

NSW Legislation – Five-year review of the Companion Animals Act 1998

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There is no doubt that companion animals play a very important role in the health and well being of our communities. The legislation in NSW that governs and manages these dogs and cats is the Companion Animals Act 1998, and Companion Animals Regulation 1999.

By the end of June 2005, the NSW Companion Animal Register had 963,362 dogs and 233,314 cats on it. That's a lot of dogs and cats in our community that need and deserve to be responsibly owned.

The current Act replaced the Dog Act of 1966 and, when introduced in NSW on 1 July 1999, provided a number of new initiatives:

- For the first time companion animals legislation was 'across the board'—no local orders, no councils doing their own thing—the same provisions for all dogs and cats applied across all of NSW
- For the first time all registration fees were set by the Regulation – no council could charge more, or less
- For the first time cats were recognised under legislation and councils were given powers to deal with them and,
- for the first time, compulsory microchipping was introduced as well as the need for lifetime registration.

This is a two step process, with identification with a microchip by 12 weeks of age, point of sale, or change of ownership, whichever occurs first. Lifetime registration is required by 6 months of age. One of the reasons it is a two step process is to encourage desexing prior to registration.

Interestingly enough, the progress of the Companion Animals Act, from its first draft, green and white papers, through to the final bill in Parliament, carries the distinction of being the most widely debated Act ever in the history of the NSW Parliament, with over 10,000 submissions received and over two days of debate, before the bill was eventually passed.

The Companion Animals legislation provides a framework for the identification and registration of companion animals, and for the duties and responsibilities of their owners and councils. The principle objective of the Act is to provide for the effective and responsible care and management of dogs and cats in NSW.

The five year Act review

In 2004, after 5 years of operation, the Act underwent a thorough review, to determine whether the policy objectives were still valid and whether the terms of the Act remained appropriate for securing those objectives.

A report on the outcome of the review was tabled in Parliament within 12 months of that review process. The majority of those amendments commenced in January this year and include:

- Increased fixed and court imposed penalties for breaches of the Act
- A requirement for council officers to scan animals and notify owners if a pet has been killed as a result of being hit by a vehicle
- Increased powers for councils to seize dangerous and restricted dogs
- Increased time period for seizure after an attack from four hours to seventy two hours and,
- Increased control provisions for owners of dangerous and restricted dogs, including a prescribed enclosure and specially marked collars similar to Queensland and Victoria

Councils also now have stronger powers to effectively manage companion animals in the community and have increased fixed penalty notice amounts. Maximum penalties that can be imposed by a court for all offences under the Act have been significantly increased. For example, the maximum penalty for a dog attack by a restricted or dangerous dog has been increased to \$55,000, or imprisonment for two years, or both. For all other dog attacks, there is a new fixed penalty amount of \$550 for minor attacks. This gives rangers and animal management officers more options to deal quickly and decisively with irresponsible dog owners.

Restricted dogs

In May last year the NSW Government announced its intention to ban certain dogs of restricted breeds. Essentially this meant Pitbull terriers and American Pitbull terriers. The Government still maintains the view that any dog can be dangerous regardless of its breed and owners must understand the responsibility they have to the community if they want to own a dog that could endanger public safety.

The previous laws and fines in New South Wales were tough on offences by restricted and declared dangerous dogs but the community has made it clear that pit bull terriers have no place on our streets and further restrictions were subsequently drafted.

In NSW it is now an offence to breed, sell, acquire or give away a dog of restricted breed and existing restricted dogs must be desexed and closely confined, which is consistent with the current requirements for declared dangerous dogs.

Division 6 of Part 5 of the Act was commenced in April this year and allows councils to declare a dog to be a dog of restricted breed if they believe a dog is either a restricted breed, or a crossbreed of a restricted breed. Division 6 also provides a mechanism to allow for both breed and temperament assessments for dogs that councils may declare as restricted dogs.

Where owners do not comply with control provisions or ignore their responsibilities, councils are able to seize and destroy the dog. Increased control provisions for dangerous and restricted dogs also include:

- When the dog is outside its prescribed enclosure it must be on a lead and be muzzled at all times even while on its own property.
- No person will be able to have more than two dogs under their control if one of them is a restricted or dangerous dog.

Further amendments give the Director General of the Department of Local Government the authority to approve both breed and temperament assessors.

The NSW Government has the commitment of the Royal New South Wales Canine Council, as experts in dog breeding and identification, that approved members will conduct breed identification assessments of dogs that are considered to be restricted for the purpose of Division 6.

The temperament assessment protocol has been developed in consultation with several leading animal behaviourists and animal welfare organisations and is not meant to conclude if the dog is a great watch dog or a family pet. It has been designed to provide a temperament assessor with an informed judgment about the behaviour of a dog against a straight forward criteria and whether or not it is likely, without provocation, to attack or bite another person or animal.

Where a council serves a notice of intention to declare a dog as a restricted dog the owner has 28 days to seek the opinion of an approved breed assessor to confirm the breed of the dog. If the dog is identified as neither a pure or cross breed of a restricted dog, the process ends and the dog is not restricted. If the dog is deemed to be a restricted breed of dog the council will make the declaration. If the dog is confirmed as a cross breed restricted dog the owner has the option to seek a temperament assessment conducted by an approved temperament assessor. If the dog is assessed as not being a likely danger to the public, the dog will not be declared a restricted dog. A fail will mean the council will declare the dog to be restricted. There is no appeal process from the breed and temperament assessments.

Since the commencement of Division 6 on 28 April 2006 some 63 breed assessments have taken place. Four have resulted in dogs being assessed as purebred Pitbull terriers. Eight breed assessment outcomes have indicated the dog is a cross breed of restricted dog thus requiring a temperament assessment. To the Department's knowledge three of those have failed and subsequently, the dogs have been declared restricted.

With approximately 2,500 known purebred Pitbull terriers on the Register and an estimated 3,500 cross breed Pitbull terriers there is still a long way to go. But councils in NSW are on the way to implementing the legislative changes regarding restricted breeds.

The Act review has shown that following five years of its operation, the implementation of the Act and subsequent amendments has been very thorough and ultimately successful. The community, for the most part, has embraced the requirements of the Act and in particular, the compulsory microchipping and registration of all dogs and cats. As previously indicated, nearly 1.2 million cats and dogs are listed on the Companion Animals Register.

A key objective of the Act is to reduce euthanasia rates by requiring councils to seek alternative measures to euthanasing animals that are in their pounds and unclaimed by their owners. An exception to this will be restricted and dangerous dogs that are seized by councils in cases where their owners are unable to comply with the control requirements.

The Department of Local Government provides councils annually with a spreadsheet for the purposes of collecting relevant data. However, return rates are variable with some years less than 50% and give only a partial picture. The recent Act amendments have made it a requirement for councils to report this data as there is a great deal of interest in the community for this information. This will promote accountability and strategic planning of councils' activities with regard to companion animal management. This information is also essential for the measurement of the success of this legislation.

The Companion Animals Act also provides general duties for councils to promote the awareness of the requirements of the Act with respect to companion animal ownership and to ensure they have systems in place to effectively manage restricted and dangerous dogs.

Further amendments also require that any money provided to councils from the Companion Animal Fund be used for the purposes of managing companion animals in their areas. Some examples of this could include upgrades to pound facilities, education campaigns and inspections of properties for compliance with restricted and dangerous dog control requirements.

The Act amendments respond to the desire of our community to have safer streets, and for people not to be subjected to intimidation and danger from dogs with irresponsible owners.

Education

It is critical that NSW improve the community's knowledge about dog behaviour to reduce the incidence of dog attacks. It is also important that we improve the delivery of education and seek to reduce the duplication that is occurring. Our Minister for Local Government, the Hon Kerry Hickey, has recently announced a statewide education program for 5 – 8 year old children of NSW. The Department of Local Government has taken a lead role in this project and there is extensive involvement with key animal welfare, educational delivery groups and also other government agencies.

The "Safe Pets out There" or "SPOT" project, as its known, is a joint project between the Australian Companion Animal Council, The Australian Veterinary Association, Delta Society Australia, RSPCA NSW and the Animal Welfare League NSW. The overarching objective of the SPOT program is to "improve the extent to which the community expectations of pet ownership are met through the education of young children".

The SPOT program covers four main components and these are:

- Pets in the Community
- Safe behaviour around dogs
- Basic care of pets – health and welfare
- Kindness and cruelty

The integrated program package, which initially will be funded by the Companion Animals Fund for three years, has been developed by experienced professionals. Class room presenters will include trained educators, salaried staff, animal control officers, vets, veterinary nurses and volunteers.

The education program, which will be subject to continuous and formal evaluation, will include student and teacher resources, lesson plans, 'take home' information for parents and will also consider cultural and ethnic differences.

The recent Act amendments and the announcement of the statewide education program will ultimately improve pet ownership issues in NSW.

With over 60% of households owning a companion animal of some description, it is important that community expectations are upheld and the NSW Government provides a structured and multifaceted educational approach to supporting that pet ownership.

New brochures that provide clear information about pet owner's responsibilities and the amendments to the legislation will no doubt contribute positively to the education program in our schools.

While it is unrealistic to think that dog attacks will never happen just because information education and training has been provided, in the long term, if children and adults alike can be taught about dog behaviour, body language and how to own pets responsibly, then we can hope for fewer hospital admissions and less trauma in our communities.