

**A BILL
ENTITLED**

AN ACT to Repeal the Dogs (Liability for Injuries by) Act,
and to provide for liability for attacks by dogs and
for connected matters.

BE IT ENACTED by The Queen’s Most Excellent Majesty, by and
with the advice and consent of the Senate and House of Representatives of
Jamaica, and by the authority of the same, as follows:-

Short title.

1. This Act may be cited as the Dogs (Liability for Attacks) Act, 2020.

Interpretation.

2. In this Act –

“agent”, where used in relation to the Government, includes an
independent contractor employed by the Government;

“attack” includes any circumstance which does not result in injury,
but which creates a reasonable apprehension of injury;

“injury” means injury to an individual, and includes death, disease,
or any impairment of an individual’s physical or mental
condition;

“occupier”, in relation to premises or any public place, means a
person who under the Occupiers’ Liability Act has a duty of
care to visitors of the premises or public place, and includes a
tenant;

“owner”, in relation to a dog, means –

- (a) the person presumed under section 3 to be the owner of
the dog;
- (b) the person having the custody or care of the dog at the
time the injury concerned occurred; or

(c) where a dog is in a public place, the person who caused the dog to be in that public place;

“premises” means land or buildings, regardless of use;

“public place”, for the avoidance of doubt, has the meaning assigned to it in the Interpretation Act;

“veterinary surgeon” means a person registered as veterinary surgeon under the Veterinary Act.

Presumption of ownership of dog.

3. – (1) The occupier of any premises where a dog is kept, or permitted to live or remain, shall be presumed to be the owner of the dog.

(2) For the purposes of this section, where there is more than one occupier of the premises concerned, being premises let in separate apartments or lodgings (however described), the occupier of that particular part of the premises at which the dog was kept, or permitted to live or remain, at the time in question shall be presumed to be the owner of the dog.

(3) Nothing in this section precludes more than one person being presumed to be the owner of a dog and being held liable for injury caused by the dog accordingly.

(4) A person may rebut a presumption of ownership under this section by proving that the person was not the owner of the dog at the time in question and that the dog was kept, or permitted to live or remain, at the premises without the person’s sanction or knowledge.

(5) Where an individual who is presumed under this section to be the owner of a dog is under the age of eighteen years, any individual over the age of eighteen years who is the parent or guardian of that

individual shall be presumed to be the owner of the dog.

Duties of owners.

4. – (1) The owner of a dog has a duty to ensure that, at all times while the dog is in a public place –

- (a) the dog is kept under control;
- (b) the dog is fitted with a muzzle that prevents the dog from biting any individual; and
- (c) the dog is fitted with a restraint (such as a secured leash attached to a collar or harness), or contained in a receptacle, that allows the movements of the dog to be kept under control and prevents the dog from biting or presenting a menace to any individual.

(2) The owner of a dog shall not permit the dog to enter any public place at which a notice prohibiting entry by dogs is prominently displayed, unless the dog –

- (a) is being used, by the occupier, to secure the place;
- (b) is being used for a lawful purpose by a constable or other agent of the Government; or
- (c) is guiding a “person with a disability” as that term is defined in the Disabilities Act.

Civil liability.

5. – (1) The owner of a dog shall be liable in damages for injury done by the dog in any place, other than the premises (or part thereof) referred to in section 3 where the dog is kept, or permitted to live or remain, and it shall not be necessary for the party seeking compensation in damages to show –

- (a) a previous mischievous propensity in the dog;
- (b) the owner’s knowledge of a previous mischievous propensity in the dog; or

(c) that the injury was attributable to neglect on the part of the owner.

(2) Nothing in subsection (1) precludes the liability of a person under any other law for injury done on premises where a dog is kept, or permitted to live or remain.

(3) Compensation referred to in subsection (1) shall be recoverable in any court of competent jurisdiction by the person claiming the compensation.

(4) A person shall not be liable under this section if the person proves that at the time when the injury occurred the dog was in the custody or care of another person whom the first mentioned person reasonably believed to be a fit and proper person to exercise the duties referred to in section 4.

(5) Subsection (4) shall not apply in any case where the first mentioned person has employed or contracted the other person to provide a security service using the dog, and the other person, in providing that service, acted in the course of the person's duties.

(6) An action under this section shall be brought within six years after the date on which the injury occurred.

Criminal liability.

6. Where a dog attacks an individual in any place, other than the premises (or part thereof) referred to in section 3 where the dog is kept or permitted to live or remain, the owner of the dog commits an offence.

Defences.

7. It shall be a defence in any proceedings under section 5 or 6 for the defendant to prove –

(a) that the attack by the dog occurred in the defence against an offence (whether to person or property) being carried on by the