

Breeder Reforms

Updating the *Dog and Cat Management Act 1995*
Explanatory Guide



Government
of South Australia

Department for
Environment and Water



Introduction

We are inviting South Australians to have their say on proposed changes to dog and cat management laws in our state.

The Act

The *Dog and Cat Management Act 1995* (the Act) is South Australia's legal framework for managing dogs and cats in South Australia. The Act outlines the responsibilities of dog and cat owners as well as breeders who have legal obligations relating to breeding and selling dogs and cats. The Act is administered in partnership with local government.

The Dog and Cat Management Board (the Board) undertook a review of the Act in 2022, which assessed the impact of the 2018 Act changes (mandatory desexing, microchipping and breeder registration), analysed the reforms needed to outlaw puppy factories, and identified a number of other changes which would improve administration of the Act.

The Board has also undertaken consultation with local government, welfare and breeding sectors about priority reforms for the dog and cat management sector.

Banning puppy factories – the need for change

The South Australian Government has made a commitment to ban puppy factories, the cruel practice of breeding dogs to sell the puppies while keeping the mothers in cramped conditions. Dog and cat owners in South Australia deserve to know that when you get a new dog for the family, it has come from a healthy and cared for mother.

Stronger penalties for dog attacks

Dog bites are a serious public health and safety issue. Too many attacks occur in the community and this cannot be tolerated. The Act has offences for dog attacks and harassment, however, fines and penalties need to be reviewed and increased to act as a stronger deterrent for irresponsible owners.

The draft Bill

A Bill is a formal proposal for creating new laws or changing existing laws. Laws come into effect after a Bill (proposal) is passed in the same form by both houses of Parliament. The draft Bill, available on YourSAy, has all the detail and we've endeavoured to summarise the proposed changes in this document.

Explanatory guide

This explanatory guide outlines the proposed changes in the draft Bill in simple terms. The purpose of this document is to make it quicker and easier for you to understand the proposed changes and provide feedback as part of the community consultation process.

Have YourSAy

We want to know if you think these changes to ban puppy factories, increase penalties for dog attacks, and improve the operation of the Act are appropriate.

Your feedback will help us understand the collective community views regarding dog and cat management expectations.

After reading about the proposed changes, you may wish to respond to the online questionnaire via YourSAy.

Industry associations, government and non-government organisations have been invited to respond independently.

Banning puppy factories

Better regulation is required to eradicate puppy factories and ensure these cruel practices are illegal in South Australia.

Current situation

Dog and cat breeders must be registered on Dogs and Cats Online (DACO) and meet certain requirements to breed and sell animals. Breeders must also comply with the *Animal Welfare Act 1985* and the *South Australian Standards and Guidelines for Breeding and Trading Companion Animals 2017*.

The government is committed to banning puppy factories, and ensuring South Australia's rules governing dog and cat breeding are at least as strict as any other jurisdiction in the nation.

In 2022, the government introduced an immediate cap of fertile breeding females (50) which could be kept on a premises, or by one owner. Equal to the strictest in the nation, this removes the incentive for unscrupulous breeders to move from states with stricter laws to establish puppy factories in South Australia.

A review of legislation and approaches across Australia was undertaken to inform changes proposed in the draft Bill and support quality breeding practices.

Proposed amendments

Dog and cat breeding laws must be changed to meet community expectations. Breeders must provide appropriate care and respect for the animals they breed and produce. Puppies and kittens must not be bred from an animal that has been inadequately housed or cared for or bred from too many times.

The Bill proposes to introduce a robust licensing scheme where all breeders will be assessed against set criteria in order to obtain a breeder's licence. Breeders will need to demonstrate that they have appropriate knowledge, facilities and management plans in place to properly care for and breed animals. This means that larger breeders will need to do much more, to gain a licence.

The amendments will also include robust monitoring and enforcement, with new penalties for failing to comply with breeding laws. These changes will act to eliminate puppy factories and create greater confidence in South Australia's breeding sector.





Breeder licensing

The draft Bill proposes to introduce a new breeder licensing scheme based on best practice elements.

Preliminary

Section 68—Meaning to breed and bred

This section sets out definitions of breeding for context and clarity. These definitions reflect different ownership models and circumstances where breeders may arrange a breeding match between two differently owned animals. However, these models should not allow a person to avoid breeder regulation. Vets caring for or assisting animals in breeding processes are not required to obtain a breeder's licence.

Section 69—Board may publish or adopt standards and guidelines

This section sets out the Board's responsibility to publish or adopt standards and guidelines to set minimum requirements for dog and cat breeding.

The South Australian *Standards and Guidelines for Breeding and Trading Companion Animals 2017* are currently in review. Similar approaches in other states and territories are being considered. This will inform the changes required to provide the high standard of welfare in line with public expectations. The review is being conducted alongside the amendments to ensure changes are aligned with new requirements and best practice.

Licensing of breeders of dogs and cats

Section 70—Offence to breed dogs or cats unless licensed

This section introduces an offence and penalty for breeding dogs or cats without a licence. If an individual breeds dogs or cats without a licence or attempts to avoid the requirements, they will be operating illegally and penalties may apply.

Section 71—Application for licence

This section sets out the process and requirements for applying for a breeder licence. The Board will determine the information requirements, develop the application form, and set licence fees. Individuals will need to provide information specified by the Board or set by regulations to obtain a breeder's licence. This includes information about their breeding property, facilities, animal management and breeding experience, and plans outlining how animals will be cared for, socialised, exercised and bred from.

All breeders, even those with one animal, will need to apply for a licence. Even animals in smaller breeding operations can be harmed by inappropriate practices and overbreeding. When setting application requirements, the Board will consider smaller operations with 5 or less fertile females as well as larger breeders. The process will balance appropriateness of ad-hoc and smaller hobby breeding operations whilst ensuring more stringent requirements for large or commercial breeders.

Breeders who have been banned from holding a breeder's licence in another state or territory, or convicted of specific offences (including animal welfare offences) will be ineligible for holding a breeder's licence.

Breeder licensing fees will fund breeder licensing administration, auditing and enforcement. Working together, the Board and councils will ensure breeders comply with local by-laws, such as land use and limits on number of animals kept at a property. Animal welfare laws remain governed by the *Animal Welfare Act 1985*.

Section 71A—Terms and conditions of licence

In granting a licence, the Board will specify terms and conditions that the breeder must comply with. It will be an offence to breach licence conditions, and depending on the nature of the offence, licences can be revoked. Alternative arrangements may be made for breeding animals and penalties may apply (see 71E).

The following mandatory terms and conditions are included in the draft Bill:

- A requirement to comply with the *Standards and Guidelines*
- A limit on the number of fertile females owned by the breeder. This limit will be set based on the information provided as part of the application, such as facilities and care arrangements a breeder has in place.
- A limit on the number of litters from any one animal to prevent overbreeding from an individual animal.

Licences will be valid for a maximum of three years. The Board may impose other conditions, and vary conditions if required.

Section 71B—Reporting obligations

Licensed breeders will be required to report:

- Every litter, including details of the mother.
- Changes to animals in a breeding program, such as a fertile female dog or cat is desexed, sold, removed from the breeding program, or dies.
- Other matters required by regulations.

Failure to fulfil reporting obligations is an offence and penalties may apply.

Section 71C—Renewal of breeders licence

Licensed breeders must apply to renew their breeders licence. The Board will establish a process to facilitate this.

Section 71D—Suspension or cancellation of breeder's licence

This is an important enforcement mechanism, allowing a breeder's licence to be suspended or cancelled if a breeder no longer meets the licence requirements, or breaches the terms and conditions. Breeders may also be disqualified from breeding for up to 5 years.

While most breeders provide good care to their animals, poorly performing or recalcitrant breeders must not be able to operate. Where the behaviour is a serious offence under the *Animal Welfare Act* a breeder may also be liable for prosecution.

Section 71E—Dealing with dogs and cats where breeder's licence suspended or cancelled

This section is to ensure animals are dealt with safely and humanely in circumstances where enforcement is required.

Section 71F—Register of licensed breeders

This section supports the existing public register of breeders so purchasers of puppies and kittens can check breeders are appropriately licensed.

Sale of dogs and cats

Sales requirements are also updated to reflect the new licensing model.

Section 71G—Offence to sell etc dogs of prescribed breed

This section reflects the current offence to sell or give away dogs of a prescribed breed.

Section 71H—Offences relating to sale of certain dogs and cats

This section reflects the current requirements for dogs and cats to be microchipped, and if required desexed, before sale.

Section 71I—Certain information to be given to buyers

This section reflects the current requirements for specific information which must appear in advertisements and given to buyers as part of sale.

What do you think?

- *Do you think the changes proposed in the draft Bill requiring people to obtain a conditional licence to breed dogs and cats are appropriate?*
- *Do you think the application assessment elements are appropriate?*
- *Do you think the terms and conditions of the licence are appropriate?*

Dog attacks

Stronger penalties are needed for serious dog attacks. Irresponsible owners must be held accountable for their dogs and ensure they are not a public safety risk.

Current situation

Dog attacks are a serious safety risk and can cause significant distress to owners, animals and the community. Unfortunately, the numbers of attacks have been increasing over the past decade or more. Stronger penalties are needed to respond to irresponsible and unsafe behaviour.

In 2023, the government launched the Good Dogs have Bad Days campaign to increase awareness of the risk of dog attacks in the community. It is important we all understand that any dog can bite if feeling threatened, protecting territory, sick, frightened or provoked. Dog owners must keep their dogs properly contained, and on a leash or under effective control.

Under the Act, it is an offence for a dog to attack or harass another animal or person but the penalties are small. Local councils investigate and manage all dog attacks and have the power to issue a fine or prosecute owners. Councils may also impose control or destruction orders depending on the nature or severity of the attack.

Current penalties include:

- Where a person sets a dog to attack a person or another animal, the maximum penalty is \$20 000 or imprisonment for 4 years, where the offence involves a dangerous dog. The maximum penalty is \$10 000 or imprisonment for 2 years where the dog is not previously identified as dangerous.
- The maximum penalty for an owner of a dog that attacks, harasses or chases a person or animal is \$2 500. This increases for the owner of a dangerous dog to \$5 000 for a first offence and \$10 000 for a subsequent offence.
- Similarly, for a dog wandering at large the maximum penalty is \$2 500, with a penalty of \$5 000 for a first offence involving a dangerous dog and \$10 000 for a subsequent offence.

A dangerous dog is defined in the Act as a dog with a Dangerous Dog Control Order placed on it. Higher penalties also apply to offences by dogs of prescribed breeds – as set out in the Act.

New penalties

We are proposing significant updates to dog attack penalties and safety offences.

- Increase the maximum penalty where an owner sets their dog to attack another person or animal to \$100 000 or imprisonment for 4 years (if a dangerous dog) or \$50 000 or 2 years imprisonment otherwise. Further criminal law provisions may be applied if appropriate to these circumstances.
- Increase the maximum penalty for a dog attack by a dangerous dog causing serious injury to \$50 000 and \$25 000 for a dog not previously identified as dangerous.
- Increase the maximum penalty for a dog chasing, harassing or attacking and causing injury (other than a serious injury) to \$25 000 if committed by a dangerous dog or \$10 000 for a dog not previously identified as dangerous.
- Increase the current maximum penalty for the owner of a dog wandering at large (often a precursor to an attack occurring) to \$5 000, or \$10 000 where the dog is a dangerous dog.
- Substantially increase the expiation fees applying in these circumstances.

Further amendments are proposed to related offences and other duties relating to dogs, and in particular dangerous dogs as set out in the draft Bill.

What do you think?

Do you agree with the proposed increases to dog attack penalties?

Even good, well behaved dogs can have bad days and bite. Last year, over 500 South Australians were admitted to hospital for dog bites. Many could have been avoided.

Visit gooddogsbaddays.com.au to learn more about dog behaviour and let's bring this number down.

"Our pup wouldn't hurt a fly."

 **GoodDogs
BadDays**.com.au



Government of
South Australia

Aid clarity, remove red tape and facilitate action

Current situation

During the 2022 Act review, local government, state government, and industry stakeholders highlighted a number of minor issues within the Act which either caused confusion, were no longer relevant, or were a barrier to action.

The following miscellaneous amendments reflected in the draft Bill are explained in simple terms below. The intent is to help councils manage dogs and cats and facilitate better services for owners and the community.

Themes



Governance



Registration



Specific dogs



Orders and enforcement



Operational matters

Amendments proposed in the draft Bill



4—Interpretation

The Act sets out a number of terms and their interpretation. A number of definition changes are proposed to clarify ambiguity and to add new definitions as required.



(4—Interpretation) Attack trained dog

Amend the definition of an attack trained dog to accommodate the various types of attack training. The amendment will place additional obligations on the owners of these dogs.



12—Composition of the Board

Amend to reduce Board members from 9 to 7 which is the contemporary number for this type of Board.



20—Centralised registration and management system

Add new section that recognises the state-wide register (Dogs and Cats Online) which was introduced in 2018.



24—Annual report (of the Board) Amend the publishing date to 31 October to align with other reporting timeframes.



25—Dog and Cat Management Fund

Allows for the Dog and Cat Management Funds to be applied to facilities for the detention of dogs and cats.



26—Plans of management relating to dogs and cats

The proposed changes allow councils to incorporate their dog and cat management planning with other operational planning to simplify processes and improve clarity for the community.



34, 35 & 37—Registration procedure for business involving dogs

Is proposed to be removed given the introduction of mandatory microchipping and recording in Dogs and Cats Online. Every dog now has its own unique record so when dogs move around within the state, there is no need to re-register them. This change will require all dogs to be individually registered with a dog registration disc issued and the appropriate registration fee payable. Removing business registration also prevents unfair registration fee disparity for businesses registered in one council area, where dogs are kept in another council area.



38—Transfer ownership of a dog

Remove clause stating certificates and discs should be passed on from the current owner to the new owner. This is no longer necessary as the state-wide register (Dogs and Cats Online) allows for paperless transfers and paper registration certificates no longer exist.



45A—Miscellaneous duties relating to dogs

Add a new subclause penalty for dog owners who do not remove their dog's faeces from a *private* place.



45B—Dogs of prescribed breed

Remove subclause 4 which states it is an offence to sell or give away a prescribed breed, which is addressed via breeder licence offences.



45C—Greyhounds

Changes to remove the need for pet/retired racing greyhounds to wear a muzzle when in public, which is consistent with many other states. Greyhounds must still always be physically restrained off property and racing greyhounds must wear a muzzle and be restrained.



50 & 51—Destruction and control orders & Grounds on which orders may be made

Add subclauses introducing a new 'Wandering Dog' order to manage dogs which continually escape. The new order will stipulate reasonable steps be taken by the owner to prevent the dog escaping and attend training where appropriate. Section 4-Interpretation will also be updated to reflect the definition of orders.



59C—Recognition of certain interstate orders

Add a clause which allows the Minister (on application) to recognise specific interstate orders, such as a dangerous dog order, or a prohibition order. This amendment aims to manage the risk identified in another jurisdiction, without having to wait for an attack or incident to occur in South Australia.



60—Power to seize and detain dogs

Add a subclause to allow council officers to collect and detain animals in emergency situations. Emergency services, such as police and ambulance officers, seek council assistance when a person is no longer to provide care for an animal. These new subclauses are needed for councils to have a clear process for seizing and handling these animals.



61—Notice of seizure of dog

When dogs are seized, councils must return the dog to the owner, and display public notices with the dog's details in council offices or police stations if detained. This amendment contemporises the permissible actions by allowing councils to post these notices online to help owners find their missing animals.



72—Review of certain decisions by South Australian Civil and Administrative Tribunal

Amend to include decisions of the Board to refuse a breeder licence application.



73—Sharing of information between Board and councils etc

Amend to allow the authorities governing dog and cat management matters to share information, particularly in situations where there is a risk of harm to animals.



83—No liability for action taken under the Act

Clarifying liability protection for lawful actions under Part 5A-Destruction, seizure and detention of dogs and cats.



90A—Review of Act: Amend to have the Act reviewed again in 3 years.



91—Regulations: Amend to include fee notices, pursuant to the *Legislation (Fees) Act 2019*. This will allow regulation making powers for transitional provisions and support the new breeder licensing scheme being introduced.

Contemporising amendments

The following small changes are also proposed to bring the legislation up to date.

- Changing reference of 'justice' to 'magistrate'
- Changing reference of 'Veterinary surgeon' to 'veterinarian'
- Updated evidentiary provision
- Removing provision about service of documents as this is covered by *Legislation Interpretation Act 2021*
- Updating the offence of abusing an authorised person to the *Criminal Law Consolidation Act*.

What do you think?

Do you agree with these proposed amendments?

Have YourSAy

What do you think? Do you agree these changes will improve dog and cat management practices in South Australia? We have consulted widely to prepare these changes; now we want to know your thoughts.

Industry associations, government and non-government organisations have been invited to respond independently.

We will consider all feedback to finalise the draft Bill for Parliament to consider. A consultation report will be published on YourSAy. All respondents will be notified.



*To have your say, complete the submission form at **yoursay.sa.gov.au/breeder-reforms***



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