

No. 36 of 1975

AN ORDINANCE

Relating to the Control of Animal Nuisance.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this fifteenth day of October 1975.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

GORDON M. BRYANT
Minister of State for the Capital Territory.

ANIMAL NUISANCE CONTROL ORDINANCE 1975

1. This Ordinance may be cited as the *Animal Nuisance Control Ordinance 1975*.^{*} Short title.

2. (1) In this Ordinance, unless the contrary intention appears— Interpretation.
“animal” includes bird, fish, reptile and insect;
“Court” means the Court of Petty Sessions;
“inspector” means a person appointed under section 15;
“Registrar” means the Registrar of Dogs appointed under the *Dog Control Ordinance 1975*.

(2) Where—

- (a) an animal is kept by a person under the age of 16 years;
and
- (b) that person resides with his parents, one of his parents or his guardian,

the father of that person, the parent with whom he resides or the guardian, as the case may be, shall, for the purpose of this Ordinance, be deemed to be the keeper of the animal.

3. (1) Where, on an application made in accordance with this Ordinance, the Court is satisfied— Power of Court to make orders.

- (a) that an animal is usually kept at premises situated within the City Area; and

^{*} Notified in the *Australian Government Gazette* on 21 October 1975.

- (b) that the keeping of that animal at those premises—
 - (i) has given rise to undue disturbance to a person other than the keeper of the animal by reason of noise, smell or otherwise; or
 - (ii) has given rise to a danger to the health of a person other than the keeper of the animal,

the Court may make an order under this section.

(2) Where, on an application made in accordance with this Ordinance, the Court is satisfied—

- (a) that an animal is usually kept at premises situated within the City Area;
- (b) that the animal is a dangerous animal; and
- (c) that the keeper of the animal has not taken adequate steps to prevent the escape of the animal from the premises referred to in paragraph (a),

the Court may make an order under this section.

(3) The orders that may be made by the Court under this section are as follows:—

- (a) an order directing a person not to keep the animal specified in the order, or an animal of a kind specified in the order, at the premises specified in the order;
- (b) an order directing a person to carry out, at the premises specified in the order, such works as are specified in the order;
- (c) an order directing a person to take such action in respect of an animal specified in the order as the Court thinks fit.

Notice to Registrar.

4. (1) A person other than the Registrar is not entitled to apply to the Court for an order under section 3 unless—

- (a) he has, by notice in writing given to the Registrar, requested the Registrar to make an application for an order under section 3; and
- (b) the Registrar has not, within 21 days of receiving the notice, made an application to the Court.

(2) A notice given to the Registrar for the purpose of sub-section (1) shall—

- (a) contain a statement of the facts and circumstances by reason of which the person giving the notice requests the Registrar to make an application for an order under section 3; and
- (b) have annexed to it a statutory declaration by the person giving the notice verifying the statements in the notice.

(3) A notice for the purpose of sub-section (1) may be given to the Registrar—

- (a) by post; or
- (b) by leaving it at the office of the Registrar with a person apparently employed in that office.

5. (1) Where a person gives notice to the Registrar requesting him to make an application for an order under section 3, the Registrar shall—

Action by
Registrar
upon receipt
of notice.

- (a) notify the keeper of the animal in question in writing of the receipt of the notice and of the matters stated in the notice for the purposes of sub-section 4 (2); and
- (b) make such inquiries into the matter to which the notice relates as he thinks appropriate.

(2) For the purpose of making inquiries under paragraph (1) (b), the Registrar or an inspector may enter upon land or premises at any reasonable hour of the day or night.

6. (1) Where, after making inquiries for the purpose of sub-section 5 (1), the Registrar is not satisfied that reasonable grounds exist for making an application to the Court for an order under section 3, he shall so inform the person who requested him to make the application.

Action by
Registrar
after making
inquiries.

(2) Subject to sub-sections (3) and (4), where the Registrar is satisfied, after making inquiries for the purpose of sub-section 5 (1), that reasonable grounds exist for making an application to the Court for an order under section 3, he shall, unless an application has already been made by the person by whom notice was given under section 4—

- (a) make an application to the Court for an order under section 3; and
- (b) give a copy of the application to that person.

(3) The Registrar shall, before making an application to the Court, consult, or endeavour to consult, with the keeper of the animal with a view to obtaining such action on the part of the keeper of the animal as would render an application to the Court unnecessary.

(4) If, as a result of action taken by the keeper of an animal following consultations referred to in sub-section (3), the Registrar is satisfied that an application to the Court for an order under section 3 has become unnecessary, he shall so inform the person who requested him to make the application.

7. (1) Where a person other than the Registrar applies to the Court for an order under section 3, the Registrar shall, at the request of the Court, furnish to the Court a report stating whether that person, by notice under section 4, requested the Registrar to make an application to the Court and, if so, specifying—

Registrar to
report to the
Court.

- (a) the facts and circumstances stated in the notice for the purposes of sub-section 4 (2);
- (b) the date on which that notice was given to the Registrar;
- (c) the nature of the inquiries made, and the conclusions arrived at, by the Registrar; and
- (d) the outcome of the consultations (if any) that were held.

(2) The Court shall have regard to a report furnished by the Registrar in accordance with sub-section (1) and shall give to it such weight (if any) as the Court thinks fit.

(3) The Registrar shall, before the date of the hearing of an application, furnish each of the parties with a copy of the report.

(4) The Court shall not proceed to the hearing of an application unless it has received a report from the Registrar furnished in accordance with sub-section (1).

(5) The Registrar has the same protection and immunity in respect of a statement made in a report furnished in accordance with sub-section (1) as a witness in proceedings in the Supreme Court has in respect of a statement made in evidence given in those proceedings.

Parties. 8. The parties to an application under this Ordinance are the applicant and the keeper of the animal in question.

Procedure. 9. Where an application has been made to the Court under this Ordinance, the procedure of the Court is within the discretion of the Court.

Court not bound by rules of evidence. 10. The Court is not bound by the rules of evidence when hearing an application made under this Ordinance.

Power of Court to summon witnesses. 11. Sections 61 to 69 (inclusive) of the *Court of Petty Sessions Ordinance* 1930-1974 apply to, and in relation to, the hearing by the Court of an application made under this Ordinance as if the hearing of the application were the hearing of a complaint.

Costs. 12. The Court may, in any proceedings under this Ordinance, make such orders as to costs as it thinks just and reasonable.

Appeal to Supreme Court. 13. (1) Subject to this section, Part XI of the *Court of Petty Sessions Ordinance* 1930-1974 applies to, and in relation to, an order under section 3 as if the order were an order of the Court given or pronounced for, or in respect of, a sum at issue exceeding \$100.

(2) Where an application has been made to the Court by the Registrar for an order under section 3, an appeal against the decision of the Court may be instituted by the person who requested the Registrar to make the application as if that person had made the application.

Failure to comply with order an offence. 14. (1) A person shall not contravene or fail to comply with an order made under this Ordinance.

Penalty: \$100.

(2) Proceedings shall not be instituted in respect of an offence against sub-section (1) in relation to an order made by the Court unless, at the time at which the offence is alleged to have been committed—

(a) a period of 21 days had expired since the making of the order; and

(b) where an appeal from the order had been instituted—that appeal had been concluded, abandoned or discontinued.

15. (1) The Minister may, by instrument in writing, appoint such inspectors as he considers necessary for the purpose of this Ordinance. Appointment of inspectors.

(2) An inspector shall perform such duties as the Registrar directs.

16. A person shall not obstruct, hinder, threaten or intimidate the Registrar or an inspector in the exercise of a power conferred, or the performance of a duty imposed, by or under this Ordinance. Obstruction, &c., of officials.

Penalty: \$100.

17. Nothing in this Ordinance affects any right accruing to, or any duty imposed upon, any person under any other law in force in the Territory. Preservation of rights and duties.