

Dog Control Amendment Act 2019

December 2019

The *Dog Control Amendment Act 2019* (the Act) came into force on 18 December 2019. The Act amends the *Dog Control Act 2000* to:

- Introduce a new offence provision and associated penalty where a dog injures or kills wildlife that is declared as 'sensitive wildlife' in an area that is declared as a 'sensitive area'. A penalty of up to 30 penalty units applies;
- Increase the penalty – from 10 to 20 penalty units - for allowing a dog to be in a prohibited area that contains sensitive habitat for native wildlife, and broadening the application of the offence so that it covers instances where a dog is at large, as well as where a dog is deliberately taken into such areas by its owner;
- Increase the penalty for a serious dog attack on a person – from 20 to 30 penalty units;
- Allow for the taking and analysis of a sample by a State Government officer in relation to a suspected offence under 19AB (killing or injuring sensitive species), without the need to obtain the prior approval of the council's General Manager;
- Give councils the option to allow for, and set conditions around, the exercise of greyhounds in declared exercise areas, should they wish to do so;
- Clarify that greyhounds are under effective control when off-lead on any private premises, so long as they are securely confined to those premises; and
- Make a number of minor, clarifying changes.

Further details on the amendments are provided below.

New Offence Provision ('Killing or Injuring Sensitive Species') – Section 19AB

The new Section 19AB provides that, where a dog injures or kills wildlife that is declared as 'sensitive wildlife' in an area that is declared as a 'sensitive area', the owner may be found guilty of an offence and fined up to 30 penalty units – currently \$5,040.

The Minister responsible for Part 4 the *Nature Conservation Act 2002* will declare, by Ministerial Order, both the species of wildlife and the locations to which the offence will apply.

If an owner of a dog is found guilty of the offence, the court may order that the owner pay either or both the reasonable costs incurred from the collection and analysis of a sample from a dog, and compensation for any damage caused or costs incurred as a result of the conduct of the dog in committing the offence. The court may also order that the dog be destroyed.

Sample Collection and Analysis – Sections 19AA and 19AC

The new Section 19AC allows a sample to be taken from a dog and analysed without prior approval of the relevant council General Manager, where it relates to a potential offence under section 19AB. This section applies to police officers, park rangers and other government enforcement officers, and government vets.

This will streamline the process and reduce the risk of degradation of the sample when there is an attack on sensitive species. General Manager approval is still required under the existing Section 19AA for sample collection and analysis in relation to other offence provisions.

Dogs in Prohibited Areas – Section 22

Amendments to Section 22 broadens the application of the existing offence, so that it now covers instances where a dog is at large and enters a prohibited area that contains sensitive habitat for native wildlife, as well as instances where a dog is deliberately taken into these areas by its owner. The maximum penalty has also been increased from 10 to 20 penalty units (currently \$3,360).

Dog Attack Resulting in Serious Injury to a Person – Section 19

Amendments to Section 19 increases the penalty - from 20 to 30 penalty units (currently \$5,040) - for dog attacks on people that result in a serious injury. Serious injury is defined in the Act as:

- “(a) an injury requiring medical or veterinary attention in the nature of –*
- (i) a broken bone; or*
 - (ii) a laceration; or*
 - (iii) a partial or total loss of sensation or function in a part of the body; or*
- (b) an injury requiring medical or cosmetic surgery;”*

Effective Control of Greyhounds – Section 18

Section 18 is amended to provide that a greyhound is also considered to be under effective control where:

- It is in a declared area and the conditions (in relation to all dogs or specifically to greyhounds) that are specified in the declaration for the area are not being contravened; or
- It is securely confined to private premises.

Councils will have discretion in providing for, and setting conditions around, any greyhound exercise areas, in consultation with their local communities. Except on private premises, greyhounds will only be allowed to be exercised off-leash in areas that are specifically declared by councils, and where any conditions set by the council in relation to that declared area are being complied with.

Other Changes – Sections 7 and 19

An amendment to Section 7 clarifies that a council can resolve to make a new declaration with respect to exercise, prohibited and restricted areas, without having to remake and consult on its entire dog management policy.

An amendment to Section 19 clarifies that evidence of an actual injury is required in relation to an offence for a dog attack that causes serious injury.