

Draft *Dog Control Regulations 2020*

September 2020

Remaking of the *Dog Control Regulations 2010*

The Government is seeking feedback on the draft *Dog Control Regulations 2020* (the draft Regulations).

The draft Regulations will remake the *Dog Control Regulations 2010* (the Regulations). The Regulations include the prescribed details for microchips, the requirements for dangerous dog enclosures, and the offences under the *Dog Control Act 2000* for which infringement notices may be issued (and the associated penalties).

It is proposed that most provisions in the Regulations are remade without change. This is except for minor changes to the infringement notices which are prescribed under Schedule 1 – Offences. The proposed changes are necessary because of the December 2019 amendments to the *Dog Control Act*, which strengthened the law and increased the penalties associated with dogs attacking sensitive wildlife.

The Government needs to remake the Regulations because of the requirements of the *Subordinate Legislation Act 1992*. Section 11(2) of the *Subordinate Legislation Act* specifies that subordinate legislation (which applies to the Regulations) expires on the tenth anniversary of the date on which it was made. Remaking the Regulations will ensure that relevant rules continue to apply. This process also enables the Government to ensure that regulations remain up to date. The Regulations were originally set to expire on 9 June 2020, but their expiry has been extended 12 months by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

It is proposed that Schedule 1 of the Regulations is updated by:

1. prescribing an infringement notice for the new offence in the *Dog Control Act*, under section 19AC(10), that applies when a person obstructs, hinders, delays, impedes or threatens, or disobeys a direction given by, a person taking a sample from a dog suspected of committing an offence under section 19AB.

Comment: The penalty amount for the infringement notice will be 2 penalty units (\$344).

2. increasing the infringement penalty for section 22(2), which applies when a person fails to ensure their dog does not enter a prohibited area, from 2 to 4 penalty units (\$688).

Comment: This change is required because the maximum penalty for the offence under section 22(2) has been increased in the *Dog Control Act* from 10 to 20 penalty units. In most cases, for the infringement system to work effectively, it is appropriate to set the infringement notice penalty at 20 per cent of the maximum penalty of the offence.

3. not prescribing an infringement notice for the updated offence under section 19(3), for when a dog attacks a person and causes serious injury.

Comment: As part of the changes to the Dog Control Act, the offence that previously applied to serious dog attacks on both persons and animals, under section 19(3), has been separated into two different offences. Section 19(3) now applies only to serious dog attacks on persons, whereas 19(3A) applies to dog attacks on animals causing serious injury or death. The maximum penalty for serious dog attacks on persons has been increased, from 20 to 30 penalty units, in response to feedback from the community that serious dog attacks on persons should attract a similar penalty to that under the new sensitive wildlife offence, under section 19AB(1).

Infringement notices tend to be used for more minor offences. For example, none of the offences attracting a fine of up to 30 penalty units in the Dog Control Act (nor any of the offences relating to dangerous dogs) are prescribed as infringement notices in the Regulations. It is therefore proposed that the offence under section 19(3) is not suitable for the infringement system. This would mean breaches of section 19(3) would be considered by the courts.

Authorised officers may still issue an infringement notice under section 19(2), for dog attacks on persons causing non-serious injury, and under section 19(3A), where dogs attack animals causing serious injury or death.

It is appreciated that this change may have implications for enforcement activities of authorised officers under the Dog Control Act, and therefore views are welcome on the proposed change.

If section 19(3) was prescribed as an offence for which an infringement notice may be issued, the penalty would be 6 penalty units or \$1,032 (20 per cent of the maximum penalty).

Feedback

The Government is seeking submissions on the proposed amendments by 16 November 2020.

A consultation timeframe of six weeks has been agreed to with the Local Government Association of Tasmania (LGAT), in recognition that councils may, as a result of the pressures of COVID-19, have less resources available to participate in the consultation process. Councils are encouraged to provide their comments via LGAT.

Submissions are to be made in writing and are to be provided either by email to lgd@dpac.tas.gov.au or by post to:

Local Government Division
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

Process and timing

Once consultation closes, the Government will consider submissions and, if required, make changes to the draft Regulations. The Department of Premier and Cabinet will notify council General Managers and other enforcement entities (as appropriate), of the final changes at least two weeks ahead of the new Regulations coming into effect.