

CANINE CONTROL BILL 2013

SAMOA

Explanatory Memorandum

Introduction

This Bill proposes to repeal the Dog Registration and Control Ordinance 1955 and to provide for the powers and duties of canine control officer under reformed arrangements in relation to canine control. The Samoa Police Service will be responsible for the implementation of this Bill which the Service may carry out with the assistance of members of the Ministry responsible for health and members of recognized non-government organizations familiar with canine control.

The Bill essentially is an attempt to deal with the problem of stray and dangerous canines that pose a threat to the safety and health of the public. This Bill will therefore benefit not only Samoans but visitors to Samoa.

Clauses:

PART I **PRELIMINARY**

- Clause 1:** - provides the short title and commencement.
- Clause 2:** - provides for the definition of certain terms used in the Bill.

PART II **ADMINISTRATION OF THIS ACT**

- Clause 3:** - provides that the Samoa Police Service is to administer the Act.

- Clause 4:** - recognizes that non government organizations may be involved in the administration of the Act.
- Clause 5:** - provides that the Police Commissioner may delegate any powers under the Act to certain people.

PART III
REGISTRATION OF CANINES

- Clause 6:** - provides that the Minister may suspend the operation of this Part in any part of Samoa.
- Clause 7:** - provides for canines in Samoa to be registered.
- Clause 8:** - provides for the mode of registration and registration fees.
- Clause 9:** - provides that registration extends over Samoa.
- Clause 10:** - provides for the change of ownership.
- Clause 11:** - provides for the liability of the owner failing to produce registration receipts.
- Clause 12:** - provides for registration marks, badges etc.
- Clause 13:** - provides for canines not wearing approved marks, badges etc.
- Clause 14:** - provides for powers of Canine Control Officers in their dealings with canines.
- Clause 15:** - provides for offences against this Part.
- Clause 16:** - provides for civil liability for breaches of this Part.

PART IV
CONTROL OF CANINES

- Clause 17:** - provides for the control of diseased and neglected canines.
- Clause 18:** - provides an offence if a person allows their diseased canine to leave their premises to wander at large.

- Clause 19:** - provides an offence if a person allows their canine to wander at large where that canine is on heat.
- Clause 20:** - provides that dangerous canines may be destroyed.
- Clause 21:** - provides that an owner commits an offence if their canine attacks cattle or people.
- Clause 22:** - provides for a power for any person to destroy a canine seen attacking or biting a person or an animal.
- Clause 23:** - provides power to an owner of cattle to destroy a canine threatening their livestock or their cattle.


PART V
OTHER PROGRAMS OF CANINE CONTROL

- Clause 24:** - provides for bans and controls on certain species.
- Clause 25:** - provides for bans and controls on canines in certain places and limits on numbers.
- Clause 26:** - provides that the Samoa Police Service may promulgate village by-laws for canine control.
- Clause 27:** - provides for programs for de-sexing and birth control.

PART VI
MISCELLANEOUS

- Clause 28:** - provides for protection from liability of Canine Control Officers, members of the Samoa Police Service or an authorized officer of the Ministry responsible for health.
- Clause 29:** - provides for the Head of State's power to make regulations.
- Clause 30:** - provides for the repeal of the Dog Registration and Control Ordinance 1955 (Ordinance) and transitional provisions

validating actions done, regulations and appointments made, notices issued and instruments made under the repealed Act even after the Ordinance is repealed.



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(Hon SALA Fata Pinati)

MINISTER FOR POLICE AND PRISON SERVICES

CANINE CONTROL BILL 2013

SAMOA

Arrangement of Provisions

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2. Interpretation

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2013, No.

A BILL INTITULED

AN ACT to repeal the Dog Registration and Control Ordinance 1955 and to make provision for the registration and control of canines, and for related purposes.

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

PART I
PRELIMINARY

1. Short title and commencement-(1) This Act may be cited as the Canine Control Act 2013.

(2) This Act commences on the date of its assent by the Head of State.

2. Interpretation - In this Act unless the contrary intention appears:

“Board” means a Canine Control Board established under section 3(4);

“canine” means any canine of any species, whether male or female, but does not include a police canine authorised to be used under the Police Powers Act 2007;

“Canine Control Officer” means any person appointed by the Police Commissioner to be a Canine Control Officer, and any person holding an office which is designated by the Police Commissioner to be a Canine Control Officer;

“Police Commissioner” means the Samoa Police Commissioner;

“Minister” means the Minister responsible for the Samoa Police Service;

“owner” includes:

(a) the keeper of a canine; and

(b) the occupier of any building where any canine is ordinarily kept or permitted to live or remain; and

(c) any person who harbours a canine.

“register” means a register or registered canines maintained under section 8(4);

“registered canine” means any canine which is currently registered in accordance with this Act;

“registration mark” means any of the means of identifying registered canines approved for use under section 12;

“Service” means the Samoa Police Service.

PART II **ADMINISTRATION OF THIS ACT**

3. Service to administer this Act-(1) The Service is responsible for the administration of this Act, and for the formulation, approval and implementation of programs of canine control.

(2) In the administration of this Act, the Service shall act to ensure the public health and safety of the people of Samoa.

(3) The Service has the power to:

(a) approve the use of places as pounds, and for any other purpose associated with the control of canines; and

(b) impose prescribed requirements on the management of places referred to in paragraph (a); and

(c) do any other act or thing to implement programs of canine control in accordance with this Act.

(4) The Minister may establish a Board for the purposes of ensuring that this Act is administered effectively by all agencies and organisations having an interest in the effective control of canines.

(5) The Board established under this section:

- (a) must not comprise a membership of less than five (5) or more than seven (7) members; and
- (b) must not comprise of public servants or members of Parliament.

(6) The Board shall have such functions as the Minister determines, and may regulate its proceedings as it sees fit.

(7) Board members may be paid fees and allowances determined by Cabinet.

4. Recognition of roles of non-government bodies-(1) For any purpose associated with the administration of this Act and the implementation of programs of canine control, the Service may recognise the role of appropriate non-government organisations, and may facilitate their involvement in any aspect of canine control.

(2) The Police Commissioner may appoint a person of a recognised non-government organisation to be a Canine Control Officer for the purpose of this Act.

5. Delegation of powers-(1) The Police Commissioner may delegate any powers under this Act to:

- (a) any member of the Service or Ministry responsible for health; or
- (b) any person associated with a recognised non-government organisation under section 4.

(2) Subject to any general or special directions given by the Police Commissioner, any person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred directly by this Act, and not by delegation.

(3) Any person purporting to act under any delegation under this section shall be presumed, until the contrary is proved, to be acting in accordance with the terms of the delegation.

(4) Any delegation is revocable at will, and no delegation prevents the exercise of any power by the Police Commissioner.

(5) Until any delegation is revoked, it continues in force according to its terms, even if there is any change in the office of the Police Commissioner.

PART III
REGISTRATION OF CANINES

6. Commencement of this Part-(1) This Part commences at such time and for such places within Samoa as the Minister determines by notice published in the Savali.

(2) The Minister may at any time by notice published in the Savali suspend the operation of this Part in any part of Samoa to which it has been applied.

7. Canines to be registered-(1) Any person who owns or keeps any canine must have his or her canine registered in accordance with this Act.

(2) Subject to subsection (3), any person who breaches subsection (1) is liable upon conviction to a fine not exceeding 2 penalty units for each canine that is owned or kept whilst it is unregistered.

(3) Prosecution must not be instituted against an owner for non-registration of his or her canine within the month of January.

8. Mode of registration and registration fees-(1) The registration of a canine may be effected by its owner, or some other person authorized by the owner for that purpose.

(2) All applications for registration shall be made to the Service in accordance with procedures for applications, determination of applications and granting of licences approved by the Police Commissioner.

(3) Registration fees shall be fixed by the Minister by Notice published in the Savali, and such fees may:

- (a) fix different rates for specific species of canines, or for male and female canines; or
- (b) apply lower registration fees for canines which have been de-sexed, or exempt such canines from registration fees; or
- (c) fix additional fees for any matter related to the registration process, or for any specific requirement applied by the Police Commissioner

in relation to all or any applications made under this section.

(4) The Service shall maintain a register of canines containing particulars determined by the Police Commissioner.

(5) Persons authorized by the Police Commissioner shall enter in the register particulars determined under subsection (4) in relation to each canine registered under this Act which must include details of:

- (a) the name of the owner; and
- (b) the address and contact details of the owner; and
- (c) the registration number allocated for the canine; and
- (d) a description, the colour and sex of the canine; and
- (e) whether the canine has been de-sexed; and
- (f) any other prescribed details.

(6) Registration is valid until the 31st day of December of the year in respect of which the registration is effected, and the annual re-registration of canines shall be made in the manner provided for for registrations under this section.

9. Registration to extend over Samoa-(1) Any registration made under this Act shall have force throughout Samoa.

(2) The owner of a registered canine may take it to other places within Samoa, unless canines are not permitted in the place to which the canine is to be taken.

10. Change of ownership-(1) An application must be made to the Service for amendments to the register whenever the ownership of a registered canine is changed.

(2) All applications under this section shall be in accordance with the requirements determined by the Police Commissioner.

(3) The Minister may approve a fee published by Notice in the Savali for any application made under this section, and for any other amendment to the register.

11. Liability of owner failing to produce registration receipt-(1) The owner of any canine shall produce evidence of registration of his or her canine to any Canine Control Officer or to any Member of the Service when requested to do so.

(2) Any person who refuses or fails to produce evidence of registration of his or her canine when required to do so under subsection (1) commits an offence and is liable upon conviction to a fine not exceeding 2 penalty units.

(3) In any proceeding under this Act the person shown in the register to be the owner of a canine is regarded as the owner of the canine.

12. Registration marks, badges etc.-(1) The Police Commissioner may approve the use of any means for the identification of a registered canine.

(2) A charge may be fixed and imposed by the Service in relation to any approved registration mark, badge, collar or any other device approved under subsection (1).

(3) Duplicate registration marks, badges, collars or other approved devices may be issued on payment of their original cost and if the Service is satisfied that the original has been lost, stolen or become inoperable.

13. Penalty for canines not wearing approved marks, badges etc. - Any person who permits his or her canine to be at large while not wearing, using or displaying an approved registration mark, badge or other device indicating current registration, commits an offence and is liable upon conviction to a fine not exceeding 1 penalty unit.

14. Powers of Canine Control Officers to deal with canines - A Canine Control Officer have the following powers:

- (a) to seize by any necessary means, any canine running at large and not wearing a required current registration mark;
- (b) to seize any canine that is the subject of any breach of this Act;
- (c) to detain a seized canine in a pound or other place determined by the Police Commissioner;
- (d) to serve notice of the seizure of the canine on the registered owner of the canine, or any other person appearing to own the canine or have custody of it;

- (e) to sell or destroy any canine that has been seized under paragraph (a) and which has not been claimed by its owner within four (4) days of its seizure;
- (f) to summarily destroy any canine found at large and which has attacked any person or animal, or which the officer has reasonable grounds to believe to may have so attacked any person or animal;
- (g) to destroy any canine that is otherwise the subject of a breach of this Act.

15. Offences against this Part-(1) Any person who does the following commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units:

- (a) falsely makes or counterfeits any registration mark;
- (b) purchases, uses or possesses any fraudulent or counterfeit registration mark;
- (c) has a canine found to be wearing a badge issued in respect of another canine;
- (d) removes any registration mark from a canine for any fraudulent purpose, or for any reason that is not consistent with the requirements of this Act.

(2) A person who has any canine found, after the 1st day of February in any year, wearing a registered mark issued in respect of any previous year commits an offence and is liable upon conviction to a fine not exceeding 2 penalty units.

16. Civil liability for breaches of this Part-(1) A person who wilfully and maliciously removes from the neck of a canine, the badge of registration or other device indicating current registration required by this Act to be worn by the canine, commits an offence and is liable upon conviction to pay a fine not exceeding 1 penalty unit.

(2) If a canine is destroyed as a result of breaching subsection (1), the person responsible shall pay to the canine's owner the full value of the canine so destroyed.

PART IV
CONTROL OF CANINES

17. Diseased and neglected canines-(1) For the purposes of this Part, a canine is regarded as diseased if a notice served under this Part states that the canine appears to be suffering from a disease that may threaten the life of the canine, or pose a health or safety risk to one (1) or more persons.

(2) A Canine Control Officer or any officer of the Ministry responsible for health designated for the purposes of this section by the Police Commissioner may serve a notice on the owner of a canine requiring that it be destroyed on the grounds that it is diseased or suffering from malnutrition or neglect.

(3) Any owner who fails to comply with any notice given under this section commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units, and to an additional fine of 1 penalty unit for each day that the failure to comply continues.

(4) A Canine Control Officer may destroy or cause to be destroyed any canine which has not been destroyed by its owner within five (5) days of a notice being served under this section.

18. Diseased canines at large-(1) A person who permits a diseased canine to leave the owner's premises or land and to wander at large commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units, and the Court may order such canine to be immediately destroyed.

(2) A Canine Control Officer may destroy or cause to be destroyed any canine to which an order has been made under subsection (1).

19. Female canines on heat - A person who permits a female canine that the person owns or exercises control over to be at large in any public place while on heat commits an offence and is liable upon conviction to a fine not exceeding 2 penalty units.

20. Dangerous canines may be destroyed-(1) If a Court is satisfied that a canine (whether at large or not) is dangerous and not kept under proper control or owned by anyone, the Court may make an order directing the canine either to be kept by the owner under proper control or that it be destroyed.

(2) A person who fails to comply with an order made under this section commits an offence and is liable upon conviction to a fine not exceeding 25 penalty units, and to an additional fine not exceeding 2 penalty units for every day that the offence continues.

21. Owner commits offence for canine attacks, etc.-(1) An owner of a canine which rushes at, attacks or startles any person, or any horse, cattle or other animal on any highway or any public place so as to cause or threaten any injury or damage to property, commits an offence and upon conviction is liable to a fine not exceeding 10 penalty units.

(2) In any proceedings under subsection (1), the Court may in its absolute discretion make orders:

- (a) that compensation be paid for any injury or damage caused to any person; and
- (b) for the immediate destruction of any canine to which this section applies.

22. Canines seen attacking persons, etc.-(1) A person who sees a canine biting or attacking another person or an animal, or who is bitten or attacked by such a canine, may destroy it.

(2) No action shall lie in relation to the death or harming of any canine against any person who exercises the right under subsection (1).

23. Canines running at large among cattle-(1) The owner of cattle or other livestock may destroy a canine which runs at large amongst the owner's cattle or other livestock, and which threatens the life or health of the cattle or the secure keeping and control of the cattle or livestock.

(2) The rights under subsection (1) may be exercised by any employee or agent of the owner of the cattle or other livestock.

(3) No action shall lie in relation to the death or harming of a canine against any person who exercises the rights under this section.

PART V
OTHER PROGRAMS
OF CANINE CONTROL

24. Bans and controls on certain species-(1) The Minister may, by written determination published in the Savali, order that certain species of canines be banned in Samoa or any part of Samoa.

(2) A person who keeps, breeds or imports a banned species of canine commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding one (1) month, or both.

(3) A notice imposing a ban under this section may specify that the ban applies to a canine that is wholly or partly of the species that is banned.

(4) A ban imposed under this section may be a total ban on the species, or may impose conditions on the keeping of specific species.

(5) A person who keeps, breeds or imports a species of canine in a manner that breaches a condition imposed under subsection (4) commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding one (1) month, or both.

25. Bans or controls on canines in certain places and limits on numbers-(1) The Minister may, by written determination published in the Savali, order that the keeping of canines be banned in any part of Samoa or any specific place in Samoa.

(2) A person commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding one (1) month, or both, if the person:

- (a) keeps a canine in an area to which a ban under this section applies; or
 - (b) takes a canine into an area to which a ban under this section applies; or
 - (c) permits a canine to enter an area to which a ban under this section applies.
- (3) A ban imposed under this section may be a total ban on the keeping of canines, or may impose conditions on the keeping of canines at the specified places.
- (4) A person who keeps a canine in a manner that breaches a condition imposed under subsection (3) commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding one (1) month, or both.

26. Village by-laws for canine control-(1) The Service may consult with village and community representatives to involve them in canine control measures and prepare and promulgate by-laws for:

- (a) the proper management and control of canines in village and local areas; and
 - (b) the enforcement of the requirements applying under this Act in particular areas.
- (2) Any by-law made under this section shall:
- (a) be signed by the Police Commissioner; and
 - (b) be published in the Savali; and
 - (c) commence on the date of publication in the Savali, or on a day fixed in the by-law.
- (3) Any by-law made under this section may be altered or revoked in the same manner in which they may be made under this section.
- (4) Any draft by-law prepared in accordance with this section shall be provided to the Sui o le Nuu of adjacent villages during the period of consultation leading to the preparation of the by-law.
- (5) A final copy of every draft by-law shall be provided to the Sui o le Nuu of adjacent villages at least seven (7) clear days before it is published in the Savali.

(6) A by-law made under this section does not bind the Government.

(7) All by-laws must impose reasonable restrictions only and may provide for:

- (a) fines for breaches of by-laws which do not exceed 2 penalty units; and
- (b) humane procedures for the destruction of canines that breach the by-laws.

27. Programs of de-sexing and birth control-(1) The Service shall ensure that proper and humane programs for the control of canines by de-sexing and other means of birth control are implemented.

(2) In the implementation of this section, the Service may make arrangements with appropriate non-government organisations for the effective implementation of such programs.

PART VI **MISCELLANEOUS**

28. Protection from liability-(1) No legal proceedings of any nature may be taken against any Canine Control Officer, member of the Service or an authorised officer of the Ministry responsible for health in relation to the bona fide exercise of any power under this Act.

(2) Subject to subsection (3), a person who kills, wounds or maims a canine whilst exercising any of the rights provided for in this Act is not subject to any civil or criminal liability for the death of the canine or for any injury done to it.

(3) Subsection (2) does not apply in any case in which a person causes unnecessary suffering to a canine.

(4) The protections applying under this section shall also apply to any person or non-government organisation participating in an approved canine control program.

29. Regulations - The Head of State, acting on the advice of Cabinet, may make regulations necessary or expedient for giving full effect to this Act, or for providing for the humane control and destruction of canines.

30. Repeal and savings-(1) The Dog Registration and Control Ordinance 1955 is repealed.

(2) All orders, regulations, appointments, notices, instruments, and acts of the Service made or done under the Dog Registration and Control Ordinance 1955 at the commencement of this Act remains valid as if made under the authority of this Act, until they are repealed, rescinded or amended under this Act.

(3) All proceedings commenced under the Dog Registration and Control Ordinance 1955 and pending or in progress as at the commencement of this Act, may be continued, completed and enforced in accordance with this Act.
