

Queensland



**LOCAL GOVERNMENT AND  
OTHER LEGISLATION  
AMENDMENT ACT (No. 2) 2001**

**Act No. 98 of 2001**



# Queensland



## LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT ACT (No. 2) 2001

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Queensland



**Local Government and Other Legislation  
Amendment Act (No. 2) 2001**

**Act No. 98 of 2001**

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**An Act to amend the *Local Government Act 1993*, and for other purposes**

***[Assented to 19 December 2001]***

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **1 Short title**

This Act may be cited as the *Local Government and Other Legislation Amendment Act (No. 2) 2001*.

### **2 Commencement**

Sections 4 to 8, 13 and 16 to 19 commence on a day to be fixed by proclamation.

## **PART 2—AMENDMENT OF LOCAL GOVERNMENT ACT 1993**

### **3 Act amended in pt 2**

This part amends the *Local Government Act 1993*.

### **4 Amendment of s 3 (Definitions)**

(1) Section 3, ‘In this Act—’—

*omit, insert—*

‘The dictionary in the schedule defines particular words used in this Act.’.

(2) Section 3, definition “owner”—

*omit.*

(3) Section 3—

*insert—*

‘**“compliance notice”**’ see section 1193ZY(2).

**“conviction”** includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

**“destroy”** a restricted dog, see section 1193I.

**“destruction order”** see section 1193ZZG(4).

**“detached house”** does not include—

- (a) a caravan, trailer or vehicle; or
- (b) a duplex; or
- (c) a mobile home as defined under the *Mobile Homes Act 1989*.

**“effective control”**, of a restricted dog, see section 1193H.

**“guardian”** means a person who is recognised in law as having all the duties, powers, responsibilities and authority that, by law, parents have for their children.

**“information notice”**, about a decision, means a written notice stating—

- (a) the decision and the reasons for it; and
- (b) that the person to whom the notice is given may appeal against the decision to a Magistrates Court within 14 days after the person receives the notice; and
- (c) how to appeal.

**“lives”**, for chapter 17A, see section 1193I.

**“local government owned corporation”** see section 592.

**“owner”**—

- (a) of land—
  - (i) generally—see section 4; and
  - (ii) for chapter 3, part 1—see also section 63; or
- (b) of a restricted dog—see section 1193F.

**“permit application”** see section 1193Q(1).

**“permit condition”** see section 1193I.

**“proposed declaration notice”** see section 1193ZR(1).

**“registered owner”**, of a restricted dog, see section 1193I.

**“relevant local government”**, for a restricted dog, see section 1193I.

**“renewal application”** see section 1193ZH(1).

**“responsible person”**, for a restricted dog, see section 1193G.

**“restricted dog”** see section 1193E.

**“restricted dog declaration”** see section 1193ZQ(1).

**“restricted dog permit”** see section 1193I.

**“restricted dog register”** see section 1193ZN(1).

**“spent conviction”** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

**“veterinary surgeon”** means a person registered as a veterinary surgeon under the *Veterinary Surgeons Act 1936*.’.

(4) Section 3, definition **“authorised person”**—

*insert*—

‘(d) in chapter 17A—see section 1193I.’.

(5) Section 3, definitions, as amended by this section—

*relocate* to the schedule as inserted by this Act.

## **5 Amendment of s 9 (Act applies only so far as expressly provided)**

(1) Section 9(2)—

*insert*—

‘• chapter 17A’.

(2) Section 9(2), last dot point, ‘divisions 3 and 4’—

*omit, insert*—

‘division 4’.

## **6 Amendment of s 13 (Act applies only so far as expressly provided)**

**(1)** Section 13(2)—

*insert—*

- chapter 15, part 4, divisions 1 and 3
- chapter 15, part 5
- chapter 17A.’.

**(2)** Section 13—

*insert—*

‘**(2A)** However—

- (a) chapter 15, part 4, division 1 applies only for a compliance notice; and
- (b) chapter 15, part 4, division 3, applies only for—
  - (i) an authorisation or requirement under chapter 17A; or
  - (ii) a proceeding for an offence against the chapter; and
- (c) chapter 15, part 5, applies with the following changes—
  - (i) a place may be entered, or another power under the part exercised, only to investigate compliance with chapter 17A or to enforce the chapter;
  - (ii) a warrant under section 1094 may be issued only if there are reasonable grounds to suspect the thing or activity mentioned in the section may provide evidence of an offence against chapter 17A;
  - (iii) section 1105<sup>1</sup> applies only for restricted dogs.’.

**(3)** Section 13(2A) and (3)—

*renumber* as section 13(3) and (4).

## **7 Amendment of s 14 (How Act applies to Aboriginal and Torres Strait Islander local governments)**

Section 14(a)—

---

<sup>1</sup> Section 1105 (Local laws about dogs)

*insert—*

‘(iv) to a local law of a local government includes a reference to a by-law of an Aboriginal or Torres Strait Islander local government; and

‘(v) to an authorised person for a local government includes a reference to an authorised officer for an Aboriginal or Torres Strait Islander local government; and’.

## **8 Amendment of s 31 (Inconsistency with State law)**

Section 31—

*insert—*

‘(2) Subsection (1) does not affect section 1193D.<sup>2</sup>’.

## **9 Replacement of s 60W (Disbursement of surplus in operating fund of joint board)**

Section 60W—

*omit, insert—*

### **‘60W Disbursement from operating fund of joint board for purposes other than its jurisdiction**

‘(1) The joint board may make a disbursement from its operating fund for any purpose that—

- (a) is not within its jurisdiction; but
- (b) is within the jurisdiction of local government.

‘(2) However, the disbursement may be made only if—

- (a) the joint board has, by resolution, decided that the amount of the disbursement is not required for exercising its jurisdiction; and
- (b) the Townsville and Thuringowa City Councils approve the purpose for which the disbursement is to be made.

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2 Section 1193D (Relationship with local laws).

See also the *Vegetation Management Act 1999*, section 7 (Application of Act).

‘(3) The approval may be given for the purpose for disbursements in more than 1 financial year.

‘(4) A disbursement for a purpose approved under this section may be made—

- (a) to the Townsville and Thuringowa Councils for the purpose; or
- (b) directly by the joint board for the purpose.’.

## **10 Amendment of s 191 (Local Government Grants Commission and its members)**

(1) Section 191(2) and (3), ‘5’—

*omit, insert—*

‘6’.

(2) Section 191(3)—

*insert—*

‘(ab)1 person with knowledge of Aboriginal and Torres Strait Islander local government; and’.

(3) Section 191(4), ‘(3)(b)’—

*omit, insert—*

‘(3)(c)’.

(4) Section 191(3)(ab) and (b)—

*renumber* as section 191(3)(b) and (c).

## **11 Amendment of s 193 (Vacation of and removal from office)**

Section 193(1)(d), ‘191(3)(b)’—

*omit, insert—*

‘191(3)(c)’.

## **12 Amendment of s 213 (Quorum at meetings)**

Section 213, ‘3 members’—

*omit, insert—*

‘4 members’.

## **13 Amendment of s 222 (Disqualification and vacation of office for certain offences)**

Section 222(4)—

*omit.*

## **14 Replacement of s 542 (Disbursement of surplus in operating fund of joint local government)**

Section 542—

*omit, insert—*

### **‘542 Disbursement from operating fund of joint local government for purposes other than exclusive jurisdiction**

‘(1) A joint local government may make a disbursement from its operating fund for any purpose that—

- (a) is not within the exclusive jurisdiction of the joint local government; but
- (b) is within the jurisdiction of local government.

‘(2) However, the disbursement may be made only if—

- (a) the joint local government has, by resolution, decided that the amount of the disbursement is not required for exercising its exclusive jurisdiction; and
- (b) the component local governments approve the purpose for which the disbursement is to be made.

‘(3) The approval may be given for the purpose for disbursements in more than 1 financial year.

‘(4) A disbursement under this section may be made—



- (a) to a component local government or another entity; or
- (b) directly by the joint local government.’.

## **15 Insertion of new s 708A**

Chapter 8, part 7, division 3, subdivision 20—

*insert—*

### **‘708A Application of Statutory Bodies Financial Arrangements Act 1982**

‘(1) An LGOC is a statutory body for the *Statutory Bodies Financial Arrangements Act 1982*.

‘(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the powers under this Act of an LGOC are affected by the *Statutory Bodies Financial Arrangements Act 1982*.’.

## **16 Amendment of s 1082 (Definitions)**

(1) Section 1082, heading—

*omit, insert—*

### **‘1082 Definitions for pt 5’.**

(2) Section 1082, definition “**public place**”—

*relocate* to the schedule as inserted by this Act.

## **17 Amendment of s 1105 (Local laws about dogs)**

(1) Section 1105(2), after ‘local law’—

*omit, insert—*

‘or seizing a restricted dog’.

(2) Section 1105—

*insert—*

‘(2A) If a local law provides for a power of entry for seizing a dangerous dog—

- (a) the power may also be exercised for entry for seizing a restricted dog; and
  - (b) for paragraph (a), a reference in the local law to a dangerous dog includes a reference to a restricted dog.’
- (3) Section 1105(2A) to (4)—  
*renumber* as section 1105(3) to (5).

## **18 Insertion of new ch 17A**

After chapter 17—

*insert—*

# **‘CHAPTER 17A—REGULATION OF RESTRICTED DOGS**

## **‘PART 1—PRELIMINARY**

### *‘Division 1—Purpose and application of chapter*

#### **‘1193A Purpose of ch 17A and its achievement**

- (1) The purposes of this chapter are to—
- (a) protect the community from damage or injury, or risk of damage or injury, from restricted dogs; and
  - (b) ensure restricted dogs are—
    - (i) not a risk to community health or safety; and
    - (ii) controlled and kept in a way consistent with community expectations and the rights of individuals.
- (2) The purposes are to be achieved primarily by the following—
- (a) providing for local governments to declare dogs to be restricted dogs;
  - (b) prohibiting the acquisition, breeding and supply of restricted dogs;

- (c) providing for the compulsory de-sexing of restricted dogs;
- (d) providing for permits for, and for the identification of, restricted dogs;
- (e) imposing conditions on keeping, and requirements for the control of, restricted dogs;
- (f) allowing authorised persons to seize or destroy restricted dogs in particular circumstances;
- (g) providing for local governments to administer, and be responsible for, the matters mentioned in paragraphs (a) to (f).

### **‘1193B Application to Brisbane City Council**

‘Subject to section 1193D, this chapter applies to the Brisbane City Council.

### **‘1193C Application to Aboriginal and Torres Strait Islander local governments**

‘Subject to section 1193D, this chapter applies to all Aboriginal and Torres Strait Islander local governments.

### **‘1193D Relationship with local laws**

‘(1) If a local government makes a local law that prohibits anyone in its local government area, other than an exempted person, from possessing a restricted dog, this chapter does not apply in relation to the local government or its area.

‘(2) If a local government makes a local law that provides a person may, in stated circumstances, possess a restricted dog in its local government area, but otherwise prohibits anyone in the area, other than an exempted person, from possessing a restricted dog, this chapter—

- (a) applies to everyone to whom the circumstances apply; and
- (b) otherwise does not apply in relation to the local government or the area.

‘(3) This chapter does not prevent a local law from imposing requirements in relation to dogs generally.

‘(4) However, if this chapter and a local law are inconsistent about a requirement, the local law is invalid to the extent of the inconsistency if it imposes a less onerous obligation or lower standard on an owner of, or a responsible person for, a restricted dog than the obligations or standards imposed on the person under this chapter.

‘(5) This section applies for a local law whether made before or after the commencement of this chapter.

‘(6) In this section—

“**exempted person**” means an authorised person exercising functions or powers under this Act or a local law.

“**prohibits**” includes a prohibition that does not provide for a penalty if the prohibition is contravened.

### *‘Division 2—Interpretation for chapter*

#### **‘1193E What is a “restricted dog”**

‘(1) A “**restricted dog**” is a dog—

(a) of a breed as follows—

(i) dogo Argentino;

(ii) fila Brasileiro;

(iii) Japanese tosa; or

(b) of the type commonly known as ‘American pit bull terrier’ or ‘pit bull terrier’; or

(c) of a breed or type prescribed for this paragraph under a regulation; or

(d) that is a crossbreed, or the offspring of, a dog of a breed or type mentioned in paragraph (a), (b) or (c), whether or not the dog appears to be a dog of that type or breed.

‘(2) Also, a dog is a “**restricted dog**” if it is the subject of a restricted dog declaration.

‘(3) A breed or type may be prescribed under subsection (1)(c) only if, under the *Customs Act 1901* (Cwlth), it is prohibited from importation into Australia.<sup>3</sup>

### ‘1193F Who is an “owner” of a restricted dog

‘(1) Each person as follows is an “owner” of a restricted dog—

- (a) a person recorded as an owner of the dog in a restricted dog register or record under a local law;
- (b) a person who owns the dog, in the sense of it being the person’s personal property;
- (c) a person who usually keeps the dog, including through an agent, employee or anyone else;
- (d) if a person mentioned in paragraphs (a) to (c) is a minor—a parent or guardian of the minor.

‘(2) For subsection (1)(c), a person does not usually keep a dog—

- (a) merely because the person occupies a place at which the dog is kept if someone else who is an adult and lives at the place keeps the dog; or
- (b) if the person keeps the dog as an employee of someone else and the person is acting within the scope of the employment.

‘(3) If a person owns a female restricted dog and the female has offspring, the person is taken to be the offspring’s “owner” immediately after its birth.

### ‘1193G Who is a “responsible person” for a restricted dog

‘(1) A person is a “responsible person” for a restricted dog if—

- (a) the person, or the person’s employee acting within the scope of the employment, has immediate control or custody of the dog; or
- (b) the person is the parent or guardian of a minor who has immediate control or custody of the dog; or

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3 See the *Customs (Prohibited Imports) Regulations 1992* (Cwlth), section 2 and schedule 1 (Goods the importation of which is prohibited absolutely).

(c) the person occupies the place at which the dog is usually kept.

‘(2) However, a person is not a responsible person for the dog—

- (a) merely because the person occupies a place at which the dog is usually kept if someone else who is an adult and lives at the place keeps the dog; or
- (b) if the person has the control or custody of or keeps the dog as an employee of someone else and the person is acting within the scope of the employment.

### ‘1193H When a dog is under “effective control”

‘(1) A restricted dog is under the “effective control” of someone only if—

- (a) an individual who is physically able to control the dog—
  - (i) is holding it by an appropriate leash; or
  - (ii) has appropriately tethered it to an object fixed to a place from which the object can not be moved by the dog and is continuously supervising the dog; and
- (b) the dog is participating in, or being exhibited or trained at, an exhibition or an obedience trial supervised by a body recognised for this section by the relevant local government.

‘(2) For subsection (1), a dog is held by an appropriate leash or appropriately tethered only if the leash or tether is of the dimensions, quality and type that are appropriate to restrain the dog and ensure it is not a risk to community health or safety.

### ‘1193I Definitions for ch 17A

‘In this chapter—

“authorised person” means a person who holds appointment as an authorised person under chapter 15, part 5.

“compliance notice” see section 1193ZY(2).

“destroy”, a restricted dog, includes causing it to be destroyed.

“destruction order” see section 1193ZZG(4).

“effective control”, of a restricted dog, see section 1193H.

“**lives**” means resides.

“**owner**”, of a restricted dog, see section 1193F.

“**permit application**” see section 1193Q(1).

“**permit condition**” means a condition imposed under—

- (a) part 3, division 2; or
- (b) a local law made under section 1193Y(2).

“**proposed declaration notice**” see section 1193ZR(1).

“**registered owner**”, of a restricted dog, means a person who is recorded as being the owner of the dog in the restricted dog register the relevant local government keeps.

“**relevant local government**”, for a restricted dog, means the local government in whose area the dog is usually kept or proposed to be kept.

“**renewal application**” see section 1193ZH(1).

“**responsible person**”, for a restricted dog, see section 1193G.

“**restricted dog**” see section 1193E.

“**restricted dog declaration**” see section 1193ZQ(1).

“**restricted dog permit**” means a permit issued under part 3.

“**restricted dog register**” see section 1193ZN(1).

## **‘PART 2—RESTRICTIONS AND PROHIBITIONS**

### **‘1193J Application of pt 2**

‘(1) This part does not apply to a local government in relation to a restricted dog if the dog has been surrendered to it.

‘(2) Section 1193K does not apply to another person for an act if the act is the surrender of the dog to the relevant local government.<sup>4</sup>

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<sup>4</sup> See section 1193ZZS (Surrender of restricted dog).

### **‘1193K Prohibition on acquisition or supply**

‘(1) A person must not acquire a restricted dog or proposed restricted dog unless—

- (a) the acquisition is made under a distribution in the estate of a deceased person; or
- (b) the person has a reasonable excuse.

Maximum penalty—150 penalty units.

‘(2) A person must not supply a restricted dog or proposed restricted dog to someone else unless—

- (a) the supply is made under a distribution in the estate of a deceased person; or
- (b) the person has a reasonable excuse.

Maximum penalty—150 penalty units.

‘(3) In this section—

“**acquire**” means to acquire as an owner including, for example, to become an owner as mentioned in section 1193F(3).

“**proposed restricted dog**” means a dog the subject of—

- (a) a proposed declaration notice that has not been withdrawn; or
- (b) a restricted dog declaration that has been stayed under section 1193ZZJ.

“**supply**”, a restricted dog, (including in paragraphs (b) to (d) of this definition) includes doing any of the following things if doing the thing affects possession of the dog, other than the mere temporary custody of it—

- (a) exchange, give or sell;
- (b) offer or agree to supply;
- (c) cause or permit a supply;
- (d) possess for supply.



### **‘1193L Prohibition on breeding**

‘(1) A person must not give, or take, possession of a restricted dog for the purpose of allowing it to breed with another dog.

Maximum penalty—150 penalty units

‘(2) The owner of, or a responsible person for, a restricted dog must not allow or encourage the dog to breed with another dog.

Maximum penalty—150 penalty units.

### **‘1193M Permit required for restricted dog**

‘A person must not, unless the person has a reasonable excuse, own, or be a responsible person for, a restricted dog unless the relevant local government has issued a restricted dog permit to someone to keep the dog.

Maximum penalty—75 penalty units.

### **‘1193N Compulsory de-sexing**

‘(1) A person who owns a restricted dog must ensure it is de-sexed within 3 months after the later of the following to happen unless de-sexing is not in the interests of the dog’s health—

- (a) any person is issued a restricted dog permit to keep the dog;
- (b) the dog turns 6 months.

Maximum penalty—150 penalty units.

‘(2) If the person does not de-sex the dog because de-sexing was temporarily not in the interests of its health (the “**temporary condition**”)—

- (a) the obligation under subsection (1) continues despite the matters mentioned in subsection (1)(a) and (b) having happened; and
- (b) the person must ensure the dog is de-sexed within 3 months after the temporary condition ceases.

Maximum penalty—150 penalty units.

### **‘1193O Abandonment prohibited**

‘(1) The owner of, or a responsible person for, a restricted dog must not abandon it unless the owner or responsible person has a reasonable excuse.

Maximum penalty—300 penalty units.

‘(2) In this section—

“**abandon**” includes leave for an unreasonable period, having regard to community health and safety.

### **‘1193P Prohibition on allowing or encouraging dog to attack or cause fear**

‘(1) A person must not allow or encourage a restricted dog to attack, or act in a way that causes fear to, an animal or person.

Maximum penalty—300 penalty units.

‘(2) In this section—

“**allow or encourage**”, without limiting the Criminal Code, sections 7 and 8,<sup>5</sup> includes cause to allow or encourage.

## **‘PART 3—RESTRICTED DOG PERMITS**

### *‘Division 1—Obtaining permit*

#### *‘Subdivision 1—Permit applications*

### **‘1193Q Who may apply for permit**

‘(1) An adult may apply to the relevant local government for a permit to keep a restricted dog at a stated place in its area (a “**permit application**”).

‘(2) However, a permit application may be made for a place only if—

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5 Criminal Code, sections 7 (Principal offenders) and 8 (Offences committed in prosecution of common purpose)

- (a) there is a detached house on the place; and
- (b) someone usually lives in the house.

‘(3) A permit application may be made for more than 1 restricted dog for the same place only if the keeping of more than 1 restricted dog and more than 1 dog of any breed or type is permitted under a local law of the relevant local government.

### **‘1193R Requirements for application**

‘A permit application must—

- (a) be in the approved form; and
- (b) state the following—
  - (i) the applicant’s name and residential address;
  - (ii) the following details for each dog the subject of the application—
    - age;
    - breed or type;
    - colour;
    - sex;
    - any other noticeable distinguishing features or marks;
  - (iii) the address of the place for which the application is made;
  - (iv) the type of each structure at the place;
  - (v) other information prescribed under a regulation; and
- (c) if the dog is 9 months or older—be accompanied by a signed veterinary surgeon’s certificate stating, or other evidence of, either of the following—
  - (i) that the dog has been de-sexed;
  - (ii) that de-sexing is not in the interests of the dog’s health; and
- (d) be supported by enough other information to enable the local government to decide the application; and
- (e) be accompanied by—
  - (i) a recent colour photo of the dog; and

- (ii) the charge fixed under section 974 for the application; and
- (iii) other information, or documents, required under a local law.

### **‘1193S Local government may seek further documents or information**

‘(1) The relevant local government may, after a permit application has been made, by written notice, require the applicant to give it a stated document or information that is relevant to the application.

‘(2) The notice may require the applicant to verify the correctness of the document or information by statutory declaration.<sup>6</sup>

### **‘1193T Deciding application**

‘(1) The relevant local government must either grant or refuse a permit application within 21 days after the later of the following to happen—

- (a) the making of the application;
- (b) it receives all necessary information to decide the application.

‘(2) The local government must refuse the application if—

- (a) the applicant—
  - (i) is a minor; or
  - (ii) has been convicted of an offence against this chapter and the conviction is not a spent conviction; or
- (b) it is not satisfied the place for which the application is made has a detached house on it in which someone usually lives; or
- (c) it is satisfied the dog is 9 months or older and has not been de-sexed.

‘(3) However, subsection (2)(c) does not apply if the local government is satisfied de-sexing is not in the interests of the dog’s health.

‘(4) A local law may provide that the application must be refused in another stated circumstance.

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<sup>6</sup> See also chapter 15, part 5, division 6 (Monitoring authorisations and notices and processing applications).

‘(5) If the local government decides to grant the application, it may impose a condition provided for under a local law made under section 1193Y(2).

#### **‘1193U Criteria for decision**

‘In deciding a permit application, the matters the relevant local government must consider include—

- (a) whether the place for which the application is made is suitable, having regard to community health and safety; and
- (b) whether, if the application were to be granted, the permit conditions would be complied with for each dog the subject of the application; and
- (c) another matter prescribed under a regulation.

#### ***‘Subdivision 2—Action after decision on application***

#### **‘1193V Grant of application**

‘As soon as practicable after deciding to grant a permit application, the relevant local government must issue the applicant with the restricted dog permit in the approved form.

#### **‘1193W Permit term**

‘A restricted dog permit expires 1 year after the day the holder is issued the permit.

#### **‘1193X Notice of refusal of permit application**

‘As soon as practicable after deciding to refuse a permit application, the relevant local government must give the applicant an information notice about the decision.

### ***‘Division 2—Permit conditions***

#### **‘1193Y Operation of div 2**

‘(1) This division imposes conditions on each restricted dog permit.

‘(2) Also, a local government may make a local law that imposes, for each restricted dog permit the local government issues, conditions that provide for more onerous obligations or higher standards than the obligations or standards provided for under the conditions under this division.

‘(3) The conditions mentioned in subsections (1) and (2) apply for each restricted dog the subject of the permit.

‘(4) However, if a restricted dog permit states the conditions do not take effect until a stated day, they do not apply until that day.

‘(5) The stated day can not be more than 21 days after the holder is issued the permit.

#### **‘1193Z Obligation to comply with permit conditions**

‘The holder of a restricted dog permit, and any responsible person for the dog, must ensure each permit condition is complied with for the dog.

Maximum penalty—75 penalty units.

#### **‘1193ZA Identification**

‘(1) The dog must, at all times, wear a collar with an attached identifying tag.

‘(2) The tag must be of the type, and contain the information—

- (a) prescribed under a regulation; or
- (b) required under a local law, or a resolution of, the relevant local government.

‘(3) If a regulation prescribes another way for identifying restricted dogs, the dog must also be identified in the prescribed way.

*Examples of ‘another way’ for subsection (3)—*

A system of microchipping or tattooing.

### **‘11193ZB Muzzling and effective control in public**

‘(1) The dog must not be in a public place unless it is—

- (a) muzzled; and
- (b) under the effective control of someone who has the control of no more than 2 dogs of any breed or type at the same time.

‘(2) However, subsection (1) does not apply for a restricted dog in a vehicle that is in a public place if the dog is—

- (a) in an enclosed part of the vehicle; and
- (b) enclosed or restrained in a way that prevents the dog or any part of it from being outside the enclosed part of the vehicle.

### **‘1193ZC Enclosure**

‘(1) An enclosure for the dog must be maintained at or on the place for which the permit has been given.

‘(2) The dog must, unless there is a reasonable excuse, be usually kept in the enclosure.

‘(3) The enclosure must—

- (a) be childproof; and
- (b) stop the dog from leaving the enclosure.

‘(4) Also, the enclosure and the area enclosed must—

- (a) be of the dimensions, quality and type prescribed under a regulation; and
- (b) comply with other requirements prescribed under a regulation.

### **‘1193ZD Public notice**

‘(1) A sign must be placed at or near each entrance to the place for which the permit has been given notifying the public that a restricted dog is kept at the place.

‘(2) The sign must be of the dimensions, quality and type, and contain the information—

- (a) prescribed under a regulation; or

- (b) required under a local law, or a resolution of, the relevant local government.

**‘1193ZE Place where dog is usually kept**

‘The dog must not be usually kept at a place other than the place for which the permit has been given.

**‘1193ZF Notice of other restricted dog permit for dog**

‘If the permit holder obtains another restricted dog permit for the dog, the holder must immediately give the relevant local government written notice of the other permit.

**‘1193ZG Notice of change of address**

‘(1) If the permit holder changes residential address, the holder must give the relevant local government written notice of the holder’s new residential address within 7 days after making the change.

‘(2) If the new residential address is in another local government’s area, the holder must also give the notice to the other local government.

***‘Division 3—Renewals***

**‘1193ZH When permit may be renewed**

‘(1) The holder of a restricted dog permit may apply to the relevant local government to renew the permit (a **“renewal application”**).

‘(2) However, a renewal application can not be made—

- (a) if the permit has expired; or
- (b) within 21 days before the permit’s expiry; or
- (c) if the applicant has been convicted of an offence against this chapter and the conviction is not a spent conviction.



### **‘1193ZI Requirements for application**

‘A renewal application must be—

- (a) in the approved form; and
- (b) supported by enough other information to enable the local government to decide the application; and
- (c) accompanied by—
  - (i) any charge fixed under section 974 for the application; and
  - (ii) other information, or documents, required under a local law.

### **‘1193ZJ Deciding application**

‘(1) The relevant local government must either grant or refuse a renewal application within 21 days after the later of the following to happen—

- (a) the making of the application;
- (b) it receives all necessary information to decide the application.

‘(2) The local government must refuse the application if the applicant has been convicted of an offence against this chapter and the conviction is not a spent conviction.

‘(3) A local law may provide that the application must be refused in another stated circumstance.

‘(4) The local government—

- (a) must, in deciding the application, consider the matters mentioned in section 1193U; and
- (b) may seek further documents or information in the way mentioned in section 1193S.

‘(5) The local government must, as soon as practicable after deciding the application—

- (a) if the decision is to grant—issue the applicant with the renewed permit in the approved form; or
- (b) if the decision is to refuse—give the applicant an information notice about the decision.

### **‘1193ZK Renewed term**

‘A renewed restricted dog permit expires 1 year after the day the holder is issued the renewed permit.

## *‘Division 4—Amendments*

### **‘1193ZL Application for change of place for permit**

‘(1) The holder of a restricted dog permit may apply to the relevant local government to change the place for which the permit has been given.

‘(2) However, the place can not be changed to a place outside the local government’s area.

‘(3) Division 1 and part 6 apply to the application, with necessary changes, as if it were a permit application.

### **‘1193ZM Amendment by relevant local government**

‘(1) The relevant local government may amend a restricted dog permit at any time, by giving its holder written notice of the amendment and recording particulars of the amendment in its restricted dog register, if the amendment—

- (a) is to correct a clerical or formal error; or
- (b) does not adversely affect the holder’s interests; or
- (c) is at the holder’s written request.

‘(2) However, the amendment can not be inconsistent with a permit condition or impose a condition on the permit other than a permit condition.

## *‘Division 5—Miscellaneous provisions*

### **‘1193ZN Restricted dog registers**

‘(1) Each local government must keep a register of restricted dogs for its area (a “**restricted dog register**”).

‘(2) The register must include the following information for each restricted dog permit in force in the local government’s area—

- (a) the address of the place for which the permit has been given;
- (b) the following details for each dog the subject of the permit—
  - (i) breed or type;
  - (ii) colour;
  - (iii) sex;
  - (iv) the number recorded on its collar, identification tag, registration tag or tattoo;
  - (v) any other noticeable distinguishing features or marks;
- (c) other information prescribed under a regulation.

‘(3) A restricted dog register may—

- (a) include other information the local government considers appropriate; and
- (b) be kept in the way the local government considers appropriate, including, for example, in electronic form.

### **‘1193ZO Public access to registers**

‘(1) Each local government must keep its restricted dog register open to inspection.

‘(2) However, subsection (1) does not apply for a person’s name and postal address included in the register if the local government has been given a notice mentioned in section 8(2)<sup>7</sup> about the person.

### **‘1193ZP No transfer of restricted dog permit**

‘A restricted dog permit can not be transferred.

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<sup>7</sup> Section 8 (Documents open to inspection not to contain information about protected persons)

## **‘PART 4—RESTRICTED DOG DECLARATIONS**

### **‘1193ZQ Power to make declaration**

‘(1) Any local government may, by complying with the requirements of this part, declare a particular dog to be a restricted dog (a **“restricted dog declaration”**).<sup>8</sup>

‘(2) The declaration may be made even if the dog is not in the local government’s area.

### **‘1193ZR Notice of proposed declaration**

‘(1) If a local government proposes to make a restricted dog declaration it must give any owner of the dog written notice (a **“proposed declaration notice”**) stating the following—

- (a) the following details for the dog—
  - (i) breed or type;
  - (ii) colour;
  - (iii) sex;
  - (iv) any other noticeable distinguishing features or marks;
- (b) the local government proposes to declare the dog to be a restricted dog;
- (c) an owner of the dog may make, within a stated period, written representations to show why the proposed declaration should not be made;
- (d) the representations may include a written opinion from a veterinary surgeon or other evidence about the dog’s breed or type;
- (e) under section 1193M, a person must not, unless the person has a reasonable excuse, own, or be a responsible person for, a restricted dog unless the relevant local government has issued a restricted dog permit for the dog.

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8 See section 1193E(2) (What is a “restricted dog”).

‘(2) The stated period must end at least 14 days after the proposed declaration notice is given.

‘(3) The proposed declaration notice may be accompanied by a written opinion from a veterinary surgeon or other evidence about the dog’s breed or type.

#### **‘1193ZS Proposed declaration notice does not limit other powers**

‘The giving of a proposed declaration notice does not limit an authorised person’s powers under—

- (a) part 5; or
- (b) chapter 15, part 5; or
- (c) a local law.

#### **‘1193ZT Withdrawing proposed declaration notice**

‘The local government may withdraw the proposed declaration notice by giving written notice of the withdrawal to any owner of the dog the subject of the notice.

#### **‘1193ZU Owner’s obligations if proposed declaration notice in force**

‘(1) Each owner of, and responsible person for, the dog the subject of the proposed declaration notice must ensure the requirements under section 1193ZB are complied with for the dog.<sup>9</sup>

Maximum penalty—75 penalty units.

‘(2) Subsection (1) ceases to apply if the notice is withdrawn.

#### **‘1193ZV Making declaration**

‘(1) The local government must consider any written representations and evidence accompanying them within the period stated in the proposed declaration notice.

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<sup>9</sup> Section 1193ZB (Muzzling and effective control in public). See also section 1193K (Prohibition on acquisition or supply).

‘(2) If, after complying with subsection (1), the local government is satisfied the dog is of a breed or type mentioned in section 1193E(1),<sup>10</sup> it must make the restricted dog declaration.

### **‘1193ZW Notice and taking effect of declaration**

‘(1) As soon as practicable after deciding to make a restricted dog declaration, the local government must give any owner of the dog the subject of the declaration a notice under subsection (2) or (3).

‘(2) If the relevant proposed declaration notice was accompanied by a written opinion from a veterinary surgeon stating, or to the effect, that the dog is of a breed or type mentioned in section 1193E(1), the notice must be written and state the decision and reasons for it.

‘(3) If subsection (2) does not apply, the notice must be an information notice about the decision.

‘(4) The decision takes effect on the later of the following days—

- (a) the day any owner of the dog is given the notice;
- (b) a later day of effect stated in the notice.

## **‘PART 5—ENFORCEMENT MATTERS**

### *‘Division 1—Preliminary*

#### **‘1193ZX Relationship with ch 15, pt 5**

‘(1) This part is in addition to, and does not limit, chapter 15, part 5.

‘(2) Chapter 15, part 5, division 9 applies to this part as if a reference in the division to the exercise of a power under chapter 15, part 5 includes a reference to the exercise of a power under this part.

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<sup>10</sup> Section 1193E (What is a “restricted dog”)

‘(3) However, compensation can not be claimed or ordered to be paid under section 1104 for a loss or expense caused by the seizure or destruction under this part of a restricted dog.

### *‘Division 2—Compliance notices*

#### **‘1193ZY Power to give compliance notice**

‘(1) This section applies if an authorised person reasonably believes an owner of, or a responsible person for, a restricted dog has committed, is committing or is about to commit, an offence against this chapter.

‘(2) The authorised person may give the owner or responsible person written notice (a “**compliance notice**”) requiring the owner or responsible person to—

- (a) stop committing the offence; or
- (b) take action to remedy the matter.

‘(3) A compliance notice may also state—

- (a) that an authorised person proposes, at a stated time or at stated intervals, to enter premises of which the owner or responsible person is the occupier to check compliance with the notice; or
- (b) how the owner or responsible person may show the action has been taken.

#### **‘1193ZZ Requirements for giving notice**

‘(1) A compliance notice must be written and state the following—

- (a) the names of the authorised person giving it and the local government that appointed the person;
- (b) that the authorised person believes the owner or responsible person given the notice has committed, is committing or is about to commit, an offence against this chapter;
- (c) the nature of the offence;
- (d) that the owner or responsible person must—
  - (i) stop committing the offence; or

- (ii) take stated required action;
  - (e) a reasonable period within which any required action must be taken.
- ‘(2) Despite subsection (1), a compliance notice may be given orally if—
- (a) either—
    - (i) the authorised person giving the notice reasonably believes continued commission of the offence needs to be stopped, or the required action needs to be taken, urgently; or
    - (ii) for any reason it is not practicable to immediately give the notice in writing; and
  - (b) the authorised person warns the owner or responsible person that, without reasonable excuse, it is an offence for the owner or responsible person not to comply with the notice.

‘(3) If a compliance notice is given orally, the authorised person giving the notice must confirm the notice by also giving it in writing as soon as practicable after giving it orally.

### **‘1193ZZA Failure to comply with notice**

‘(1) A person to whom a compliance notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—75 penalty units.

‘(2) It is a reasonable excuse if, when the notice was given, the person had not committed, was not committing or was not about to commit, the offence stated in the notice.

### ***‘Division 3—Powers for restricted dogs***

### **‘1193ZZB Additional entry powers**

- ‘(1) An authorised person may enter and stay at a place if—
- (a) the person reasonably suspects a restricted dog is at the place and—
    - (i) no restricted dog permit has been issued for the dog; and



- (ii) any delay in entering the place will result in a risk to community health or safety or the dog being concealed or moved to avoid a requirement under this chapter; or
- (b) its occupier has been given a compliance notice and the entry is made at a time stated in the notice to check compliance with the notice.

‘(2) A power under subsection (1) must not be exercised using force.’<sup>11</sup>

‘(3) If an authorised person is intending under subsection (1) to enter a place and the occupier of the place is present at the place, the person must do, or make a reasonable attempt to do, the following things before entering the place—

- (a) comply with section 1088<sup>12</sup> for the occupier;
- (b) tell the occupier—
  - (i) the purpose of the entry; and
  - (ii) the person is permitted under this Act to enter the place without the occupier’s consent or a warrant.

‘(4) If an authorised person enters, or proposes to enter, a place under this section, section 1102 applies as if the entry had been, or is being, made under chapter 15, part 5, division 4.’<sup>13</sup>

### ‘1193ZZC Seizure powers

‘(1) If an authorised person has, under this division or chapter 15, part 5, entered a place and the person reasonably suspects a restricted dog is at the place, the person may seize the dog if—

- (a) the person reasonably believes the dog—
  - (i) has attacked, threatened to attack or acted in a way that causes fear to, an animal or person; or
  - (ii) is, or may be, a risk to community health or safety; or

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11 For power to enter using force, see section 1193ZX (Relationship with ch 15, pt 5) and chapter 15, part 5, division 5 (Warrants).

12 Section 1088 (Production of identity card)

13 Section 1102 (General powers after entering places)  
Chapter 15, part 5, division 4 (Investigations about offences)

- (b) a permit application to keep the dog at the place has been refused; or
- (c) no restricted dog permit has been issued for the dog and the person reasonably believes there is a risk the dog may be concealed or moved to avoid a requirement under this chapter; or
- (d) a compliance notice has been given in relation to the dog and the person reasonably believes the notice has not been complied with.

‘(2) Also, if the place is a public place, the person may seize the dog if it is not under anyone’s effective control.

#### **‘1193ZZD Receipt for seized dog in certain cases**

‘(1) This section applies if—

- (a) an authorised person has, under this division or a local law, seized a dog; and
- (b) the dog—
  - (i) has, or appears to have, a registered owner; or
  - (ii) was seized from a person who had immediate control or custody of it.

‘(2) The authorised person must, as soon as practicable after the seizure, give the registered owner or person a written receipt for the dog—

- (a) generally describing the dog and its condition; and
- (b) stating the dog has been seized.

‘(3) If the registered owner is not present at the place, the receipt may be given by leaving it at the place in a conspicuous position and in a reasonably secure way.

#### **‘1193ZZE Return of dog if not restricted dog**

‘(1) This section applies if—

- (a) under this division or a local law, an authorised person has seized a dog the person reasonably suspected was a restricted dog; and
- (b) the person becomes satisfied the dog is not a restricted dog.

‘(2) As soon as practicable after becoming so satisfied, the person must return the dog to any owner or other person entitled to possession of it.

### **‘1193ZZF Return of restricted dog to registered owner**

‘(1) This section applies if an authorised person has, under this division or a local law, seized a restricted dog and the dog has, or appears to have, a registered owner.

‘(2) The person must, within 14 days after the seizure, return the dog to the owner unless—

- (a) the owner has surrendered the dog to the relevant local government; or
- (b) a destruction order has been made for the dog; or
- (c) continued retention of the dog is needed as evidence for a proceeding or proposed proceeding for an offence involving the dog; or
- (d) the person is reasonably satisfied the owner of, or a responsible person for, the dog, has not complied with a permit condition for the dog.

‘(3) The person must return the dog to the owner as soon as practicable if an event as follows happens—

- (a) if subsection (2)(b) applies—an appeal is made against the order and, as a result of the appeal, the order is no longer in force;
- (b) if subsection (2)(c) applies—the dog’s continued retention as evidence is no longer required;
- (c) if subsection (2)(d) applies—all permit conditions are complied with for the dog.

### **‘1193ZZG Power to destroy restricted dog**

‘(1) This section applies if an authorised person has, under this division or a local law, seized a restricted dog.

‘(2) The person may, without notice, immediately destroy the dog if—

- (a) the person reasonably believes the dog is dangerous and the person can not control it; or

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Act (No. 2) 2001*

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(b) an owner of the dog has asked the person to destroy it.

‘(3) The person may destroy the dog 5 days after the seizure if—

(a) the dog—

(i) was not seized under section 1193ZZC(1)(b); and

(ii) has no registered owner, or apparently has no registered owner; and

(iii) is not the subject of a restricted dog declaration by the relevant local government; and

(b) the person or the relevant local government does not know of anyone who owns, or is a responsible person for, the dog.

‘(4) If subsection (3) does not apply, the person may make an order (a “**destruction order**”) stating the person proposes to destroy the dog 14 days after the order is served.

‘(5) The destruction order must—

(a) be served on—

(i) the registered owner of the dog; or

(ii) if the dog has no registered owner—any person who owns, or is a responsible person for, the dog; and

(b) include or be accompanied by an information notice about the decision to give the destruction order.

‘(6) If a destruction order is made for the dog, the person may destroy the dog 14 days after the order is served if no appeal has been made against the order.

‘(7) If an appeal is made against the order, the person may destroy the dog if—

(a) the appeal is finally decided or is otherwise ended; and

(b) the order is still in force.

## **‘PART 6—APPEALS**

### **‘1193ZZH Who may appeal**

‘A person who is given, or is entitled to be given, an information notice about a decision under this chapter may appeal against the decision to a Magistrates Court.

### **‘1193ZZI Starting appeal**

‘(1) An appeal is started by—

- (a) filing notice of appeal with the clerk of the Magistrates Court; and
- (b) serving a copy of the notice on the original decider; and
- (c) complying with rules of court applicable to the appeal.

‘(2) The notice of appeal must be filed within 14 days after—

- (a) if the appellant is given the information notice about the decision appealed against—the day the notice is given; or
- (b) if paragraph (a) does not apply—the day the appellant becomes aware of the decision.

‘(3) However, the court may, at any time, extend the time for filing the notice of appeal.

‘(4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

### **‘1193ZZJ Stay of operation of restricted dog declaration**

‘(1) The Magistrates Court may grant a stay of the operation of a restricted dog declaration appealed against to secure the effectiveness of the appeal.

‘(2) However, a stay must not be granted unless a condition is imposed that each owner of, and responsible person for, the dog must, until the

appeal is decided, ensure the requirements under section 1193ZB<sup>14</sup> are complied with for the dog the subject of the declaration.

‘(3) A stay—

- (a) may be granted on other conditions the court considers appropriate; and
- (b) operates for the period fixed by the court; and
- (c) may be amended or cancelled by the court.

‘(4) The period of a stay stated by the court must not extend past the time when the court decides the appeal.

‘(5) An appeal against a restricted dog declaration affects the declaration, or the carrying out of the declaration, only if it is stayed.

#### **‘1193ZZK Hearing procedures**

‘(1) In deciding an appeal, the Magistrates Court—

- (a) has the same powers as the person who made the decision appealed against; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice.

‘(2) An appeal is by way of rehearing, unaffected by the decision.

#### **‘1193ZZL Court’s powers on appeal**

‘(1) In deciding an appeal, the Magistrates Court may—

- (a) confirm the decision appealed against; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the matter to the original decider with directions the court considers appropriate.

‘(2) If the court substitutes another decision, the substituted decision is, for the purposes of this Act, other than this part, taken to be the decision of the original decider.

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14 Section 1193ZB (Muzzling and effective control in public). See also section 1193K (Prohibition on acquisition or supply).

### **‘1193ZZM Appeal to District Court**

‘An appeal lies to a District Court from a decision of the Magistrates Court, but only on a question of law.

## **‘PART 7—MISCELLANEOUS PROVISIONS**

### *‘Division 1—Evidentiary aids*

#### **‘1193ZZN Application of div 1**

‘This division applies to a proceeding under or in relation to this chapter.

#### **‘1193ZZO Appointments and authority**

‘The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment of an authorised person;
- (b) the power of an authorised person to do anything under this chapter or chapter 15, part 5.

#### **‘1193ZZP Veterinary surgeon certificates**

‘A certificate purporting to be signed by a veterinary surgeon stating, or to the effect, that a dog is of a breed or type mentioned in section 1193E(1) is evidence that the dog is a restricted dog.

#### **‘1193ZZQ Other evidentiary aids**

‘(1) For applying section 1117<sup>15</sup> for the proceeding, a record of a local government is taken to include—

- (a) a thing as follows given, issued, kept or made under this chapter or chapter 15, part 5—

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15 Section 1117 (Evidentiary value of copies and certificates)

- (i) an appointment;
  - (ii) a decision or record;
  - (iii) a restricted dog permit;
  - (iv) the local government's restricted dog register;
  - (v) a restricted dog declaration;
  - (vi) a proposed declaration notice, compliance notice or other notice;
  - (vii) a destruction order; and
- (b) another document kept under this Act; and
- (c) a statement that on a stated day—
- (i) a stated person was given a stated decision, declaration, notice or order; or
  - (ii) a stated requirement under this chapter or chapter 15, part 5, was made of a stated person; and
- (d) a statement that on a stated day, or during a stated period, a restricted dog permit was or was not issued for a stated dog or a stated place.

‘(2) This section does not limit section 1117.

### *‘Division 2—Other provisions*

#### **‘1193ZZR Failure to decide application taken to be refusal**

‘If a local government does not decide a permit or renewal application within the period required under part 3 for deciding the application, it is taken to have been refused at the end of the period.

#### **‘1193ZZS Surrender of restricted dog**

‘(1) An owner of a restricted dog may surrender it to the relevant local government.

‘(2) On the surrender, the dog becomes the local government's property.



‘(3) The local government must destroy the dog as soon as practicable after the surrender.

#### **‘1193ZZT Defence for restricted dog owner**

‘It is a defence in a proceeding for an offence against this chapter relating to a restricted dog against an owner of the dog for the owner to prove—

- (a) another person also owns the dog or owned it when the act or omission the subject of the proceeding happened; and
- (b) the other owner has—
  - (i) been convicted of the same offence or another offence constituted by the act or omission; and
  - (ii) met or paid any penalty imposed for the conviction.

#### **‘1193ZZU Recovery of seizure or destruction costs**

‘(1) This section applies if a local government has incurred a cost for an authorised officer appointed by it to—

- (a) take possession of, or move, a restricted dog that, under part 5, division 3, or a local law, been seized (a “**seized dog**”); or
- (b) take action to restrict access to a seized dog; or
- (c) provide a seized dog with accommodation, food, rest, water or other living conditions; or
- (d) arrange veterinary or other treatment for a seized dog; or
- (e) destroy a seized dog under section 1193ZZG.

‘(2) The local government may recover the cost from the dog’s owner or former owner if the incurring of the cost was necessary and reasonable.

‘(3) The cost may be claimed and ordered in a proceeding—

- (a) to recover a debt of the amount; or
- (b) for an offence against this chapter to which the claim relates.

‘(4) This section does not limit a court’s powers under the *Penalties and Sentences Act 1992* or another law.

### **‘1193ZZV Payment of penalties for offences against ch 17A**

‘(1) This section applies—

- (a) if a court orders a person to pay a penalty for an offence against this chapter; and
- (b) despite section 1076<sup>16</sup> and the *Acts Interpretation Act 1954*, section 43.

‘(2) The court must also order the person to pay the penalty to a local government decided by the court.

### **‘1193ZZW Cost of restricted dog enclosure—dividing fence**

‘(1) This section applies if an enclosure, or proposed enclosure, for a restricted dog is, or when built will be, a dividing fence under the *Dividing Fences Act 1953*, in whole or part.

‘(2) The liabilities and rights under the *Dividing Fences Act 1953*, or a proposed order under that Act, of adjoining owners in relation to the fence for the cost of building, altering, repairing, replacing or maintaining the fence must be worked out as if—

- (a) there is not, and will not be, any restricted dog in the enclosure; and
- (b) the requirements of this chapter relating to the enclosure do not apply.

‘(3) If the fence is, or is proposed to be, built by a person who leases the place for which the relevant restricted dog permit is granted, or is to be granted—

- (a) the *Dividing Fences Act 1953*, section 20, does not apply; and
- (b) the *Residential Tenancies Act 1994*, chapter 3, part 5, division 1, applies.<sup>17</sup>

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16 Section 1076 (Fines)

17 *Dividing Fences Act 1953* section 20 (Apportionment of contribution between owner and lessee). *Residential Tenancies Act 1994*, chapter 3, part 5, division 1 (Fixtures and structural changes).

### **‘1193ZZX Chapter does not affect other rights or remedies**

‘(1) Subject to section 1193ZZW, this chapter does not limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.

‘(2) Without limiting subsection (1), compliance with this chapter does not necessarily show that a civil obligation that exists apart from this chapter has been satisfied or has not been breached.’

## **19 Insertion of new ch 19, pt 7, and schedule**

After section 1268—

*insert—*

### **‘PART 7—TRANSITIONAL PROVISIONS FOR LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT ACT (NO. 2) 2001**

#### **‘1269 Application to Brisbane City Council**

‘This part applies to the Brisbane City Council.

#### **‘1270 Review of pre-existing local laws**

‘(1) A local government may review its local laws and subordinate local laws in force immediately before the enactment of the *Local Government and Other Legislation Amendment Act (No. 2) 2001* (“**pre-existing laws**”) to identify any provision of the pre-existing laws that should be repealed because of the enactment of chapter 17A (a “**redundant provision**”).<sup>18</sup>

‘(2) If the local government decides a pre-existing law contains a redundant provision, it must, by resolution, make the following (the “**repealing law**”)—

- (a) if the pre-existing law is a local law—a local law repealing the provision;
- (b) if the pre-existing law is a subordinate local law—a subordinate local law repealing the provision.

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<sup>18</sup> See section 1193D (Relationship with local laws).

‘(3) The repealing law must fix a day (the “**repeal day**”) for the repeal to take effect.

‘(4) The local government must, as soon as practicable after making the repealing law—

- (a) publish notice of it in the gazette; and
- (b) give the Minister the number of certified copies of the repealing law decided by the Minister.

‘(5) The notice must identify the redundant provision to be repealed and state the following—

- (a) the local government’s name;
- (b) the name of the repealing law and the relevant pre-existing local law;
- (c) the day the repealing law was made;
- (d) the repeal day.

‘(6) The redundant provision to be repealed is repealed on the later of the following days—

- (a) the day the notice is gazetted;
- (b) the repeal day.

‘(7) Chapter 12, part 2 does not apply to a repeal under this section.

### ‘1271 Expiry of pt 7

‘This part expires 4 months after it commences.

## ‘SCHEDULE

## ‘DICTIONARY

## **PART 3—AMENDMENT OF QUEENSLAND TREASURY CORPORATION ACT 1988**

### **20 Act amended in pt 3**

This part amends the *Queensland Treasury Corporation Act 1988*.

### **21 Replacement of s 19AAA (Division does not apply to local governments)**

Section 19AAA—

*omit, insert—*

#### **‘19AAA Division does not apply to local governments or local government owned corporations**

‘This division does not apply to a local government or local government owned corporation within the meaning of the *Local Government Act 1993*.’