

DOG ACT 1890.

An Act to consolidate the Law relating to Dogs.

54 VICTORIA,
No. 1084.

[10th July, 1890.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Dog Act 1890*, and shall come into operation on the first day of August One thousand eight hundred and ninety. Short title and commencement.

2. The Act mentioned in the First Schedule to this Act to the extent to which the same is thereby expressed to be repealed is hereby repealed. Repeal.
First Schedule. Provided that such repeal shall not affect any declaration or registration made or any notice given under the said Act before the commencement of this Act.

3. Proof that any person has had a dog in his possession or under his exclusive control for a period of fourteen consecutive days, or that any person is the occupier of any house or premises where a dog is usually kept or harboured or permitted to live or remain, shall be *prima facie* evidence that such person is the owner of such dog within the meaning of this Act. Interpretation.
Id. s. 3.
25 & 26 Vict.
c. 59 s. 2.
Owner. Provided that where there are more occupiers than one in any house or premises let in several apartments or lodgings or otherwise, the occupier of that particular part of such premises in which any dog is kept or harboured or permitted to live or remain shall be deemed to be the owner of such dog, and the burden of proof that any such person is not the owner thereof shall for the purposes of this Act be upon such person.

4. Every owner of a dog shall within fifteen days from and after the first day of March in each and every year or within six months from the day on which such dog was littered register such dog. Owner of dog
register.
Id. s. 4.

5. Registration shall consist in delivering the description herein-after mentioned and in paying to the registration officer a registration fee of five shillings. Registration
how made.
Id. s. 5. When a registration is made after the first day of September in any year, one half only of the registration fee shall be payable in respect of such registration.

"The Dog Act
1894" s. 6.
Registration
where to be
made.

6. Registration shall, if the place where it is intended to keep such dog be within a municipal district, be effected at the office of the council of such municipal district or at such other convenient place or places within such municipal district as the council thereof may appoint; but if the place where it is intended to keep such dog be not within a municipal district, then such registration shall be effected at the court of petty sessions held nearest thereto.

Description of
dog to be
delivered to
registration
officer.
Ib. s. 7.
Second
Schedule

7. Every person registering a dog shall at the time of such payment deliver or send to the registration officer a description of such dog embracing the several particulars mentioned in the Second Schedule hereto, with a declaration thereunder written of the truth thereof under the hand of the owner of such dog or of some person authorized by such owner in that behalf. Every registration shall be deemed to be in force from the day upon which the same has been so made until the last day of the month of February then next ensuing and no longer. The registration officer shall in every municipal district be the municipal clerk thereof or some other officer in that behalf appointed by the council thereof, and shall in every place not within a municipal district be the clerk of the court of petty sessions held nearest to the place where such dog is kept.

Penalty for false
description.
Ib. s. 8.

8. If any person knowingly make a false declaration respecting any of the particulars contained in the said description or wilfully insert in or omit from or wilfully cause or permit to be inserted in or omitted from such description any matter or thing whatsoever contrary to or for the purpose of concealing the truth, he shall forfeit a sum of not less than Ten shillings nor more than Forty shillings.

Receipt to be
given.
Ib. s. 9.

Third Schedule.

9. Every registration officer to whom such registration fee is paid shall enter in a book kept by him for that purpose and in the receipt to be given therefor a registered number for every dog so registered and shall deliver or send a receipt for the said fee in the form in the Third Schedule hereto, and any registration officer who on receipt of the proper registration fee and on being required refuses or neglects to deliver or send such receipt shall forfeit the sum of Ten shillings for each offence.

List of registered
dogs to be
exhibited.
Ib. s. 10.

10. Every registration officer shall exhibit in his office during office hours for public inspection a correct list arranged in alphabetical order of the names of all persons who during the year then current have registered any dog at such office and the number of dogs registered by each person together with the registered number of such dogs. Any person applying for the particulars of any dog so registered or for the name of the registered owner thereof or for a certified copy of the receipt hereinbefore mentioned shall be entitled to receive such information and certified copy on payment of a fee of one shilling, and every registration officer who on being required so to do and after tender of the said fee refuses or neglects to give such particulars of the name of such registered owner or a copy certified by such registration officer of such receipt shall forfeit the sum of Ten shillings for each offence.

Burden of proof.
Ib. s. 11.

11. In any proceeding under this Act for the non-registration of any dog it shall not be necessary for the informant to establish the fact of non-registration, but the proof of due registration shall lie on the

defendant and the said receipt or a certified copy thereof shall be admissible in evidence for the defendant in proof of such registration and shall for the purpose of such proceedings be *prima facie* evidence in proof that the person therein described as the owner of any dog is the owner of such dog. "The Dog Act 1884."

12. Every person who after the expiration of fifteen days from the first day of March in each and every year is the owner of any unregistered dog above the age of six months shall on conviction thereof forfeit and pay in respect of each such unregistered dog a fine of not less than Five shillings nor more than Ten shillings in addition to the registration fee, and on a second or subsequent conviction thereof before the last day of the month of February next following in respect of the same or any other dog he shall forfeit and pay in respect of each such unregistered dog a fine of not less than Ten shillings nor more than Forty shillings in addition to such fee. Penalty for non-registration. *Ib.* s. 12.

13. Every registered dog except foxhounds beagles and greyhounds engaged in public coursing matches shall have a collar round its neck with the words "Registered at" specifying the place of its registration and the name and address of its owner engraved or stamped legibly thereon. If a registered dog with a collar round its neck is found wandering at large, it may be seized by the police or by the officers of the municipality duly authorized in that behalf or any person may seize such dog and forthwith hand it over to such police or municipal officer of the municipal district to be dealt with under the provisions of this Act, and notice in writing of such seizure shall within forty-eight hours next following such seizure be by the person making the same delivered or sent by the post to the address on the said collar. If within forty-eight hours after the delivery of such notice or the time at which the same would be delivered in the ordinary course of post the registered owner do not reclaim such dog and pay to the registration officer the sum of Two shillings and sixpence for the cost of keeping such dog, such dog may without any liability in respect thereof be sold by auction or destroyed without cruelty by some speedy means. Registered dogs to wear collars. *Ib.* s. 13.

14. Every dog found wandering at large without a collar round its neck engraved or stamped as aforesaid whether such dog is registered or not shall be seized by the police or by the officers of the municipal district duly authorized in that behalf in which such dog is so found or may be seized by any person and forthwith handed over to such police or officers of the municipal district to be dealt with under the provisions of this Act; and if within forty-eight hours after such seizure such dog be not claimed and the sum of Two shillings and sixpence for the cost of keeping such dog together with twice the registration fee in case such dog is not then registered paid to the registration officer, it may be sold by public auction or destroyed in manner aforesaid. Dogs found at large to be seized. *Ib.* s. 14.

15. The council of every municipality shall carry out the provisions of this Act, and every such council shall appoint a proper officer whose duty it shall be to enforce under the direction of the council the provisions of this Act and to seize and destroy subject to the provisions of this Act any unregistered dog found wandering at large unaccompanied by its owner or some other person in any street road thoroughfare or public place within their municipality. Appointment of officer by council of municipal district to enforce this Act. *Ib.* s. 15.

"The Dog Act
1894" s. 16.
Penalty on
municipality
neglecting to
enforce this Act.

16. If the council of any municipality fail to perform any duty imposed upon it by this Act, any ratepayer of such municipality may complain in writing to the municipal clerk of such district. If within twenty-eight days from the service of such complaint on such municipal clerk the performance of such duty be not in good faith commenced, such council shall forfeit to such ratepayer together with full costs of suit the sum of Twenty pounds for each week commencing from the date of the service of such complaint as aforesaid during which default has continued, and the same may be recovered by suit in a county court; but no such suit shall be commenced without the written consent of a law officer or after the expiration of six months from the date of the service of such complaint as aforesaid.

Penalties.
Ib. s. 17.

17. If any registered dog save as herein excepted be found in any public place without a collar round its neck engraved or stamped as aforesaid or having a name or address that is incorrect engraved or stamped thereon, the owner of such dog shall forfeit a sum of not less than Five shillings nor more than Forty shillings. If any unregistered dog be found wearing a collar which purports to exhibit thereon the name of a place of registration, the owner of such dog shall in addition to the penalty for not registering such dog to which he is liable under this Act forfeit a sum of not less than Ten shillings nor more than Five pounds. If a police constable or any officer of a municipality seize or destroy or cause to be seized or destroyed any dog otherwise than in accordance with the provisions of this Act, he shall forfeit a sum of not less than Twenty shillings nor more than Five pounds, and if the dog is destroyed shall in addition pay to the owner the full value of such dog.

Penalty for re-
moving collar.
Ib. s. 18.

18. If any person not being the owner wilfully remove the collar from the neck of a registered dog he shall on conviction forfeit and pay any sum not exceeding Five pounds to be recovered before any court having competent jurisdiction.

Owner or
occupier of en-
closed land may
destroy any
trespassing dogs
not under
control.
Ib. s. 19.

19. The owner or occupier of any field paddock yard or other place enclosed by a fence in which any sheep cattle or poultry are confined or any person acting under the authority of such owner or occupier may without incurring any liability in respect thereof shoot or otherwise destroy any dog found at large therein whether the owner of such dog be or be not known. Provided that it shall not be lawful to shoot or otherwise destroy as aforesaid any dog accompanied by and under the control of its owner or other person.

Owner per-
mitting dog to
accompany him
liable for all
damage occa-
sioned by such
dog.
Ib. s. 20.
25 & 26 Vict.
c. 69 s. 1.

20. If any dog rush at attack worry or chase any person or any horse cattle or sheep the owner of such dog shall on proof thereof forfeit and pay a penalty of not more than Five pounds, and notwithstanding the recovery of such penalty such person or the owner of such horse cattle or sheep if he be the complainant may recover from the owner of such dog a sum of money as compensation for any actual damage occasioned by such dog. The fact that such dog was immediately before such rushing at attacking worrying or chasing in company with and had been seen habitually closely following the person complained of or issued from the premises occupied by such person shall be *prima facie* evidence that the person so complained of is the owner of such dog. It shall not be necessary to prove a previous mischievous propensity in such dog or the owner's knowledge of such previous

mischievous propensity or that such attacking worrying or chasing or any damage occasioned thereby was attributable to neglect on the part of such owner.^(a) "The Dog Act 1884."

21. If the owner of any slut allows her to be at large in any street or public highway whilst she is in heat, he shall on conviction be liable to a penalty not exceeding Five pounds. Sluts not to be at large at certain times. *Id.* s. 21.

22. No person shall exercise or train any greyhound within the limits of any city town or borough save in the grounds belonging to such person or in respect of which he may have obtained a right or permission for such purpose unless every such greyhound be first properly muzzled and kept muzzled during the time he is so exercised or trained under a penalty of not less than Five shillings nor more than Twenty shillings for the first offence, nor less than Ten shillings nor more than Forty shillings for any subsequent offence. Greyhounds not to be trained within any city town or borough except on private property *Id.* s. 22.

23. If any person wilfully set on or urge any dog to attack worry or chase any person or any horse sheep poultry or cattle, he shall on conviction forfeit and pay any sum not exceeding Twenty pounds or be imprisoned for any term not exceeding three months. Wilfully urging dog to attack &c. *Id.* s. 23.

24. All offences against this Act shall be heard and determined and all fines and penalties in respect thereof shall be awarded and imposed and the value of any dog improperly destroyed and the damages for any injury occasioned or done by any dog as hereinbefore mentioned shall be ascertained and recovered in a summary way before at least two justices.^(b) Offences to be heard and determined and damages to be ascertained by justices. *Id.* s. 24.

25. All fees paid in respect of anything done and all fines and penalties paid or recovered in respect of offences committed within any municipal district shall be paid and belong to the council of such municipal district for the use of such municipal district. Application of fines &c. *Id.* s. 25.

26. Nothing in this Act shall apply to any dog *bonâ fide* kept and used as a guide for any blind person. Provided that such dog be duly registered in accordance with the provisions of section four of this Act, and that no fee shall be charged for such registration. Dogs used by blind persons not affected. *Id.* s. 26.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Date of Act.	Title of Act.	Extent of Repeal.
48 Vict. No. 809 ..	"The Dog Act 1884"	The whole.

(a) This section applies only to proceedings before justices for a penalty, or to recover compensation for the actual damage done. In an action in the Supreme Court to recover damages in respect of injuries inflicted by a dog, it is still necessary to allege and prove *scienter*.—*Lane v. Casey*, 12 V.L.R., 380.

In proceedings under this section to recover compensation for actual damage sustained by being attacked by a dog, evidence tendered by

the defendant is inadmissible to show that the dog was of a quiet disposition or that he was ignorant of the mischievous propensity of the animal.—*Reg. v. Hare, ex parte Schneider*, 14 V.L.R., 89.

(b) Proceedings under this Act to recover a penalty must be taken by an information; proceedings to recover compensation for actual damage, by complaint.—*Reg. v. Hare, ex parte Schneider*, 14 V.L.R., 89.

Section 7.

SECOND SCHEDULE.

FORM OF DESCRIPTION.

A description of _____ dogs now owned and intended to be kept by A.B.
 of _____ in _____ during the year ending on the last
 day of February 18 _____

Number of Dogs.	Premises on which each Dog is intended to be kept.	Sex.	Age.	Colour or peculiar mark.	Description or kind of Dog.

I the said A.B. [or I C.D. the duly authorized agent of A.B. in his behalf] do declare the above description to be true in every particular to the best of my knowledge and belief.

Dated this _____

day of _____

A.D. 18 _____

A.B. [or C.D.]

Section 8.

THIRD SCHEDULE.

RECEIPT.

Received this _____ day of _____ 18 _____ the sum of _____
 for _____ dogs registered by A.B. of _____ in _____ for
 year ending on the last day of February 18 _____ the particulars whereof contained in the
 following description were given at the time of registration.

Number of Dogs.	Premises on which each Dog is intended to be kept.	Sex.	Age.	Colour or peculiar mark.	Description or kind of Dog.

or Registration Officer
 or as the case may be.]

E.F. Clerk of the Bench
 or Town Clerk of

DOWER.

[See Real Property Act 1890.]