Dangerous dogs — the law and how it is changed

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ABSTRACT

To most people, the mechanisms and processes involved in developing or amending legislation would not seem to be the most riveting of subjects. However, if any individual or group wants to have input into legislative reform, it is extremely useful if they have some idea of how the system works. Like anything, it is almost impossible to make a positive contribution to the 'game' without some understanding of the rules or how it is played. The aim of this paper is to give readers insight into the system and provide some guidance on the most effective ways to be part of it.

THE FRAMEWORK

There are several principles that are essential to understanding how laws are made. These help keep the whole process in context.

- There is no such thing as a perfect Act of Parliament or a perfect set of Regulations. The underlying concepts are developed by people and the draft legislation is written by parliamentary draftsmen, who are also people. Consequently, there will always be room for improvement or something that is ill defined, unclear or lacking in some way. Where there is ambiguity, it is the role of the courts to try to determine the intent of the law and whether or not some action or inaction is in contravention to that intent.
- Times change. Law is not carved into granite tablets but must be amended to meet the needs of the community today. Many of the things that mattered to urban dwellers seventy years ago (eg the provision of stables at hotels) are now quite irrelevant. Many things that matter now (eg Internet fraud) were not envisaged seventy years ago. All legislation must be reviewed regularly, to ensure that it is relevant, necessary and equitable.
- Governments now consider regulation to be a last resort, not a first option. If there is a less prescriptive method to address an issue, that will generally be adopted rather than using legislation to achieve the same result. The adoption of Quality Assurance programs is an example of self-regulation, which in some cases, removes the need for legislative intervention.
- The law must provide the minimum standard of behaviour acceptable to the community. It cannot demand best practice as the norm. Voluntary codes of conduct, consumer expectation and industry standards can demand better than the minimum but that is not the role of the law.
- There is no law that every member of the community would support. However, the vast majority of the public would agree with most of the laws most of the time.

For example, most people would agree that speeding is unacceptable, until they are caught doing 5 km per hour above the limit. The law must protect the community and demand a standard that is acceptable to most people. It does not aim to please everybody.

THE STRUCTURE OF LEGISLATION

As most people know, legislation is based on an Act of Parliament. Every Act is committed to a Minister who accepts responsibility for maintaining the legislation. Any Member of Parliament can move amendments to an Act but it is generally done by the Minister in whose portfolio the legislation lies. Thus if a member of the public or an organisation considers that the Act is deficient, the responsible Minister is the most appropriate person to contact.

At the very beginning of an Act there is generally a 'Long Title' and /or 'Objects'. These outline the purpose of the Act. Only issues that relate to those purposes should be included in that Act. For example, section 3 of the South Australian Dog and Cat Management Act reads:

> "3. The objects of this Act are-
>
> (a) to encourage responsible dog and cat ownership;
>
> (b) to reduce public and environmental nuisance caused by dogs and cats;
>
> (c) to promote the effective management of dogs and cats (including through encouragement of the desexing of dogs and cats)."

It is often tempting to use the wrong Act to address the problem. Frequently animal welfare is confused with urban animal management. Welfare is no less important than management but is addressed in different legislation. The Long Title of the Prevention of Cruelty to Animals Act states that it is:

> "An Act to discourage cruelty to animals; to repeal the Prevention of Cruelty to Animals Act 1936; and for other purposes."

Hence, if there were a need to legislate to ensure that animals in pounds were treated humanely, this should be addressed through animal welfare legislation, not urban animal management laws. This borderline is not clear cut because often welfare, public health, security and occupational health and safety issues are interwoven and rolled into a single Code, which is regulated under a single Act.

Towards the end of virtually every Act there is a section which allows the Governor to make regulations. To use the Dog and Cat Management Act as an example:

> 91. (1) The Governor may, on the recommendation of the Board, make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may —

(a) regulate the keeping and control of dogs of a specified class;

(b) prohibit the keeping of dogs of a specified class in specified places or areas;

(c) regulate the detention of dogs seized under this Act;

(d) fix fees to be paid in respect of any matter under this Act and regulate the recovery, refund, waiver or reduction of such fees;

(e) exempt (conditionally or unconditionally) classes of persons or activities from the application of this Act or specified provisions of this Act;

(f) impose a penalty (not exceeding a division 7 fine) for contravention of, or non-compliance with, a regulation.

(3) Regulations under this Act —

(a) may be of general application or limited application;

(b) may make different provision according to the matters or circumstances to which they are expressed to apply;

(c) may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Board or a council.

The Long Title and the Objects define the purposes of the Act — which means that the Governor can only make regulations that serve those stated purposes. Therefore an issue like the management of animal crematoria cannot be addressed by regulations under this Act but something like the Public Health Act could probably be used instead.

Regulations can only be made if there is a Head of Power in the Act to make them. That means that unless a matter is mentioned somewhere in the Act or the proposed regulation relates to something in the Act, it cannot be covered in the regulations. As an example, the Dog and Cat Management Act does not mention other feral animals. So, no regulations can be made which relate to fox control. (The Animal Plant Control Act is the appropriate legislation to address this issue.)

Frequently, people petition the wrong Minister to make changes to the wrong piece of legislation. It is important to work out which is the right Act. Recently, a member of the public complained about dead feral cats being tied in a tree because, in that person's opinion, it was cruel. The petitioner wanted the Prevention of Cruelty to Animals Act amended to prohibit this practice. However, it is impossible to be cruel to a dead animal. Whether or not the issue is real, the wrong Act was being used. Before seeking changes to the law it is important to work out exactly what the desired outcome is, which Act requires amendment and how it could be done.

AMENDING LEGISLATION

Having provided a brief outline of the requirements and limitations of legislation, it is now possible to discuss the mechanisms of amending it. The process depends on:

Whether the changes are to the Act or to the regulations

Amending an Act is a much more time consuming and protracted process than amending regulations.

The urgency of the issue

If the matter is urgent steps can be rolled into one another or omitted, but only if it is clearly in the public interest to do so. This may be the case where there is a brief window of opportunity and there are clear benefits to the state to proceed.

The risks, perceived or real

It is very difficult to differentiate between real and perceived risk. They are both seem real at the time. If there were a test case in court which established that the speed limit was not enforceable for some technical reason, this would be a major risk so again the process would be streamlined to address it quickly.

The magnitude of the change

Very minor changes, like typing errors can be changed by parliamentary draftsmen then presented to the Minister with carriage of the legislation and the amendment made with no consultation. This is obviously an extremely minor legislative change. The bigger the magnitude, the bigger the process.

The degree of public interest in the issue

Some issues, such as animal management always evoke public interest. Other matters do not. If the public is interested, consultation increases and the process lengthens.

Confidentiality of the issue

Sometimes it is impossible to consult widely. Some matters, for example the development of a multi-million dollar tourist resort, may be commercial in confidence — the proponents would not want their opposition to find out. In this case there is an obligation to receive expert advice while maintaining the commercial interests and confidences of those involved.

The will or policies of the government of the day

Prior to an election, the major parties produce their electoral platforms. These are public documents, which outline what the party wants to achieve if elected. In voting for one party over another, the electorate is deciding which of these policies better suit their needs. If that party is elected, they will try to implement those undertakings. Thus, a proposal that is in direct conflict with the electoral platform is unlikely to succeed unless there are very sound reasons why the policy should change. The public service is committed to serving the Government of the day and implementing the policies that Government has told the electorate it will implement.

Depending on all these factors it can take anywhere from one week to several years for the amendment to be implemented. There can be anywhere from two or three steps in the process to about 150. (In learning to use the Microsoft Project Manager program, I listed every process in amending an Act and subordinate regulations and it was about 150 separate steps.)

Although this sounds daunting, it is also fair. Although legislation must evolve, it should not be changed at the drop of a hat or on a whim. Imagine if the speed limit kept changing, or dog registration fees went up and down depending on the mood of a Minister!

This paper only strives to give an overview of the process from the perspective of a person or organisation that seeks changes to legislation. It will not try to cover every one of those 150 steps.

STEP ONE — THE IDEA AND ITS CONFIRMATION

All legislation reform starts with an idea. This may come from a single member of the public, from a community group, Local Government, the public service, Government policy, interstate, overseas or anywhere else. Let's say the initial idea is:

> *"There are too many dog attacks, something has to be done about it"*

This would be presented to the responsible Minister who would ask the Department to investigate the concept and confirm that it is a real issue. The sorts of questions that have to be asked are:

- Is it an anomaly? ie. Were there ten attacks last week but none for the proceeding ten months?
- Is it a problem? or Was it just a slow news week so the media picked up on every minor bite that would normally not be reported?
- Is it part of a bigger issue? Sometimes the problem may be completely different, eg people are scared of intruders so buying big dogs and training them as guard dogs. In this case the issue is actually the public fear of attack by people, not really the dogs.
- What does too many mean? Is one bite too many? Is there a level of dog attack that the community finds acceptable?
- Is there a common factor? Are we talking about all dogs, some dogs, dogs in some ethnic or socio-economic group, dogs in public or dogs on private land? Did every attack occur when an intruder broke the window to break into the house?
- Is the legislation at fault? Sometimes, the problem lies in the enforcement of the legislation or finding the offenders and no amendment to the Act or regulations can remedy the situation.

And dozens of other questions — these are just examples. Basically, the idea has to be validated and refined to something specific that can be addressed in legislation. In some cases, a Parliamentary Committee may be convened to examine the issue and make recommendations to the Minister and to Parliament.

Usually, the initial check up is generally done by a departmental officer seeking advice from people who should be able to provide some of the answers. The officer would then prepare a report for the consideration of the Minister either saying "Yes, this is an issue", or "No, as it turns out this complaint is from one person whose child was barked at on his way home from school".

The report is scrutinised by the line managers of the Department and then by the Chief Executive who would endorse or refute the conclusions drawn within it.

Subject to the CE's endorsement, the report is presented to the Minister.

Obviously, in reality it is not this simple and the answers are not as black and white as outlined above. In addition, people will give different subjective and objective information, which must be considered, weighed up and distilled before making any recommendation.

STEP TWO — DEVELOPMENT OF A GREEN PAPER

In this case, let's say that the report says that there is an issue and it could be addressed by legislation but, depending on what is done there may need to be amendments made to the Act. The issue has now been defined as:

> *"A legislative framework to reduce dog threat and attack in public places."*

The Minister accepts this conclusion and agrees that such a framework is necessary and in the public interest. This means that attacks on private land and other dog related issues are not being considered (eg barking dogs and collection of faeces is not within the scope of the proposal). There may be several issues that are to be addressed at the same time but there must be boundaries and those issues must be clearly stated or total confusion will result. If you don't know the question, it is impossible to give a sensible answer.

At this point, a green paper will usually be developed. It is called green because it is not 'ripe' ie. it just gives options. Generally this will be developed by a team of people comprising the main interest groups and chaired by a departmental officer who does all the paperwork. The interest groups might include bodies like the Canine Association, Local Government, RSPCA, Health Commission, the Dog and Cat Management Board etc. Usually the Minister will approve the membership of the group and those organisations involved will nominate their representative. The green paper does not say what the Government will do, it just says what is possible.

Let's say the green paper lists the following options:

- ban all dogs — that certainly fixes the problem!
- ban all dogs bigger than 5 kgs — then the severity of bite is less,
- ban certain breeds,
- restrict and permanently identify guard dogs,
- dogs on lead in public,
- mandatory dog training,
- dog and people training,
- dog free areas and dog on leads areas,
- dogs under effective control, lead or not on lead,
- public liability insurance compulsory for dog owners,
- do nothing.

There will be an introduction to the green paper outlining what the issue is and why it might be advisable to address it. Then each of these options, and probably a lot of others, will be explained in detail with the arguments for and against each one.

The green paper is submitted to the Minister for approval and often will go to Cabinet with a Cabinet note. Cabinet is a weekly meeting of all the Ministers.

A Cabinet note is a covering sheet, which simply says that the Minister intends to distribute this paper. If any Minister has a concern, please let me know. (Cabinet notes are sometimes called Pinks because they are always printed on pink paper.) The Minister for Primary Industries might be concerned about the all dogs on leads in public option and how this would impact on droving stock. The Minister for Health may have a concern about banning all dogs because of the health benefits of dog ownership. The Minister for Child and Family Services may have a concern about doing nothing because kids have been hospitalised. The green paper may need to be changed to highlight these concerns. This also gives the Ministers fair warning that the matter is going to be drawn to the attention of the public so they can expect feedback – both positive and negative.

Once Cabinet has endorsed its release, the green paper is distributed, usually with a forward from the Minister and including a closing date for public submissions. Generally, this consultation period is around three months. Various strategies may be used to ensure that anyone with an interest has the chance to comment. This may be through a website, through relevant organisations, public meetings, newspaper advertisements or almost any other method that is deemed appropriate.

It is really important that interested individuals and organisations respond to green papers. If their views are not made known to the Government, it is unreasonable to expect the Government to take them into consideration. Remember that it is people that are behind this process. It is your responsibility to make sure those people hear and understand your perspective on the issue. On that note, it is also important that submissions are made in writing and that they are constructive. A comment like "This is stupid and will never work" is very difficult to use in any constructive manner. Even more pointless is a comment like "The Government doesn't know what its doing". Rationally, that is not going to help the people doing the work and trying to get it right.

It would be much better if the first respondent said "The requirement for a person to have a dog on a lead at all times is impossible for farmers droving sheep on public land".

Similarly, if the second respondent said "It is important that the Government appreciates that search and rescue dog handlers will not consider it a priority to collect dog faeces during an operation." They are comments that can be addressed because they are clear, not insulting and unambiguous.

STEP THREE – DEVELOPMENT OF A WHITE PAPER

As submissions are received, the departmental officer acknowledges them all and ensures that every comment is incorporated into the green paper. So, after each option there will be a list of who supports it and why and who does not support it and why.

Once this is done it usually becomes reasonably clear what the respondents want or will accept. From this document a draft 'white paper' is developed. This is called a white paper because it is 'ripe' i.e. it shows the direction the Government intends to take.
The white paper goes through all the options and says which have been discounted and why and makes a recommendation on the best way to address the issue.

It also highlights who is going to object to this suggestion and why and who is going to support it and why. The paper is generally written by the departmental officer who chaired the group that developed the green paper — again in consultation with those people. It goes up through the line management of the department to the Chief Executive and with his support is presented to the Minister for consideration.

Assuming the Minister and departmental senior managers agree with the recommendations, the Minister may choose to release the white paper or take it back to Cabinet first. This allows the Ministers to see in advance what is being proposed and raise any objections they may have or at least be forewarned in case people lobby them about it. Whichever course the Minister decides, the white paper may be modified or it might be approved as it is. Then it is no longer a draft but a final document. Usually the white paper is sent out to every person who responded to the green (another good reason why interested groups should respond to the green paper) – so they know that their comments were considered and can see the reasoning behind the final proposal. Again, there is usually a period of time set in which people can raise any concerns or issues that the drafting group may not have known or may have dismissed. Comments are taken on board and if there is anything significant it is referred to the Minister who makes the final decision on whether or not the proposed direction should be changed.

In general, when responding to a white paper, there is not much point in saying exactly the same thing that you said in response to the green. Those comments have already been considered. However, if there is additional information or something that adds strength to your case, it should be raised. Also, if you are pleased with the direction taken, it is important to say so. This helps the writing group to know that at least some sectors of the community are in support of what they are proposing and gives the Minister and his colleagues confidence in proceeding.

Now, at last, its time to start preparing a bill!

STEP FOUR — FROM WHITE PAPER TO BILL

This step is undertaken purely within Government with little or no outside involvement. Therefore, this section will be brief just to provide a vague understanding of what happens. First, a Cabinet submission is drafted. This is signed by the Minister and describes exactly what the changes are going to be and the social, economic, environmental, family and other impacts they may cause. It also states the consultation that has been undertaken, the objections raised, the groups likely to support and oppose and anything else that the Cabinet Ministers may wish to know.

Finally it asks their permission to draft a bill and has a set of drafting instructions attached. This document tells Parliamentary Counsel exactly what the bill is meant to do – the draftsmen work out the best way to achieve that result.

A bill is an Act that has not yet been endorsed by the Parliament or the Governor. In this case, the Bill would be called *'The Dog and Cat Management (Miscellaneous) Amendment Bill 2002'*.

Only an Act can change an Act, so once it is through the system, it will become *'The Dog and Cat Management (Miscellaneous) Amendment Act 2002'*. Interestingly, the paragraphs in an Act are called sections and subsections. In a bill they are clauses and subclauses.

The departmental officer spends considerable time with the parliamentary draftsman and ensures that the bill meets the requirements approved by Cabinet. Drafts of the bill may be discussed with the development group but they do not go out to the broader community. This would cause too much confusion because an early draft may contain errors and then end up being confused with the final draft. Once everyone is happy, the bill is 'settled'.

At the same time, the Second Reading Speech, or Report is prepared. This comprises two parts. The first is a general discussion of why the bill was drafted and what it is going to achieve and is written by the departmental officer. The second half is the explanation of clauses. This is written by the parliamentary draftsman and explains word by word what every change is and how it will change the existing Act.

The settled bill has a Certificate of Validity attached by Parliamentary Counsel. This is a statement saying that the bill is legal — things like it does relate to the objects and long title of the Act and that there is Head of Power to do what the bill is trying to achieve. The bill, second reading speech and Certificate of Validity are sent to the Ministers office all tied up together with some red ribbon. This is the 'red tape' of Government and the bill is literally tied up in red tape. It is strange that this phrase is used so frequently but most people do not know what red tape actually is!

If the Minister is happy with the bill, it is presented to Cabinet asking their approval to present it in the House. Sometimes, Parliamentary Counsel will say something cannot be done and small changes are made to what Cabinet has approved. When it goes back to Cabinet, these changes are pointed out to ensure that the Ministers are aware of any differences and approve of them. Assuming Cabinet approves, the process continues.

Next, it is taken to the Portfolio Committee. This is a group of Members of Parliament who are not Ministers but are on the same political side. The bill is explained to them in detail and any objections or queries sorted before it goes to Parliament.

At this stage, the Minister might decide to brief the opposition or that might be left until it is actually in Parliament.

STEP FIVE — THE BILL GOES TO PARLIAMENT

The responsible Minister may be a Member of the House of Assembly (Lower House) or a Member of the Legislative Council (Upper House). A Member of the House of Assembly is not permitted in the Legislative Council and vice versa. This is a historical agreement stemming from the House of Lords and the House of Commons in the British system. A Lord would not mix with Commoners and a Commoner would not be permitted to enter the House of Lords.
As a result, a Minister who is a Member of the House of Assembly will have an agreement with a Member of the Legislative Council who is of the same political persuasion (as opposed to an opposition member) that they will present bills on behalf of each other. In fact, one House is never even named in the other.

A member will say "This matter was discussed in Another Place" or "in The Other Place" and everybody knows what they mean, but the name is never used.

The bill is 'read' for the first time. It is not actually read but tabled in the House of Assembly by the Minister responsible. Each Member of the House is given a copy and it is recorded in Hansard, the documented proceedings of the House. It must lie on the table for a few days to ensure that any Member who wants to read it can and any who wish to raise questions has the opportunity to do so.

It is then read for the second time. At this stage, the second reading speech is also tabled and is reprinted in Hansard. In Federal law, the second reading speech can actually be used as evidence in future court proceedings. In the state system, this is not permitted but the document gives an essential historical record of what was proposed and why.

After the second reading the bill is debated. The Members would have been lobbied by any of their constituents who do or do not support the bill and would have their own views on it. Some will stand in support, others simply to make a statement on the issues the bill discusses and some will oppose it or suggest amendments. It is up to the Minister to decide which amendments he will or will not accept. The departmental officer is permitted to sit next to the Minister in the House during the debate to provide on the spot advice on the ramifications of any proposed amendment. The parliamentary draftsman sits in the corner and takes notes of any amendments so the bill can be changed accordingly. Often, the debate will be adjourned for a few days while these changes are made. The bill (with any amendments) is then read for the third time. Once everyone has said their piece, a vote is taken. As the Government of the day has the majority of seats in the House of Assembly, it is almost certain that the bill will get through but it may not be exactly the same as when it was presented.

Lobbying Ministers and Members of Parliament is a legitimate and democratic thing to do. But again, identify the issue of concern, be clear in what the problem is and propose mechanisms that would rectify it.

Don't just say "It's all rubbish", or "They are idiots" — those comments achieve absolutely nothing. Constructive comments are always taken into consideration. Comments like these cannot be seriously considered. Always go for the ball, not the man. Slandering politicians or public servants or council officers will not further your argument. Stick to the point, don't dwell on history, like what happened ten years ago when this was last considered unless it is directly pertinent to your argument. And finally, don't go off on tangents. You would be surprised how many people suddenly raise a totally unrelated issue — such as the re-routing of a bus service as a demonstration of Government inadequacy when the topic under discussion is actually dangerous dogs.

Basically, read the question, formulate an answer and submit it in a polite and timely manner.

Back to our bill. The next step is the Legislative Council. The Government of the day may or may not have a majority in the Upper House so whether or not the bill gets through and how much it is changed may depend on the independents and opposition members. The process is basically exactly the same as the House of Assembly. The Legislative Council is a house of review, so they will try address any issues that have been raised with them.

Once the bill has been passed by the Legislative Council, it has to go back to the House of Assembly. This may seem a waste of time but in fact it is essential. Given that the Government of the day endorsed this bill in the first place but it has been changed in both Houses, the Government must have the opportunity to say "Yes, that's okay" or "No, that is so different to what we proposed, we cant accept it". Usually, it is acceptable and is passed. If the Assembly make further changes it has to go back through the Legislative Council and back through the Assembly again. If agreement cannot be found, there will be a joint sitting of Parliament to sort the matter. It is extremely rare for the situation to end up like this. If there is absolutely no consensus, either the Government will pull the bill or the opposition will outright refuse it — which has the same effect, the bill goes no further.

But assuming this is not one of those rare instances — our bill is now endorsed by both Houses of Parliament.

STEP SIX — GOVERNOR APPROVAL

The bill is not an Act until it has received Royal Assent. That means the Governor has to say he endorses the bill and will make it an Act. The Governor will not do that except with the approval of Executive Council. Executive Council comprises the Premier and the two or three most senior Ministers. They meet weekly.

So, a Cabinet submission is prepared for the responsible Minister to sign seeking Cabinet's endorsement of the revised bill and stating that it has been approved by both Houses. This submission has to highlight all the changes that were made along the way and explain the impact of those changes. It also asks that Cabinet recommend to the Governor in Executive Council that the bill be enacted and recommends a date on which it will come into effect.

Usually, Cabinet does endorse these proposals because all Ministers are well aware of what has happened anyway. So, the Governor signs off and it is published in the Government Gazette the next day.

Guess what? Our green paper has become a white paper, our white paper a bill, our bill a settled bill and our settled bill an Act. It's virtually done.

STEP SEVEN — THE REGULATIONS

Just when you thought it was safe to go back into the water, consider the regulations. Every regulation relates to a section of the Act, so if the Act is changed, there will almost certainly be a need to make consequential changes to the regulations. So now, our regulations need changing.

Amending regulations is not nearly as difficult as amending an Act but it is still time consuming. There are not usually green or white papers and although consultation is essential, it is not as formal or protracted.

When the regulation amendments are consequential to the Act being changed, it is almost certain that the regulations would have been discussed in the process of amending the Act. If it is only the regulations that are being amended (not the Act), there is a need to ensure that all stakeholders have the opportunity to comment and that those comments are considered.

Assuming the consultation is all done and the Government direction decided, the process is simply through Cabinet. A submission is written for the Minister's signature seeking Cabinet approval to draft amendments to the regulations and drafting instructions are attached. All the aspects discussed in the cabinet submission to draft the bill apply equally in this case. If the submission is endorsed, the departmental officer and parliamentary draftsman sort out the detail and wording of the new regulations and the best way to achieve the desired result.

Once that is done, the draft regulations are settled. Just like the bill, they are sent to the Ministers office with a Certificate of Validity. Again, they are tied up with Government red tape.

For regulation amendments, there is no need to write a second reading speech because they are not debated in the House. Instead, they are accompanied by a report to the Legislative Review Committee. This report must accompany the draft regulations and Certificate of Validity. It is an abbreviated version of a second reading speech, outlining what the changes are, why they are necessary and their impacts. This goes to Cabinet for endorsement with the recommendation that Cabinet asks the Governor in Executive Council to endorse them and a date on which they are to come into effect. Subject to approval, the Governor signs and the new regulations are gazetted.

If the draft regulations are exactly what Cabinet endorsed in the first submission, this second submission goes to a subcommittee of Cabinet, not all the Ministers. This is because they have already seen it, already endorsed it and don't really need to see it again, so subcommittee approves it.

However, usually the draft regulations are not exactly what was approved. Parliamentary Counsel might say that its time to review the fines, or that some other regulation should be reworded to make it consistent with another Act that was just amended or something. If the settled regulations vary from that original approval, they must go back through the full Cabinet.

This is actually important because Cabinet submissions are examined by all the Departments that might be affected by the change and they have the opportunity, through their Ministers, to make confidential comments in Cabinet when it is considered. For example, our draft regulations may have some impact on the Police Dog Squad that we could not have known. The Minister for Police would point this out.

Okay, back to our regulations. The Legislative Review Committee is the final step. This committee comprises Members of Parliament who must scrutinise all subordinate legislation, including regulations, regulated codes of practice, local laws and bylaws, on behalf of the Parliament.

Unless there is a reason why regulations should be implemented earlier, they must lie before that committee and be tabled in Parliament for four months. This ensures that there is enough time for any stakeholder to raise objections with the committee should they so wish. If for some reason it is not possible to wait four months, eg, the Act is coming into effect sooner, then the regulations can become operational but if the Legislative Review Committee disallows them, anything that has been done under the powers they confer is void.

And that's all there is to it … except

THE FINAL STEP – IMPLEMENTATION

Depending on what the changes actually were, this might be the most difficult part of the whole process. If the amended Act establishes a Board, that Board must be established and functional. If it requires some training for inspectors or some other group, a training course must be developed and become available. If it changes fees that are mentioned in council or Government brochures, all those brochures must be changed.

Ideally, all this happens before the new Act and Regulations come into effect.

There is also a responsibility to ensure that people know what the new laws are and how they, as individuals, will be affected by them. Which means writing to the interest groups, addressing dog clubs, doing media interviews, writing press releases, answering a million phone calls and talking to anybody who want to talk about it. Often this is the most gruelling part of the whole thing.

Once again, community input is really important at this stage. The law has been changed and the new legislation is now in effect. Even if it is not exactly what you or your organisation would have written, help make it work. Your support and assistance in implementation can and will make the change easier for you and dog owners in your area. For example, if the new legislation provides for dog parks, suggest appropriate areas to your council. If it has changed registration requirements, have a meeting of your group and explain it to them — but make sure you understand it first! Basically, help yourself, help dog owners and help the broader community. After all, the aim from the outset was to reduce the threat of dog attack on our families and our neighbour's families. It's up to everyone to try to make this aim a reality.

Once this final step is complete, the process of amending legislation is finished. Generally, at this point, the departmental officer who was central to the process takes a big sigh and a week's leave.

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Deb Kelly is an Executive Officer within the South Australian Department of Environment, Heritage and Aboriginal Affairs. She is a veterinarian and has been actively involved in pounds, shelters and wildlife since childhood. Deb was instrumental in the development of the Dog and Cat Management Act 1995 and is still responsible for the legislative aspects of the Act on behalf of State Government. To fulfil this responsibility she works closely with the Dog and Cat Management Board, the RSPCA, Animal Welfare League and community groups.