

REPUBLIC OF NAURU
DOG MANAGEMENT AND CONTROL BILL 2017
EXPLANATORY MEMORANDUM

The *Dog Management and Control Bill* is a Bill for the *Dog Management and Control Act 2017*.

This memorandum provides an explanation of the Bill and is only intended to indicate the general effect.

EXPLANATION OF CLAUSES

PART 1- PRELIMINARY

Clause 1 provides that, once enacted the short title of the Bill will be the *Dog Management and Control Act 2017*.

Clause 2 sets out when the Bill's provisions will commence which is upon certification by the Speaker.

Clause 3 is the definitional section which defines the key terms used in the Bill.

PART 2- ADMINISTRATION

Clause 4 provides for the establishment of a Dog Management and Control Committee.

Clause 5 provides for the composition of the committee with the Authority as the Chairperson and representatives from the Departments of Health; Commerce, Industry and Environment, and the Nauru Police Force.

Clause 6 sets out the functions of the Committee which are to advise and make recommendations to the Minister on the:

- breeds of dog that may be introduced into the Republic;
- ownership and registration of dogs;
- control of stray dogs;
- health and care of domestic dogs;
- sterilisation of dogs; and
- eradication of stray and diseased dogs.

Clause 7 provides for the meetings of the Committee which shall be convened by the Chairperson or his or her nominated representative. The Chairperson shall keep minutes of the Committee's meetings and the Committee may establish its own practice and procedure for the meetings.

Clause 8 provides for the appointment by the Minister of a person to be the Authority. The functions of the Authority are to:

- establish and maintain Dog Licenses Register;
- receive applications for licensing of dogs;
- hold and issue approved dog collars and tags upon granting of licences; and
- receive and pay all licensing fees into the Treasury fund.

Clause 9 makes it the responsibility of the Authority to establish and maintain a Licence Register. The details that shall be contained in the Register in relation to a dog are:

- a photograph;
- the breed if identifiable;
- gender;
- description including any specific identifiable features;
- colour;
- approximate age;
- name, if any, of the dog;
- whether the dog has been de-sexed;
- name and address of the owner of the dog; and
- licence number.

PART 3 – OWNERSHIP OF DOGS

Clause 10 clarifies who a dog owner is. A dog owner is:

- in case of a licensed dog, the person in whose name the dog is registered;
- in case of an unlicensed dog, the person who ordinarily keeps and feeds the dog;
- and

- in case of a child's pet, the parent and guardian of the child.

Clause 11 requires a dog owner to licence a dog before it is 6 months old. The dog owner commits an offence and is liable upon conviction to a fine not exceeding \$5,000 if he or she fails or neglects to apply for a licence for his or her dog.

Where an owner contravenes this provision more than two times, the owner shall upon conviction be liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 2 years or to both.

Clause 12 provides that a dog owner shall provide the following information when licensing his or her dog:

- the place of residence of the dog;
- if the dog is a guard dog, the premises guarded by the dog; and
- whether the dog is a danger to the public.

The application shall be made in the prescribed form and accompanied by the prescribed fee.

Clause 13 requires the Authority when licensing a dog to:

- allocate a licence number;
- provide to the owner a licence tag; and
- issue the licence for 12 months from the date of the application in the prescribed form.

Clause 14 provides for the period of validity of a licence tag. A licence tag is valid for 12 months unless renewed by the Authority on an application of an owner. A person commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 12 months or to both if the person:

- uses a tag that is not valid;
- uses an expired tag;
- uses a tag for another dog;
- uses a counterfeit tag; and
- removes a tag from a dog without any just cause or written advice of a veterinarian.

Clause 15 requires a dog owner to ensure that his or her dog while in a public place has a leash fastened around its neck to which the dog licence number and validity of the tag.

Clause 16 requires that where there is a change of ownership of a licenced dog, the new owner has to notify the Authority within 7 days of becoming the new owner.

The new owner commits an offence if he or she does not notify the Authority of the change of ownership and upon conviction he or she is liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 12 months or to both.

Clause 17 all dog owners shall on or before 1 June in each year pay an annual licence fee for each dog that he or she owns.

PART 4 – CONTROL OF DOGS

Clause 18 requires the owner to ensure that his or her dog:

- is not at large;
- in case of a female dog on heat, is confined away from a public place;
- in case of a dog in or on a vehicle, is not in a position to leave the vehicle or become a danger to the public.

Where a dog owner does not comply with this requirement, he or she commits an offence and upon conviction is liable to a fine not exceeding \$5,000 and to a term of imprisonment not exceeding 12 months or to both.

Clause 19 requires the dog owner to not leave his or her dog unattended in a public place where the dog is able to attack, chase or move towards a moving bicycle, motor cycle or motor vehicle. The owner is not to urge or direct his or her dog to attack, chase or move towards a bicycle, motor cycle or motor vehicle.

Clause 20 requires the dog owner to not:

- leave his or her dog unattended in a public place where the dog is capable of; or
- allow or incite the dog –
to attack or chase any person, animal or other dogs.

The owner shall report to the Police and send a copy of the report to the Authority where his or her dog attacks a person or animal.

The owner commits an offence if he or she leaves the dog unattended or allows or incites the dog to chase or attack any person, animal or other dog and upon conviction the owner is liable to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 2 years or to both.

In addition, if a dog owner fails or neglects to report the matter to the Police, he or she is liable to a fixed penalty of \$1,000.

The Authority is empowered where the fixed penalty is concerned to:

- issue a notice to recover the penalty;
- decline to grant a licence the dog; or
- compound or destroy the dog.

Clause 21 allows the Authority to issue a notice to a dog owner declaring the dog to be a dangerous dog and provide reasons for the declaration in the notice where the dog caused serious injury to a person or animal or, there is reasonable concerns or cause for concern that the dog is likely to cause serious injury to a person or animal.

The owner is required to tie up or restrict the movement of his or her dog within 3 days of the receipt of the notice from the Authority.

Clause 22 obligates an owner of a dangerous dog to display signs in noticeable places to warn members of the public of the presence of the dangerous dog.

Clause 23 requires an owner of a dangerous dog to report to both the Police and the Authority if his or her dog is missing or cannot be located on the realisation that the dog is missing.

Clause 24 requires an owner of a dangerous dog to report to the Authority when he or she sells or gives away his or her dog to a specific person. The name and address of the person to whom the dog was sold or given away shall also be reported to the Authority.

Clause 25 ensures that a person who allows a diseased dog to stray at large commits an offence and is liable upon conviction to a fine not more than \$1,000. The Authority may destroy a diseased dog or a dog reasonably believed to be diseased that is wandering at large. A person who obstructs the Authority or any authorised person from removing a diseased dog for destruction commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or imprisonment for 6 months or both.

Clause 26 provides that the Minister may make an Order to ban certain breeds of dogs from the Republic. The Ban imposed by the Minister can either be a total ban on the breed or impose conditions for keeping such dog breed:

- if an order is a total ban for a dog breed, any person who keeps or breeds or imports such breed commits an offence and upon conviction is liable to a fine of not more than \$5,000 or a term of imprisonment of not more than 6 months or to both;
- if an order a ban but with conditions any person who keeps or breeds or imports who breaches such condition commits an offence and upon conviction is liable to a fine of not more than \$5,000 or term of imprisonment of not more than 12 months or to both.

PART 5 – CIVIL LIABILITY

Clause 27 provides that the dog owner is liable for any personal injury caused by the dog to a person or loss to livestock. The owner shall be liable to compensate for the loss and damages sustained by any person.

PART 6 – SEIZURE OF DOGS

Clause 28 allows the Authority to direct an authorised person or police officer to seize and detain a dog at large. A notice will be served to the owner of a dog informing the owner that:

- the dog has been seized and detained; and
- the owner may reclaim the dog.

The Authority may authorise the disposal of the dog by sale or destruction if the owner fails to reclaim the dog within 2 working days of the service of the notice.

The Authority can within 2 working days authorise the destruction of the dog if no owner is identified.

Clause 29 provides that the owner of a dog that has been seized under Clause 28 shall on reclaiming the dog pay a prescribed penalty, reimburse any costs incurred for the keeping of the dog during the detention, and, where the dog is unregistered, pay the registration fee in addition to the penalty.

Clause 30 permits the release of the dog to its owner once the owner has paid the penalties and the registration fee under Clause 29.

PART 7 – NUISANCES

Clause 31 requires the dog owner to immediately remove any faeces left by his or her dog in a public place or a place not under the control or occupation of the dog owner. Where the dog owner fails or neglects to remove such faeces, he or she is liable to a fixed penalty of \$1,000.

This is to avoid having people generally or the tenants of a leased or rental premises not cleaning up after their dogs.

Clause 32 provides that a dog owner shall not allow his or her dog to create a nuisance in a public place. Nuisance by a dog means that:

- it behaves in a manner that is injurious or dangerous to the health of a person or other animal;
- it creates a noise by barking or otherwise that persistently occurs or continues to such an extent that it unreasonably interferes with the peace, comfort or convenience of any person or place.

Clause 33 allows a person to complain to the Authority stating the nature of the nuisance in respect of a dog.

Clause 34 provides for the Authority on the receipt of a complaint, shall within 5 working days investigate the complaint, and where necessary, start proceedings against a dog owner for an offence.

Clause 35 provides for the powers of the Authority where the Authority is satisfied that the dog which is the subject of the complaint for nuisance, may direct:

- the owner to destroy the dog;
- the owner to remove the dog from the specified premises; or
- any other conditions the Authority may deem fit to abate the nuisance.

PART 8 – LICENSING OF DOGS

Clause 36 limits the number of dogs that can be granted a licence to just two dogs. The Authority may refuse to grant a licence to dogs if:

- the premises to which the licence relates are unfit for the purposes of keeping dogs;
- there is inadequate protection for the health and welfare of the dogs;
- nuisance to other persons likely to occur;
- the safety of other inhabitants of a densely populated area is at risk;
- the public health authorities may object to the keeping of any dogs.

Clause 37 permits the Authority to cancel a licence where:

- the application contains any misrepresentation or false statement;
- the dog caused serious injury to a person;
- one or more conditions of the licence is breached;
- the dog owner fails to comply with any directions given by the Authority.

If a licence is cancelled by the Authority, the Authority shall direct that the dog be destroyed.

Clause 38 provides that the Authority may by notice in writing require a person to provide in writing:

- (a) the number of dogs owned by the person; and
- (b) the particulars of each dog.

A person who receives a notice shall provide a written response including all the details required above.

PART 9 – AUTHORISED OFFICERS

Clause 39 provides for the appointment of authorised officers. The Minister in consultation with the Authority and by notice in the Gazette appoints such persons as authorised officer for the purpose of the Act.

The Minister may in consultation with the Commissioner of Police, and by notice in the Gazette appoint such police officers as authorised officers for the purpose of the Act.

Clause 40 provides for that the authorised officer, apart from the Police officer, shall be issued with identification card which:

- (a) contains his or her name and recent photograph;
- (b) states that he or she is an authorised officer for the purpose of this Act;
- (c) provides the period of validity of the identification card;
- (d) states any condition in his or her instrument of appointment that limits his or her powers as an authorised officer; and
- (e) shall be produced for the purposes of inspection or performance of any duties under the Act.

Clause 41 provides for powers of authorised officers to deal with dogs. These include the power to:

- enter and search such premises to determine whether there is an unlicensed dog on the premises;
- seize by any necessary means any dog running at large and not wearing a required current registration mark;
- seize and destroy any dog that is the subject of any breach of this Act;
- detain a seized dog in a pound or other place determined by Quarantine;
- serve notice of the seizure of the dog to the owner, or any other person appearing to own the dog or have custody of it;
- sell or destroy any dog that has been seized and which has not been claimed by its owner within 4 days of its seizure;
- summarily destroy any dog found at large and which has attacked any person or animal, or which the officer has reasonable grounds to believe to may have so attacked any person or animal;
- de-sex dogs to keep the dog population under control;

- destroy stray dogs; and
- destroy any diseased dogs.

PART 10 - MISCELLANEOUS

Clause 42 provides that any person who obstructs, hinders or any way interferes with an authorised officer in the performance of his or her duties commits an offence and upon conviction is liable to a fine of not more than \$10,000 or a term of imprisonment of not more than 2 years or both.

Clause 43 provides that no legal action can be taken against the Authority or an authorised officer in relation to the exercise of their powers under the Act in good faith. A person who kills, wounds or maims a dog while exercising any of the rights under this Act is not subject to any civil or criminal liability for the death of the dog or for any injury done unless a person causes unnecessary suffering to a dog.

The protection under this Clause shall also apply to any person participating in a dog control program approved by the Committee.

Clause 44 provides for appeals against any direction by the Authority for a dog to be destroyed. If an owner is aggrieved by the decision of the Authority to destroy a dog, he or she may apply to the Court for an order for the dog not be destroyed.

The court in exercising its power to make an order to consider the following factors:

- (a) dog's past and present temperament and behaviour;
- (b) seriousness of the injuries caused by the dog;
- (c) unusual contributing circumstances tending to justify the dog's action;
- (d) the improbability that a similar attack will be repeated;
- (e) dog's physical potential for inflicting harm;
- (f) precautions taken by the owner to preclude any future similar attacks; and
- (g) any other circumstances the court considers relevant.

Clause 45 provides for the jurisdiction of the District Court to hear and determine all offences under the Act and shall power to impose the penalty or punishment in respect of the offences under this Act. This is necessary given that the proposed penalties under the Act are beyond the jurisdiction of the District Court.

Under section 18 of the Courts Act 1972, the District Court may be vested jurisdiction by any other written law and this clause accordingly vests that jurisdiction in the District Court.

Clause 46 provides for the Cabinet to make regulations necessary or expedient to give effect to the Act. Without limiting the powers of Cabinet to make regulations, the regulations may also provide for:

- (a) licensing of dogs;
- (b) amount of licence fees to be paid;
- (c) classification of dogs for the purpose of establishing licence fees;
- (d) any forms that are required under this Act;
- (e) fees for an application or services that are required to be paid under this Act;
- (f) control and destruction of dogs; and
- (g) any other incidental matters.

Clause 47 provides for the consequential repeals certain such as sections 4, 5,6,7,8,9,10, 11 and 13(a) and (b) of the Animals Act 1982.