2) The owner of the dog must, for the purpose of providing permanent identification of the dog, arrange for the dog to be implanted with a functioning microchip transponder of the prescribed type and in the prescribed manner.
- “(3) Subsection (2) is complied with by the owner—
- “(a) 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 manner; or
 - “(b) providing to the territorial authority a certificate issued by a registered veterinary surgeon certifying—
 - “(i) that the dog is or has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed manner; or
 - “(ii) 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 manner before a date specified in the certificate; and
- “(4) If a certificate under subsection (3)(b)(ii) is produced to the territorial authority, the owner must produce to the territorial authority, within 1 month after the date specified in the certificate, a further certificate under subsection (3)(b)(i).
- “(5) The owner must comply with subsection (2) within 2 months after the date on which the dog is classified or registered (as the case may be) unless the dog has been previously implanted with a functioning microchip transponder of the prescribed type.
- “(6) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who fails to comply with subsection (2) or subsection (5).

- “(7) This section does not apply to a dog to which section 43(1)(a) applies, but no such dog may be registered unless it is first implanted with a microchip transponder of the prescribed type and in the prescribed manner.”

Part 5

Other related amendments

25 Penalty for false statement relating to application for registration

Section 41 of the principal Act is amended by omitting the expression “\$1,500”, and substituting the expression “\$3,000”.

26 New section 42 substituted

The principal Act is amended by repealing section 42, and substituting the following section:

“42 Offence of failing to register dog

- “(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who keeps a dog of a greater age than 3 months unless the dog is registered under this Act for the current registration year.

- “(2) If a territorial authority has reasonable grounds to believe that a person has failed to comply with subsection (1), a dog control officer or dog ranger may—

“(a) seize and impound the dog; and

“(b) for the purposes of paragraph (a), enter, at any reasonable time, any land or premises (except a dwelling-house) occupied by the owner of the dog.

- “(3) This section does not apply to a dog to which section 43(1) applies.”

Compare: 1982 No 42 s 39.

27 Issue of label or disc and completion of registration

Section 46(4) of the principal Act is amended by omitting the expression “\$1,500”, and substituting the expression “\$3,000”.

28 Change of ownership of registered dog

Section 48(3) of the principal Act is amended by omitting the expression "\$150", and substituting the expression "\$500".

29 Transfer of dog from one address or district to another

Section 49(4) of the principal Act is amended by omitting the expression "\$150", and substituting the expression "\$500".

30 Offences relating to collars, labels, and discs

Section 51(1) of the principal Act is amended by omitting the expression "\$1,500", and substituting the expression "\$3,000".

31 Control of dogs

- (1) The heading to section 52 of the principal Act is amended by adding the word "generally".
- (2) Section 52 of the principal Act is amended by inserting, after subsection (3), the following subsection:

“(3A) A dog control officer or dog ranger in fresh pursuit of a dog that has been not under control in terms of subsection (2) may, at any reasonable time, enter on any land or premises (except a dwellinghouse) to seize and impound a dog if—

 - “(a) the dog is identified by the dog control officer or dog ranger; and
 - “(b) the dog is not under the control of any person or otherwise constrained; and
 - “(c) no person, other than a person under the age of 16 years, is present.”
- (3) Section 52(7) of the principal Act is amended by omitting the word "Nothing", and substituting the words "Except as provided in subsection (3A), nothing".

32 New section 52A inserted

The principal Act is amended by inserting, after section 52, the following section:

“52A Control of dog on owner’s property

- “(1) This section applies when a dog is on land or premises occupied by its owner.

- “(2) The owner of a dog must, at all times, ensure that either—
- “(a) the dog is under the direct control of a person; or
 - “(b) the dog is confined within the land or premises in such a manner that it cannot freely leave the land or premises.
- “(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who fails to comply with subsection (2).
- “(4) If a person fails to comply with subsection (2), a dog control officer or dog ranger may—
- “(a) seize and impound the dog; and
 - “(b) for the purposes of paragraph (a), enter, at any reasonable time, the land or premises (except a dwellinghouse) owned or occupied by the owner of the dog.”

33 Offence of failing to keep dog under control

Section 53(1) of the principal Act is amended by omitting the expression “\$500”, and substituting the expression “\$3,000”.

34 New section 54A inserted

The principal Act is amended by inserting, after section 54, the following section:

“54A Owner must use or carry leash in public

- “(1) The owner of a dog must use or carry a leash at all times while he or she is with the dog in a public place.
- “(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who, being the owner of a dog, fails to comply with subsection (1).
- “(3) This section does not apply to the owner of a working dog.”

35 New section 57 substituted

The principal Act is amended by repealing section 57, and substituting the following section:

“57 Dogs attacking persons or animals

- “(1) A person may, for the purpose of stopping an attack, seize or destroy a dog if—
- “(a) the person is attacked by the dog; or

- “(b) the person witnesses the dog attacking any other person, or any stock, poultry, domestic animal, or protected wildlife.
- “(2) The owner of a dog that makes an attack described in subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 in addition to any liability that he or she may incur for any damage caused by the attack.
- “(3) If, in any proceedings under subsection (2), the Court is satisfied that the dog has committed an attack described in subsection (1) and that the dog has not been destroyed, the Court must make an order for the destruction of the dog unless it is satisfied that the circumstances of the offence were exceptional and do not warrant destruction of the dog.
- “(4) If a person seizes a dog under subsection (1), he or she must, as soon as practicable, deliver the dog into the custody of a dog ranger or dog control officer.
- “(5) If a dog control officer or dog ranger has reasonable grounds to believe that an offence has been committed under subsection (2), he or she may—
 - “(a) seize and take custody of the dog; or
 - “(b) if seizure of the dog is not practicable, destroy the dog.
- “(6) A dog control officer or dog ranger may enter land or premises for the purposes of subsection (5), but may enter any dwelling-house on the land or premises only if—
 - “(a) he or she is in fresh pursuit of a dog that—
 - “(i) he or she has reasonable grounds to believe has committed an attack described in subsection (1); and
 - “(ii) has been identified by a witness to the attack; or
 - “(b) he or she is authorised in writing to do so by a Justice, who must not grant an authority unless the Justice is satisfied that there are reasonable grounds to believe that an offence has been committed under subsection (2), and, in the case of a dog control officer, he or she is accompanied by a constable.
- “(7) To avoid doubt, a member of the police may exercise the powers conferred on a dog control officer or dog ranger by this section.

- “(8) This section, section 57A, and section 58 do not apply in respect of a dog that—
- “(a) is kept, or is being used, or is certified for use by a specified agency; and
 - “(b) is being used for the purpose of carrying out in a lawful manner any function, duty, or power of that agency.
- “Compare: 1982 No 42 s 56(1)-(5), (7).”

36 New section 57A inserted

The principal Act is amended by inserting, after section 57, the following section:

“57A Dogs rushing at persons, animals, or vehicles

- “(1) This section applies to a dog in a public place that—
- “(a) rushes at, or startles, any person or animal in a manner that causes—
 - “(i) any person to be killed, injured, or endangered; or
 - “(ii) any property to be damaged or endangered; or
 - “(b) rushes at any vehicle in a manner that causes, or is likely to cause, an accident.
- “(2) If this section applies,—
- “(a) the owner of the dog commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 in addition to any liability that he or she may incur for any damage caused by the dog; and
 - “(b) the court may make an order for the destruction of the dog.
- “(3) A dog control officer or dog ranger who has reasonable grounds to believe that an offence has been committed under subsection (2)(a) may, at any time before a decision of the court under that subsection, seize or take custody of the dog and may enter any land or premises (except a dwellinghouse) to do so.”

37 Dogs causing serious injury

Section 58 of the principal Act is amended by omitting the words “summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$5,000”, and sub-

stituting the words “conviction to imprisonment for a term not exceeding 3 years or a fine not exceeding \$20,000”.

38 New section 62 substituted

The principal Act is amended by repealing section 62, and substituting the following subsection:

“62 Allowing dogs known to be dangerous to be at large unmuzzled

- “(1) This section applies to a dog owned by a person and known by the person to—
- “(a) be dangerous; or
 - “(b) have attacked any person or any stock or poultry or property of any kind.
- “(2) The person must not allow the dog to be at large or in any public place or private way, except when confined completely within a vehicle or cage, without being—
- “(a) muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
 - “(b) controlled on a leash (except when in a dog exercise area specified in a bylaw made under section 20(1)(d)).
- “(3) A person whose dog is in the possession of any other person for a period of less than 72 hours must advise that person of the requirement to comply with subsection (1).
- “(4) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$3,000, and the court may, on convicting the person, make an order for the destruction of the dog.
- “(5) Every person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$500.
- “(6) This section does not apply in respect of a dog that—
- “(a) is kept, or used, or is certified for use by a specified agency; and
 - “(b) is being used for the purpose of carrying out in a lawful manner any function, duty, or power of that agency.
- “Compare: 1982 No 42 s 57.”

39 Owner liable for damage done by dog

Section 63 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

- “(2) This section does not apply in respect of any damage done by a dog that—
- “(a) is kept, or is being used, or is certified for use by a specified agency; and
 - “(b) is being used for the purpose of carrying out in a lawful manner any function, duty, or power of that agency; and
 - “(c) if, had this section not been enacted, there could be no claim for the damage against the agency concerned or any of its officers or employees or the owner of the dog.”

40 Procedure where order made for destruction of dog

- (1) Section 64 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) If a District Court makes an order for the destruction of any dog, any person having custody or control of the dog must—
- “(a) cause the dog to be destroyed immediately; and
 - “(b) produce to the territorial authority within 1 month a certificate issued by a registered veterinary surgeon, or a dog control officer or dog ranger, certifying that the dog has been destroyed.”

- (2) Section 64 of the principal Act is amended by adding the following subsection:

- “(6) A person who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$3,000.”

41 Infringement notices

- (1) Section 66(1) of the principal Act is amended by inserting after the word “officer” wherever it appears the words “or dog ranger”.
- (2) Section 66(4)(h) of the principal Act is amended by omitting the expression “25(1), (2), (3)”, and substituting the expression “25(1) and (2)”.
- (3) Section 66 of the principal Act is amended by adding the following subsection:

“(6) A territorial authority may retain the infringement fee received by it for an infringement offence if the infringement notice was issued by a dog control officer or dog ranger appointed by that territorial authority.”

42 New section 69A inserted

[Repealed]

Section 42 was repealed, as from 7 July 2004, by section 27(1) Dog Control Amendment Act 2004 (2004 No 61).

43 Retention of dog threatening public safety

- (1) Section 71(1)(a) of the principal Act is amended by omitting the words “section 57 of this Act”, and substituting the words “section 57 or section 57A”.
- (2) Section 71(1)(b) of the principal Act is amended by omitting the words “or section 58 of this Act”, and substituting the words “section 57A, or section 58”.

44 New section 72 substituted

The principal Act is amended by repealing section 72, and substituting the following section:

“72 Offence to release dog from custody

- “(1) Every person commits an offence who, except in accordance with this Act,—
- “(a) releases or uplifts, or attempts to release or uplift, a dog that is, under this Act, in the custody of—
 - “(i) a territorial authority, or constable, or dog control officer, or dog ranger; or
 - “(ii) any person who, under section 67(b), has agreed with a territorial authority to provide proper custody, care, and exercise for dogs impounded, seized, or committed to the custody of the territorial authority; or
 - “(b) is in possession of a dog that has been unlawfully released or uplifted from the custody of a person specified in paragraph (a).
- “(2) Every person who commits an offence against subsection (1) is liable on summary conviction to a fine not exceeding \$3,000.”

45 Regulations

- (1) Section 78(1) of the principal Act is amended by inserting, after paragraph (b), the following paragraphs:
- “(ba) prescribing conditions, standards, or procedures for the implantation of a microchip transponder in a dog in accordance with this Act:
- “(bb) prescribing the types of microchip transponders that may be used for the purposes of this Act, and the standards to which they must conform.”.
- (2) Section 78(3) of the principal Act is amended by omitting the expression “\$1,500”, and substituting the expression “\$3,000”.

46 New sections 78A to 78C inserted

The principal Act is amended by inserting, after section 78, the following sections:

“78A Regulations adding further breed or type to Schedule 4

- “(1) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister, amend Schedule 4 by doing 1 or more of the following to the schedule:
- “(a) adding a further breed or type of dog to the schedule; or
- “(b) moving the name or description of any dog from part of the schedule to another part of the schedule.
- “(2) An Order in Council made under subsection (1) may not come into force except in accordance with a commencement order made under section 78B.
- “(3) Sections 5 to 10 of the Regulations (Disallowance) Act 1989 do not apply to any Order in Council made under subsection (1).

“78B Procedure for bringing Order in Council made under section 78A into force

- “(1) The Governor-General may, by Order in Council, make a commencement order bringing any Order in Council made under section 78A into force.
- “(2) The commencement order may be made only after the Order in Council made under section 78A has been approved by resolution of the House of Representatives.

- “(3) A resolution of the House of Representatives approving the Order in Council may be made at any time after—
- “(a) the date that is 28 days after the date on which notice that the Order in Council has been made is given in the *Gazette* ; or
 - “(b) if the *Gazette* notice is given during the period commencing on 24 December in 1 year and ending on 15 January in the following year, 15 February of that following year.
- “(4) An Order in Council made under section 78A lapses if—
- “(a) a motion to approve the Order in Council is defeated; or
 - “(b) no motion to approve the Order in Council is agreed to within 1 year of its date of making.

“78C Matters to which Minister must have regard before recommending Order in Council under section 78A

- “(1) Before recommending to the Governor-General that an Order in Council be made under section 78A, the Minister must, in respect of each breed or type of dog referred to in the proposed Order in Council,—
- “(a) consult with, and consider any advice given by such representatives from local government, animal welfare organisations, dog clubs, and veterinary practices as the Minister considers appropriate; and
 - “(b) have regard to the matters set out in subsection (2).
- “(2) The matters that the Minister must have regard to and seek advice, are—
- “(a) the tendency of the breed or type to exhibit aggressive behaviour; and
 - “(b) the tendency of the breed or type to attack; and
 - “(c) the risks to public safety if the breed or type is not listed in Schedule 4 (if any); and
 - “(d) the companion value of the breed or type (if any); and
 - “(e) the classification and experience of the breed or type in any other country; and
 - “(f) any other matters that the Minister considers relevant.”

- 47 Transitional provision**
A territorial authority must, before 1 September 2004, review its policy on dogs to ensure that it complies with section 10(4) on and from that date.
- 48 Revocation**
The Customs Import Prohibition (Dangerous Breeds of Dogs) Order 2003 (SR 2003/84) is revoked.
- 49 New Schedule 1 substituted**
The principal Act is amended by repealing Schedule 1, and substituting the Schedule set out in Schedule 1 of this Act.
- 50 New Schedule 4 added**
The principal Act is amended by adding the Schedule set out in Schedule 2 of this Act.

Schedule 1

s 49

New Schedule 1 substituted

Schedule 1

s 65(1)

Infringement offences and fees

Section	Description of offence	Infringe- ment Fee (\$)
s 18	Wilful obstruction of dog control officer or dog ranger	1000
s 19(2)	Failure or refusal to supply information or wilfully stating false particulars	1000
s 20(5)	Failure to comply with any bylaw authorised by section 20	500
s 28(5)	Failure to comply with effects of disqualification	1000

Schedule 1—*continued*

Section	Description of offence	Infringe- ment Fee (\$)
s 32(4)	Fraudulent sale or transfer of dangerous dog	1000
s 36A	Failure to implant microchip transponder in dog	500
s 41	False statement relating to registration	1000
s 42	Failure to register dog	300
s 46(4)	Fraudulent attempt to procure replacement label or disc	1000
s 48(3)	Failure to advise change of ownership	100
s 49(4)	Failure to advise change of address	100
s 51(1)	Removal or swapping of labels or discs	1000
s 52A	Failure to keep dog controlled or confined	300
s 53(1)	Failure to keep dog under control	300
s 54A	Failure to use or carry leash in public place	100
s 62(1)	Allowing dogs known to be dangerous to be at large unmuzzled	1000

Schedule 2

s 50

New Schedule 4 added**Schedule 4**s 30A, 33A, 33C, 78A to
78C**Breed and type of dog subject to ban on
importation and muzzling****1****Breed of dog**

- Brazilian Fila
- Dogo Argentino
- Japanese Tosa

2**Type of dog**

- American Pit Bull Terrier

Legislative history

1 July 1999	Introduction and first reading (Bill 307-1)
20 July 1999	Second reading and referral to Internal Affairs and Local Government Committee
9 September 1999	Reported from Internal Affairs and Local Government Committee (Bill 307-2)
18 February 2003	Referred to Local Government and Environment Committee
13 October 2003	Reported from Local Government and Environment Committee (Bill 307-3)
5 November 2003	Consideration of report
11 November 2003	Committee of the whole House (Bill 307-4)
13 November 2003	Third reading
