

*Examined and certified:*

*Clerk of the House of Representatives*

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*In the name and on behalf of Her Majesty Queen Elizabeth  
the Second I hereby assent to this Act this 27th day  
of June 2006*

*Governor-General.*

## **Dog Control Amendment Act 2006**

Public Act 2006 No 23

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Dog Control Amendment Act 2006.

## 2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

## 3 Principal Act amended

This Act amends the Dog Control Act 1996.

## 4 Interpretation

(1) The definitions of **companion dog**, **guide dog**, and **hearing ear dog** in section 2 are repealed.

(2) Section 2 is amended by inserting the following definitions in their appropriate alphabetical order:

“**disability assist dog** means a dog certified by 1 of the following organisations as being a dog trained to assist (or as being a dog in training to assist) a person with a disability:

“(a) Hearing Dogs for Deaf People New Zealand:

“(b) Mobility Assistance Dogs Trust:

“(c) New Zealand Epilepsy Assist Dogs Trust:

“(d) Royal New Zealand Foundation of the Blind:

“(e) Top Dog Companion Trust:

“(f) an organisation specified in an Order in Council made under section 78D

“**register**, as a noun, means a dogs register kept by a territorial authority under section 34

“**veterinarian** has the meaning given to it in section 4 of the Veterinarians Act 2005”.

(3) Paragraph (a) of the definition of **working dog** in section 2 is repealed and the following paragraph substituted:

“(a) any disability assist dog.”.

## 5 Duty of territorial authorities to adopt policy on dogs

(1) Section 10(3) is amended by inserting the following paragraphs after paragraph (e):

“(ea) must state whether dogs classified by the territorial authority as menacing dogs under section 33A or 33C are required to be neutered under section 33E(1)(b) and,—

“(i) if so, whether the requirement applies to all such dogs; and

- “(ii) if not, the matters taken into account by it in requiring any particular dog to be neutered; and
- “(eb) must state whether dogs classified by any other territorial authority as menacing dogs under section 33A or 33C are required to be neutered under section 33EB(2) if the dog is registered with the territorial authority and,—
- “(i) if so, whether the requirement applies to all such dogs; and
- “(ii) if not, the matters taken into account by it in requiring any particular dog to be neutered; and”.
- (2) Section 10(3)(ea) and (eb) (as inserted by subsection (1))—
- (a) do not apply to a dog policy adopted before the commencement of this Act; but
- (b) do apply to a dog policy adopted before the commencement of this Act that is amended under section 10(8) of the principal Act or reviewed under section 10AA of the principal Act (as inserted by section 6 of this Act).
- (3) Section 10 is amended by adding the following subsection:
- “(10) Subsection (8) applies subject to section 10AA.”

## 6 New section 10AA inserted

The following section is inserted after section 10:

### “10AA Local authority must review policy if bylaw implementing policy requires review

- “(1) This section applies if a bylaw to which section 10(6)(a) applies is required (by the operation of section 20(4)) to be reviewed by a territorial authority under section 158 or 159 of the Local Government Act 2002.
- “(2) The territorial authority must review the bylaw by making the determinations required by section 155 of that Act in the context of a reconsideration of the matters in section 10(4) of this Act.
- “(3) If, after the review, the territorial authority considers that the bylaw should be amended, revoked, or revoked and replaced, it must—
- “(a) deal with the bylaw under section 156 of the Local Government Act 2002; and
- “(b) if appropriate, amend its policy under section 10 of this Act.

- “(4) If, after the review, the territorial authority considers that the bylaw should continue without amendment, it must use the special consultative procedure set out in section 83 of the Local Government Act 2002.
- “(5) For the purposes of subsection (4), the statement of proposal referred to in section 83(1)(a) of that Act must include—
- “(a) a draft of the bylaw to be continued; and
  - “(b) the reasons for the proposal, including the determinations made by the territorial authority under subsection (2).”

## **7 Power of entry**

- (1) Section 14(3) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) the entry is authorised by a warrant given by a District Court Judge on written application on oath; and”.
- (2) Section 14 is amended by adding the following subsection:
- “(4) This section is subject to any express provision to the contrary in this Act.”

## **8 Power of dog control officer or dog ranger to feed and shelter dogs**

- (1) Section 15(3) is amended by repealing paragraph (b) and substituting the following paragraph:
- “(b) may retain custody of the dog until—
    - “(i) the dog control officer or dog ranger is satisfied that the dog will be given access to sufficient food, water, and shelter from its owner; or
    - “(ii) the dog is disposed of under section 71A.”
- (2) Section 15(6) is repealed.

## **9 Maintenance of records and provision of information**

Section 30(1)(b) is amended by omitting “in respect of which the infringement fee has been paid” and substituting “(whether or not the infringement fee has been paid)”.

**10 New section 30AA inserted**

The following section is inserted after section 30:

**“30AA Territorial authority may retain information about infringement notice until infringement fee paid**

- “(1) A territorial authority may retain any record in relation to an infringement notice issued by it until the infringement fee (or, as the case may be, the fine) has been paid in full.
- “(2) Subsection (1) applies despite anything to the contrary in this Act.”

**11 Prohibition on import of dogs listed in Schedule 4**

Section 30A(5) is amended by repealing paragraph (a) and substituting the following paragraph:

- “(a) any dog—
- “(i) performing the same function as a disability assist dog (if the dog has been certified as being trained to perform that function by a recognised organisation in the country where the person who the dog assists usually resides); and
  - “(ii) accompanying and assisting that person or accompanying a person genuinely engaged in the dog’s training; or”.

**12 New section 32A inserted**

The following section is inserted after section 32:

**“32A Dangerous dog classification to extend over New Zealand**

- “(1) Every classification as a dangerous dog under section 31 is in force throughout New Zealand.
- “(2) This section is for the avoidance of doubt.”

**13 Territorial authority may classify dog as menacing**

Section 33A(3) is amended by adding “; and” and also by adding the following paragraph:

- “(d) if the territorial authority’s policy is not to require the neutering of menacing dogs (or would not require the neutering of the dog concerned), the effect of sections 33EA and 33EB if the owner does not object to the classification and the dog is moved to the district of another territorial authority.”

**14 New sections 33EA to 33ED and heading inserted**

The following sections and heading are inserted after section 33E:

**“33EA Menacing dog classification to extend over New Zealand**

“(1) Every classification as a menacing dog under section 33A or 33C is in force throughout New Zealand.

“(2) This section is for the avoidance of doubt.

**“33EB Territorial authority (other than classifying authority) may require neutering of menacing dog**

“(1) This section applies if—

“(a) a dog is classified by a territorial authority as a menacing dog under section 33A or 33C; and

“(b) the territorial authority does not require it to be neutered under section 33E(1)(b); and

“(c) the dog is later registered with any other territorial authority.

“(2) No later than 1 month after the dog is registered with the other territorial authority, that territorial authority may require, by written notice, the owner of the dog to produce to the territorial authority a certificate issued by a veterinarian certifying—

“(a) that the dog has been neutered; or

“(b) that for reasons that are specified in the certificate, it will not be in a fit condition to be neutered before a date specified in the certificate.

“(3) The owner must produce the certificate to the territorial authority no later than 1 month after receiving the notice.

“(4) If a certificate under subsection (2)(b) is produced to the territorial authority, the owner of the dog must produce to the territorial authority, no later than 1 month after the date specified in that certificate, a further certificate under subsection (2).

**“33EC Offence to fail to comply with section 33E(1) or 33EB**

“(1) Every person who fails to comply with section 33E(1) or 33EB commits an offence and is liable on summary conviction to a fine not exceeding \$3,000.

“(2) If a person fails to comply with section 33E(1) or 33EB, a dog control officer or dog ranger may—

- “(a) seize and remove the dog concerned from the person’s possession; and
- “(b) retain custody of the dog until—
  - “(i) the dog control officer or dog ranger is satisfied that the person has demonstrated a willingness to comply with section 33E(1) or 33EB (as the case may be); or
  - “(ii) the dog is disposed of under section 71A.

*“Dangerous and menacing dogs*

**“33ED Territorial authority to classify certain dogs as dangerous or menacing**

- “(1) A territorial authority must classify a dog as a dangerous dog under section 31 or a menacing dog under section 33A if—
  - “(a) the owner of the dog has been convicted of an offence against section 57(2) or 57A(2)(a); and
  - “(b) no destruction order for the dog has been made by the court concerned.
- “(2) Subsection (1) applies unless the territorial authority is satisfied that the circumstances of the attack, rush, or startle by the dog (being the circumstances relating to the offence for which the owner was convicted)—
  - “(a) were exceptional; and
  - “(b) do not, in the territorial authority’s opinion, justify classifying the dog as dangerous or menacing.”

**15 Dogs register**

- (1) Section 34(2)(a) is amended by omitting “the name” and substituting “the full name”.
- (2) Section 34(2) is amended by inserting the following paragraph after paragraph (d):
  - “(da) whether the dog is a working dog within the meaning of paragraph (b)(ii) of the definition of **working dog** in section 2:”.
- (3) Section 34 is amended by inserting the following subsection after subsection (2):
  - “(2A) A territorial authority may include in the register any information referred to in subsection (2) in relation to any dog—
    - “(a) that has previously been, but is not currently, registered with it; or

“(b) that is known or believed to be kept in its district.”

- (4) Section 34 is amended by repealing subsection (4) and substituting the following subsection:

“(4) There must be kept at every place of registration—

“(a) a supply of labels or discs numbered consecutively and marked with the name of the district and the year for which they are issued; and

“(b) a supply of specially marked collars, labels, or discs identifying dogs exempt from microchip implantation under section 36(1A).”

#### **16 Application for registration**

Section 36 is amended by inserting the following subsection after subsection (1):

- “(1A) Every person who owns a dog classified as a working dog under paragraph (b)(ii) of the definition of **working dog** in section 2 must identify the dog accordingly in the application to register the dog.”

#### **17 National dog control information database**

Section 36A is amended by inserting the following subsection after subsection (2):

- “(2A) Subsection (2) does not apply to a dog as defined in paragraph (b)(ii) of the definition of **working dog** in section 2 registered as a working dog under section 46(1) and wearing a collar, label, or disc as provided in section 34(4)(b).”

#### **18 Microchip transponder must be implanted in certain dogs**

- (1) Section 36A(4) (as inserted by section 24 of the Dog Control Amendment Act 2003) is amended by—

(a) omitting “subsection (3)(b)(ii)” and substituting “subsection (3)(b)(ii)(B)”; and

(b) omitting “subsection (3)(b)(i)” and substituting “subsection (3)(b)(ii)”.

- (2) Section 36A(7) (as inserted by section 24 of the Dog Control Amendment Act 2003) is repealed.

**19 New section 38 substituted**

Section 38 is repealed and the following section substituted:

**“38 Registration fee for certain dogs registered on or after 2 August**

“(1) A territorial authority must reduce the registration fee for a dog, but only if, in a registration year,—

“(a) the dog is less than 3 months old on or after 2 August; or

“(b) the dog is imported into New Zealand for the first time on or after 2 August.

“(2) The fee payable for the dog under subsection (1) must be calculated by—

“(a) dividing the registration fee payable for a full year by 12; and

“(b) multiplying that amount by the number of complete months remaining in the registration year.”

**20 New section 41A inserted**

The following section is inserted after section 41:

**“41A Dead dogs**

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who makes any written statement to a territorial authority to the effect that a dog is dead knowing that statement to be false.”

**21 Offence of failing to register dog**

Section 42(1) is amended by omitting “keeps” and substituting “is the owner of”.

**22 Change of ownership of registered dog**

The heading to section 48 is amended by omitting “registered”.

**23 Impounded dog must be microchipped and registered before release**

Section 69A (as inserted by section 24 of the Dog Control Amendment Act 2004) is amended by adding the following subsection:

“(6) A territorial authority that implants in a dog, or causes a dog to be implanted with, a microchip transponder under this section may recover all the costs in relation to the procedure from—

- “(a) the owner of the dog; or
- “(b) the person taking possession of the dog.”

**24 Custody of dog removed for barking**

Section 70(1) is amended by omitting “subsection (6)” and substituting “subsection (7)”.

**25 New sections 71A and 71B inserted**

The following sections are inserted after section 71:

**“71A Disposal of dog seized under section 15 or 33EC**

“(1) A territorial authority may sell, destroy, or otherwise dispose of a dog seized by a dog control officer or dog ranger under section 15(1)(c), in any manner it thinks fit,—

“(a) if—

“(i) the territorial authority is not satisfied that the dog will be given access to proper and sufficient food, water, or shelter if the dog is returned to the land or premises from where it was removed; and

“(ii) the territorial authority has notified the owner of the dog in writing of its decision under subparagraph (i) and the right to appeal against it under section 71B; and

“(iii) either—

“(A) 7 days have elapsed and no appeal has been made; or

“(B) an appeal has been made under section 71B and the District Court has not upheld it; or

“(b) if—

“(i) the territorial authority has notified the owner of the dog in writing of the matters set out in subsection (3); and

“(ii) not less than 7 days have elapsed; and

“(iii) either the dog—

“(A) has not been claimed by its owner; or

“(B) has been claimed by its owner but any outstanding fees owed in relation to the dog under this Act have not been paid; or

“(c) if, despite making reasonable efforts, the territorial authority has not identified the owner of the dog and the dog has been in its custody for not less than 7 days.

- “(2) A territorial authority may sell, destroy, or otherwise dispose of a dog seized by a dog control officer or dog ranger under section 33EC, in any manner it thinks fit,—
- “(a) if—
- “(i) the territorial authority is not satisfied that the dog owner has demonstrated a willingness to comply with section 33E(1) or 33EB (as the case may be); and
- “(ii) the territorial authority has notified the owner of the dog in writing of its decision under subparagraph (i) and the right to appeal against it under section 71B; and
- “(iii) either—
- “(A) 7 days have elapsed and no appeal has been made; or
- “(B) an appeal has been made under section 71B and the District Court has not upheld it; or
- “(b) if—
- “(i) the territorial authority has notified the owner of the dog in writing of the matters set out in subsection (3); and
- “(ii) not less than 7 days have elapsed; and
- “(iii) either the dog—
- “(A) has not been claimed by its owner; or
- “(B) has been claimed by its owner but any outstanding fees owed in relation to the dog under this Act have not been paid; or
- “(c) if, despite making reasonable efforts, the territorial authority has not identified the owner of the dog and the dog has been in its custody for not less than 7 days.
- “(3) A notice under subsection (1)(b)(i) or subsection (2)(b)(i) must state that—
- “(a) the owner’s dog is in the custody of the territorial authority; and
- “(b) unless the dog is claimed and any outstanding fees paid no later than 7 days after the owner receives the notice, the territorial authority may sell, destroy, or otherwise dispose of the dog.

- “(4) A territorial authority—
- “(a) may apply any proceeds from the disposal of a dog under this section towards any fees owing in relation to the dog under this Act; and
  - “(b) must apply the surplus in accordance with section 9.
- “(5) If the territorial authority has, under section 68(1)(b), set fees for the sustenance of impounded dogs, it may—
- “(a) apply those fees to the sustenance of a dog kept in custody under this section; and
  - “(b) require the fees to be paid before the dog is returned under this section.
- “(6) Subsection (5) is subject to any order made by a Court under section 71B(4)(b).
- “(7) The disposal of a dog under this section does not cancel the liability of the former owner of the dog to pay any fees owing in relation to the dog under this Act.

**“71B District Court to determine appeal**

- “(1) The owner of a dog to whom section 71A(1)(a)(ii) or (2)(a)(ii) applies may appeal to the District Court against the territorial authority’s decision.
- “(2) An appeal must be lodged no later than 7 days after the owner receives a notice under section 71A(1)(b)(i) or (2)(b)(i).
- “(3) The Court must consider the matters specified in section 71A(1)(a)(i) or (2)(a)(i), as the case may be, and any submission by the territorial authority concerned.
- “(4) The Court may—
- “(a) uphold the territorial authority’s decision or order the return of the dog;
  - “(b) make an order in respect of any fees owing in relation to the dog under this Act.”

**26 New section 75 substituted**

Section 75 is repealed and the following section substituted:

**“75 Disability assist dogs**

- “(1) Any disability assist dog accompanying and assisting a person with a disability, or accompanying a person genuinely engaged in the dog’s training, may enter and remain—
- “(a) in any premises registered under regulations made under section 120 of the Health Act 1956; or

“(b) in any public place.

“(2) However, the person whom the dog is accompanying must comply with any reasonable conditions imposed by the occupier or person controlling the premises or place in relation to the entry or presence of the dog.

“(3) This section overrides any enactment or bylaw prohibiting or regulating the entry or presence of dogs in relation to the premises and places referred to in subsection (1).”

#### **27 New section 78D inserted**

The following section is inserted after section 78C:

##### **“78D Regulations authorising organisation to certify dogs as disability assist dogs**

“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, specify an organisation as an organisation that may certify dogs as disability assist dogs.

“(2) The Minister must not make a recommendation under subsection (1) unless he or she has consulted the Minister for Disability Issues.”

#### **28 New Schedule 1 substituted**

Schedule 1 is repealed and the schedule set out in the Schedule of this Act is substituted.

#### **29 Consequential amendments to principal Act**

(1) Section 10(2) is amended by omitting “the register kept by the territorial authority under section 34” and substituting “its register”.

(2) Section 10(6)(a) is amended by inserting “under section 20” after “bylaws”.

(3) Section 32(1)(c) is amended by omitting “registered veterinary surgeon” and substituting “veterinarian”.

(4) Section 33E(1)(b) is amended by omitting “registered veterinary surgeon” and substituting “veterinarian”.

(5) Section 33E(2) to (4) are repealed.

(6) Section 35(2)(f) is amended by omitting “registered veterinary surgeon” and substituting “veterinarian”.

(7) Section 40(2) is amended by omitting “registered veterinary surgeon” and substituting “veterinarian”.

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- (8) Section 64(1)(b) is amended by omitting “registered veterinary surgeon” and substituting “veterinarian”.
  - (9) Section 66(2)(c) is amended by omitting “for the time being in force under section 34”.
  - (10) Section 69(1) is amended by—
    - (a) omitting “sections 70 and 71,” and substituting “sections 70, 71, and 71A,”; and
    - (b) omitting “Act” in the last place it appears and substituting “section”.
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s 28

## Schedule New Schedule 1 substituted in Dog Control Act 1996

s 65(1)

### Schedule 1 Infringement offences and fees

Section	Brief description of offence	Infringement fee (\$)
18	Wilful obstruction of dog control officer or ranger	750
19(2)	Failure or refusal to supply information or wilfully providing false particulars	750
19A(2)	Failure to supply information or wilfully providing false particulars about dog	750
20(5)	Failure to comply with any bylaw authorised by the section	300
23A(2)	Failure to undertake dog owner education programme or dog obedience course (or both)	300
24	Failure to comply with obligations of probationary owner	750
28(5)	Failure to comply with effects of disqualification	750
32(2)	Failure to comply with effects of classification of dog as dangerous dog	300
32(4)	Fraudulent sale or transfer of dangerous dog	500
33EC(1)	Failure to comply with effects of classification of dog as menacing dog	300
33F(3)	Failure to advise person of muzzle and leashing requirements	100
36A(6)	Failure to implant microchip transponder in dog	300
41	False statement relating to dog registration	750
41A	Falsely notifying death of dog	750
42	Failure to register dog	300
46(4)	Fraudulent procurement or attempt to procure replacement dog registration label or disc	500
48(3)	Failure to advise change of dog ownership	100
49(4)	Failure to advise change of address	100
51(1)	Removal, swapping, or counterfeiting of registration label or disc	500
52A	Failure to keep dog controlled or confined	200
53(1)	Failure to keep dog under control	200
54(2)	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	300
54A	Failure to carry leash in public	100
55(7)	Failure to comply with barking dog abatement notice	200
62(4)	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	300

**Schedule 1**—*continued*

<b>Section</b>	<b>Brief description of offence</b>	<b>Infringement fee (\$)</b>
62(5)	Failure to advise of muzzle and leashing requirements	100
72(2)	Releasing dog from custody	750

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**Legislative history**

21 June 2006	Divided from Local Government Law Reform Bill (Bill 32–3) as Bill 32–4A
22 June 2006	Third reading

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