

EXPLANATORY STATEMENT
AUSTRALIAN CAPITAL TERRITORY
DOG CONTROL (AMENDMENT) ORDINANCE 1988
PUBLIC BATHS AND PUBLIC BATHING (AMENDMENT) ORDINANCE 1988
ORDINANCE NO. 24 OF 1988

The Dog Control Ordinance 1975 provides for the registration, control, seizure and destruction of dogs.

The Public Baths and Public Bathing Ordinance 1956 provides for the establishment and regulation of leased and non-leased public baths or swimming pools for the use of the public.

The Dog Control (Amendment) Ordinance 1988 provides in Part IVA that a blind or deaf person accompanied by his or her guide or hearing dog respectively has the same rights of access to public places as if he or she was not accompanied by that dog. A person will incur a fine of \$500 if he or she, without reasonable excuse, denies access to a public place to a blind or deaf person accompanied by his or her dog, or removes or excludes from a public place either the person or the dog.

Part IVA defines a public place to include any part of a public, commercial or business office or premises to which the public have access or which the public are entitled to use. Government offices, banks, shops, restaurants, hotels, schools, theatres and libraries are examples of such public places. A motor omnibus or taxi within the meaning of the Motor Traffic Ordinance 1936 is included within the definition of a public place.

To give effect to Part IVA amendments are to be made to the Motor Omnibus Services Regulations and the Public Health (Eating Houses) Regulations.

Further, the Dog Control (Amendment) Ordinance 1988 increases the level of penalties under the Dog Control Ordinance 1975 such that in all but two cases the penalties are doubled. It is expected that the increase in penalties will result in the greater control of dogs by their owners.

The amendments arise from community concern about incidents of discrimination against persons who use a guide dog, in particular, to assist them in their day-to-day movements and, in relation to penalties, because of a failure by persons who keep dogs to recognise their responsibilities under the Principal Ordinance.

The details of the Dog Control (Amendment) Ordinance 1988 are contained in Attachment A.

The Public Baths and Public Bathing (Amendment) Ordinance 1988 enables a blind person to be accompanied by a guide dog and a deaf person to be accompanied by a hearing dog to all areas of the public baths with the exception of the swimming pool.

The details of the Public Baths and Public Bathing (Amendment) Ordinance 1988 are contained in Attachment B.

ISSUED BY THE AUTHORITY OF THE
MINISTER OF STATE FOR THE ARTS
AND TERRITORIES

Dog Control (Amendment) Ordinance 1988

Section 1 cites the short title of the Ordinance as the Dog Control (Amendment) Ordinance 1988.

Section 2 provides that the Ordinance commences on a date fixed by the Minister by notice in the Gazette.

Section 3 defines "Principal Ordinance" as the Dog Control Ordinance 1975.

Section 4 amends section 5, which is the interpretation section of the Principal Ordinance, as follows:

Paragraph 4(a) inserts in subsection 5(1) definitions for 'deaf person', 'blind person' and 'hearing dog'. A deaf person is defined as a person who is totally or partially deaf and a blind person is a person who is totally or partially blind. A hearing dog is defined as a dog that has been trained in the assistance of the deaf and is to be used for such assistance.

Paragraph 4(b) omits from the definition of 'guide dog' in subsection 5(1) "person who is totally or partially blind" and substitutes "blind person".

Section 5 amends section 9 of the Principal Ordinance, which deals with applications for registration, by adding at the end of subparagraphs (1)(b)(ix) and (1)(d)(ii) "or a hearing dog". The effect is that subparagraph (1)(b)(ix) requires an application for registration of a dog to state whether the dog is a guide or hearing dog and subparagraph (1)(d)(ii) exempts an application for the registration of a dog from payment of the prescribed fee where that dog is a guide or hearing dog.

Section 6 amends section 10 of the Principal Ordinance, which concerns the registration of dogs, by inserting 'or a hearing dog' after 'guide dog' in paragraph (1)(c) and subsection (3) respectively. As a consequence of these amendments the Registrar is required by paragraph (1)(c) to register the dog by entering in the register a statement that the dog is a guide or a hearing dog. Subsection (3) provides that where the Registrar is not satisfied that the dog is a guide or hearing dog he or she may refuse to register the dog until the prescribed registration fee has been paid.

Section 7 amends section 12 of the Principal Ordinance by adding at the end of paragraph (2)(c) "or a hearing dog" the effect being to provide that the certificate of registration of the dog shall state whether the dog is a guide or hearing dog.

Section 8 amends section 13 of the Principal Ordinance by adding at the end of paragraph (3)(b) "or a hearing dog" the effect being to provide that no fee is payable in respect of the renewal of the registration of a guide or hearing dog.

Section 9 amends section 23 of the Principal Ordinance by adding at the end of subsection (10) "or a hearing dog that is accompanying a deaf person". This has the effect of exempting guide and hearing dogs accompanying blind and deaf persons respectively from the restrictions on dogs entering such places as schools, day nurseries, entering onto a sportsground where sport is being played or being within 10 metres of a children's public playground, public barbecues or within 10 metres of an area adjacent to a designated swimming area on the foreshores of Lake Burley Griffin.

Section 10 inserts after Part IV of the Principal Ordinance Part IVA which deals exclusively with guide dogs and hearing dogs. Part IVA comprises sections 35A to 35F as follows:

Section 35A provides that while Part IVA binds the Crown it does not render the Crown liable for prosecution for an offence under the Part.

Section 35B defines a public place in paragraphs (a) and (b).

Paragraph 35B(a) defines a public place to include any part of a public, commercial or business office or premises to which the public have access or which the public are entitled to use (whether on payment of money or otherwise). These include but are not restricted to a government office, bank, building society, credit union, shop, store, market, restaurant, hotel, club, university, college, school, theatre, gallery, library, war memorial, museum, exhibition centre, church, sportsground, racetrack or other place of cultural, historical or educational display, of religious observance or of entertainment or recreation.

Paragraph 35B(b) provides that a public place includes a motor omnibus or taxi within the meaning of the Motor Traffic Ordinance 1936.

Section 35C concerns the rights of a blind or deaf person with a dog.

Subsection 35C(1) provides that notwithstanding any other law of the Territory, a blind person or a deaf person accompanied by his or her guide dog or hearing dog respectively has the same rights of access to, and the same entitlement to the use of, a public place as that person would have if not accompanied by the dog.

Subsection 35C(2) provides that without limiting the generality of subsection 35C(1), a blind person or deaf person is not guilty of an offence by reason only of taking a guide dog or hearing dog (as the case requires) onto or into, or permitting such a dog to enter, a public place.

Sections 35D and 35E deal with offences under Part IVA.

Paragraph 35D(a) provides that it is an offence for a person, without reasonable cause, to deny a blind or deaf person access to, or the use of, a public place when that person is accompanied by his or her guide or hearing dog.

Paragraph 35D(b) provides that it is an offence, without reasonable cause, to exclude or remove from a public place a blind or deaf person when accompanied by his or her guide or hearing dog, or to exclude or remove the dog.

The penalty for an offence under section 35D is a fine of \$500.

Subsection 35E(1) provides that a person shall not impose a charge on a blind or deaf person accompanied by his or her guide or hearing dog, in respect of accommodation, goods or services provided or supplied to or for that person for access to, or the use of a public place by that person, unless that charge would normally have been imposed on the person if not accompanied by the dog. The penalty for an offence against subsection 35E(1) is a fine of \$500.

Subsection 35E(2) provides that a person does not commit an offence under subsection 35(1) if he or she imposes a charge or additional charge on a blind or deaf person, accompanied by his or her dog, for accommodation, goods or services provided or supplied for the dog or for expenses reasonably incurred due to the presence of the dog, where that charge or additional charge was reasonable in the circumstances.

Section 35F provides that where a blind or deaf person has paid a charge imposed in contravention of subsection 35E(1), he or she is entitled to recover from the person to whom it was paid an amount equal to the amount by which that charge exceeds the charge that could have been imposed without involving such a contravention.

Section 11 provides that the Principal Ordinance is amended as set out in the Schedule to the Ordinance. Details of these further amendments, which increase the general level of penalties in the Principal Ordinance, are as follows:

- In subsections 15(2), 19(1) and 20(1) the penalty of \$20 is replaced by one of \$40 to increase the penalties for the keeper of a dog where he or she fails to notify a change of address at which a dog is kept, for keeping an unregistered dog, or for failure of a dog to carry its registration tag.
- In subsection 21(1) the penalty of \$70 is replaced by one of \$140 for a keeper of a female dog where the dog is at large in a public place when it is on heat.
- In subsection 21(3) the penalty of \$50 is replaced by one of \$100 for a keeper of a dog other than a female dog on heat, where the dog is at large in a public place.
- In subsection 22(1) the penalty of \$20 is replaced by one of \$40 where a person in control of a dog fails to remove faeces dropped by the dog in a prescribed place, which is defined as including a footpath, plaza or land or premises occupied by a person other than the keeper of the dog.

- . In subsections 23(1), (2), (3) and (4) and 24(3) the penalty of \$50 is replaced by one of \$100. In relation to subsections 23(1) to (4) inclusive, the increase in penalty applies to various offences including those circumstances where a person takes a dog into certain restricted places such as a school or day nursery when it is in use, within an area prohibited for the purposes of section 23, within 10 metres of a public barbecue, children's playground or a designated area on the foreshores of Lake Burley Griffin or onto a sports field where organised sport is being played. Under subsection 24(3) the increase in penalty applies to a keeper or a person who contravenes the restrictions on the taking of greyhounds into a public place.
- . In subsection 25(1) the penalty of \$50 is replaced by one of \$200 to apply to the keeper of a dog, on conviction, where the dog attacks or worries a person or attacks an animal.
- . In section 26 the penalty of \$10 is replaced by one of \$20 in relation to offences concerning registration tags.
- . In section 28 the penalty of \$50 is replaced by one of \$100 for a person who does not comply with the requirements of inspectors in relation to the seizure of dogs.
- . In subsection 35(1) the penalty of \$100 or one month's imprisonment is replaced by a penalty of \$200 to increase the fine for a person who contravenes the requirement to destroy a dog without cruelty.

Public Baths and Public Bathing (Amendment) Ordinance 1988

Section 1 cites the short title of the Ordinance as the Public Baths and Public Bathing (Amendment) Ordinance 1988.

Section 2 provides that the Ordinance commences on a date fixed by the Minister by notice in the Gazette.

Section 3 defines "Principal Ordinance" to mean the Public Baths and Public Bathing Ordinance 1956.

Section 4 inserts new section 15A into Part III before section 16 of the Principal Ordinance. Section 15A provides that in Part III the words 'blind person', 'deaf person', 'guide dog' and 'hearing dog' have the same respective meanings as in the Dog Control Ordinance 1975.

Section 5 amends section 17 of the Principal Ordinance, which concerns offences in relation to public baths, by omitting paragraph (m), which excludes all animals from entering a public bath, and substituting a new paragraph (m) the effect of which makes a distinction between a guide or hearing dog accompanying its owner into a public bath and the position in relation to all other animals.

Subparagraph 17(m)(i) provides that a blind or deaf person shall not cause or permit his or her guide or hearing dog respectively, to enter or remain in the swimming pool in any public bath. The effect is to allow a guide or hearing dog, when accompanied by its owner, to enter and remain in the public bath in general with the exception of the swimming pool.

Subparagraph 17(m)(ii) provides that the owner or controller of any other animal shall not cause or permit his animal to enter any public bath.

Section 6 amends section 20 of the Principal Ordinance, which concerns the removal of persons or animals from public baths, by omitting paragraph (d) which requires the removal of an animal from the baths and substituting a new paragraph (d). The paragraph provides for the removal of a guide or hearing dog, accompanying a blind or deaf person respectively, from a swimming pool in the baths and for the removal of any other animal from the baths.