

DOG AMENDMENT BILL 2013

Returned

Bill returned from the Council with an amendment.

As to Consideration in Detail

On motion by **Mr A.J. Simpson (Minister for Local Government)**, resolved —

That the Council's amendment be considered in detail forthwith.

Council's Amendment — Consideration in Detail

The amendment made by the Council was as follows —

Page 55, after line 6 — To insert —

; or

- (c) the Minister in his absolute discretion forms the view that extraordinary conditions exist in a particular case and a transfer of ownership is justified in that case.

Mr A.J. SIMPSON: To clarify the amendment proposed by the other house, clause 36 of the bill inserts new section 33GC, which bans the sale, purchase, advertising and transfer of dangerous dogs (restricted breed). Proposed subsection (4) provides an exemption if the transfer of ownership is because the owner has died or is otherwise incapable of caring for the dog due to ill health. This matter was raised in the other house. Concerns were raised that there might be other conditions out of the control of or completely unforeseen by the owner of the dog meaning that he could no longer care for it. I listened to those concerns and agree that there could be extraordinary and rare circumstances that are not currently covered by the exemption in the bill. On that basis, I support the amendment to the bill. This is not going to be a catch-all opportunity for people who make a decision to own a dog and then decide that it is something they no longer want to continue to do, or who have a new partner and that person does not like the dog; that is not what the amendment is seeking to cover. People who take on restricted breed dogs have to take on the responsibility of owning such a dog. Any person who decides to own such a dog must realise that the decision should not be taken lightly; it is similar to the responsibility of raising a child. The decision to own a restricted breed dog is even more serious because the dog could potentially be dangerous to family members, neighbours and other innocent people. Transferring ownership of that dog to another person means that the obligation to protect others is also transferred. This is a significant obligation. Further, I recognise that there could be extraordinary circumstances outside of ill health that prevent an owner from continuing to care for the dog. Rather than the dog being euthanased under these rare circumstances, I am willing to accept that there should be a provision in the bill that would enable the minister at the time to consider the matter. The minister will take into consideration such things as whether the circumstances are indeed extraordinary and outside the control of the owner, what steps the owner has taken to remedy the situation so that the dog could be retained, whether the dog has shown aggressive tendencies, and other pertinent matters at the minister's discretion. I support the amendment to the bill. I move —

That the amendment made by the Council be agreed to.

Mr D.A. TEMPLEMAN: The opposition is happy to support the amendment. The minister has given an explanation of the nature of possible triggers that would require the minister to make a determination under this amendment. Is there any chance the minister could give some further advice on this? I am not sure how this will work; I know the minister has some advisers present. Would the minister be able to give more examples of when we might get to a stage at which the minister would be required, in terms of the process, to make that determination? Just so I am clear about this, the minister would not want to be drawn into any personality disagreements between aggrieved partners, for example, which is really a situation into which the minister should not necessarily be drawn. For example, as the minister outlined in his explanation, if a person for whatever reason—health or change of relationship—decided that they were no longer able or willing to care for a dog that has been classified under the restricted breed parameters, there could be a transfer of the ownership of that dog. If that is not agreed, I am interested in the technical or legal aspects of what might happen in that context. When would the minister be drawn into the actual determination, or would it become a court matter between aggrieved partners? I want a bit of clarification there.

The ACTING SPEAKER (Ms J.M. Freeman): The minister will have to do it by way of interjection.

Mr D.A. TEMPLEMAN: I will just finish. I have a hypothetical example. Ted and Mary are partners and have a restricted breed dog. Ted gets ill —

Mr A.J. Simpson: And then Mary is going to move into the unit, which is a Homeswest house, but she can't take the dog with her.

Mr D.A. Templeman: Yes, and the dog is registered under Ted's name; it is not registered with Mary. Mary and Ted are a de facto couple.

Mr A.J. Simpson: If they had gone their separate ways, it would be considered a situation of extraordinary circumstances if the partnership broke down or the separation was based on ill health. In those cases, they could apply to the minister, citing extraordinary circumstances. The minister would consider whether their circumstances were indeed extraordinary and whether the situation was outside the control of the owner. Situations that are outside the control of the owner could include Mary moving into a unit where she cannot take the dog or Ted going to hospital or moving into an aged-care facility. We would look at whether these issues were outside of the control of the owner and the steps taken to remedy the situation so that the dog could be retained.

Mr D.A. Templeman: If the dog is registered with Ted and his relationship with Mary breaks down and he has to move out but is unable to take the dog with him, or there is a dispute over the ownership of the dog would that not fall within the minister's realm if there were a dispute about the ownership of the dog?

Mr A.J. Simpson: Let us change the scenario so that Mary has been the main carer and has the dog registered in her name but the dog actually belongs to Ted. The couple have separated and Ted says that the dog is his but Mary says that it is registered in her name. We can prove that they were in a de facto relationship because Mary's name is on the dog licence. If the dog is registered with the council and is licenced under Mary's name but they are both happy to sign a statutory declaration to prove the de facto relationship and the dog's ownership, that would be allowable.

Mr D.A. Templeman: I highlight to members that Ted and Mary are fictitious.

Question put and passed; the Council's amendment agreed to.

The Council acquainted accordingly.