

SPECIAL ISSUE

Kenya Gazette Supplement No. 49 (Senate Bills No. 4)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2019

NAIROBI, 15th April, 2019

CONTENT

Bill for Introduction into the Senate—	PAGE
The Control of Stray Dogs Bill, 2019	55

THE CONTROL OF STRAY DOGS BILL, 2019
ARRANGEMENT OF CLAUSES

Clause

PART I— PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Objects of the Act.
- 4—Functions of the county government.
- 5—Power to seize or detain stray dogs.
- 6—Responsibility of dog owners.
- 7—Trespass of dogs.
- 8—Euthanization of dangerous dogs.
- 9—Impoundment
- 10—Entry on land.
- 11—Disposal of stray dogs.
- 12—Register at dog shelter.
- 13—Registration of dog shelters by a county government.
- 14—Regulations in case of outbreak or expected outbreak of disease.
- 15—Restrictions on breeding.
- 16—Indemnity.
- 17—Regulations.
- 18—Repeal of Cap. 365.

THE CONTROL OF STRAY DOGS BILL, 2019**A Bill for****AN ACT of Parliament to make better provision
for the control and disposal of stray dogs, and for
connected purposes****ENACTED** by the Parliament of Kenya, as follows —**PART I— PRELIMINARY**

1. This Act may be cited as the Control of Stray Dogs Act, 2019.

Short title.

2. In this Act,—

Interpretation.

“authorised person” means an administrative officer, a veterinary officer, a police officer of or above the rank of Inspector, an inspector or any person authorized under this Act to seize and detain a stray dog;

“county executive committee member” means the county executive committee member responsible for matters relating to animal health in the county;

“dog” means a dog that has been domesticated by humans so as to live and breed in a tame condition and depend on humankind for survival;

“feral dog” means a dog that has not had any interaction with humans for the majority of its life;

“last person in possession of a dog” means –

- (a) the last person in actual possession of a dog, but does not include a person who captures, confines or impounds a dog pursuant to this Act; or
- (b) in the case where a dog is captured, confined or impounded pursuant to this Act, the last person in actual possession of the dog before the capture, confinement or impoundment of the dog.

“stray dog” means a dog which is at large and not under the direct control or charge of any person and includes a —

- (a) free-roaming dog that is owned but is not under the direct control or restriction at a particular time;
- (b) free-roaming dog with no owner; or

- (c) feral dog which has reverted to the wild state and is no longer directly dependent upon humans for successful reproduction.

3. The objects of this Act are to —

- (a) promote the responsible ownership of dogs through public sensitization programmes to significantly reduce the numbers of stray dogs;
- (b) prevent the incidence of spread of diseases between dogs and people;
- (c) improve the health and welfare of dogs that are owned and the stray dog population; and
- (d) encourage public education programmes focussed on reducing dog bite prevalence.

Objects of the Act.

4. The county government shall, in controlling stray dogs within the county—

- (a) sensitize the public on the dangers of stray dogs and on the management of rabies;
- (b) evaluate management strategies to reduce the number of stray dogs within the county;
- (c) encourage and support initiatives towards the control of stray dogs;
- (d) administer, at subsidized rates or at no fee, medication including vaccines aimed at treating rabies; and
- (e) encourage, promote and support the activities of institutions involved in animal welfare in the control of stray dogs at the county level.

Functions of the county government.

5. (1) An authorised officer may seize and detain any stray dog found in any public place.

Power to seize or detain stray dogs.

(2) The seizure and detention in subsection (1) shall be carried out with the minimum force required and the equipment used, if any shall be equipment that supports humane handling of the stray dog.

6. (1) It shall be the responsibility of any person who owns or is in possession of a dog to —

Responsibility of dog owners.

- (a) accept responsibility for that dog and for any offspring that it may produce for the duration of its life or until a subsequent owner is found;

- (b) ensure the welfare of the dog including vaccination and protection of the dogs from infectious diseases;
- (c) ensure that a dog does not roam out of control in a manner that would pose a risk or cause nuisance to members of the public; and
- (d) where diseased and where it is found necessary, to euthanize, securely tie or confine and shall give notice of the intention to have the dog euthanized to an authorized officer located at the nearest location from the place where diseased dog is being kept.

(2) A person who fails to comply with the requirements of subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding three hundred thousand shillings or to imprisonment for a term of not less than one year.

(3) Where the conduct of an owner of a dog or a person in possession of a dog results in the death of a person caused by the dog, the owner or the person in possession commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term of not less than five years or to both.

7. (1) Where a dog trespasses to a place other than its owner's place, the owner of the dog, and the last person in possession of the dog as the case may be shall be jointly and severally liable for—

- (a) damage done to property caused by the trespass of the dog or by any person in capturing the dog; and

- (b) the expenses incurred in capturing the dog.

(2) The expenses incurred in subsection (1) shall include expenses incurred in –

- (a) capturing, confining and impounding the dog;
- (b) identifying the dog;
- (c) attempting to ascertain the owner or the last person in possession of the dog;
- (d) maintaining the dog;

Trespass of dogs.

- (e) transporting the dog; or
- (f) selling the dog.

8. An authorised person who is satisfied that —

Euthanization of
dangerous dogs.

- (a) a dog is trespassing on land;
- (b) attempted capture of the dog will likely result in injury to a person; and
- (c) after reasonable inquiry the owner or the last person in possession of the dog is unknown, or the owner or last person in possession of the dog is unwilling or unable to remove the dog;

may euthanize and arrange for the disposal of that dog or authorize another person to euthanize and arrange for the disposal of that dog.

9. (1) An authorised person may impound a dog captured or confined pursuant to this Act by issuing a notice of impoundment to the owner or a person in possession of the dog.

Impoundment.

(2) The notice referred to in subsection (1) shall contain the following information—

- (a) a description of the dog;
- (b) the date of impoundment;
- (c) a description of the place where the dog was captured;
- (d) a statement that the dog is impounded; and
- (e) the signature of the inspector impounding the dog.

(3) Upon the issue of a notice of impoundment, the dog described in the notice shall be subject to the control of the authorised person and shall not be transported or disposed of except -

- (a) in accordance with this Act; and
- (b) with the consent of an authorised person.

10. (1) An authorised person may enter on any land or premises without the consent of the owner or occupier of the land or premises for the purpose of capturing a trespassing dog and removing it from the land or premises.

Entry on land.

(2) The capture under subsection (1) shall only be carried out if the dog poses a danger to other persons.

11. (1) Where a dog strays and is impounded and its owner cannot be ascertained, the dog may be disposed of in a humane manner under the supervision of a veterinary surgeon.

Disposal of stray dogs.

(2) Once an owner of a dog that has been disposed of is ascertained, the owner shall pay any costs incurred in the disposal of the dog.

12. (1) An authorised person in charge of a dog shelter shall keep a register in which that person shall enter the particulars relating to every dog taken to the shelter, including—

- (a) the breed, colour and other distinctive features of the dog;
- (b) the place at which the dog was caught;
- (c) the day and time at which the dog was brought to the dog shelter;
- (d) the day and time at which the dog was—
 - (i) returned to its owner; or
 - (ii) was disposed of.

Register at dog shelter.

(2) The register referred to in subsection (1) shall, during office hours, be available for inspection by the owner of a dog which is, or has been, kept at the dog shelter.

13. (1) A person who intends to establish a dog shelter shall make an application to the county executive committee member in the prescribed form, for registration and the issuance of a licence to operate the dog shelter.

Registration of dog shelters by a county government.

(2) Legislation by each county government shall set out the—

- (a) criteria for the registration of a dog shelter within the respective county;
- (b) information required to be submitted by an applicant for registration of a dog shelter;
- (c) process of determination of an application for registration of a dog shelter;

- (d) the conditions for the issuance of a licence under this Act;
- (e) the grounds for and the process of rejecting an application or cancelling a licence issued under this Act;
- (f) the process of issuance of a licence to an applicant for the management of a dog shelter; and
- (g) the process of an application for the renewal of licences, de-registration and revocation of a licence issued to an applicant under this Act.

14. A county government may, for the prevention and control of an outbreak or expected outbreak of rabies in any area within the county —

- (a) prescribe the manner in which the dogs shall be kept under control by the owner or the person in charge;
- (b) provide for the seizure, detention and disposal or euthanization of dogs not being kept under control in the manner prescribed;
- (c) prescribe the manner in which dogs shall be inoculated;
- (d) prescribe the manner in which any dogs may be moved out of or into a specified area; and
- (e) prescribe for the recovery, by any veterinary officer, of the expenses incurred in respect of the detention of any dog or cat seized, detained, disposed of or destroyed under regulations made under this subsection.

Regulations in case of outbreak or expected outbreak of disease.

15. An authorised officer may, if it appears to the authorised officer that a dog being bred poses a serious danger to the public, impose restrictions on the dog owner or the person in possession as the authorised officer may deem appropriate for the safety of the public.

Restrictions on breeding.

16. (1) No action shall lie against the county government or any public officer or any person authorized by a public officer for any act done in good faith under this Act or under any rules, regulations or order made thereunder, and no compensation shall be payable to any person for any act so done.

Indemnity.

(2) Despite subsection (1), nothing in this section shall exempt the county government or any public officer or any person authorized by a public officer from liability for any act done negligently under this Act.

17. (1) A county government may enact county specific legislation generally for the better carrying out of the purposes and provisions of this Act. Regulations.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to repeal and replace the Rabies Act in order to effectively deal with stray dogs which pose serious human health, dog health and welfare problems. The Rabies Act enacted in 1932 provides for the suppression of rabies in Kenya. The Act also provides for the power to seize, detain or destroy stray dogs or stray cats and regulations in case of outbreak or expected outbreak of disease.

The Rabies was enacted in 1932 and was last amended in 1962 via Act No. 32 of 1962. The Act is outdated and it is also important to note that with the promulgation of the Constitution, it has become necessary to overhaul the Act in order to, among other things take into account the provisions of the Fourth Schedule to the Constitution on the functions of county governments.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

Clause 16 of the Bill delegates legislative powers to the Cabinet Secretary for the purpose of giving effect to the provisions of the Act. The Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Part 2 of the Fourth Schedule to the Constitution designates animal control and welfare as one of the functional areas of the county government. The Bill affects the powers and functions of the county government and it is therefore a Bill that concerns counties in terms of Article 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

MARY SENETA,
Senator.