

## **The Dog Control (Amendment) Bill, 2014**

### **Background**

The Dog Control Bill, 2013 was introduced in the House of Representatives on May 20, 2013. The Bill was passed in the House of Representatives on July 03, 2013 and in the Senate on July 10, 2013. The Bill was assented to on July 31, 2013 (designated as Act No. 11 of 2013) and is awaiting proclamation.

### **The Purpose of the Bill**

The Bill seeks to amend the Dog Control Act, 2013.

### **Key features of the Proposed Legislation**

The Bill will amend:

- ✓ **certain definitions** in the Act, in particular the definition of a Class A dog to mean a dog of the type listed in the Schedule or any dog which has the appearance and physical characteristics conforming to accepted breed standards of the Kennel Club, the American Kennel Club or the Canadian Kennel Club;
- ✓ **section 5 of the Act** to prohibit the entry of dogs in public places where there are prominently displayed notices prohibiting such entry. Exemptions would apply to assistance dogs and dogs used for security purposes;
- ✓ **section 7 of the Act** to include the requirement that an owner of a Class A dog must not have been convicted of a criminal offence that carries an imprisonment term of one year or more; as well as subsection (13) would be amended to impose a responsibility on the owner of a class A dog to inform the local authority if the dog is lost. Additionally, subsection (18) would be repealed.
- ✓ **section 8 of the Act** to enable the local authority to give a seized Class A dog to a person who is able to care for it or to an institution that receives stray dogs before exercising the option of destruction.
- ✓ **section 9(3) of the Act** by inserting the words “or a constable” after the words “local authority”, and delete the words “if so required”.

- ✓ **section 10 of the Act** by inserting the word “knowingly” after the words “a person who”.
- ✓ **section 11 of the Act** to provide insurance coverage to livestock and other animals where there have been attacks by a Class A dog;
- ✓ **section 12 of the Act as well subsection (5)** to enable the local authority to give a Class A dog to a person who is able to care for it or to an institution that receives stray dogs before exercising the option of destruction.
- ✓ **section 13 of the Act** to enable a civil action to be brought by a guardian *ad litem* or on behalf of a person who is under a disability or is a minor.
- ✓ **section 14 of the Act in subsection (1)** by deleting the word “private” and substituting the word “enclosed”, as well as subsection (5) by inserting after the words “the dog”, the words “while it is on those premises”.
- ✓ **section 18 of the Act** to provide for the owner of a Class B dog that has been dangerously out of control on at least one occasion, to have a notice on the premises indicating that such a dog is present there.
- ✓ **section 19 of the Act** amended by repealing subsection (3) and substituting it with the power of the Court to order the seizure and destruction of any Class A dog that injures or kills a person or animal or causes the death of a person or animal while on or outside private premises in instances where the attack was unprovoked; encouraged or incited by another person to do such harm.
- ✓ **section 20 of the Act** to provide a defence for a person charged under that section where the other person was committing an offence against the person charged or his spouse, child or other person under his care.
- ✓ **section 21 subsection (1)** by repealing paragraphs (c) and (d) and inserting  
“(c) where the dog is a Class A dog – order its destruction by a veterinary surgeon in a manner to cause as little pain as possible as well as order the offender to be disqualified from owning or keeping a Class A dog for such period as the Court thinks fit. Additionally, subsection (8) is amended by inserting the words “and make such other order as is provided for in section 21(1) (a) or (b)” after the word “keeper” at the end of the subsection.
- ✓ **section 22 of the Act** to empower a constable or an officer of a local authority to seize or impound a class A dog which is in a public place or a place where it is not permitted to

be. In instances where the owner or keeper of the dog cannot be located, the dog would then be destroyed by a veterinary surgeon.

- ✓ **section 24 of the Act** to exempt veterinary surgeons from liability under the Act where a class A dog is being kept for the purposes of medical treatment or compliance with the Act.
- ✓ the Act amended by inserting a **new section 25A**, that would impose a fine of two hundred thousand (200,000) dollars on a body corporate that commits an offence under the Act.
- ✓ **section 28** of the Act amended to allow for the Regulations to prescribe penalties not exceeding fifty thousand (50,000) dollars.
- ✓ the Act amended by repealing the existing **Schedule** and substituting a new one.

**Comparison of Similar Legislation in other Jurisdictions**

<b>Country</b>	<b>Similar Legislation</b>	<b>Remarks</b>
<b>United Kingdom</b>	Dangerous Dogs Act, 1991 <sup>1</sup> ,  Dangerous Dogs Act 1991 (as amended 1997) <sup>2</sup> , Draft	The purpose of the Dangerous Dog Act, 1991 is to prohibit persons from having in their possession or custody dogs belonging to types bred for fighting; to impose restrictions in respect of such dogs pending the coming into force of the prohibition; to enable restrictions to be imposed in relation to other types of dog which present a serious danger to the public; to make further provision for securing that dogs are kept under proper control; and for connected purposes.  Dangerous Dogs Act 1991 (as

<sup>1</sup> Dangerous Dogs Act, 1991. [http://www.legislation.gov.uk/ukpga/1991/65/pdfs/ukpga\\_19910065\\_en.pdf](http://www.legislation.gov.uk/ukpga/1991/65/pdfs/ukpga_19910065_en.pdf)

		<p>amended 1997) provides for:</p> <p><i>Offences (prohibited breeds or types)</i></p> <ul style="list-style-type: none"><li>• <i>Section 1(1)</i> sets out which types of dogs the prohibitions in the sub-sections apply to – namely Pit Bull Terriers (PBTs)<sup>9</sup>, Japanese Tosas, Dogo Argentinos and Fila Brazilieros.</li><li>• <i>Section 1(2)</i> prohibits the breeding, sale, exchange, advertising, or gift of any dog listed in section 1(1). It also prohibits such dogs from being in a public place without being muzzled and kept on a lead. Furthermore, it also prohibits the abandoning or allowing to stray of such dogs.</li><li>• <i>Section 1(3)</i> prohibits the ownership of any type listed under s1(1) unless it is exempted on the Index of Exempted Dogs as per s1(5).</li></ul> <p><i>Offences (any breed or type)</i></p> <ul style="list-style-type: none"><li>• <i>Section 3(1)</i> provides for the owner or the person in charge of a dog (at the time of the offence) to be guilty of an offence if they allow a dog of any breed to be ‘dangerously out of control in a public place’. This offence is aggravated if the dog injures a person whilst out of control.</li></ul> <p><i>Enforcement provisions</i></p> <ul style="list-style-type: none"><li>• <i>Section 5(1)</i> allows for a dog in a public place to be seized by a police constable or authorised officer of a local authority if it is of a type as set out in s1(1) or is of any type or breed that appears to be dangerously out of control</li></ul>
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<sup>2</sup> Dangerous Dogs Act, 1991 (as amended 1997). <http://archive.defra.gov.uk/wildlife-pets/pets/cruelty/documents/dogs-guide-enforcers.pdf>, <http://www.legislation.gov.uk/ukpga/1997/53/section/1>

	Dangerous Dogs (Amendment) Bill. <sup>3</sup>	<p>at the time (as per s3(1)).</p> <ul style="list-style-type: none"> <li>• <i>Section 5(2)</i> provides for a warrant to be sought for the seizure of dogs on private premises if they are evidence of any offence under the Act.</li> </ul> <p>A Draft Dangerous Dogs Amendment Bill will provide for the police to tackle irresponsible dog owners and improve public safety. It will extend the law to include all private property.</p>
<b>New Zealand</b>	<p>Dog Control Act 1996<sup>4</sup></p> <p>Dog Control Amendment Act 2003<sup>5</sup></p> <p>Dog Control Amendment Act 2004<sup>6</sup></p> <p>Dog Control Amendment Act 2006<sup>7</sup></p>	<p>The purpose of the Dog Control Act 1996:—</p> <p>(a) to make better provision for the control of dogs; and</p> <p>(b) to make better provision in relation to damage caused by dogs; and</p> <p>(c) to repeal the Dog Control and Hydatids Act 1982 and its amendments.</p>
<b>Jamaica</b>	Dogs (Liability for Injuries By)	This Act defines liabilities for

<sup>3</sup> Draft Dangerous Dogs (Amendment) Bill. <http://www.official-documents.gov.uk/document/cm86/8601/8601.pdf>

<sup>4</sup> Dog Control Act 1996. <http://www.legislation.govt.nz/act/public/1996/0013/latest/whole.html#DLM374415>

<sup>5</sup> Dog Control Amendment Act 2003. [http://www.dia.govt.nz/diawebsite.NSF/Files/DogAct03/\\$file/DogAct03.pdf](http://www.dia.govt.nz/diawebsite.NSF/Files/DogAct03/$file/DogAct03.pdf)

<sup>6</sup> Dog Control Amendment Act 2004. [http://www.dia.govt.nz/diawebsite.nsf/Files/dogctrl/\\$file/dogctrl.pdf](http://www.dia.govt.nz/diawebsite.nsf/Files/dogctrl/$file/dogctrl.pdf)

<sup>7</sup> Dog Control Amendment Act 2006. [http://www.dia.govt.nz/diawebsite.nsf/Files/2006023p/\\$file/2006023p.pdf](http://www.dia.govt.nz/diawebsite.nsf/Files/2006023p/$file/2006023p.pdf)

	Act <sup>8</sup>	injuries caused by dogs.
<b>Australia</b>		
<b>Southern Australia</b>	Dog and Cat Management Act 1995. <sup>9</sup>	The Dog and Cat Management Act, 1995 provides for the management of dogs and cats; and for other purposes.
<b>Western Australia</b>	Dog Act 1976. <sup>10</sup>	The Dog Act 1976 is an Act to amend and consolidate the law relating to the control and registration of dogs, the ownership and keeping of dogs and the obligations and rights of persons in relation thereto, and for incidental and other purposes.
	Dog (Restricted Breeds) Regulations (No. 2) 2002. <sup>11</sup>	Dog (Restricted Breeds) Regulations (No. 2) 2002 made provisions for sterilising of dogs.
	Dog Regulations 1976. <sup>12</sup>	The regulations make provisions for change of ownership of dogs and specify length of leash.

<sup>8</sup> Dogs (Liability for Injuries By) Act. <http://www.moj.gov.jm/laws/dogs-liability-injuries-act>

<sup>9</sup> Dog and Cat Management Act, 1995.  
<http://www.legislation.sa.gov.au/LZ/C/A/Dog%20and%20Cat%20Management%20Act%201995.aspx>

<sup>10</sup> Dog Act 1976. [http://www.austlii.edu.au/au/legis/wa/consol\\_act/da197644/](http://www.austlii.edu.au/au/legis/wa/consol_act/da197644/)

<sup>11</sup> Dog (Restricted Breeds) Regulations (No.2) 2002.  
[http://www.slp.wa.gov.au/pco/prod/filestore.nsf/Documents/MRDocument:6408P/\\$FILE/DogRstdBreedsRegsNo22002-01-a0-04.pdf?OpenElement](http://www.slp.wa.gov.au/pco/prod/filestore.nsf/Documents/MRDocument:6408P/$FILE/DogRstdBreedsRegsNo22002-01-a0-04.pdf?OpenElement)

<sup>12</sup> Dog Regulations 1976.  
[http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:20787P/\\$FILE/DogRegs1976-02-c0-01.pdf?OpenElement](http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:20787P/$FILE/DogRegs1976-02-c0-01.pdf?OpenElement)

	Dog Amendment Bill, 2012. <sup>13</sup>	Amends the Dog Act 1976 and repeals Dog (Restricted Breeds) Regulations (no. 2) 2002.
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**Considerations**

The Bill does not provide for:

- ✓ a clear and comprehensive definition of a dangerous dog;
- ✓ justification of the identified breeds listed as Class A dogs;
- ✓ victim compensation;
- ✓ dogs to be seized by the police from private premises in cases where the police are lawfully on said premises and the dogs are evidence of an offence, for example where a drug warrant is executed and a class A dog is found on the premises;
- ✓ statutory presumption – where a police officer can allege that a dog is a class A dog and it is assumed that the dog is such until the defence can prove otherwise;
- ✓ menacing dogs, where unreasonable aggression has been displayed towards a person or animal (other than vermin), and such dogs, without provocation, have attacked a person or animal (other than vermin) without causing serious injury or death.

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<sup>13</sup> Dog Amendment Bill, 2012.  
[http://www.parliament.wa.gov.au/Parliament/bills.nsf/4798E38D89B9F49A48257A5A001491FD/\\$File/Bill292-1B.pdf](http://www.parliament.wa.gov.au/Parliament/bills.nsf/4798E38D89B9F49A48257A5A001491FD/$File/Bill292-1B.pdf)

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<http://www.legislation.gov.uk/ukpga/1997/53/section/1>
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[http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:20787P/\\$FILE/DogRegs1976-02-c0-01.pdf?OpenElement](http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:20787P/$FILE/DogRegs1976-02-c0-01.pdf?OpenElement)
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