
National Ordinance containing
regulations concerning the keeping of
dogs (Dog Ordinance)

EXPLANATORY MEMORANDUM

General

The current Dog Ordinance dates from 1955. It was adopted from the former island territory Aruba and as of January 1, 1986, got validity on the grounds of the General transition regulation legislation and governance (AB 1987 no. GT 2). In 1988 an applicable text thereof was promulgated in the Official Publication of Aruba (AB 1988 no. GT 1). This national ordinance has not been amended up to now.

For some time there has been the wish to, with regard to particular dogs mainly belonging to specific breeds, be able to take measures after a good many incidents have occurred with these types of dogs, which have led to sometimes very serious injury of people, and children in particular. This has caused that in a considerable number of countries specific legal measures have been taken to safeguard the safety of both humans and animals. After ample consideration the Aruban government decided that it is desirable to be able to take such measures and provisions in Aruba as well.

Upon contemplation on how these measures could be fit into the Dog Ordinance it was determined that this national ordinance is no longer contemporary, not only as regards the wording, but also with regard to the content. Therefore it was decided to draft a completely new Dog Ordinance. Herein different elements will be positioned, among which provisions concerning the wellbeing of the animal. Furthermore, provisions will be included that regulate that dogs no longer have free access to the public road and other public places.

In Aruba there are many dogs that indeed belong to someone, but that still roam free. Not only do some of these dogs attack hikers and cyclists, but they are also a daily threat to traffic safety because they are on the public road unsupervised. Under

the current circumstances, in which there is question of very heavy traffic on many roads, it is undesirable that these dogs can roam free. This is why in the proposal is stipulated that dog owners have to take adequate measures in order for these dogs to no longer have free and unsupervised access to the public roads. Dogs that nevertheless are on the public road can be captured and taken into custody. If the owner does not report within a given time, the dog can eventually be given away or killed, and the same applies mutatis mutandis for stray dogs that do not have an owner. The government realizes that in this regard a mental shift has to be brought about among part of the dog owners. Attention will be paid thereto by giving information.

The financial consequences of the draft will be limited for the government. To the granting of licenses for dangerous dogs costs will be related, but these will be charged to the person applying for the license. The expenses of the extra work for the Veterinary Service will be included in these costs as well. The costs for information will be paid from the regular budget of the Bureau of Information. This also applies for the costs of supervision and preservation of the Police Force Aruba. This duty already pertains to the regular police duties. As already argued, it is the intention that the civilians get a “habituation period” in connection with the implementation of this national ordinance and the supervision on compliance of the provisions will be part of the daily duties of the police.

Explanation per Article

Ad Article 1

This Article contains the necessary concept definitions. It was chosen for the neutral concept “keeper” as collective concept for all those who, either or not temporarily, are responsible for a dog. As the “competent authorities” in this national ordinance are considered the regular police officers as well as the appointed special policemen. The officials of the Veterinary Service will be able to advise the police officers. They are after all the ones who can be deemed to be experts in judging which breed a dog belongs to and in the area of the behavior of dogs.

Ad Article 2

The current Dog Ordinance does not contain any provisions with regard to the wellbeing of dogs. The Criminal Code of Aruba (AB 1991 no. GT 50) does indeed contain two provisions (Article 265 and Article 477), in which the harming of the health of an animal is made punishable, but due to the general and repressive nature thereof these provisions are inadequate to enforce that a dog gets decent care. The proposed Article explicitly provides therein by prescribing that a dog shall get enough food and water of decent quality as well as adequate shelter from weather conditions. If necessary the minister can lay down further, more elaborate regulations pursuant to the second paragraph.

Ad Article 3

As already worded in the general section, the objective of the proposed Article is to prevent that dogs have free access to the public road or terrains of others. The circumstances in Aruba, compared to the year 1955, when the current Dog Ordinance was effected have drastically changed. There is now question of congested roads during a major part of the day and the number of buildings along these roads has increased enormously. This brings on that dogs should no longer have free access to these public roads. One and the other means that the keeper of a dog has to make sure that his yard can be closed or otherwise prevent that his dog can freely walk onto the road, for example by chaining the dog. In the current situation this means that many dog owners shall have to take the necessary measures thereto. The government will therefore pay ample attention to the content of this Article through giving information.

In the proposed second paragraph in the general sense is stipulated that dogs may not be a burden to neighbors. One can think of constant barking or howling, in particular during the night, but also other forms of nuisance are included in this Article such as for example heavy (stench) nuisance or other unhygienic situations as a result of insufficient cleaning up of excrements. Here also applies that the minister if necessary can lay down regulations to further substantiate this Article.

Ad Article 4

The proposed Article also aims to prevent that with regard to dogs that are in the public place, incidents with resentful results can occur. Important means is to keep a dog in this public place on a leash. This leash order does not have to go as far that dogs can no longer roam free anywhere. There are sufficient and large parts of Aruba where this leash order is not necessary. The minister can indicate these parts. Reversed, it can also be necessary that certain parts of Aruba be “dog free”. One can think of nature parks, such as the Parke Arikok or certain public beaches. In those cases it has to be clearly indicated that such a prohibition applies.

Ad Articles 5 and 6

These proposed Articles aim at making it possible that – sometimes radical- measures be taken with regard to dangerous dogs. Thereto is first determined which dogs can be labeled as dangerous dog. The minister for General Affairs, and the minister charged with affairs of health as the minister under whose responsibility the Veterinary Service resorts, can designate a ministerial regulation thereto. Not only certain dog breeds can indicated, whereof the dogs that belong to it can form an actual and proven danger for the safety of humans and animals, but also crossbreed products of these breeds and dogs that in appearance cannot or hardly be distinguished from the dog breeds labeled as being dangerous.

Furthermore, the possibility is created that also an individual dog can be indicated as dangerous dog. This shall be done by decree of the two involved ministers, if possible in consultation with the Head of the Veterinary Service and also, if necessary, with other involved veterinarians. The labeling as being a dangerous dog has important consequences.

Pursuant to the proposed Article 6 it is forbidden to keep a dangerous dog without a license. Prior to granting a license the Head of the Veterinary Service has to be provided with proof that the dog is identifiable and the keeper has a valid insurance that covers the third-party risks for the dog. With regard to the identifiability of the dog in the majority of the cases use can be made of a chip implanted by a vet. Also other effective means

that can lead to identification are permitted, for example a tattoo. The requisite of having a license for a dangerous dog brings with it that regulations can be attached to the license. For example it can be attached to the regulation that the dog, as long as it is in the public place, wears a muzzle. In extreme cases the instruction that the dangerous dog is sterilized can be attached to a license. Such a case will not occur often, but it is not excluded that a certain dog breed bred as such is deemed so dangerous that it is undesirable to have this breed procreate. The provisions are redirected as such that certain regulations or the imposing of license regulations occurs only if the necessity thereto has become evident.

In the proposed sixth paragraph of Article 6 is regulated that the Head of the Veterinary Service keeps a register of granted licenses, so that in the event of an incident, it can simply and quickly be traced who the keeper of the dog is.

The proposed seventh paragraph provides the minister the opportunity to lay down rules with regard to being able to identify a dangerous dog.

Ad Article 7

The proposed Article gives the competent authority, that is to say, police officers and special policemen who are appointed thereto, the authority to capture and take into custody those dogs that are found to be in breach of the provisions of this national ordinance. If with regard to the dogs that are taken into custody no keeper reports or can be traced, for example by means of the aforementioned chip, the dog can eventually be given away or killed.

In the proposed second paragraph is expressly stipulated that dogs that can form an immediate danger for the safety of humans and animals, can be killed.

The proposed fifth paragraph provides the minister the possibility to lay down further rules to enforce the provisions in this Article. These could include rules in connection with the as painlessly possible killing of a dog. Also in such a ministerial regulation can be stipulated that dogs that are taken into custody, before being given back to the keeper, are sufficiently identified, so severe action can be taken in the event of recidivism.

Ad Article 8

The proposed Article regulates the making punishable of breach of the provision through and by virtue of this national ordinance. For the highness of the maximum fine, junction was sought with the penalty fees that will be proposed in a future Criminal Code (fine of the third category)

Ad Article 9

It is evident that the holding of dog fights still incidentally occurs in Aruba. In order to adequately fight this offensive form of animal abuse, in the first paragraph is proposed to add two sections to Article 477, second paragraph, of the Criminal Code of Aruba, so that the holding of dog fights, providing the opportunity thereto and to attend dog fights is explicitly made punishable.

The proposed second paragraph regulates the revocation of the old, obsolete Dog Ordinance (AB 1988 no. GT 1).

Ad Article 10 and 11

These Articles are the usual final clauses of a national ordinance.

Thee minister for General Affairs,

The minister of Health and Sports,

The minister of Justice and Education,