

Version No. 035
Domestic (Feral and Nuisance) Animals Act
1994

No. 81 of 1994

Version incorporating amendments as at 12 December 2007

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Version No. 035
Domestic (Feral and Nuisance) Animals Act
1994

No. 81 of 1994

Version incorporating amendments as at 12 December 2007

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purpose

The purpose of this Act is to promote animal welfare, the responsible ownership of dogs and cats and the protection of the environment by providing for—

- (a) a scheme to protect the community and the environment from feral and nuisance dogs and cats; and
- (b) a registration and identification scheme for dogs and cats which recognises and promotes responsible ownership; and
- (c) the identification and control of dangerous dogs, menacing dogs and restricted breed dogs; and
- (d) a registration scheme for domestic animal businesses which promotes the maintenance of standards of those businesses; and
- (e) matters related to the boarding of dogs and cats; and
- (ea) the regulation of the permanent identification of dogs, cats, horses and other animals; and

S. 1(c)
substituted by
No. 65/2007
s. 4(a).

S. 1(ea)
inserted by
No. 65/2007
s. 4(b).

S. 1(f)
amended by
No. 74/2000
s. 3(Sch. 1
item 36.1).

(f) payments to the Treasurer from fees received by Councils under this Act; and

(g) other related matters.

2 Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation within the period of 24 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

3 Definitions

(1) In this Act—

S. 3(1) def. of
Administrative Appeals Tribunal
repealed by
No. 52/1998
s. 311(Sch. 1
item 21.1).

* * * * *

animal shelter means any premises maintained for the purpose of providing shelter to, or finding new homes for, stray, abandoned or unwanted dogs or cats;

applicable organisation means an organisation that is declared by the Minister under section 5A to be an applicable organisation;

S. 3(1) def. of *applicable organisation* substituted by No. 87/2000 s. 4(a).

authorised planter means a person—

S. 3(1) def. of *authorised planter* inserted by No. 103/2003 s. 3(a).

- (a) who is qualified in accordance with section 63T; and
- (b) who is not a prohibited planter;

authorised officer means a person appointed as an authorised officer under section 71, 71A, 72 or 72A;

S. 3(1) def. of *authorised officer* substituted by No. 103/2003 s. 3(b).

board in relation to a dog or cat, means the taking of custody or possession of the dog or cat for keeping, accommodation, care, training or feeding for fee or reward;

Council has the same meaning as in the **Local Government Act 1989**;

dangerous dog means—

S. 3(1) def. of *dangerous dog* substituted by No. 87/2000 s. 4(b).

- (a) a dog which has been declared to be dangerous by a Council under Part 3;
- (b) a dog which by virtue of the operation of section 34A is a dangerous dog;

Department means the Department of Primary Industries;

S. 3(1) def. of *Department* substituted by No. 46/1998 s. 7(Sch. 1), amended by No. 56/2003 s. 11(Sch. item 6.1).

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Part 1—Preliminary

s. 3

S. 3(1) def. of
*domestic
animal
business*
amended by
Nos 87/2000
s. 4(c),
76/2005 s. 3.

domestic animal business means—

- (a) an animal shelter, Council pound or pet shop; or
- (b) an enterprise that is run for profit which carries out all or any of the following activities—
 - (i) the breeding of dogs or cats, where—
 - (A) the enterprise has more than 10 fertile female animals of either or both species; or
 - (B) the enterprise has less than 10 fertile female animals but the owner is not a member of an applicable organisation; or
 - (ii) the rearing, training or boarding of dogs or cats;

S. 3(1) def. of
*domestic
animals
registry
licence*
inserted by
No. 103/2003
s. 3(a).

domestic animals registry licence means a licence granted under section 63K;

S. 3(1) def. of
*domestic
animals
registry
service*
inserted by
No. 103/2003
s. 3(a).

domestic animals registry service means a service of keeping and maintaining records relating to dogs or cats that, in relation to each dog or cat about whom records are kept and maintained—

- (a) contain identifying information about the dog or cat and the owner of the dog or cat; and

-
- (b) are referenced to the dog or cat through information contained in a permanent identification device implanted in the dog or cat; and
 - (c) are not records maintained by a Council for the purposes of registration under Part 2;

implant includes insert;

S. 3(1) def. of *implant* inserted by No. 103/2003 s. 3(a).

laceration means a wound caused by—

- (a) the tearing of body tissue; or
- (b) multiple punctures caused by more than one bite from a dog;

S. 3(1) def. of *laceration* inserted by No. 65/2007 s. 5(1)(a).

local law means a local law made under the **Local Government Act 1989**;

menacing dog means a dog which has been declared to be a menacing dog by a Council under Part 3;

S. 3(1) def. of *menacing dog* inserted by No. 87/2000 s. 4(e).

municipal district has the same meaning as in the **Local Government Act 1989**;

notice of seizure means a notice under section 84I;

S. 3(1) def. of *notice of seizure* inserted by No. 65/2007 s. 5(1)(a).

owner in respect of a dog or cat, includes a person who keeps or harbours the animal or has the animal in his or her care for the time being whether the animal is at large or in confinement;

Domestic (Feral and Nuisance) Animals Act 1994
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Part 1—Preliminary

s. 3

S. 3(1) def. of
*permanent
identification
device*
inserted by
No. 103/2003
s. 3(a).

permanent identification device means a microchip or other electronic device that is capable of being permanently implanted in a dog or cat and that is designed to record information in a manner that can be electronically retrieved;

S. 3(1) def. of
pet shop
substituted by
No. 87/2000
s. 4(d).

pet shop means a shop—

- (a) situated in a permanent location; and
- (b) open not less than 5 days a week, excluding a public holiday appointed under the **Public Holidays Act 1993**; and
- (c) where a dog, cat, rabbit, guinea pig, mouse, reptile, caged bird or any other similar animal of a class or kind prescribed by the regulations is offered for sale, sold or bought and sold;

S. 3(1) def. of
pound
amended by
No. 76/2005
s. 3.

pound means any premises maintained for the purpose of impounding dogs or cats;

S. 3(1) def. of
*prescribed
identifying
information*
inserted by
No. 103/2003
s. 3(a).

prescribed identifying information in relation to a dog or cat, means information about the dog or cat and the owner (within the meaning of Part 4A) of the dog or cat the nature of which is prescribed;

S. 3(1) def. of
*prescribed
permanent
identification
device*
inserted by
No. 103/2003
s. 3(a).

prescribed permanent identification device means a permanent identification device that is of a class of permanent identification devices that is prescribed by the regulations;

S. 3(1) def. of
*prohibited
implanter*
inserted by
No. 103/2003
s. 3(a).

prohibited implanter means a person who is prohibited by the Secretary from implanting permanent identification devices in dogs and cats under Division 4 of Part 4A;

proprietor in relation to a domestic animal business means the owner or occupier of the premises at which the business is conducted;

recognised organisation means an organisation declared to be a recognised organisation by the Minister under section 5A;

S. 3(1) def. of *recognised organisation* inserted by No. 83/2001 s. 9.

restricted breed dog means a dog of a breed whose importation into Australia is prohibited under the Customs (Prohibited Imports) Regulations 1956 of the Commonwealth;

S. 3(1) def. of *restricted breed dog* inserted by No. 83/2001 s. 9.

rush at, in relation to a dog, means to approach a person to a distance of less than 3 metres in a menacing manner, displaying aggressive tendencies that may include snarling, growling and raised hackles;

S. 3(1) def. of *rush at* inserted by No. 87/2000 s. 4(e).

Secretary means the person who is, for the time being, the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department;

S. 3(1) def. of *Secretary* inserted by No. 103/2003 s. 3(a) (as amended by No. 108/2004 s. 117(1) (Sch. 3 item 12.1)).

serious injury means—

- (a) an injury requiring medical or veterinary attention in the nature of—
 - (i) a broken bone; or
 - (ii) a laceration; or
 - (iii) a partial or total loss of sensation or function in a part of the body;
or
- (b) an injury requiring cosmetic surgery;

S. 3(1) def. of *serious injury* inserted by No. 65/2007 s. 5(1)(a).

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s. 4

S. 3(1) def. of
*subordinate
instrument*
repealed by
No. 65/2007
s. 5(1)(b).

* * * * *

vehicle includes a motor car, bus, bicycle, truck or
motor cycle.

S. 3(1) def. of
*veterinary
practitioner*
inserted by
No. 103/2003
s. 3(a).

veterinary practitioner means a veterinary
practitioner registered under the **Veterinary
Practice Act 1997**.

S. 3(2)
amended by
Nos 46/1998
s. 7(Sch. 1),
56/2003
s. 11(Sch.
item 6.2),
108/2004
s. 117(1)
(Sch. 3
item 59.2).

- (2) If, under the **Public Administration Act 2004**,
the name of the Department is changed, the
reference in the definition of *Department* in
subsection (1) to the Department of Primary
Industries is, from the date when the name is
changed, to be taken to be the reference to the
Department by its new name.

S. 4
amended by
No. 87/2000
s. 5.

4 Parent or guardian deemed to be owner

Where the owner of a dog or cat is under the age
of 17 years, for the purposes of this Act, the
parent or guardian of that person is deemed to be
the owner.

S. 5
amended by
No. 87/2000
s. 6 (ILA
s. 39B(1)).

5 Governor in Council exemptions

- (1) The Governor in Council may by order published
in the Government Gazette exempt—
- (a) any animal or class of animal; or
 - (b) any domestic animal business or class of
domestic animal business—

from the operation of all or any of the provisions
of this Act.

- (2) The Governor in Council may impose conditions on an exemption that the Governor in Council considers to be appropriate in the circumstances.

S. 5(2)
inserted by
No. 87/2000
s. 6.

5A Applicable organisations and recognised organisations

S. 5A
(Heading)
inserted by
No. 83/2001
s. 10(1).

- (1) The Minister may declare, by notice published in the Government Gazette, that an organisation is an applicable organisation if—

S. 5A
inserted by
No. 87/2000
s. 7.

- (a) the organisation has applied to the Minister to be declared an applicable organisation; and
- (b) the Minister is satisfied that the organisation meets the criteria set out in the relevant guidelines; and
- (c) the organisation does not represent owners of dogs of a breed whose importation into Australia is prohibited under the Customs (Prohibited Imports) Regulations 1956 of the Commonwealth.

- (1A) The Minister may declare, by notice published in the Government Gazette, that an organisation is a recognised organisation if—

S. 5A(1A)
inserted by
No. 83/2001
s. 10(2).

- (a) the organisation has applied to the Minister to be declared a recognised organisation; and
- (b) the organisation represents the owners of restricted breed dogs; and
- (c) the Minister is satisfied that the organisation meets the criteria set out in the relevant guidelines.

- (2) An application to be an applicable organisation or a recognised organisation must include—

S. 5A(2)
amended by
No. 83/2001
s. 10(3).

- (a) a copy of the organisation's annual report of the preceding year; and

- (b) the organisation's code of ethics and details of how the code is enforced; and
- (c) the outcome of any disciplinary action taken by the organisation for breaches of the ethics code during the preceding year; and
- (d) any other information required by the Minister.

S. 6
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 59.2).

6 Minister's power to delegate

The Minister may, in writing, delegate to any employee employed under the **Public Administration Act 2004** in the administration of this Act all or any of the following powers—

S. 6(aa)
inserted by
No. 83/2001
s. 11.

- (a) his or her power to approve organisations under section 7;
- (aa) his or her power to make appointments to review panels under section 98E(1);

S. 6(ab)
inserted by
No. 69/2004
s. 22(a).

- (ab) his or her power to appoint authorised officers under section 71;

S. 6(b)
amended by
No. 69/2004
s. 22(b).

- (b) his or her power to issue identity cards to authorised officers under section 73.

7 Exemptions for guide dogs

- (1) A visually impaired person or hearing impaired person who keeps and uses a dog as a guide dog is not liable for an offence under this Act in respect of that dog, where, in acting in the manner which would constitute the offence, the dog was performing its functions as a guide dog.
- (2) In the case of a dog which is owned by an organisation which trains guide dogs and which is approved by the Minister, the owner is not liable

for an offence under this Act in respect of that dog, where in acting in the manner which would constitute the offence, the dog was being trained as a guide dog.

(3) Despite Part 2—

- (a) a visually impaired person or hearing impaired person who keeps and uses a dog as a guide dog is not required to pay a fee for the registration of that dog; or
- (b) an organisation which trains guide dogs and which is approved by the Minister under subsection (2), is not required to pay a fee for the registration of a dog owned by the organisation which is being trained as a guide dog.

(4) Despite anything in any other Act or subordinate instrument a visually impaired person, hearing impaired person or person training a guide dog may, at all times and in all places, be accompanied by a dog kept and used, or trained by him or her as a guide dog.

8 Exemptions for dogs used by government authorities

- (1) In the case of a dog working with a person who is carrying out duties for a Department or Agency of the State or Commonwealth, that person is not liable for an offence under this Act in respect of that dog, where, in acting in the manner which would constitute the offence, the dog was working with that person.
- (2) Despite anything in any other Act or subordinate instrument a person to whom subsection (1) applies is entitled to be accompanied by that dog at all times and in all places while he or she is working with the dog.

- (3) Despite Part 2, the owner of a dog working with a person who is carrying out duties for a Department or Agency of the State or Commonwealth is not required to pay a fee for the registration of that dog.

9 Act binds the Crown

This Act binds the Crown in right of the State of Victoria, and also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

PART 2—REGISTRATION OF DOGS AND CATS

Division 1—Registration requirements

10 Requirement to apply for registration

- (1) The owner of a dog or cat must apply to register that dog or cat with the Council of the municipal district in which the dog or cat is kept, if the animal is over 3 months old.

S. 10(1)
amended by
Nos 69/2004
s. 23, 65/2007
s. 6.

Penalty: 10 penalty units.

- (2) The owner of a dog or cat which is registered must apply for renewal of the registration of that dog or cat with the Council of the municipal district in which the dog or cat is kept, before the expiration of the current registration.

S. 10(2)
amended by
No. 65/2007
s. 6.

Penalty: 10 penalty units.

- (3) If a person is making an application under subsection (1) in relation to a dog, that person must include with the application a declaration as to whether or not the dog in respect of which the application is made is a restricted breed dog.

S. 10(3)
inserted by
No. 83/2001
s. 12,
amended by
Nos 103/2003
s. 4, 76/2005
s. 4.

Penalty: 10 penalty units.

10A Council may refuse to register dogs and cats unless desexed

S. 10A
inserted by
No. 76/2005
s. 5.

- (1) A Council may resolve that it will not, after a specified future date, register or renew the registration of a dog or cat unless the dog or cat—
- (a) is desexed; or
 - (b) is exempted under this Act from any requirement to be desexed.
- (2) A Council may resolve to amend or revoke any resolution made under this section.

s. 10B

- (3) If a Council makes a resolution under this section—
- (a) it must cause a copy of the resolution to be published in the Government Gazette and in a newspaper circulating in the municipal district of the Council; and
 - (b) it must give effect to the resolution.
- (4) A Council must not register or renew the registration of a dangerous dog or a restricted breed dog unless the dog—
- (a) is desexed; or
 - (b) in the case of a dangerous dog that is not also a restricted breed dog, is exempt under section 10B(1)(c), 10B(1)(d) or 10B(1)(e) from the requirement to be desexed; or
 - (c) in the case of a restricted breed dog, is exempt under section 10B(1)(e) from the requirement to be desexed.

S. 10A(4)(b)
substituted by
No. 65/2007
s. 7.

S. 10A(4)(c)
inserted by
No. 65/2007
s. 7.

S. 10B
inserted by
No. 76/2005
s. 5.

10B Dogs and cats that are exempt from desexing

- (1) The following dogs and cats do not have to be desexed to be registered or to have their registration renewed by a Council—
- (a) a dog or cat that is owned by a person or body that conducts a domestic animal business under which dogs or cats are bred and the dog or cat is used for breeding purposes in connection with that business;
 - (b) a dog or cat that is owned by a person who is a current member of an applicable organisation and the animal is registered with that organisation;

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- (c) a dangerous dog that is kept as a guard dog for non-residential premises;
 - (d) a dangerous dog that has undergone protection training in accordance with any relevant Code of Practice made under section 59;
 - (e) a dog or cat that is the subject of written veterinary advice that the health of the dog or cat is liable to be significantly prejudiced if it is desexed;
 - (f) a dog or cat that is of a class of dog or cat that is exempt under a resolution made under section 10A from a requirement to be desexed.
- (2) A Council may, in any resolution made under section 10A, exempt a class of dog or cat from any requirement to be desexed for the purposes of registration or the renewal of registration.
- (3) Subsection (2) does not apply to a dangerous dog or a restricted breed dog.

10C Refusal of registration of dogs and cats unless permanently identified

- (1) A Council must not register a dog or cat unless the dog or cat—
- (a) has been implanted with a prescribed permanent identification device; or
 - (b) is of a class of dog or cat that is exempt, under a resolution made under section 10D(3), from the requirement to be implanted with such a device; or
 - (c) is otherwise exempted under this Act from the requirement to be implanted with such a device; or

S. 10C
inserted by
No. 76/2005
s. 6,
substituted by
No. 76/2005
s. 7.

Domestic (Feral and Nuisance) Animals Act 1994
No. 81 of 1994
Part 2—Registration of Dogs and Cats

s. 10C

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- (d) subject to subsection (2), has previously been registered with that Council at any time in the 12 month period immediately before the application for registration was lodged.
- (2) Subsection (1)(d) does not apply if a resolution of the Council under subsection (3) is in effect under which dogs or cats of the same class as the dog or cat are required to be implanted with a prescribed permanent identification device for the purposes of the renewal of registration.
- (3) A Council may resolve that it will not, after a specified future date, renew the registration of any dog or cat unless the dog or cat—
- (a) has been implanted with a prescribed permanent identification device; or
 - (b) is exempted under this Act from any requirement to be implanted with such a device.
- (4) A Council may resolve to amend or revoke any resolution made under this section.
- (5) If a Council makes a resolution under this section—
- (a) it must cause a copy of the resolution to be published in the Government Gazette and in a newspaper circulating in the municipal district of the Council; and
 - (b) it must give effect to the resolution.
- (6) A Council must not register or renew the registration of a dangerous dog, a menacing dog or a restricted breed dog unless the dog has been implanted with a prescribed permanent identification device.
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10D Dogs and cats that are exempt from permanent identification

S. 10D
inserted by
No. 76/2005
s. 7.

- (1) This section does not apply to a dangerous dog, a menacing dog or a restricted breed dog.
- (2) A dog or cat that is the subject of written veterinary advice that the health of the dog or cat is liable to be significantly prejudiced if it is implanted with a prescribed permanent identification device is exempt from any requirement to be so implanted for the purposes of registration or the renewal of registration.
- (3) A Council may resolve that a class of dog or cat is exempted from any requirement to be implanted with a prescribed permanent identification device for the purposes of registration.
- (4) A Council may, in any resolution made under section 10C, exempt a class of dog or cat from any requirement to be implanted with a prescribed permanent identification device for the purposes of the renewal of registration.
- (5) A Council may resolve to amend or revoke any resolution made under this section.
- (6) If a Council makes a resolution under this section—
 - (a) it must cause a copy of the resolution to be published in the Government Gazette and in a newspaper circulating in the municipal district of the Council; and
 - (b) it must give effect to the resolution.

11 Period of registration

The registration of a dog or cat or renewal of such registration remains in force until 10 April of the year following the registration or renewal.

12 Agents for registration

- (1) A Council may appoint a person or organisation to act as an agent for the Council in the registration of cats and dogs, other than dangerous dogs if that person or organisation is—
- (a) registered as a veterinary practitioner under the **Veterinary Practice Act 1997**; or
 - (b) the proprietor of a domestic animal business conducted on registered premises; or
 - (c) approved by the Council for that purpose.
- (2) An agent must—
- (a) register or renew the registration of an animal if the application is in order and accompanied by the appropriate fee; or
 - (b) refer an application to register or renew registration to the Council.

S. 12(1)(a)
substituted by
No. 58/1997
s. 96(Sch.
item 2).

12A Dogs and cats must be permanently identified before sale or being given away

The proprietor of a domestic animal business must not sell, or give away, a dog or cat unless the dog or cat has been implanted with a prescribed permanent identification device.

Penalty: 10 penalty units.

13 Notification of sale by domestic animal business

If the proprietor of a domestic animal business sells, or gives away, a dog or cat which is not registered, he or she must notify the Council with which the animal should be registered, within 7 days after the sale or the giving away of the animal, of—

- (a) the sale, or the giving away of the animal;
and

S. 12A
inserted by
No. 76/2005
s. 8.

S. 13
substituted by
No. 76/2005
s. 8.

- (b) a description of the animal; and
- (c) the name and address of the new owner of the animal; and
- (d) the unique number of the microchip contained in the prescribed permanent identification device implanted in the animal.

Penalty: 3 penalty units.

Division 2—Procedures for registration

14 Application for registration or renewal of registration

An application for registration or renewal of registration of a dog or cat must—

- (a) be made to the Council or an agent appointed by the Council; and
- (b) be in the form approved by the Council; and
- (c) be accompanied by—
 - (i) the relevant fee fixed by the Council; and
 - (ii) if relevant, evidence in a form required by the Council that the dog or cat is desexed; and
 - (iii) if relevant, evidence in a form required by the Council that the dog or cat is implanted with a prescribed permanent identification device.

S. 14(c)
substituted by
No. 76/2005
s. 9(1).

S. 14(c)(ii)
amended by
No. 76/2005
s. 9(2)(a).

S. 14(c)(iii)
inserted by
No. 76/2005
s. 9(2)(b).

15 Registration fees

- (1) A Council must, by resolution, fix fees to be paid for registration or renewal of registration under this Part.
- (2) If a dog or cat is required to be registered for part only of a year, the Council may permit a pro rata fee to be paid for that registration which

represents that proportion of the year for which the animal is registered.

- (3) A resolution under subsection (1) must adopt the principles set out in this section but may make provision for other matters including the circumstances in which a fee or part of a fee may be refunded.
- (4) A scheme of registration fees in respect of dogs or cats must apply the following principles—
- (a) the maximum fee is to be payable in respect of a class of dog described in Column 1 of Part 1 of the Schedule or a class of cat described in Column 1 of Part 2 of the Schedule;
 - (b) the reduced fee is to be payable in respect of a class of dog described in Column 2 of Part 1 of the Schedule or a class of cat described in Column 2 of Part 2 of the Schedule;
 - (c) in the case of a dangerous dog (that is not of a class of dangerous dog referred to in paragraph (d)), a menacing dog or a restricted breed dog, the fee payable must be no less than the amount of the maximum fee for a dog under paragraph (a);
 - (d) the fee payable in respect of a dangerous dog in any of the following classes is to be the same amount as the maximum fee for a dog under paragraph (a)—
 - (i) a dangerous dog that is kept as a guard dog for non-residential premises; or
 - (ii) a dangerous dog that has undergone protection training in accordance with any relevant Code of Practice made under section 59.

S. 15(4)
substituted by
No. 76/2005
s. 10(1).

- (5) In fixing a maximum fee for registration of dogs or cats, the Council must fix a fee which is at least 3 times greater than the reduced fee.
- (6) A Council must waive 50% of a registration fee which a person would otherwise be required to pay for a dog or cat under this section if that person—
- (a) is an eligible recipient within the meaning of the **State Concessions Act 2004**; and
 - (b) has completed and given to the Council an application for such a waiver in the form approved by the Council.
- (7) Subsection (6) does not apply to a dangerous dog, a menacing dog or a restricted breed dog.

S. 15(6)(a) amended by No. 82/2004 s. 13(Sch. item 1).

S. 15(7) inserted by No. 87/2000 s. 8, substituted by No. 76/2005 s. 10(2).

Division 3—Powers and duties of Councils with respect to registration

16 Registration of dogs and cats other than dangerous or restricted breed dogs

S. 16 amended by No. 83/2001 s. 13, substituted by No. 76/2005 s. 11.

A Council must register or renew the registration of a dog or cat (other than a dangerous dog or a restricted breed dog) that is required to be registered under this Act if—

- (a) the application for registration or renewal of the registration is accompanied by the appropriate fee and otherwise complies with this Act and the regulations; and
- (b) any pre-condition for registration or the renewal of registration imposed by or under this Act in respect of the cat or dog has been met.

s. 17

17 Registration of dangerous and restricted breed dogs

S. 17
(Heading)
inserted by
No. 76/2005
s. 12(1).

- (1) A Council may register or renew the registration of a dangerous dog and may impose conditions upon the registration of that dog.

S. 17(1)
amended by
Nos 83/2001
s. 14(a),
76/2005
s. 12(2).

- (1AA) Subject to subsection (1A), a Council must not register a restricted breed dog.

S. 17(1AA)
inserted by
No. 65/2007
s. 8(1).

S. 17(1A)
inserted by
No. 76/2005
s. 12(3),
substituted by
No. 65/2007
s. 8(2).

- (1A) A Council may register a restricted breed dog if—
- (a) the dog was in Victoria immediately before the commencement of section 12 of the **Primary Industries Acts (Further Amendment) Act 2005**; and
 - (b) the dog is currently registered with the Council as a breed of dog other than a restricted breed dog.

Note

Under sections 10A(4) and 10C(6), a Council cannot register a restricted breed dog unless the dog is desexed (subject to the exception under section 10B(1)(e)) and has been implanted with a prescribed permanent identification device.

S. 17(1B)
inserted by
No. 76/2005
s. 12(3).

- (1B) A Council may renew the registration of a restricted breed dog.

S. 17(1C)
inserted by
No. 76/2005
s. 12(3).

- (1C) A Council may impose conditions on the registration or the renewal of the registration of a dog under subsection (1A) or (1B).

(2) If the Council proposes to exercise a discretion not to register or renew the registration of a dangerous dog or a restricted breed dog that is able to be registered or have its registration renewed by the Council under this Act, the Council must—

S. 17(2)
amended by
Nos 83/2001
s. 14(b),
76/2005
s. 12(4),
65/2007
s. 8(3).

(a) notify the owner; and

(b) allow the owner the opportunity to make both written and oral submissions to the Council.

(3) The Council must consider any submission to it before making its decision.

(4) If the Council has decided not to register or renew the registration of a dangerous dog or a restricted breed dog, it must serve written notice of that decision on the owner.

S. 17(4)
amended by
No. 83/2001
s. 14(c).

(5) The notice must—

(a) be served within 7 days of the making of the decision; and

(b) give reasons for the decision.

18 Council to keep and allow inspection of register

(1) The Council must keep a register of all registered dogs and cats at the Council office.

(2) The registration of any dog or cat may be inspected by any person—

(a) during office hours; and

(b) upon payment of the fee fixed by the Council for the inspection of that registration.

- (3) A person may—
- (a) make a record of the information contained in the registration of a dog or cat; or
 - (b) obtain a certificate from the Council setting out all or any requested particulars in relation to the registration of a dog or cat—
- upon payment of the fee fixed by the Council for making such a record or obtaining such a certificate.

Division 4—Identification of registered animals

19 Registration numbers, certificates and identification markers

- (1) The Council must—
- (a) allocate a registration number to every dog or cat which is registered; and
 - (b) give or send to the owner a registration certificate in the form approved by the Council; and
 - (c) issue to the owner of a registered cat or a registered dog, an identification marker which identifies, either directly or indirectly, the name of the Council, the registration number of the animal and the year of registration.
- (2) If a person is the owner of a dangerous dog, a menacing dog or a restricted breed dog, that person must ensure that the dog is implanted with a prescribed permanent identification device.
- Penalty: 5 penalty units.

S. 19(2)
substituted by
No. 83/2001
s. 15,
amended by
Nos 103/2003
s. 5, 50/2005
s. 10.

20 Registered dog or cat to have identification marker outside premises

- (1) If a registered dog or cat is found outside the owner's premises without the identification required by section 19, the owner is guilty of an offence and liable to a penalty of not more than 1 penalty unit.
- (2) Subsection (1) does not apply to—
- (a) a fox hound, beagle or greyhound engaged in a public coursing match or in a hunt organised by a hunt club registered with the Hunts Club Association of Victoria Incorporated or any successor in law of that association; or
 - (b) a dog engaged in working livestock; or
 - (c) a dog going to a place for the purpose of working livestock or returning from a place where it has been working livestock if it is under the effective control of some person; or
 - (d) a dog or cat while it is being exhibited for show purposes at a fixture conducted under the rules and regulations of an applicable organisation; or
 - (da) a dog while it is being exhibited for show purposes at a fixture conducted by a recognised organisation; or
 - (e) a dog while it is being trained for or is participating in obedience trials or classes, retrieving game, hunting or some other customary sporting activity and is under the effective control of a responsible person.

S. 20(1)
amended by
No. 65/2007
s. 9.

S. 20(2)(d)
amended by
No. 87/2000
s. 9.

S. 20(2)(da)
inserted by
No. 83/2001
s. 16.

S. 21
amended by
No. 65/2007
s. 9.

21 Unregistered dog or cat must not have identification marker

If an unregistered dog or cat is found with an identification marker issued by a Council the owner is guilty of an offence and liable to a penalty of not more than 1 penalty unit.

22 Offence to remove or damage identification marker

A person, who is not the owner of a registered dog or cat must not remove the identification marker issued by the Council from that cat or dog or wilfully alter or deface the marker.

Penalty: 1 penalty unit.

PART 3—CONTROL OF DOGS AND CATS

Division 1—Stray dogs and cats

23 Dogs and cats on private property without permission

S. 23
substituted by
No. 87/2000
s. 10.

- (1) If a dog or cat has been present on private property on more than one occasion without the permission of the owner or occupier of the property, the owner or occupier of private property or an authorised officer may seize the dog or cat while it is present on the property.
- (2) The owner or occupier of the private property or the authorised officer who has seized a dog or cat under subsection (1) must immediately so notify the Council of the municipal district in which the property is situated.
- (3) If the authorised officer who seized a dog or cat under subsection (1) is able to identify the owner of the dog or cat, the authorised officer must, within 5 business days after the seizure of the dog or cat, serve on the owner of the dog or cat a notice of objection to the presence of that dog or cat on the private property.
- (4) If, after a notice under subsection (3) has been served, the dog or cat enters or remains on the private property, the owner of the dog or cat is guilty of an offence and liable to a penalty of not more than 1 penalty unit for a first offence, and 3 penalty units for a second or subsequent offence.
- (5) A notice under subsection (3) must be served either personally or by registered post.

S. 23(3)
substituted by
No. 65/2007
s. 10(1).

S. 23(4)
amended by
No. 65/2007
s. 10(2).

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- (6) A copy of a notice under subsection (3) must be given to the owner or occupier of the private property within 24 hours after the notice being served.
- (7) In this section, *business day* means a day other than—
- (a) a Saturday or Sunday; or
 - (b) a public holiday appointed under the **Public Holidays Act 1993**.

24 Dogs found at large

S. 24(1)
amended by
Nos 87/2000
s. 11(a),
65/2007
s. 11(1).

- (1) If a dog is found at large outside the premises of the owner or not securely confined to the owner's premises, between sunrise and sunset, the owner is guilty of an offence and liable to a penalty of not more than 3 penalty units.

S. 24(2)
amended by
Nos 87/2000
s. 11(b),
65/2007
s. 11(1).

- (2) If a dog is found at large outside the premises of the owner or not securely confined to the owner's premises between sunset and sunrise, the owner is guilty of an offence and liable to a penalty of not more than 5 penalty units.

25 Cats found at large

S. 25(1)
amended by
Nos 76/2005
s. 13, 65/2007
s. 11(2).

- (1) If a cat is found at large outside the premises of the owner or not securely confined to the owner's premises, in a municipal district or a specified part of a municipal district in respect of which an order under this section has been made, during the hours specified in the order, the owner is guilty of an offence and liable to a penalty of not more than 1 penalty unit for a first offence and 3 penalty units for a second or subsequent offence.
- (2) A Council may, by resolution, make an order under this section.

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- (3) An order made by a Council under this section must be published in the Government Gazette and in a newspaper circulating in the municipal district of the Council making the order.

26 Dogs and cats found in places specified by the Council

- (1) If a dog or cat is found in a place in respect of which an order under this section has been made in contravention of that order or any terms and conditions of that order, the owner is guilty of an offence and liable to a penalty of not more than 2 penalty units for a first offence and 4 penalty units for a second or subsequent offence. **S. 26(1) amended by No. 65/2007 s. 11(2).**
- (2) A Council may by resolution make an order under this section which may do all or any of the following—
- (a) prohibit the presence of dogs and cats in any public place of the municipal district of the Council; **S. 26(2)(a) amended by No. 87/2000 s. 12(1).**
- (b) impose all or any of the following conditions on the presence of dogs or cats in any public place of the municipal district of the Council— **S. 26(2)(b) amended by No. 87/2000 s. 12(1).**
- (i) conditions as to the means of restraint of dogs or cats;
- (ii) conditions as to the times at which the presence of dogs or cats is or is not permitted;
- (iii) any other conditions that are specified in the order.

s. 27

S. 26(2A)
inserted by
No. 87/2000
s. 12(2).

- (2A) If the Council proposes to make an order under this section in respect of a public place that is on private land, the Council must obtain the agreement of the owner or occupier of the private property to the order before making the order.
- (3) An order made by the Council under this section must be published in the Government Gazette and in a newspaper circulating in the municipal district of the Council making the order.
- (4) A condition made under subsection (2)(b)(i) does not apply to a dog in any of the circumstances listed in section 20(2).
- (5) In this section, *public place* has the same meaning as in section 3 of the **Summary Offences Act 1966**.

S. 26(5)
inserted by
No. 87/2000
s. 12(3).

Division 2—Particular provisions for the control of dogs and cats

27 Restraint of greyhounds

S. 27(1)
amended by
No. 65/2007
s. 11(2).

- (1) If a greyhound is outside the premises of its owner and is not—
- (a) muzzled in a manner which is sufficient to prevent it causing injury by biting; and
 - (b) under the effective control of some person by means of a chain, cord or leash—
- the owner of that greyhound and any person for the time being in charge of the greyhound are each guilty of an offence and liable to a penalty of not more than 3 penalty units for a first offence and 5 penalty units for a second or subsequent offence.
- (2) For the purposes of subsection (1)(b) control by one person of more than 4 greyhounds at the one time is not "effective control".

- (3) Subsection (1) does not apply to—
- (a) a greyhound which is being raced, coursed, exercised or trained upon land which the owner is authorised or entitled to use for that purpose; or
 - (b) a greyhound while it is being exhibited for show purposes at a fixture conducted under the rules and regulations of the Victorian Canine Association or any successor in law of that association or an organisation approved by the Council of the municipal district in which the fixture is being conducted; or
 - (c) a greyhound while it is participating in obedience trials or classes and is under the effective control of a responsible person.

28 Offence to set on dog to attack

A person must not wilfully set on or urge a dog to attack, bite, rush at or chase any person or animal except when hunting in accordance with the provisions of the **Prevention of Cruelty to Animals Act 1986**.

Penalty: 120 penalty units or imprisonment for 6 months.

S. 28
amended by
Nos 87/2000
s. 13, 83/2001
s. 24.

28A Offence to train dogs to attack

A person must not train a dog to attack, bite, rush at, chase or in any way menace persons, animals or anything worn by persons, unless the dog is so trained—

- (a) in the course of conducting a domestic animal business on premises that is registered under Part 4, if training of such a nature is authorised under that registration; and

S. 28A
inserted by
No. 103/2003
s. 6.

(b) that person—

(i) is conducting; or

(ii) is employed by a person who is
conducting—

a domestic animal business on premises that
is registered under Part 4.

Penalty: 60 penalty units or imprisonment for
3 months.

S. 29
amended by
Nos 87/2000
s. 14, 83/2001
s. 25,
substituted by
No. 65/2007
s. 12.

29 Penalty and liability for attack by dog

- (1) If a dangerous dog, that is not a guard dog guarding non-residential premises, attacks or bites any person or animal, the owner is guilty of an offence and liable to a term of imprisonment not exceeding 6 months or to a fine not exceeding 120 penalty units.
- (2) If a dog that is not a dangerous dog, attacks or bites any person or animal and causes death or a serious injury to the person or animal, the owner of the dog is guilty of an offence and liable to a penalty not exceeding 20 penalty units.
- (3) If a dog that is not a dangerous dog, attacks or bites any person or animal and the injuries caused by the dog to the person or animal are not in the nature of a serious injury, the owner of the dog is guilty of an offence and liable to a penalty not exceeding 10 penalty units.
- (4) If a dog rushes at or chases any person, the owner is guilty of an offence and liable to a penalty of not more than 4 penalty units.
- (5) Subsections (1), (2), (3) and (4) do not apply if, the incident occurred—
 - (a) because the dog was being teased, abused or assaulted; or

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- (b) because a person was trespassing on the premises on which the dog was kept; or
 - (c) because another animal was on the premises on which the dog was kept; or
 - (d) because a person known to the dog was being attacked in front of the dog.
- (6) Subsections (2), (3) and (4) do not apply if, the incident occurred as part of a hunt in which the dog was taking part and which was conducted in accordance with the **Prevention of Cruelty to Animals Act 1986**.
- (7) If an owner of a dog is found guilty of an offence under this section the court may, in addition to any other order made by the court, order that the owner pay compensation for any damage caused by the conduct of the dog.
- (8) If the owner of a dog is found guilty of an offence under this section, the court may order that the dog be destroyed by an authorised officer of the Council of the municipal district in which the offence occurred.
- (9) In this section, *owner*, in relation to a dog, means the person who apparently has control of the dog at the time the dog conducts itself in the manner specified in subsection (1), (2), (3) or (4).

30 Owner of livestock able to destroy dog or cat found at large near livestock

- (1) The owner of any animals or birds kept for farming purposes, any person authorised by the owner or an authorised officer may destroy any dog or cat found at large—
- (a) in the place where the animals or birds are confined; or
 - (b) if the animals or birds are tethered, in the vicinity of the animals or birds.
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- (2) The owner, a person authorised by the owner or authorised officer does not incur any civil or criminal liability for acting under subsection (1).

31 Authorised officer able to destroy dog or cat found at large in certain areas

- (1) An authorised officer may destroy any dog or cat found at large—
- (a) in any area which is designated as a control zone under a management plan made under an Act which is a relevant law within the meaning of the **Conservation, Forests and Lands Act 1987**; or
 - (b) in any area classified as a conservation zone under a planning scheme under the provisions of the **Planning and Environment Act 1987**.
- (2) An authorised officer does not incur any civil or criminal liability for acting under subsection (1).

32 Dogs or cats creating a nuisance

- (1) The occupier of any premises where a dog or cat is kept or permitted to remain must not allow that animal to be a nuisance.

Penalty: 1 penalty unit.

- (2) A dog or cat is to be regarded as a nuisance for the purposes of this section—
- (a) if it injures or endangers the health of any person; or
 - (b) if it creates a noise, by barking or otherwise, which persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises.

(3) If a person is found guilty of an offence against this section, the court may order that person to take that action (if any) to abate the nuisance which is specified in the order.

S. 32(3)
amended by
No. 65/2007
s. 13.

(4) A person must comply with an order made against him or her under subsection (3).

Penalty: 3 penalty units.

33 Dogs and cats not to be abandoned

The owner of a dog or cat must not abandon that animal.

Penalty: 10 penalty units.

33A Council animal shelters and pounds must accept surrendered animals

S. 33A
inserted by
No. 76/2005
s. 14.

(1) A Council of a municipal district must accept any dog or cat kept in that municipal district which is given to the Council by the owner of the animal because the owner is no longer willing or able to care for that animal.

(2) On the Council taking possession of a dog or cat under subsection (1)—

(a) ownership in the dog or cat passes from the owner to the Council; and

(b) the Council must deal with the dog or cat in accordance with this Act, the regulations and any relevant Code of Practice made under section 59.

**Division 3—Particular provisions for the control of
dangerous dogs**

34 Council may declare a dog to be dangerous

(1) A Council may declare a dog to be a dangerous dog—

S. 34(1)(a)
amended by
Nos 87/2000
s. 15(a),
65/2007
s. 14(1).

(a) if the dog has caused the death of or serious injury to a person or animal by biting or attacking that person or animal; or

S. 34(1)(b)
substituted by
No. 87/2000
s. 15(b).

(b) if the dog is a menacing dog and its owner has received at least 2 infringement notices in respect of the offence in section 41E; or

S. 34(1)(c)
amended by
No. 69/2004
s. 24(1).

(c) if the dog has been declared a dangerous dog under a law of another State or a Territory of the Commonwealth that corresponds with this Division; or

(d) for any other reason prescribed.

(2) The Council must not make a declaration under subsection (1)(a) if the incident occurred—

(a) because the dog was being teased, abused or assaulted; or

(b) in the case of injury to a person, because the person was trespassing on the premises on which the dog was kept; or

(c) in the case of injury to another animal, because the animal was on the premises on which the dog was kept; or

(d) because another person known to the dog was being attacked in front of the dog; or

(e) as part of a hunt in which the dog was taking part and which was conducted in accordance with the **Prevention of Cruelty to Animals Act 1986**.

Domestic (Feral and Nuisance) Animals Act 1994
No. 81 of 1994
Part 3—Control of Dogs and Cats

s. 34A

* * * * *

S. 34(3)
repealed by
No. 65/2007
s. 14(2).

- (4) A declaration under this section—
- (a) has effect throughout Victoria; and
 - (b) cannot be revoked, amended or otherwise altered.

S. 34(4)
inserted by
No. 69/2004
s. 24(2).

34A Dangerous dogs

S. 34A
inserted by
No. 87/2000
s. 16.

A dog is a dangerous dog if—

- (a) the dog is kept as a guard dog for the purpose of guarding non-residential premises; or
- (b) the dog has been trained to attack or bite any person or any thing when attached to or worn by a person.

35 Procedure for making declaration

* * * * *

S. 35(1)
repealed by
No. 87/2000
s. 17.

- (2) If the Council proposes that a dog be declared dangerous and the proposal does not arise from an application from the owner, the Council must—
- (a) notify the owner; and
 - (b) allow the owner the opportunity to make both written and oral submissions to the Council.
- (3) The Council must consider any material submitted to it before making a declaration.

36 Council must give notice of a declaration to owner

- (1) If the Council has made a declaration that a dog is dangerous it must serve written notice on the owner of the dog that that declaration has been made.
- (2) The notice must—
 - (a) be served, either in person or by registered post, within 7 days of the making of the declaration; and
 - (b) give reasons for the making of the declaration.

37 Notification of Council

S. 37(1)
substituted by
No. 87/2000
s. 18.

- (1) Immediately upon becoming the owner of a dog that has been trained to attack or bite any person or any thing when attached to or worn by a person, the owner of the dog must so notify the Council of the municipal district in which the dog is kept.

Penalty: 5 penalty units.

S. 37(1A)
inserted by
No. 87/2000
s. 18.

- (1A) Immediately upon a dog commencing training to attack or bite any person or any thing when attached to or worn by a person, the owner of the dog must notify the Council of the municipal district in which the dog is kept that the dog is being so trained.

Penalty: 5 penalty units.

S. 37(1B)
inserted by
No. 87/2000
s. 18.

- (1B) The owner of a dog kept as a guard dog for the purpose of guarding non-residential premises must, within 24 hours of commencing to keep the dog for that purpose, notify the Council of the municipal district in which the dog is kept that the dog is being kept for that purpose.

Penalty: 5 penalty units.

Domestic (Feral and Nuisance) Animals Act 1994
No. 81 of 1994
Part 3—Control of Dogs and Cats

s. 37

(1C) If a Council is investigating an alleged offence under section 29 in respect of a dog and has advised the owner of the dog of that investigation, the owner of the dog must notify the Council within 24 hours if—

S. 37(1C) inserted by No. 87/2000 s. 18, substituted by No. 69/2004 s. 25(1).

- (a) the dog is missing; or
- (b) the custody or ownership of the dog changes; or
- (c) the owner's address changes; or
- (d) the place where the dog is kept changes.

Penalty: 5 penalty units.

(2) The owner of a dangerous dog must notify the Council of the municipal district in which the dog is kept within 24 hours if—

S. 37(2) amended by No. 69/2004 s. 25(2)(a)(c).

* * * * *

S. 37(2)(a) repealed by No. 83/2001 s. 26.

- (b) the dog is missing; or
- (ba) the owner's address changes; or

S. 37(2)(ba) inserted by No. 69/2004 s. 25(2)(b).

(bb) the place where the dog is kept changes; or

S. 37(2)(bb) inserted by No. 69/2004 s. 25(2)(b).

- (c) the ownership of the dog changes.

Penalty: 10 penalty units.

s. 38

S. 38
amended by
No. 87/2000
s. 19,
substituted by
No. 103/2003
s. 7.

38 Restraint of dangerous dogs when on owner's premises

S. 38(1)
amended by
No. 69/2004
s. 26.

- (1) When a dangerous dog is kept on residential premises of the owner of the dog, the owner must ensure that—
- (a) if the dog is inside any dwelling on the premises, it is confined in such a manner—
 - (i) that it cannot escape; and
 - (ii) that a person cannot enter the dwelling unless admitted by an occupier of the premises who is of or over 17 years of age; and
 - (b) there is on the premises, outside any dwelling, a prescribed enclosure; and
 - (c) when the dog is not inside any dwelling on the premises, the dog is kept in a prescribed enclosure.

Penalty: 10 penalty units.

S. 38(2)
amended by
No. 69/2004
s. 26.

- (2) When a dangerous dog is kept on non-residential premises of the owner, the owner must ensure that—
- (a) when the dog is guarding the premises, it is kept inside perimeter fencing that complies with the prescribed requirements; and
 - (b) in any other case, that the dog is kept in a prescribed enclosure.

Penalty: 10 penalty units.

-
- (3) In this section *prescribed enclosure* means an enclosure—
- (a) from which a dog cannot escape; and
 - (b) that is constructed in such a manner that a person cannot have access to it without the assistance of an occupier of the premises who is of or over 17 years of age; and
 - (c) that complies with the regulations.

39 Warning signs

The owner of a dangerous dog must display warning signs which comply with the regulations at all entrances to the premises where the dog is kept warning people that a dangerous dog is kept on the premises.

Penalty: For a first offence 5 penalty units.

Second or subsequent offence
10 penalty units.

40 Identification of dangerous dogs

The owner of a dangerous dog must ensure that at all times the dog wears a collar of the kind prescribed.

Penalty: First offence 5 penalty units.

Second or subsequent offence
10 penalty units.

41 Restraint of dangerous dogs off the owner's premises

- (1) If a dangerous dog is outside the premises of its owner and is not—
- (a) muzzled in a manner which is sufficient to prevent it causing injury by biting; and

S. 41(1)
amended by
No. 65/2007
s. 15.

s. 41A

(b) under the effective control of some person by means of a chain, cord or leash—

the owner of that dangerous dog and any person for the time being in charge of the dog are guilty of an offence and liable to a penalty of not more than 5 penalty units for a first offence and 10 penalty units for a second or subsequent offence.

(2) This section does not apply to a dangerous dog which is a guard dog while the dog is guarding non-residential premises.

Pt 3 Div. 3A
(Heading and
ss 41A–41E)
inserted by
No. 87/2000
s. 20.

Division 3A—Particular provisions for the control of menacing dogs

S. 41A
inserted by
No. 87/2000
s. 20.

41A Declaration that a dog is a menacing dog

- (1) A Council may declare a dog to be a menacing dog if—
- (a) the dog has rushed at or chased a person; or
 - (b) the dog has been declared a menacing dog under a law of another State or a Territory of the Commonwealth that corresponds with this Division.
- (2) The Council must not make a declaration under subsection (1)(a) if the incident occurred because—
- (a) the dog was being teased, abused or assaulted; or
 - (b) the person was trespassing on the premises on which the dog was kept; or
 - (c) another person known to the dog was being attacked in front of the dog.
- (3) The Council may revoke any declaration made under subsection (1).

S. 41A(1)(b)
amended by
No. 69/2004
s. 27(1).

-
- (4) The Council may delegate its power under subsection (1) to an authorised officer.
 - (5) If the owner of a dog is found guilty of an offence under section 29(4), the court may order the Council to declare the dog to be a menacing dog under subsection (1).
 - (6) A declaration under this section has effect throughout Victoria.

S. 41A(5)
amended by
No. 65/2007
s. 16.

S. 41A(6)
inserted by
No. 69/2004
s. 27(2).

41B Procedure for declaring a menacing dog

S. 41B
inserted by
No. 87/2000
s. 20.

- (1) If the Council proposes that a dog be declared a menacing dog, the Council must—
 - (a) notify the owner; and
 - (b) allow the owner the opportunity to make both written and oral submissions to the Council.
- (2) The Council must consider any submissions submitted to it before making a declaration.

41C Council must give notice of a menacing dog declaration to owner

S. 41C
inserted by
No. 87/2000
s. 20.

- (1) If the Council has made a declaration that a dog is a menacing dog, it must serve written notice on the owner of the dog that a declaration has been made.
- (2) The notice must—
 - (a) be served, either in person or by registered post, within 7 days after the making of the declaration; and
 - (b) give reasons for the making of the declaration.

s. 41D

S. 41D
inserted by
No. 87/2000
s. 20,
amended by
No. 69/2004
s. 28(a)(c).

41D Notification of Council in relation to menacing dog

The owner of a menacing dog must notify the Council of the municipal district in which the dog is kept within 24 hours if—

- (a) the dog rushes at or chases a person; or
- (b) the dog is missing; or

S. 41D(ba)
inserted by
No. 69/2004
s. 28(b).

- (ba) the owner's address changes; or

S. 41D(bb)
inserted by
No. 69/2004
s. 28(b).

- (bb) the place where the dog is kept changes; or

- (c) the ownership of the dog changes.

Penalty: 10 penalty units.

S. 41E
inserted by
No. 87/2000
s. 20.

41E Restraint of menacing dogs

- (1) A notice that a dog has been declared to be a menacing dog may require the owner of the dog specified in the notice to cause the dog, when it is outside the premises of its owner in circumstances specified in the notice, to be—
 - (a) muzzled in a manner which is sufficient to prevent it causing injury by biting;
 - (b) under the effective control of some person by means of a chain, cord or leash.
- (2) The owner of a dog who does not comply with a requirement under subsection (1) is guilty of an offence and liable to a penalty of 4 penalty units.

**Division 3B—Particular provisions for the control of
restricted breed dogs**

Pt 3 Div. 3B
(Heading and
ss 41F–41L)
inserted by
No. 83/2001
s. 17.

41EA Prohibition on keeping a restricted breed dog

S. 41EA
inserted by
No. 76/2005
s. 15.

A person must not keep a restricted breed dog unless the person acquired the dog before the commencement of section 15 of the **Primary Industries Acts (Further Amendment) Act 2005**.

Penalty: 10 penalty units.

41F Notifications

S. 41F
inserted by
No. 83/2001
s. 17.

(1) The owner of a restricted breed dog must notify the Council of the municipal district in which the dog is kept, within 24 hours, if—

S. 41F(1)
amended by
No. 69/2004
s. 29(a)(c).

(a) the dog is missing; or

(aa) the owner's address changes; or

S. 41F(1)(aa)
inserted by
No. 69/2004
s. 29(b).

(ab) the place where the dog is kept changes; or

S. 41F(1)(ab)
inserted by
No. 69/2004
s. 29(b).

(b) the ownership of the dog changes.

Penalty: 10 penalty units.

(2) If the owner of a restricted breed dog proposes to sell the dog or give the dog to another person or otherwise transfer the ownership of the dog to another person, the owner must, before doing so advise the person in writing that the dog is a restricted breed dog.

Penalty: 5 penalty units.

s. 41G

S. 41G
inserted by
No. 83/2001
s. 17,
substituted by
No. 103/2003
s. 8.

41G Restraint of restricted breed dogs when on owner's premises

- (1) When a restricted breed dog is on the premises of the owner of the dog the owner must ensure that—
 - (a) if the dog is inside any dwelling on the premises, it is confined in such a manner—
 - (i) that it cannot escape; and
 - (ii) that a person cannot enter the dwelling unless admitted by an occupier of the premises who is of or over 17 years of age; and
 - (b) that there is on the premises, outside any dwelling, a prescribed enclosure; and
 - (c) when the dog is not inside any dwelling on the premises, the dog is kept in a prescribed enclosure.

Penalty: For a first offence, 5 penalty units.

For a second or subsequent offence,
10 penalty units.

- (2) In this section *prescribed enclosure* has the same meaning as in section 38.

S. 41H
inserted by
No. 83/2001
s. 17.

41H Warning signs for restricted breed dogs

The owner of a restricted breed dog must display warning signs, which comply with the regulations, at all entrances to the premises where the dog is kept, warning people that a restricted breed dog is kept at the premises.

Penalty: 5 penalty units.

41I Restraint of restricted breed dogs off the owner's premises

S. 41I
inserted by
No. 83/2001
s. 17,
amended by
No. 65/2007
s. 17.

If a restricted breed dog is outside the premises of its owner and is not—

- (a) muzzled in a manner which is sufficient to prevent it causing injury by biting; and
- (b) under the effective control of some person by means of a chain, cord or leash—

the owner of that dog and any person for the time being in charge of the dog are guilty of an offence and liable to a penalty of not more than 5 penalty units.

41J Limitation on ownership of restricted breed dogs

S. 41J
inserted by
No. 83/2001
s. 17.

- (1) A person must not own more than 2 restricted breed dogs unless that person has a permit from the Council of the municipal district in which the dogs are kept to do so.

Penalty: 5 penalty units.

- (1A) An owner of a restricted breed dog that is kept at a premises, which the owner occupies and at which more than 2 restricted breed dogs are kept, is guilty of an offence and liable to a penalty of not more than 5 penalty units.

S. 41J(1A)
inserted by
No. 65/2007
s. 18(1).

- (1B) Subsection (1A) does not apply if the Council of the municipal district in which the dogs are kept has issued a permit allowing more than 2 restricted breed dogs to be kept at the premises.

S. 41J(1B)
inserted by
No. 65/2007
s. 18(1).

- (2) A Council may issue a permit—
 - (a) to a person permitting that person to own more than 2 restricted breed dogs; or
 - (b) to a person in respect of premises allowing more than 2 restricted breed dogs to be kept at the premises.

S. 41J(2)
substituted by
No. 65/2007
s. 18(2).

Domestic (Feral and Nuisance) Animals Act 1994
No. 81 of 1994
Part 3—Control of Dogs and Cats

s. 41K

S. 41J(3)
amended by
No. 65/2007
s. 18(3).

- (3) An application for a permit under subsection (2)(a) or (2)(b) must be—
- (a) in writing in the form approved by the Council; and
 - (b) accompanied by the fee determined by the Council for such an application.
- (4) A permit—
- (a) is subject to any terms and conditions determined by the Council; and
 - (b) remains in force for the period not exceeding 2 years determined by the Council; and
 - (c) may be renewed on application to the Council.
- (5) The holder of a permit must comply with the terms and conditions of the permit.

Penalty: 5 penalty units.

S. 41J(6)
inserted by
No. 65/2007
s. 18(4).

- (6) Any person who occupies premises in respect of which a permit is issued under subsection (2)(b) and who owns a restricted breed dog kept at the premises, must comply with the terms and conditions of the permit.

Penalty: 5 penalty units.

S. 41K
inserted by
No. 83/2001
s. 17.

41K Prohibition on transfer of ownership of restricted breed dogs to minors

The owner of a restricted breed dog must not sell, give or otherwise transfer ownership of the dog to another person who is less than 17 years of age.

Penalty: 5 penalty units.

41L Prohibition on minor having control of dog outside owner's premises

S. 41L
inserted by
No. 83/2001
s. 17,
amended by
No. 65/2007
s. 19.

If a person who is less than 17 years of age is in charge of a restricted breed dog outside the premises of the dog's owner, the owner is guilty of an offence and liable to a penalty of not more than 5 penalty units.

Division 4—Powers and duties of Councils with respect to the control of dogs and cats

42 Power of Councils to make local laws

A Council may make a local law for or with respect to all or any of the following—

- (a) regulating the number of dogs or cats which may be kept on premises situated in the municipal district of the Council;
- (b) prohibiting or regulating the keeping of dogs or cats in a specified area of the municipal district of the Council where threatened native fauna are at risk of attack;
- (c) requiring owners of dogs to remove and dispose of faeces deposited by their dogs in public places.

43 Power of authorised officer to destroy animals at large in specified areas

If a Council has made a local law prohibiting the keeping of dogs or cats in a specified area of the municipal district of the Council, an authorised officer may destroy any prohibited animal found at large in that area.

44 Power of Councils to require restraint of animals

- (1) If a Council has made a local law prohibiting the keeping of any dog or cat in a specified area of the municipal district of the Council, the Council may require the owner of any dog or cat kept in that area immediately before the law is made—
 - (a) to confine the animal indoors or in a totally enclosed pen on the owner's premises; and
 - (b) when the animal is outside the owner's premises, to confine the animal to an enclosed vehicle.
- (2) The Council must give the owner notice in writing of this requirement.

PART 3A—REGISTER OF DANGEROUS, MENACING AND RESTRICTED BREED DOGS

Pt 3A
(Heading and
ss 44AA–
44AJ)
inserted by
No. 69/2004
s. 30.

44AA Definition of inspect

S. 44AA
inserted by
No. 69/2004
s. 30.

In this Part *inspect* in relation to the register kept under this Part, includes the obtaining of information kept on the register either orally or in writing.

44AB Secretary must keep register of dangerous, menacing and restricted breed dogs

S. 44AB
inserted by
No. 69/2004
s. 30.

- (1) The Secretary must keep a register of dangerous and menacing dogs and dogs that have been declared to be restricted breed dogs under this Act.
- (2) The register must—
 - (a) be kept in accordance with the regulations; and
 - (b) contain the information provided to the Secretary by a Council under sections 44AE, 44AG and 103 relating to dangerous and menacing dogs, dogs declared to be restricted breed dogs under this Act and the owners of those dogs.

44AC Persons who may inspect the register

S. 44AC
inserted by
No. 69/2004
s. 30.

- (1) The following persons may, in accordance with the regulations, inspect information kept in the register—
 - (a) the Secretary or a person employed in the Department acting in the course of his or her duties under this Act;

s. 44AC

- (b) an authorised officer appointed under section 71 or 72 acting in the course of his or her duties under this Act;
 - (c) a Council or a person engaged or employed by a Council acting in the course of his, her or its duties under this Act.
- (2) A person to whom any one of the following paragraphs applies may, in accordance with the regulations, inspect information kept in the register relating to a particular dog for the purpose set out in the paragraph which applies to that person—
- (a) the owner of the dog, for the purposes of confirming details relating to the dog and the owner;
 - (b) a person to whom the owner of the dog has given consent, for the purposes of confirming details relating to the dog and the owner;
 - (c) a person who wishes to purchase the dog, for the purposes of confirming whether the dog is a dangerous or menacing dog or a dog that has been declared to be a restricted breed dog under this Act;
 - (d) a veterinary practitioner who is in the course of carrying on his or her practice, for the purposes of confirming whether the dog he or she is treating or intends to treat is a dangerous or menacing dog or a dog that has been declared to be a restricted breed dog under this Act;
 - (e) the holder of an animal registry licence who is in the course of carrying on the business of providing an animal registry service, for the purposes of confirming whether the dog is a dangerous or menacing dog or a dog that has

S. 44AC(2)(e)
amended by
No. 65/2007
s. 44(Sch. 1
item 1).

- been declared to be a restricted breed dog under this Act;
- (f) the proprietor of a domestic animal business that is an animal shelter who is in the course of conducting that business on a premises registered for that purpose under Division 1 of Part 4, for the purposes of confirming whether the dog is a dangerous or menacing dog or a dog that has been declared to be a restricted breed dog under this Act;
 - (g) a person employed or engaged by a person referred to in paragraph (d), (e) or (f) who is in the course of carrying out his or her duties as such an employee or under the engagement (as the case may be), for the purposes set out in the relevant paragraph;
 - (h) a person approved by the Secretary for the purposes of carrying out research (including the compilation, analysis and publication of statistics relating to dangerous dogs, menacing dogs or dogs that have been declared to be restricted breed dogs under this Act) except information that relates to the owner of the dog.
- (3) A person who, in accordance with subsection (2) inspects information kept in the register, may request a copy of that information on the payment of the prescribed fee for the giving of such a copy to the person.

44AD Offence to inspect etc. information in register

A person must not inspect or attempt to inspect information kept in any part of the register unless the person is authorised to do so under section 44AC.

Penalty: 10 penalty units.

S. 44AD
inserted by
No. 69/2004
s. 30.

s. 44AE

S. 44AE
inserted by
No. 69/2004
s. 30.

44AE Councils to provide details of dangerous, menacing or restricted breed dogs to Secretary

A Council must provide to the Secretary the information set out in section 44AF relating to—

- (a) a dog that is a dangerous dog by virtue of the operation of section 34A, within 7 days after—
 - (i) receiving a notification from the owner of the dog under section 37(1), 37(1A) or 37(1B); or
 - (ii) becoming aware that the dog is of a class of dog described in section 37(1), 37(1A) or 37(1B); and
- (b) a dog that is declared by the Council under section 34(1) to be a dangerous dog or declared by the Council under section 41A(1) to be a menacing dog, within 7 days after—
 - (i) the end of the period during which a person may apply to the Victorian Civil and Administrative Tribunal for a review of the decision of the Council to make the declaration; or
 - (ii) if the person applies to the Tribunal for a review of the decision to make the declaration—
 - (A) the day the person withdraws or abandons the application; or
 - (B) the day that the Tribunal dismisses, strikes out or otherwise terminates proceedings in relation to the application; or

(C) the day that the Tribunal affirms the decision of the Council to make the declaration—

whichever occurs first; and

(c) a dog that is declared by the owner of the dog to be a restricted breed dog under section 10(3), within 7 days after receiving that declaration; and

(d) a dog that is declared by an authorised officer under section 98A to be a restricted breed dog, within 7 days after—

(i) the end of the period during which a person may apply to a review panel for a review of the decision of the authorised officer to make the declaration; or

(ii) if the person applies to a review panel for a review of the decision to make the declaration—

(A) the day the person withdraws or abandons the application; or

(B) the day that the review panel dismisses, strikes out or otherwise terminates proceedings in relation to the application; or

(C) the day that the review panel affirms the decision of the authorised officer to make the declaration—

whichever occurs first.

s. 44AF

S. 44AF
inserted by
No. 69/2004
s. 30.

44AF Details of dangerous, menacing or restricted breed dogs to be provided by Councils

For the purposes of section 44AE, the following information must be provided to the Secretary by a Council—

- (a) the name, address and contact details of the owner of the dog;
- (b) the place that the dog is kept;
- (c) the number of any prescribed permanent identification device that has been implanted in the dog;
- (d) the registration number of the dog;
- (e) the sex and the reproductive status of the dog;
- (f) the date of birth or age of the dog;
- (g) the breed and colour of the dog;
- (h) in the case of a dog declared to be a dangerous or menacing dog, the name of the Council or the Council officer who made or initiated the declaration and the date the declaration was made;
- (i) in the case of a dog declared to be a dangerous dog, the reasons for the dog being so declared;
- (j) in the case of a dog declared to be a restricted breed dog by the owner of the dog under section 10(3), the date the declaration was made;
- (k) in the case of a dog declared to be a restricted breed dog by an authorised officer under section 98A, the name of that officer and the date the declaration was made;

- (l) the municipal district in which a declaration referred to in paragraph (h), (j) or (k) was made;
- (m) the Council reference number;
- (n) any other information required by the regulations for the purposes of this section.

44AG Council to provide information about owners of dangerous, menacing or restricted breed dogs

S. 44AG
inserted by
No. 69/2004
s. 30.

A Council must provide to the Secretary the following information within 7 days after receiving notification from an owner of a dog under section 37(2), 41D or 41F(1)—

- (a) details of any change in ownership of the dog;
- (b) details of any change in the address of the owner of the dog;
- (c) details of any change in the place where the dog is kept.

44AH Secretary may request confirmation of information provided by Councils

S. 44AH
inserted by
No. 69/2004
s. 30.

- (1) Once in any 12 month period the Secretary may request in writing that a Council provide the Secretary with a written statement as to whether any information previously provided to the Secretary by the Council under section 44AE, 44AG or 103 and set out in the request is still accurate according to the records of the Council.
- (2) A Council that receives a request under subsection (1) must provide the Secretary with the statement within 28 days after receiving the request.

Domestic (Feral and Nuisance) Animals Act 1994
No. 81 of 1994

Part 3A—Register of Dangerous, Menacing and Restricted Breed Dogs

s. 44AI

S. 44AI
inserted by
No. 69/2004
s. 30.

44AI Secretary may contract out management of the register

The Secretary may enter into a contract with a person under which that person maintains and manages the register.

PART 4—REGISTRATION AND CONDUCT OF DOMESTIC ANIMAL BUSINESSES

Division 1—Registration

44A Application of Division

This Division does not apply to a domestic animal business (other than an animal shelter or pound) conducted by a Council.

S. 44A
inserted by
No. 87/2000
s. 21.

45 Offence to conduct domestic animal business on unregistered premises

A person must not conduct a domestic animal business on a premises which is not registered for that purpose with the Council of the municipal district in which the business is conducted.

Penalty: 10 penalty units.

46 Application for registration

- (1) A person may apply to a Council to register a premises as a premises on which a domestic animal business is conducted.
- (2) The application must be made in the form approved by the Council.

47 Registration of premises

- (1) If a person has applied to have a premises registered with the Council as a premises on which a domestic animal business may be conducted, the Council may register that premises for that purpose.
- (2) The Council may impose any terms, conditions, limitations or restrictions on that registration.

s. 48

S. 47(3)
inserted by
No. 87/2000
s. 22.

- (3) If a premises has been registered for the purposes of a domestic animal business, the person who conducts the business must comply with the terms, conditions, limitations or restrictions, if any, on that registration.

Penalty: 10 penalty units.

48 Term and renewal of registration

- (1) A registration under this Part may be renewed annually and continues in force until 10 April in the year following the registration or renewal or until a change in ownership of the business.
- (2) The proprietor of a domestic animal business may renew the registration of the premises on which that business is conducted by applying to the Council in writing in the form approved by the Council no less than 30 days before the registration is due to expire.

49 Fees for registration and renewal of registration

- (1) A person who has applied for registration or renewal of registration of premises on which a domestic animal business is being conducted, must pay the fee fixed by the Council with that application.
- (2) The Council may refund the whole or any part of a fee fixed for applications under this Division.

S. 50
amended by
No. 87/2000
s. 23.

50 Animal shelter or pound conducted by Council

In the case of an animal shelter or pound conducted by a Council in the municipal district of that Council, the provisions as to the making of applications and the payment of fees under this Division do not apply.

Division 2—Surrender or transfer of registration

50A Application of Division

This Division does not apply to a domestic animal business (other than an animal shelter or pound) conducted by a Council.

S. 50A
inserted by
No. 87/2000
s. 24.

51 Surrender of registration

The proprietor of a domestic animal business may surrender the registration of the premises on which that business is conducted by notice to the Council in writing.

52 Transfer of registration

- (1) If the proprietor of a domestic animal business proposes to transfer the business to a new premises he or she must notify the Council.
- (2) The notice must be—
 - (a) in writing in a form approved by the Council; and
 - (b) given to the Council at least 30 days before the transfer is made; and
 - (c) accompanied by the fee fixed by the Council.
- (3) If the Council has received notice in writing of a transfer of premises under this section, it may register the new premises as a premises upon which the business may be conducted and may impose any terms, conditions, limitations or restrictions on that registration.

* * * * *

S. 53
repealed by
No. 87/2000
s. 25.

**Division 3—Refusal to register or suspension or revocation
of registration**

54 Powers of Council

- (1) A Council may—
 - (a) refuse to register or to renew the registration of a premises; or
 - (b) refuse to transfer registration to a new premises; or
 - (c) suspend the registration of a premises; or
 - (d) revoke the registration of a premises.
- (2) A Council may act under subsection (1) if it is satisfied that—
 - (a) the proprietor or person applying for registration has failed to comply with the Act, the regulations, any Code of Practice applying to the business, or the terms, conditions, limitations or restrictions on registration; or
 - (b) the proprietor or person applying for registration has been found guilty of an offence under the **Prevention of Cruelty to Animals Act 1986**.

55 Council to give notice

If a Council proposes to exercise its powers under section 54 it must give notice of that intention to the proprietor or person applying for registration before acting under that section.

56 Council to hear proprietor or applicant

- (1) Before acting under section 54 the Council must give the proprietor or person applying for registration an opportunity to make both oral and written submissions to it.
- (2) The Council must take into consideration any submissions made to it.

57 Notice of Council's decision

- (1) The Council must serve notice of its decision on the proprietor or person applying for registration, either in person or by registered post, within 7 days after the making of the decision.
- (2) The Council must give reasons for its decision in the notice.

57A Court may cancel or revoke registration

- (1) If, in any proceedings before a court—
 - (a) the holder of a registration under Division 1 of Part 4 of a premises on which a domestic animal business may be conducted is convicted or found guilty of an offence against this Act or the regulations or an offence against the **Prevention of Cruelty to Animals Act 1986** or the regulations made under that Act; and
 - (b) the court is of the opinion that the registration should be suspended or revoked—

the court may make an order under subsection (2) or refer the matter to the Council that registered the premises.

S. 57A
inserted by
No. 69/2004
s. 31.

s. 58

- (2) For the purposes of subsection (1) the court may—
- (a) order that the registration be suspended for a period not exceeding one year; or
 - (b) order that the registration be revoked.
- (3) The Registrar or other relevant officer of the court must immediately forward a copy of an order made under subsection (2) to the Council.

* * * * *

Pt 4 Div. 3A
(Heading)
inserted by
No. 87/2000
s. 26,
repealed by
No. 76/2005
s. 16.

S. 58
substituted by
Nos 87/2000
s. 26, 76/2005
s. 17.

58 Revocation or suspension of registration of animal shelter or pound by Minister

- (1) This section applies to premises—
- (a) on which a Council is conducting an animal shelter or pound; or
 - (b) from which any person or body provides animal shelter or pound services to a Council under an agreement with that Council under section 84Y.
- (2) The Minister may at any time suspend or revoke the registration of the premises if the Minister is satisfied that—
- (a) the Council or the person or body (as the case may be) has failed to comply with this Act, the regulations, any Code of Practice made under section 59 applying to the business, or any terms, conditions, limitations or restrictions on the registration; or

S. 58(1)(b)
amended by
No. 65/2007
s. 21.

- (b) the Council or the person or body (as the case may be) has been found guilty of an offence under the **Prevention of Cruelty to Animals Act 1986**.

Division 3A—Registration of business conducted by Council

Pt 4 Div. 3A
(Heading)
inserted by
No. 76/2005
s. 18.

58A Offence to conduct domestic animal business on unregistered premises

S. 58A
inserted by
No. 87/2000
s. 26.

A Council must not conduct a domestic animal business (other than an animal shelter or pound), on a premises in the municipal district of the Council which is not registered for that purpose with the Minister.

Penalty: 10 penalty units.

58B Application for registration

S. 58B
inserted by
No. 87/2000
s. 26.

- (1) A Council may apply to the Minister to register a premises as a premises on which a domestic animal business (other than an animal shelter or pound) is conducted.
- (2) The application must be made in the form approved by the Minister.

58C Registration of premises

S. 58C
inserted by
No. 87/2000
s. 26.

- (1) If a Council has applied to have a premises registered with the Minister as a premises on which a domestic animal business (other than an animal shelter or pound) may be conducted, the Minister may register that premises for that purpose.
- (2) The Minister may impose any terms, conditions, limitations or restrictions on that registration.

s. 58D

- (3) The Council must comply with the terms, conditions, limitation or restriction, if any, on that registration.

Penalty: 10 penalty units.

S. 58D
inserted by
No. 87/2000
s. 26.

58D Term and renewal of registration

- (1) A registration under this Division may be renewed annually and continues in force until 10 April in the year following the registration or renewal or until a change in ownership of the business.
- (2) The Council may renew the registration of the premises on which that business is conducted by applying to the Minister in writing in the form approved by the Minister no less than 30 days before the registration is due to expire.

S. 58E
inserted by
No. 87/2000
s. 26.

58E Fees for registration and renewal of registration

- (1) A Council that has applied for registration or renewal of registration of premises on which a domestic animal business (other than an animal shelter or pound) is being conducted, must pay the prescribed fee with that application.
- (2) The Minister may refund the whole or any part of a fee accompanying an application under this Division.

S. 58F
inserted by
No. 87/2000
s. 26.

58F Surrender of registration

The Council may surrender the registration of the premises on which a domestic animal business (other than an animal shelter or pound) is conducted by notice to the Minister in writing.

58G Transfer of registration

S. 58G
inserted by
No. 87/2000
s. 26.

- (1) If the Council proposes to transfer the business to a new premises, the Council must notify the Minister.
- (2) The notice must be—
 - (a) in writing in a form approved by the Minister; and
 - (b) given to the Minister at least 30 days before the transfer is made; and
 - (c) accompanied by the prescribed fee.
- (3) If the Minister has received notice in writing of a transfer of premises under this section, he or she may register the new premises as a premises upon which the business may be conducted and may impose any terms, conditions, limitations or restrictions on that registration.

58H Powers of Minister

S. 58H
inserted by
No. 87/2000
s. 26.

- (1) The Minister may—
 - (a) refuse to register or to renew the registration of a premises; or
 - (b) refuse to transfer registration to a new premises; or
 - (c) suspend the registration of a premises; or
 - (d) revoke the registration of a premises.
- (2) The Minister may act under subsection (1) if he or she is satisfied that the Council—
 - (a) has failed to comply with the Act, the regulations, any Code of Practice applying to the business, or the terms, conditions, limitations or restrictions on registration; or

s. 58I

(b) has been found guilty of an offence under the
**Prevention of Cruelty to Animals Act
1986.**

S. 58I
inserted by
No. 87/2000
s. 26.

58I Minister to give notice

If the Minister proposes to exercise his or her powers under section 58H, the Minister must give notice of that intention to the Council before acting under that section.

S. 58J
inserted by
No. 87/2000
s. 26.

58J Minister to hear proprietor or applicant

- (1) Before acting under section 58H, the Minister must give the Council an opportunity to make both oral and written submissions to the Minister.
- (2) The Minister must take into consideration any submissions made to the Minister.

S. 58K
inserted by
No. 87/2000
s. 26.

58K Notice of Minister's decision

- (1) The Minister must serve notice of his or her decision on the Council, either in person or by registered post, within 7 days after the making of the decision.
- (2) The Minister must give reasons for his or her decision in the notice.

Division 4—Codes of Practice

59 Making of Codes of Practice

- (1) The Minister may make Codes of Practice which specify standards for the conduct of domestic animal businesses.
- (2) A Code of Practice may be prepared for any particular kind of business.

-
- (3) A Code of Practice may specify all or any of the following—
- (a) standards for the keeping, treatment, handling and care of animals;
 - (b) standards for the facilities, equipment and conditions at business premises;
 - (c) standards for the procedures and practices to be adopted with animals.
- (4) A Code of Practice may apply, adopt or incorporate any matter contained in any document, standard, rule, specification or method, formulated, issued, prescribed or published by any person whether—
- (a) wholly or partially or as amended by the Code; or
 - (b) as formulated, issued, prescribed or published at the time the Code is made or at any time before then.

60 Advertisement of making

- (1) The Minister must give notice of any proposal to make the Code—
- (a) in the Government Gazette; and
 - (b) in a newspaper circulating generally throughout the State.
- (2) A notice under subsection (1) must—
- (a) state where a copy of the Code may be obtained; and
 - (b) state that submissions may be made to the Minister and that they must be made within 28 days of the publication of the notice.

61 Consideration of submissions

The Minister must consider any submissions made to him or her within the time limit fixed under section 60.

62 Notice of making

Before a Code of Practice is made, the Minister must give notice of the making of the Code in a newspaper circulating generally throughout the State.

63 Publication, operation and availability of Code

- (1) Upon the making of a Code of Practice, the Minister must cause notice of—
 - (a) the making of the Code; and
 - (b) the place where copies of the Code may be obtained—to be published in the Government Gazette.
- (2) A Code comes into operation on the day specified in the notice which may be on or after the day on which it is made.
- (3) A Code and any documents incorporated in a Code must be kept available for public inspection at the principal office of the Department and a copy of the Code may be purchased by any person at that office upon payment of the fee determined by the Minister.

S. 63A
inserted by
No. 87/2000
s. 27,
substituted by
No. 76/2005
s. 19.

63A Non-compliance with Code of Practice an offence

- (1) A person or body must not conduct a domestic animal business that does not comply with the relevant Code of Practice made under section 59.

Penalty: 10 penalty units.

- (2) A Council is deemed to have contravened subsection (1), and is separately liable for the penalty that applies to such a contravention, if—
- (a) a person or body conducts all or part of a domestic animal business on behalf of the Council under an agreement under section 84Y; and
 - (b) the person or body has contravened subsection (1) in the conduct of that business; and
 - (c) the Council, or any member of its staff who was responsible at the relevant time for overseeing the agreement or the conduct of the business, was aware, or ought to have been aware, that the contravention—
 - (i) was about to occur; or
 - (ii) in the case of an ongoing contravention, was occurring.
- (3) If a body, being a partnership or an unincorporated body, contravenes subsection (1), each reference to the body in this section is to be construed as a reference to each member of the partnership, or of the committee of management of the unincorporated body (as the case may be).

S. 63A(2)(a)
amended by
No. 65/2007
s. 21.

s. 63B

Pt 4A
(Heading and
ss 63B–63Z)
inserted by
No. 103/2003
s. 9.

**PART 4A—REGULATION OF THE PERMANENT
IDENTIFICATION OF DOGS AND CATS**

Division 1—General

S. 63B
inserted by
No. 103/2003
s. 9.

63B Definition

In this Part—

owner, in relation to a dog or cat, means the person who has applied for registration or renewal of registration of the dog or cat under section 10, or, if the dog or cat is not registered under section 10, the person who has legal ownership of the dog or cat.

Division 2—Offences

S. 63C
inserted by
No. 103/2003
s. 9.

63C Offence to offer or provide domestic animals registry service without a licence

A person must not offer or provide a domestic animals registry service unless that person is the holder of a domestic animals registry licence.

Penalty: 60 penalty units.

S. 63D
inserted by
No. 103/2003
s. 9.

63D Offence to sell etc. device that is not prescribed device

A person must not sell, supply or implant a permanent identification device that is not a prescribed permanent identification device.

Penalty: 20 penalty units.

63E Offences relating to keeping of records

The holder of an animal registry licence must—

S. 63E
inserted by
No. 103/2003
s. 9,
amended by
No. 65/2007
s. 44(Sch. 1
item 2(a)).

- (a) in relation to each animal of a prescribed class of animal in respect of which the licence holder is providing the animal registry service, keep and maintain, in the records relating to that animal, the prescribed identifying information in the manner prescribed; and
- (b) keep and maintain copies of all such records in the manner prescribed.

S. 63E(a)
amended by
No. 65/2007
s. 44(Sch. 1
item 2(b)-(d)).

Penalty: 120 penalty units.

63F Offences relating to the implantation of permanent identification devices

A person must not implant a permanent identification device in an animal of a prescribed class of animal unless—

S. 63F
inserted by
No. 103/2003
s. 9,
amended by
No. 65/2007
s. 44(Sch. 1
item 3).

- (a) the person is an authorised implanter; and
- (b) if the person is not a veterinary practitioner, the person is—
 - (i) acting under the supervision of a veterinary practitioner who employs that person and who is an authorised implanter; or
 - (ii) acting under supervision of a veterinary practitioner who is an authorised implanter and who has agreed in writing to supervise the person.

Penalty: 10 penalty units.

s. 63G

S. 63G
inserted by
No. 103/2003
s. 9,
amended by
No. 65/2007
s. 44(Sch. 1
item 4).

63G Offence not to give information to licence holder on implantation

A person who has implanted a permanent identification device in an animal of a prescribed class of animal must, within two days of doing so, give the prescribed identifying information to the holder of an animal registry licence who, the implanter reasonably believes, has agreed to provide an animal registry service to the owner.

Penalty: 5 penalty units.

S. 63H
inserted by
No. 103/2003
s. 9.

63H Offence to provide identifying information in certain circumstances

S. 63H(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 5(1)
(a)-(c)).

(1) A person who has implanted a permanent identification device in an animal of a prescribed class of animal must not provide any of the prescribed identifying information that forms part of the animal registry service for that animal to any person unless—

(a) the person is—

(i) an employee of the implanter; or

(ii) the holder of the animal registry licence who is to provide the service or an employee of the holder; or

S. 63H(1)(a)(ii)
amended by
No. 65/2007
s. 44(Sch. 1
item 5(1)(d)).

(iii) the owner of the animal; or

S. 63H(1)(a)(iii)
amended by
No. 65/2007
s. 44(Sch. 1
item 5(1)(e)).

(iv) the Secretary or a person employed in the Department in the administration of this Act; or

(v) an authorised officer; or

- (vi) a Council or a person engaged or employed by a Council in the administration of this Act; or
- (vii) any other person approved by the Secretary; or
- (b) the owner has consented to the provision of the information for the purposes of reuniting the owner with the animal.

Penalty: 10 penalty units.

- (2) The holder of an animal registry licence must not provide any of the prescribed identifying information that forms part of the animal registry service for an animal of a prescribed class of animal to any person unless—

S. 63H(2)
amended by
No. 65/2007
s. 44(Sch. 1
item 5(2)
(a)(b)).

- (a) the person is—
 - (i) an authorised implanter or an employee of an authorised implanter; or
 - (ii) the owner of the animal; or
 - (iii) the Secretary or a person employed in the Department in the administration of this Act; or
 - (iv) an authorised officer; or
 - (v) a Council or a person engaged or employed by a Council in the administration of this Act; or
 - (vi) any other person approved by the Secretary; or
- (b) the owner has consented to the provision of the information for the purposes of reuniting the owner with the animal.

S. 63H(2)(a)(ii)
amended by
No. 65/2007
s. 44(Sch. 1
item 5(2)(c).

Penalty: 10 penalty units.

s. 63I

S. 63I
inserted by
No. 103/2003
s. 9.

S. 63I
(Heading)
amended by
No. 65/2007
s. 44(Sch. 1
item 6(1)).

S. 63I(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 6(2)).

63I Offence not to provide certain information relating to identification devices to holders of animal registry licences

- (1) A person must not sell or supply a permanent identification device unless the seller has provided to each of those persons who, the seller reasonably believes, are the holders of animal registry licences—
- (a) any of the prescribed information to identify the device that is in the possession or control of the seller, in the prescribed manner and format; and
 - (b) the name and address of the person to whom the device has been sold or supplied.

Penalty: 20 penalty units.

- (2) Subsection (1) does not apply to a seller if the seller reasonably believes that the information in the seller's possession or control has already been so provided or is to be so provided by another person.
- (3) In this section, *seller* means a person who is selling or supplying a permanent identification device.

63J Requirement to scan animals for permanent identification devices

S. 63J
inserted by
No. 103/2003
s. 9.

S. 63J
(Heading)
amended by
No. 65/2007
s. 44(Sch. 1
item 7(1)).

- (1) A person who conducts an animal shelter or pound must scan an animal of a prescribed class of animal that enters that shelter or pound, within 3 days of its entry, to determine whether or not the animal is implanted with a permanent identification device.

S. 63J(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 7(2)).

Penalty: 20 penalty units.

- (2) In this section *scan* means to scan in a manner that enables permanent identification devices to be detected.

Division 3—Animal registry licences

Pt 4A Div. 3
(Heading)
substituted by
No. 65/2007
s. 44(Sch. 1
item 8).

63K Grant of animal registry licence

The Secretary may license a person to offer or provide an animal registry service.

S. 63K
inserted by
No. 103/2003
s. 9,
substituted by
No. 65/2007
s. 44(Sch. 1
item 9).

s. 63L

S. 63L
inserted by
No. 103/2003
s. 9.

S. 63L
(Heading)
substituted by
No. 65/2007
s. 44(Sch. 1
item 10(1)).

63L Application for an animal registry licence

S. 63L(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 10(2)).

- (1) A person may apply to the Secretary for the grant of an animal registry licence.
- (2) An application under subsection (1)—
 - (a) must include the prescribed particulars; and
 - (b) must be accompanied by the prescribed fee.
- (3) An applicant must give the Secretary any further information relating to the application that the Secretary requests.

S. 63M
inserted by
No. 103/2003
s. 9.

63M Duration of licences

S. 63M(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 11).

- (1) An animal registry licence remains in force for the period of years that is specified in the licence, which must not be more than 3 years from the issue or renewal of the licence.

S. 63M(2)
amended by
No. 65/2007
s. 44(Sch. 1
item 11).

- (2) An animal registry licence expires on 30 June in the year that it ceases to have force.

63N Conditions on licences

S. 63N
inserted by
No. 103/2003
s. 9.

- (1) An animal registry licence is subject to any conditions—
- (a) that are prescribed; and
 - (b) that the Secretary imposes on the licence.
- (2) A licence holder must comply with the conditions to which the licence is subject.

S. 63N(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 12).

Penalty: 60 penalty units in the case of a natural person.

120 penalty units, in the case of a body corporate.

63O Renewal of licences

S. 63O
inserted by
No. 103/2003
s. 9.

- (1) On the expiration of an animal registry licence, the Secretary may renew the licence.
- (2) Before an animal registry licence expires, the holder may apply to the Secretary for the renewal of the licence.
- (3) An application under subsection (2)—
- (a) must include the prescribed particulars; and
 - (b) must be accompanied by the prescribed fee.
- (4) An applicant under this section must give to the Secretary any further information relating to the application that the Secretary requests.

S. 63O(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 13(a)).

S. 63O(2)
amended by
No. 65/2007
s. 44(Sch. 1
item 13(a)).

s. 63P

S. 63O(5)
amended by
No. 65/2007
s. 44(Sch. 1
item 13(b)).

- (5) An animal registry licence in respect of which an application is made under this section, is deemed to continue in force, after the expiry of the licence period, until the Secretary makes a decision in relation to the application.

S. 63P
inserted by
No. 103/2003
s. 9.

63P Notice of proposal to cancel an animal registry licence

S. 63P
(Heading)
substituted by
No. 65/2007
s. 44(Sch. 1
item 14(1)).

S. 63P(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 14(2)).

- (1) If the Secretary is satisfied that there may be grounds for cancelling an animal registry licence under section 63R, the Secretary must serve notice that he or she proposes to cancel the licence on the licence holder either personally or by post.
- (2) A notice under subsection (1) must—
- (a) state that the Secretary is satisfied that there are grounds for the cancellation of the licence; and
 - (b) set out those grounds; and
 - (c) set out the time within which written submissions on the proposed cancellation of the licence must be made to the Secretary.

S. 63Q
inserted by
No. 103/2003
s. 9.

63Q Making of submissions on proposal to cancel

S. 63Q(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 15).

- (1) The holder of an animal registry licence who has been given a notice under section 63P may make written submissions on the proposal to cancel the licence.
- (2) Submissions made under subsection (1) must be made within the time fixed by the Secretary under section 63P(2)(c).

63R Cancellation of an animal registry licence

(1) If, after considering any submissions made within the time fixed for making submissions under section 63P(2)(c), the Secretary is satisfied that—

(a) in the case of a licence holder who is a natural person, the licence holder is not a fit and proper person to hold an animal registry licence; or

(b) in the case of a licence holder who is a body corporate, any director or officer of the body corporate who does or may exercise control over the service that is the subject of the licence is not a fit and proper person to be a director or officer of the holder of an animal registry licence; or

(c) that the licence holder has failed to comply with a condition of the licence; or

(d) the licence holder has been found guilty of an offence against this Act or the regulations—

the Secretary may—

(e) cancel the licence; or

(f) require the licence holder to take the action specified by the Secretary.

(2) The Secretary must give notice to the licence holder of his or her decision under subsection (1) and set out reasons for that decision in the notice.

(3) A notice under subsection (2) must be served on the licence holder within 28 days after the expiry of the date for the making of submissions under section 63P(2)(c).

S. 63R
inserted by
No. 103/2003
s. 9.
S. 63R
(Heading)
substituted by
No. 65/2007
s. 44(Sch. 1
item 16(1)).

S. 63R(1)(a)
amended by
No. 65/2007
s. 44(Sch. 1
item 16(2)).

S. 63R(1)(b)
amended by
No. 65/2007
s. 44(Sch. 1
item 16(2)).

s. 63S

S. 63R(4)
amended by
No. 65/2007
s. 44(Sch. 1
item 16(2)).

- (4) Cancellation of an animal registry licence by the Secretary has effect from the date at which notice of the cancellation is served on the licence holder.

S. 63S
inserted by
No. 103/2003
s. 9,
amended by
No. 65/2007
s. 17.

63S Requirements to surrender records

If the Secretary has cancelled an animal registry licence, the holder of the licence must, within 5 days after the cancellation of the licence takes effect under section 63R(4), surrender and forfeit to the Secretary all records kept or maintained for the purposes of the animal registry service provided by the licence holder.

Division 4—Regulation of implanters

S. 63T
inserted by
No. 103/2003
s. 9.

63T Qualifications for implanters

S. 63T(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 18).

- (1) A person is qualified to implant permanent identification devices if—
- (a) in the case of a person who is a veterinary practitioner, the practitioner has completed a course on the implantation of permanent identification devices approved by the Secretary; or
 - (b) in any other case, the person has a qualification approved by the Secretary and has completed a course on the implantation of permanent identification devices approved by the Secretary.
- (2) An approval of a course or qualification by the Secretary under subsection (1) must be published in the Government Gazette.

63U Notice of proposal to impose prohibition on implanting

S. 63U
inserted by
No. 103/2003
s. 9.

- (1) If the Secretary reasonably believes that there may be grounds to prohibit a person from implanting permanent identification devices in animals of prescribed classes of animal, the Secretary must serve notice on that person that the Secretary proposes to so prohibit that person.
- (2) The Secretary must serve a notice under subsection (1) either personally or by post addressed to the person at the last known place of address of the person.
- (3) A notice under subsection (1) must—
- (a) state that the Secretary is satisfied that there are grounds for the imposition of the prohibition; and
 - (b) set out those grounds; and
 - (c) set out the time within which written submissions on the proposal to prohibit the person must be made to the Secretary.

S. 63U(1)
amended by
No. 65/2007
s. 44(Sch. 1
item19).

63V Making of submissions on the proposal

S. 63V
inserted by
No. 103/2003
s. 9.

- (1) A person on whom a notice has been served under section 63U may make written submissions on the proposal to the Secretary.
- (2) Submissions made under subsection (1) must be made within the time fixed by the Secretary under section 63U(3)(c).

s. 63W

S. 63W
inserted by
No. 103/2003
s. 9.

63W Power of the Secretary to prohibit a person from implanting devices

- (1) If, after considering any submissions made within the time fixed for making submissions under section 63U(3)(c), the Secretary is satisfied that the person upon whom the notice has been served—
- (a) has failed to comply with this Act or regulations made under this Act; or
 - (b) has knowingly submitted false information to the holder of an animal registry licence or the Secretary—

S. 63W(1)(b)
amended by
No. 65/2007
s. 44(Sch. 1
item 20(a)).

the Secretary may—

- (c) prohibit the person from implanting permanent identification devices in animals of prescribed classes of animal; and
 - (d) determine conditions that the person must comply with before the expiry of the prohibition.
- (2) In making a decision under subsection (1) the Secretary must specify—
- (a) the time for which the prohibition remains in force; and
 - (b) the conditions (if any) that the person must comply with before the expiry of the prohibition.
- (3) The Secretary must give notice to the person to whom the prohibition applies of his or her decision under subsection (1) and set out reasons for that decision in the notice.

S. 63W(1)(c)
amended by
No. 65/2007
s. 44(Sch. 1
item 20(b)).

- (4) A notice under subsection (3) must be served on the person to whom the prohibition applies within 28 days after the expiry of the date for the making of submissions under section 63U(3)(c).
- (5) A prohibition under subsection (1) has effect from the date at which notice of the prohibition is served on the person to whom it applies.

63X Removal of prohibition before expiry

S. 63X
inserted by
No. 103/2003
s. 9.

- (1) If the Secretary has determined conditions that a person must comply with under section 63W(1), and the Secretary is satisfied that those conditions have been complied with before the expiry of the period specified under section 63W(2)(a), the Secretary may determine that the prohibition is to cease to have effect before that expiry.
- (2) The Secretary must give written notice of a determination under subsection (1) to the person to whom the prohibition applies and must specify in the notice the date on which the prohibition ceases to have effect.

Division 5—Transitional matters

63Y Devices implanted before 20 May 2003

If a dog or a cat has been implanted with a permanent identification device before 20 May 2003, that dog or cat is deemed to have been implanted with a prescribed permanent identification device.

S. 63Y
inserted by
No. 103/2003
s. 9.

63Z Requirements to keep and maintain records held before commencement of Part

The holder of a domestic animals registry licence must, in relation to any record of identifying information kept and maintained in respect of a dog or cat by the holder as part of a service in the nature of a domestic animals registry service

S. 63Z
inserted by
No. 103/2003
s. 9.

Domestic (Feral and Nuisance) Animals Act 1994
No. 81 of 1994

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s. 63Z

provided by the holder immediately before the commencement of this Part—

- (a) continue, on and after the commencement of this Part, to keep and maintain all such records in the manner prescribed and containing the prescribed information; and
- (b) keep and maintain copies of all such records in the manner prescribed.

Penalty: 120 penalty units.

PART 5—BOARDING OF DOGS AND CATS

64 Responsibility for boarded dogs or cats

- (1) The proprietor of a place where a dog or cat is boarded or his or her agent must ensure that—
 - (a) if the animal is confined or otherwise unable to provide for itself, it is provided with proper and sufficient food, drink and shelter; and
 - (b) if the animal is sick or injured, veterinary or other appropriate attention or treatment is provided for it.

Penalty: 10 penalty units.

- (2) If the proprietor has entered into a written agreement with the owner by which the owner agrees that the proprietor is not to undertake all or any of the duties set out in subsection (1), subsection (1) does not apply in so far as the agreement so specifies.
- (3) If a person is required to obtain veterinary care for an animal under this section, that person may recover the cost of that care, to the extent that the cost is reasonable, from the owner.
- (4) If it is necessary to destroy an animal which is being boarded, the proprietor of the place where the animal is being boarded may authorise the destruction of that animal, unless, by agreement with the owner, the proprietor is not entitled to give that authorisation.

65 Liens over animals

- (1) The proprietor of a place where a dog or cat is being boarded has a lien over that animal for any amount the proprietor is entitled to under subsection (2).

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- (2) The holder of a lien under subsection (1) may retain that animal until—
 - (a) any sums owing to him or her have been paid in full; and
 - (b) any additional expenses incurred by him or her in caring for the animal have been paid.
 - (3) Despite this section, the owner of an animal which has been left in the possession of another person without the owner's consent may recover that animal.
 - (4) A lien under this section continues to exist even though the lien holder allows the animal to be taken temporarily out of his or her custody or possession.
 - (5) A person must not—
 - (a) remove an animal from a person who holds a lien over that animal; or
 - (b) retain custody or possession of an animal over which a lien is held—without the consent of the lien holder.

Penalty: 3 penalty units.

66 Can lien holder dispose of animal?

- (1) A person who holds a lien over a dog or cat under section 65 may—
 - (a) sell, exchange or otherwise dispose of the animal; or
 - (b) destroy the animal—if the lien holder has served a notice on the owner under subsection (2) and the amount owing to the lien holder has not been paid within 14 days of the service of the notice.

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- (2) The lien holder must serve a notice on the owner, either in person or by registered post, at the owner's last known address—
- (a) advising the owner of his or her intention to sell, exchange, dispose of or destroy the animal (as the case requires); and
 - (b) containing an account specifying the amount owing by the owner and stating that the animal may be disposed of within 14 days of the service of the notice if that amount is not paid.
- (3) A lien holder must not sell, exchange or otherwise dispose of an animal under subsection (1) if he or she has entered into a written agreement with the owner not to do so.

S. 66(2)(b)
amended by
No. 74/2000
s. 3(Sch. 1
item 36.2).

67 Sale of unclaimed animals by lien holders

- (1) If the holder of a lien over a dog or cat under section 65 sells that animal he or she may retain from the proceeds of the sale of the animal any amounts owing to him or her and any expenses associated with the sale.
- (2) Any amount left over from the proceeds of the sale of an animal not paid to the lien holder under subsection (1) must be paid to the owner or if the owner cannot be found to the Consolidated Fund.
- (3) If the sale does not realise the full amount owing to the lien holder he or she may sue the owner for the remaining amount.
- (4) The lien holder must keep all records of the sale for two years.
- (5) A lien holder must not buy an animal which he or she has offered for sale.

68 Passing of property upon sale of animal

- (1) Property in a dog or cat which is sold under section 67 passes to the person who buys the animal unless that person is aware that the lien holder has not complied with any of the provisions of this Division.
 - (2) A person who holds a lien over a dog or cat and who exercises his or her right to sell that animal under section 67 may deal with that animal as if he or she were the owner of the animal.
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PART 5A—DOMESTIC ANIMAL MANAGEMENT PLANS

Pt 5A
(Heading and
s. 68A)
inserted by
No. 76/2005
s. 20.

68A Councils to prepare domestic animal management plans

S. 68A
inserted by
No. 76/2005
s. 20.

- (1) Every Council must, in consultation with the Secretary, prepare at 3 year intervals a domestic animal management plan.
- (2) A domestic animal management plan prepared by a Council must—
 - (a) set out a method for evaluating whether the animal control services provided by the Council in its municipal district are adequate to give effect to the requirements of this Act and the regulations; and
 - (b) outline programs for the training of authorised officers to ensure that they can properly administer and enforce the requirements of this Act in the Council's municipal district; and
 - (c) outline programs, services and strategies which the Council intends to pursue in its municipal district—
 - (i) to promote and encourage the responsible ownership of dogs and cats; and
 - (ii) to ensure that people comply with this Act, the regulations and any related legislation; and
 - (iii) to minimise the risk of attacks by dogs on people and animals; and

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- (iv) to address any over-population and high euthanasia rates for dogs and cats; and
 - (v) to encourage the registration and identification of dogs and cats; and
 - (vi) to minimise the potential for dogs and cats to create a nuisance; and
 - (vii) to effectively identify all dangerous dogs, menacing dogs and restricted breed dogs in that district and to ensure that those dogs are kept in compliance with this Act and the regulations; and
- (d) provide for the review of existing orders made under this Act and local laws that relate to the Council's municipal district with a view to determining whether further orders or local laws dealing with the management of dogs and cats in the municipal district are desirable; and
 - (e) provide for the review of any other matters related to the management of dogs and cats in the Council's municipal district that it thinks necessary; and
 - (f) provide for the periodic evaluation of any program, service, strategy or review outlined under the plan.
- (3) Every Council must—
- (a) review its domestic animal management plan annually and, if appropriate, amend the plan; and
 - (b) provide the Secretary with a copy of the plan and any amendments to the plan; and
 - (c) publish an evaluation of its implementation of the plan in its annual report.
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PART 6—FINANCIAL PROVISIONS

69 Payments to the Treasurer

- (1) Each Council must pay to the Treasurer—
- (a) \$1.00 in respect of each registration fee collected by it in each financial year for the registration or renewal of registration of a cat; and
 - (aa) \$2.50 in respect of each registration fee collected by it in each financial year for the registration or renewal of registration of a dog; and
 - (b) \$10.00 in respect of each registration fee collected by it in each financial year for the registration or renewal of registration of a domestic animal business.
- (2) Payments made under subsection (1) are made for the purpose of—
- (a) the promotion by the Department, within the State, of—
 - (i) responsible dog and cat ownership; or
 - (ii) animal welfare; and
 - (aa) research into domestic animal management; and
 - (b) the administration of this Act.

S. 69(1)(a)
amended by
No. 83/2001
s. 27(1)(a).

S. 69(1)(aa)
inserted by
No. 83/2001
s. 27(1)(b).

S. 69(2)(aa)
inserted by
No. 83/2001
s. 27(2).

70 Due date for payments to the Treasurer

Each Council must pay the money required to be paid to the Treasurer in respect of a financial year not later than 31 July next following the end of that year.

s. 71

Pt 7 (Heading)
substituted by
No. 65/2007
s. 26.

PART 7—AUTHORISED OFFICERS

Pt 7 Div, 1
(Heading)
repealed by
No. 65/2007
s. 27.

* * * * *

S. 71
substituted by
No. 46/1998
s. 7(Sch. 1),
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 59.2).

71 Appointment of authorised officers

The Minister may by instrument appoint as authorised officers any specified employee or a specified class of employees employed under Part 3 of the **Public Administration Act 2004**.

S. 71A
inserted by
No. 103/2003
s. 10 (as
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 12.2)).

71A Appointment of persons who are not employees of the Department as authorised officers

- (1) The Minister may, by instrument, appoint a person who is not an employee employed under Part 3 of the **Public Administration Act 2004**, as an authorised officer, if the Minister is of the opinion that the person has particular qualifications or experience that are necessary to exercise the power the person is to be authorised to exercise.
- (2) The Minister must, in an instrument of appointment under subsection (1)—
 - (a) specify the period for which the person appointed is so appointed; and
 - (b) specify the powers under this Act that the person appointed is authorised to exercise.

S. 72
substituted by
No. 103/2003
s. 11.

72 Appointment of authorised officers by Council

A Council may, by instrument, appoint as an authorised officer any specified employee of the Council.

72A Appointment of persons who are not Council employees as authorised officers

S. 72A
inserted by
No. 103/2003
s. 11.

- (1) A Council may, by instrument, appoint a person who is not an employee of the Council as an authorised officer, if the person has the qualifications or experience prescribed by the Secretary.
- (2) The Council must, in an instrument of appointment under subsection (1), specify the period for which the person is to be appointed.
- (3) The Secretary may prescribe conditions that apply to an appointment made under subsection (1).
- (4) If a person appointed under subsection (1) does not comply with a condition prescribed under subsection (3), and the Secretary notifies that person that he or she has failed to comply with the condition, the appointment of that person is taken to be revoked as from the date of notification by the Secretary.

73 Identity cards for authorised officers

S. 73
substituted by
No. 87/2000
s. 28.

- (1) The Minister or Council (as the case requires) must issue an identity card to each authorised officer.
- (2) An identity card under subsection (1) must—
 - (a) set out the name of the authorised officer and contain a photograph of the authorised officer; and
 - (b) set out the name of the body who has appointed the authorised officer; and
 - (c) if an authorised officer is appointed for a specified period, set out the period for which the authorised officer is appointed.

S. 73(2)
substituted by
No. 103/2003
s. 12.

s. 73A

- (3) An authorised officer must produce his or her identity card for inspection—
- (a) before exercising a power under this Part; and
 - (b) at any time during the exercise of a power under this Part, if asked to do so.

S. 73A
inserted by
No. 87/2000
s. 28.

73A Offence to impersonate authorised officer

A person who is not an authorised officer must not, in any way hold himself or herself out to be an authorised officer.

Penalty: 60 penalty units.

74 Powers of authorised officers

S. 74(1)
amended by
No. 103/2003
s. 13(1)(a).

- (1) An authorised officer appointed by the Minister under section 71 may take any reasonable action which is necessary to find out whether the provisions of—

- (a) this Act; or
- (b) the regulations; or
- (c) an animal registry licence or the conditions of such a licence; or

S. 74(1)(c)
substituted by
No. 103/2003
s. 13(1)(b),
amended by
No. 65/2007
s. 44(Sch. 1
item 21(a)).

(d) any Code of Practice made under this Act—
are being complied with.

S. 74(1A)
inserted by
No. 103/2003
s. 13(2),
amended by
No. 65/2007
s. 44(Sch. 1
item 21(b)).

- (1A) An authorised officer appointed by the Minister under section 71A may take any reasonable action that is necessary to find out whether the provisions of—

- (a) this Act; or
- (b) the regulations; or

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No. 81 of 1994
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s. 74

- (c) any Code of Practice made under this Act; or
(d) an animal registry licence—

S. 74(1A)(d)
amended by
No. 65/2007
s. 44(Sch. 1
item 21(a)).

that relate to the conduct of domestic animal
businesses or animal registry services are being
complied with.

- (1B) An authorised officer appointed by a Council
under section 72 may take any reasonable action
that is necessary to find out whether the
provisions of—

S. 74(1B)
inserted by
No. 103/2003
s. 13(2).

- (a) this Act; or
(b) the regulations; or
(c) any local law made under this Act by a
Council; or
(d) any Code of Practice made under this Act—

that do not relate to—

- (e) the conduct of animal registry services; or

S. 74(1B)(e)
amended by
No. 65/2007
s. 44(Sch. 1
item 21(c)(i)).

- (f) implanters of permanent identification
devices in animals of prescribed classes of
animal—

S. 74(1B)(f)
amended by
No. 65/2007
s. 44(Sch. 1
item 21(c)(ii)).

are being complied with.

- (2) An authorised officer who is exercising a power
under subsection (1), (1A) or (1B) may—

S. 74(2)
amended by
No. 103/2003
s. 13(3).

- (a) at any reasonable time and by any reasonable
means and with any assistance which the
authorised officer requires enter any building

S. 74(2)(a)
amended by
No. 83/2001
s. 28(a).

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No. 81 of 1994
Part 7—Authorised Officers

s. 74A

not occupied as a place of residence or any land or vehicle; or

S. 74(2)(b) substituted by No. 83/2001 s. 28(b).

(b) search the whole or any part of any building, land or vehicle entered under paragraph (a); or

(c) inspect animals, enclosures or other goods; or

(d) ask questions; or

(e) seize, examine or take copies of, or extracts from documents; or

S. 74(2)(f) amended by No. 65/2007 s. 28(1).

(f) seize and remove any animal in accordance with Division 2 of Part 7A.

S. 74(3) amended by No. 103/2003 s. 13(4).

(3) An authorised officer who is exercising a power under subsection (1), (1A) or (1B) may request a person to give his or her name and place of residence if the authorised officer believes, on reasonable grounds, that an offence—

(a) under this Act; or

(b) the regulations; or

(c) any local law made under this Act by the Council—

has been or is about to be committed.

S. 74(4) repealed by No. 87/2000 s. 29.

* * * * *

S. 74A inserted by No. 103/2003 s. 14, amended by No. 65/2007 s. 28(2).

74A Powers of authorised officers contracted by Councils

An authorised officer appointed under section 72A may, if he or she believes, on reasonable grounds, that an offence under section 10, 12A, 20, 21, 22, 23, 24, 25, 26, 27, 29(3), 29(4), 32, 38, 39, 41E, 41EA, 41G, 41H or 41I has been committed—

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- (a) request a person to give his or her name and place of residence; or
 - (b) ask questions.

75 Seizure of documents

- (1) An authorised officer may not seize any document under section 74(2)(e) that appears to the authorised officer to be in the possession or custody of a person unless the authorised officer makes out and tenders to the person a receipt in the prescribed form for the document seized.
- (2) An authorised officer must take all reasonable steps to return a seized document to the person from whom it was seized if—
 - (a) the reason for its seizure no longer exists; or
 - (b) proceedings in which the document may be used in evidence have not commenced within 60 days after its seizure—whichever is the earlier.
- (3) An authorised officer may apply to the Magistrates' Court for an extension of the period for which a seized document may be kept.
- (4) An application under subsection (3) must be made within 60 days of the seizure of the document, or if an extension has previously been granted, within the extended period.
- (5) The Magistrates' Court may order an extension if the court is satisfied that the retention of the document is necessary—
 - (a) for the purposes of an investigation into whether an offence has been committed; or
 - (b) to enable evidence of an offence to be secured for the purposes of a prosecution.

s. 75A

- (6) The court may adjourn an application under this section to enable notice of the application to be given to any person.

S. 75A
inserted by
No. 103/2003
s. 15.

75A Seizure of records of information recorded in permanent identification devices

S. 75A(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 22).

- (1) If the holder of an animal registry licence has not complied with section 63S, an authorised officer appointed under section 71 may seize all records that the licence holder is required to surrender under section 63S.
- (2) An authorised officer who seizes records under subsection (1) must, as soon as practicable after seizing the records surrender them to the Secretary.
- (3) The Secretary may retain, keep and maintain records seized under subsection (1) for so long as the Secretary considers necessary.
- (4) Any records seized by the Secretary under this section become the property of the Secretary on seizure.
- (5) Section 75 does not apply to records to which this section applies.

S. 75B
inserted by
No. 103/2003
s. 15.

75B Disposal of records seized under section 75A

S. 75B(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 23(a)).

- (1) The Secretary may tender records seized, kept or maintained under section 75A or records surrendered and forfeited under section 63S for sale or disposal to any person who is the holder of an animal registry licence other than the person from whom the records were seized, or who surrendered the records.

(2) The Secretary must, before tendering records for sale or disposal under subsection (1)—

(a) notify the holder of the animal registry licence from whom the records were seized, or who surrendered the records, that he or she intends to offer the records for sale or disposal; and

S. 75B(2)(a) amended by No. 65/2007 s. 44(Sch. 1 item 23(b)).

(b) cause notice of the sale or disposal to be published in the Government Gazette.

(3) It is a condition of any sale or disposal under this section that the records sold or disposed of—

(a) become part of the animal registry service of the licence holder who acquires the records on the sale or disposal; and

S. 75B(3)(a) amended by No. 65/2007 s. 44(Sch. 1 item 23(c)).

(b) that the licence holder must keep and maintain the records so acquired on behalf of the owners of the animals to which the records relate as part of the animal registry service provided by the licence holder.

S. 75B(3)(b) amended by No. 65/2007 s. 44(Sch. 1 item 23(c)).

75C Application of proceeds of sale

S. 75C inserted by No. 103/2003 s. 15.

(1) The Secretary must apply the proceeds of the sale of any records under section 75B in the following order—

(a) to the costs incurred by the Secretary in seizing, keeping and maintaining the records;

(b) any balance then remaining must be paid to the holder of the animal registry licence from whom the records were seized, if the holder claims the balance in writing within 3 months of the sale of the records.

S. 75C(1)(b) amended by No. 65/2007 s. 44(Sch. 1 item 24).

S. 75C(2)
amended by
No. 65/2007
s. 44(Sch. 1
item 24).

- (2) If the holder of the animal registry licence from whom the records were seized does not claim the balance of the sale money under subsection (1)(b) that money is to be dealt with in accordance with the **Unclaimed Moneys Act 1962**.

76 Offence to refuse to give information or documents

- (1) A person must not—
- (a) refuse to or fail, without reasonable excuse, to comply with a lawful direction, order or a requirement of an authorised officer; or
 - (b) when asked by an authorised officer—
 - (i) under section 74(3) or section 74A(a), refuse, or fail without reasonable excuse, to give that person's name and place of residence; or
 - (ii) refuse, or fail without reasonable excuse to produce a document or animal; or
 - (c) destroy, damage, interfere with or remove any matter or thing done by an authorised officer in accordance with his or her powers under this Act.

Penalty: 10 penalty units.

- (2) It is a reasonable excuse for a person to refuse or fail to answer an authorised officer's question or to give information produce a document or do any other thing that the person is required to do under this Act when the requirement is made by an authorised officer or any other person in authority for the purpose of determining whether the person who has refused or failed to answer has committed an offence.

S. 76(1)(b)(i)
amended by
No. 103/2003
s. 16.

76A Notice to comply

An authorised officer may issue a person with a notice to comply if the authorised officer believes on reasonable grounds that the person has committed an offence under this Act.

S. 76A
inserted by
No. 87/2000
s. 30.

Pt 7 Div. 2
(Heading and
ss 77AA–84)
amended by
Nos 52/1998
s. 311(Sch. 1
item 21.2),
87/2000
ss 31–34,
83/2001
ss 18–20, 29,
30, 103/2003
ss 17–19,
50/2005
ss 11, 12,
76/2005 s. 21,
substituted as
Pt 7A
(Headings and
ss 77–84ZA)
by No. 65/2007
s. 29.

PART 7A—POWERS TO SEIZE AND DISPOSE OF DOGS OR CATS

Division 1—Definition

77 Definition

In this Part *authorised officer* means an authorised officer appointed under section 72.

Division 2—Seizure of dogs or cats

78 Seizure of dangerous dogs

- (1) An authorised officer of a Council may seize a dangerous dog that is in the municipal district of that Council if the dog is able to be registered or have its registration renewed by the Council under this Act and if—
 - (a) the Council has made a decision to refuse to register or renew the registration of the dog; and
 - (b) any review of that decision has affirmed the decision or the owner has not applied for a review of that decision within the time fixed for review under section 98(2A).

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- (2) An authorised officer of a Council may seize a dog that is in the municipal district of that Council if the dog is a dangerous dog and—
- (a) the owner has been found guilty of an offence under Division 3 of Part 3 with respect to that dog; or
 - (b) the authorised officer reasonably suspects that the owner has committed an offence under Division 3 of Part 3 with respect to that dog.

79 Seizure of restricted breed dogs

- (1) An authorised officer of a Council may seize a restricted breed dog that is in the municipal district of that Council if the dog is able to be registered or have its registration renewed by the Council under this Act and if—
- (a) the Council has made a decision to refuse to register or renew the registration of the dog; and
 - (b) any review of that decision has affirmed the decision or the owner has not applied for a review of that decision within the time fixed for review under section 98(2A).
- (2) An authorised officer of a Council may seize a dog that is in the municipal district of that Council if the dog is a restricted breed dog that is not able to be registered or have its registration renewed by the Council under this Act.
- (3) An authorised officer of a Council may seize a dog that is in the municipal district of that Council if the dog is a restricted breed dog and—
- (a) the owner has been found guilty of an offence under Division 3B of Part 3 with respect to that dog; or

- (b) the authorised officer reasonably suspects that the owner has committed an offence under Division 3B of Part 3 with respect to that dog.

80 Seizure of dogs believed to be restricted breed dogs

An authorised officer of a Council may seize a dog that is in the municipal district of that Council if the authorised officer reasonably believes the dog is a restricted breed dog.

81 Seizure of dog urged or trained to attack or having attacked

An authorised officer of a Council may seize a dog that is in the municipal district of that Council if—

- (a) the owner has been found guilty of an offence under section 28, 28A or 29 with respect to that dog; or
- (b) the authorised officer reasonably suspects that the owner has committed an offence under section 28, 28A or 29 with respect to that dog.

82 Seizure of unregistered dog or cat

An authorised officer of a Council may seize a dog or cat that is in the municipal district of that Council if the owner of the animal has not applied to register the animal within one month after—

- (a) being found guilty of an offence of not having applied to register the animal; or
- (b) being served with an infringement notice in respect of that offence—
 - (i) which has not been withdrawn in accordance with the **Infringements Act 2006**; and

- (ii) in respect of which the owner has paid the penalty in accordance with the **Infringements Act 2006**.

83 Seizure of dog or cat that does not comply with the registration requirements under Act

An authorised officer of a Council may seize an unregistered dog or cat that is in the municipal district of the Council if the dog or cat is not able to be registered or have its registration renewed by the Council under this Act.

84 Seizure of dog or cat in certain circumstances

A person may seize a dog or cat if it is found in an area or in circumstances where the owner of the animal would be guilty of an offence under section 23, 24, 25 or 26.

84A Seizure of cat without current identification

A person may seize a cat if—

- (a) it is found outside the owner's premises without current identification that has been issued by a Council; and
- (b) it appears to be over 3 months old.

S. 84A
inserted by
No. 65/2007
s. 29.

84B Seizure of dog or cat after court order under section 84W

- (1) An authorised officer of a Council may seize a dog or cat if—
- (a) the Magistrates' Court has made an order under section 84W with respect to the owner of the dog or cat and the order has not been complied with; and
 - (b) after the order has been made, the dog or cat that is the subject of the order is found outside the owner's premises in circumstances in which the authorised officer of the Council of the municipal district in

S. 84B
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s. 29.

which the owner's premises are situated reasonably suspects that the owner of the dog or cat has committed an offence under section 23(4), 24(1), 24(2) or 25(1).

- (2) In this section *authorised officer of a Council* means an authorised officer appointed by that Council under section 72 or 72A.

S. 84C
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No. 65/2007
s. 29.

84C Seizure of abandoned dog or cat

- (1) An authorised officer may enter any premises (including a person's residence) at the request of the owner of the premises if he or she reasonably suspects that there is an abandoned dog or cat in or on the premises.
- (2) If there is an occupier of the premises that is not the owner of the premises, an authorised officer must not enter the premises without the consent of that occupier.
- (3) An authorised officer who enters premises under subsection (1) may search for and seize any dog or cat in or on the premises that he or she reasonably believes has been abandoned.
- (4) An authorised officer who seizes a dog or cat under this section must—
- (a) if there is an occupier of the premises, cause a notice of seizure to be left with the occupier;
 - (b) in any other case, fix a notice of seizure to the premises at the time of the seizure so that it is visible to persons wishing to enter the premises.

84D Seized dog or cat must be delivered up

S. 84D
inserted by
No. 65/2007
s. 29.

- (1) A person (other than an authorised officer) who seizes a dog or cat under section 84 or 84A must, as soon as is reasonably possible, deliver it to an authorised officer of the Council of the municipal district in which it was seized, or to a person or body which has an agreement under section 84Y with that Council.

Penalty: 5 penalty units.

- (2) If a person is found guilty of an offence under subsection (1), the Magistrates' Court may, on the application of an authorised officer of the Council of the municipal district in which the animal was seized, order that the person return the animal to the authorised officer.

Division 3—Search warrants

84E Search warrants for dogs or cats

S. 84E
inserted by
No. 65/2007
s. 29.

- (1) An authorised officer may apply to a magistrate for the issue of a search warrant in relation to a person's residence, if the officer believes on reasonable grounds that there is present in or on the premises a dog or cat, which the officer is entitled to seize under this Part.
- (2) If the magistrate is satisfied, by the evidence, on oath or by affidavit, of the authorised officer that there are reasonable grounds to believe that a dog or cat that the authorised officer is entitled to seize under this Part is present in or on the premises, the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**, authorising an authorised officer named in the warrant, together with any other person or persons named or otherwise identified in the warrant to assist the officer, and with any necessary equipment—

s. 84E

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- (a) to enter the premises specified in the warrant; and
 - (b) to search for the dog or cat identified in the warrant; and
 - (c) to examine that dog or cat for the purposes of identifying the owner of the dog or cat; and
 - (d) if necessary, to seize that dog or cat.
- (3) A search warrant issued under this section must state—
- (a) the purpose for which the search is required; and
 - (b) any conditions to which the warrant is subject; and
 - (c) that entry to the premises is authorised to be made at any reasonable time of the day; and
 - (d) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) Except as provided by this Act, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.
- (5) Despite section 78(1)(b)(iii) of the **Magistrates' Court Act 1989**, a warrant issued under this Division must not authorise an authorised officer to arrest a person.

84F Announcement before entry

S. 84F
inserted by
No. 65/2007
s. 29.

- (1) On executing a search warrant, the authorised officer executing the warrant—
 - (a) must announce that he or she is authorised by the warrant to enter the premises; and
 - (b) if the authorised officer has been unable to obtain unforced entry, must give any person at the premises an opportunity to allow entry to the premises.
- (2) An authorised officer need not comply with subsection (1) if he or she believes, on reasonable grounds, that immediate entry to the premises is required to ensure—
 - (a) the safety of any person; or
 - (b) that the effective execution of the search warrant is not frustrated.

84G Details of warrant to be given to occupier

S. 84G
inserted by
No. 65/2007
s. 29.

- (1) If the occupier is present at the premises where a search warrant is being executed, the authorised officer must—
 - (a) identify himself or herself to the occupier; and
 - (b) give to the occupier a copy of the warrant.
- (2) If the occupier is not present at the premises where a search warrant is being executed but another person is, the authorised officer must—
 - (a) identify himself or herself to the person at the premises; and
 - (b) give to the person a copy of the warrant.

Division 4—Steps to be taken after seizure of dog or cat

S. 84H
inserted by
No. 65/2007
s. 29.

84H Identified owners must be served with notice of seizure

- (1) If the owner of a dog or cat that has been seized by or delivered to an authorised officer under section 23(1) or this Part is able to be identified from a marker attached to, or a device implanted in, the animal's body, the authorised officer must serve a notice of seizure on the owner.
- (2) If the owner of a dog or cat that has been seized under this Part and delivered to a person or body which has an agreement with a Council under section 84Y is able to be identified from a marker attached to, or a device implanted in, the animal's body, the person or body holding the animal must serve a notice of seizure on the owner.
- (3) A notice of seizure that is required to be served under the Act must be served either personally on the owner or by post to the last known address of the owner within 4 days after the dog or cat is seized.

S. 84I
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No. 65/2007
s. 29.

84I Notice of seizure

For the purposes of this Act, a notice of seizure is a notice that states the following—

- (a) that the dog or cat has been seized and a description of the animal;
- (b) the contact details of the person or body that has custody of the animal;
- (c) the date of seizure of the animal;
- (d) if a notice of objection has been served on the owner of an animal that has trespassed on private property under section 23(3), the address of that property;

- (e) if the animal is not to be retained in custody or disposed of under this Act, the period within which the owner of the animal may recover the animal and the requirements of recovery under Division 5;
- (f) that, if the animal is not recovered within any period for recovery of the animal, the animal may be sold or destroyed after the end of that period;
- (g) whether the Council intends to retain custody of the animal under this Act or dispose of the animal under this Act.

84J Custody of seized dogs or cats

If an authorised officer has seized a dog or cat under section 23(1), 82, 83, 84, 84A, 84B or 84C, the Council or person or body holding the dog or cat may retain custody of the dog or cat until the animal is recovered under Division 5 or disposed of under Division 6 (as the case may be).

S. 84J
inserted by
No. 65/2007
s. 29.

84K Owners of dogs believed to be restricted breed dogs must be served with declaration

- (1) If an authorised officer has seized a dog under section 80 and the authorised officer is able to identify the owner of the dog from a marker attached to, or a device implanted in, the dog's body or information received that is sufficient to enable the identification of the owner and the authorised officer reasonably believes that the dog is a restricted breed dog, the authorised officer must serve a declaration made under section 98A on the owner of the dog within 7 days of the seizure.
- (2) Subsection (1) applies despite anything to the contrary in section 98B.

S. 84K
inserted by
No. 65/2007
s. 29.

s. 84L

S. 84L
inserted by
No. 65/2007
s. 29.

84L Custody of seized dogs believed to be restricted breed dogs

- (1) If an authorised officer has served a declaration made under section 98A on the owner of a dog in accordance with section 84K, the Council or person or body holding the dog may retain custody of the dog until—
 - (a) any review of the decision to make a declaration under section 98A is determined under Part 7E; and
 - (b) the dog is recovered under Division 5 or disposed of under Division 6 (as the case may be).
- (2) If an authorised officer has seized a dog under section 80 in the reasonable belief that it is a restricted breed dog and the authorised officer is not able to serve a declaration made under section 98A on the owner because the authorised officer is not able to identify the owner of the dog, the Council or person or body holding the dog may retain custody of the dog until it is destroyed under Division 6.

Division 5—Recovery of seized dog or cat

S. 84M
inserted by
No. 65/2007
s. 29.

84M Recovery of dog or cat

- (1) A person may recover a dog or cat retained by a Council, a person or a body, which has been seized under section 23(1), 82, 83, 84, 84A, 84B or 84C and in respect of which the Council has decided not to retain custody, if within 8 days (or 14 days in the case of an abandoned animal) of the seizure—
 - (a) the person pays the amount fixed by the Council or charged by the person or body for the reasonable costs and expenses incurred by the Council, person or body in seizing the

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- animal and retaining custody of it until its recovery; and
- (b) the person proves to the satisfaction of the Council or person or body that he or she is the owner of the animal or the agent of that owner; and
 - (c) the owner has complied with any requirements of this Act or the regulations placed on the owner with respect to that animal.

Note

For example under section 10A the animal may have to be desexed in order to be registered under this Act and under section 10C the animal may have to be implanted with a prescribed permanent identification device to be registered under this Act.

- (2) If a person has been prosecuted for an offence set out in section 84Q(2) and has not been found guilty of that offence, the owner of the dog or cat, to which the offence relates, may recover the animal if he or she within 8 days after the completion of proceedings—
 - (a) proves to the satisfaction of the Council or person or body retaining the animal that he or she is the owner of the animal; and
 - (b) ensures that any requirements of this Act or the regulations placed on the owner with respect to that animal have been complied with.

Note

For example under section 10A the animal may have to be desexed in order to be registered under this Act and under section 10C the animal may have to be implanted with a prescribed permanent identification device to be registered under this Act.

s. 84N

S. 84N
inserted by
No. 65/2007
s. 29.

84N Recovery of dog believed to be a restricted breed dog

- (1) A person may recover a dog that was seized under this Part by an authorised officer in the reasonable belief that the dog was a restricted breed dog if—
 - (a) after having been served with a declaration made under section 98A—
 - (i) the declaration has been affirmed by a review under Part 7E; or
 - (ii) an application for review of the declaration has not been made within the time fixed for review under Part 7E; and
 - (b) the dog is able to be registered or have its registration renewed by the Council under this Act; and
 - (c) the Council does not require custody of the dog until the outcome of any prosecution that it proposes to take against the owner for an alleged commission of an offence relating to the dog under this Act or the regulations; and
 - (d) the person pays the amount fixed by the Council or charged by the person or body retaining custody of the dog for the reasonable costs and expenses incurred by the Council, person or body in seizing the dog and retaining custody of it until its recovery; and
 - (e) the person proves to the satisfaction of the Council or person or body that he or she is the owner of the dog or the agent of the owner; and

- (f) the owner has complied with the requirements of this Act or the regulations placed on the owner with respect to that dog.

Note

Under section 17(1AA) a restricted breed dog cannot be registered by the Council unless the circumstances set out in section 17(1A) apply. In addition, under sections 10A(4) and 10C(6), a Council cannot register a restricted breed dog unless the dog is desexed (subject to the exception under section 10B(1)(e)) and has been implanted with a prescribed permanent identification device.

- (2) A person may recover a dog under subsection (1) within 8 days after the earlier of the following—
- (a) the affirmation of the declaration made under section 98A by a review under Part 7E; or
 - (b) if an application for review of the declaration has not been made within the time fixed under Part 7E, the expiry of that time.
- (3) A person may recover a dog that was seized under this Part by an authorised officer in the reasonable belief that the dog was a restricted breed dog—
- (a) if—
 - (i) within 7 days after the seizure, the authorised officer does not serve a declaration made under section 98A on the owner of the dog; or
 - (ii) such a declaration is served on the owner and it has been set aside by a review under Part 7E; and
 - (b) if the Council does not require custody of the dog until the outcome of any prosecution that it proposes to take against the owner for an alleged commission of an offence relating to the dog under this Act or the regulations; and

- (c) if the person proves to the satisfaction of the Council or person or body retaining custody of the dog that he or she is the owner of the dog or the agent of the owner; and
- (d) the owner has complied with the requirements of this Act or the regulations placed on the owner with respect to the dog.

Note

Under section 10A the dog may have to be desexed in order to be registered under this Act and under section 10C the dog may have to be implanted with a prescribed permanent identification device to be registered under this Act.

- (4) A person who recovers a dog under subsection (3) is not liable to pay, and the Council, person or body must not fix, any amount for the costs and expenses incurred by the Council, person or body in seizing the dog and retaining custody of it until its recovery.

Division 6—Disposal of seized dogs or cats

840 Power to sell or destroy dogs or cats seized under this Part

- (1) The Council or person or body holding a cat seized under this Part may destroy the cat as soon as possible after its seizure if—
 - (a) the cat does not bear an identification marker or a permanent identification device; and
 - (b) the cat is wild, uncontrollable or diseased.
- (2) If the owner of a dangerous dog or a restricted breed dog seized under this Part is entitled to recover the dog under Division 5 and does not recover the dog in accordance with that Division within the period provided for recovery, the Council or person or body retaining custody of the

S. 840
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No. 65/2007
s. 29.

dog must destroy the dog as soon as possible after the expiry of that period.

- (3) If the owner of a dog or cat (other than a dangerous dog or a restricted breed dog) seized under this Part is entitled to recover the animal under Division 5 and does not recover the animal in accordance with that Division within the period provided for recovery, the Council or person or body retaining custody of the animal must sell or destroy the animal as soon as possible after the expiry of that period in accordance with any relevant Code of Practice made under section 59.

84P Further power to destroy dogs

S. 84P
inserted by
No. 65/2007
s. 29.

The Council may destroy a dog which has been seized under this Part at any time after its seizure if—

- (a) the dog is a dangerous dog or a restricted breed dog that is able to be registered or have its registration renewed under this Act and if—
- (i) the Council has made a decision to refuse to register or renew the registration of the dog; and
 - (ii) a review of that decision has affirmed the decision or the owner has not applied for a review of that decision within the time fixed for review under section 98(2A); or
- (b) the dog is a restricted breed dog—
- (i) that is not able to be registered or have its registration renewed by the Council under this Act; and
 - (ii) if the dog was seized by an authorised officer in the reasonable belief that it was a restricted breed dog, the

s. 84Q

provisions of this Part have been
complied with; or

- (c) the dog is a dangerous dog whose owner has been found guilty of an offence under Division 3 of Part 3 with respect to that dog; or
- (d) the dog is a restricted breed dog whose owner has been found guilty of an offence under Division 3B of Part 3 with respect to that dog; or
- (e) the dog's owner has been found guilty of an offence under section 28, 28A or 29 with respect to the dog.

S. 84Q
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No. 65/2007
s. 29.

84Q Prosecution of identified animal owners suspected of committing offences

- (1) If an authorised officer reasonably suspects that an owner of a dog or cat seized under this Part has committed an offence set out in subsection (2) with respect to that animal and the Council has sufficient information about the owner to enable it to commence prosecution for the offence and it proposes to prosecute the owner for that offence, the Council—
 - (a) subject to subsection (3), must commence prosecution as soon as possible after the seizure; and
 - (b) in the case of a dog or cat seized under section 84B, may retain custody of the animal until the outcome of the prosecution is known; and
 - (c) in any other case, must retain custody of the dog until the outcome of the prosecution is known.

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- (2) For the purposes of subsection (1) the offences are as follows—
- (a) an offence under Division 3 of Part 3;
 - (b) an offence under Division 3B of Part 3;
 - (c) an offence under section 28, 28A or 29;
 - (d) an offence under section 23(4), 24(1), 24(2) or 25(1) that has resulted in a breach of an order under section 84W.
- (3) If a dog whose owner is to be prosecuted by the Council under this section for an offence referred to in subsection (2)(b) has been seized under this Part by an authorised officer in the reasonable belief that the dog was a restricted breed dog, the Council must not commence the prosecution for that offence unless—
- (a) the owner has been served with a declaration made under section 98A; and
 - (b) the declaration has been affirmed by a review under Part 7E or an application for review of the declaration has not been made within the time fixed under Part 7E.

84R Council may require owner of animal to provide current address

S. 84R
inserted by
No. 65/2007
s. 29.

If an authorised officer reasonably suspects that an owner of a dog seized under this Part has committed an offence set out in paragraph (a), (b) or (c) of section 84Q(2) and the Council does not have sufficient information about the owner to enable it to commence prosecution for the offence, the Council may require, in the notice of seizure, that the owner provide his or her current address to the Council within 14 days after service of that notice.

s. 84S

S. 84S
inserted by
No. 65/2007
s. 29.

84S Council may destroy animals of non-identified dog owners suspected of committing an offence

If an authorised officer reasonably suspects that an owner of a dog seized under this Part has committed an offence set out in paragraph (a), (b) or (c) of section 84Q(2) the Council may destroy the dog—

- (a) if the owner of the dog does not provide the Council with the owner's current address within 14 days after being served with a notice of seizure requiring that address to be provided, at any time after the expiry of that 14 day period; or
- (b) within 8 days after the dog was seized if—
 - (i) the owner of the dog is unable to be identified from a marker attached to, or a device implanted in, the dog's body; and
 - (ii) the Council has not received sufficient information about the owner to enable it to identify the owner.

S. 84T
inserted by
No. 65/2007
s. 29.

84T Council must destroy dog believed to be a restricted breed dog if owner unknown

Despite anything to the contrary in this Part, the Council must destroy a dog seized under section 80 within 8 days after the seizure if—

- (a) the owner of the dog is unable to be identified from a marker attached to, or a device implanted in, the dog's body or information received by the Council that is sufficient to enable identification of the owner; and
- (b) the authorised officer reasonably believes that the dog is a restricted breed dog.

84U Seized animal must be desexed before sold

If a Council, person or body proposes to sell a dog or cat that has been seized and that has not been desexed, the Council, person or body must ensure that the animal is desexed before it is sold.

S. 84U
inserted by
No. 65/2007
s. 29.

84V Method of disposal of dogs or cats

- (1) If a Council, person or body is authorised under this Act to destroy a dog or cat, that person must destroy the animal humanely.

Penalty: 5 penalty units.

- (2) A Council, person or body that is authorised under this Act to sell or destroy an animal may give that animal to any person or body that is willing to accept it and which has been approved by the Council of the municipal district in which the animal is held in accordance with a Code of Practice made under section 7 of the **Prevention of Cruelty to Animals Act 1986** relating to the use of such an animal in scientific procedures.

S. 84V
inserted by
No. 65/2007
s. 29.

Division 7—Court powers

84W Power of Court to make orders in relation to dogs and cats found outside owners' premises

- (1) If the owner of a dog or cat is found guilty by the Magistrates' Court of an offence under section 23(4), 24(1), 24(2) or 25(1), the Court may make an order requiring the owner to carry out the works that are specified by the Court for the purpose of ensuring that the animal, which is the subject of the offence, is not able to escape from the owner's premises.

- (2) Section 135 of the **Magistrates' Court Act 1989** applies to an order made under this section.

S. 84W
inserted by
No. 65/2007
s. 29.

s. 84X

S. 84X
inserted by
No. 65/2007
s. 29.

84X Power of Court to order payment of costs and disposal of dogs or cats

- (1) If the owner of a dog or cat is found guilty of an offence in a proceeding commenced under section 84Q, the Magistrates' Court may make any one or more of the following orders—
 - (a) in the case of an offence referred to in section 84Q(2)(d), that the dog or cat be sold or destroyed;
 - (b) in any other case, that the dog be destroyed;
 - (c) if the dog or cat has been seized by the Council, that the owner pay the amount fixed by the Council for the reasonable costs and expenses incurred by the Council during any period (until the outcome of the proceeding) for which the Council has had the custody of the animal.
- (2) If the Magistrates' Court has found that the owner has not complied with an order under section 84W, the Magistrates' Court may (in addition to any power the Court has to make orders under the **Magistrates' Court Act 1989**) make either or both of the following orders—
 - (a) order that the dog or cat be sold or destroyed;
 - (b) if the dog or cat has been seized by the Council, that the owner pay the reasonable costs and expenses incurred by the Council for any period (until the outcome of the proceeding) for which the Council has had the custody of the animal.

Division 8—General

84Y Agreements to seize, retain or dispose of dogs or cats

S. 84Y
inserted by
No. 65/2007
s. 29.

A Council may enter into an agreement in writing with a person or body under which the person or body may be able to do all or any of the following in accordance with the provisions of this Part—

- (a) seize any dog or cat under section 84;
- (b) retain custody of any seized dog or cat;
- (c) sell or destroy any seized dog or cat;
- (d) charge fees for any of the above.

84Z Offences relating to seized cats or dogs

S. 84Z
inserted by
No. 65/2007
s. 29.

- (1) A person must not rescue, attempt to rescue or interfere with a dog or cat seized under this Act.

Penalty: 5 penalty units.

- (2) A person must not remove or attempt to remove any dog or cat seized under this Act from the custody of a Council, person or body authorised to retain custody of the animal under this Act or interfere with a dog or cat in such custody.

Penalty: 5 penalty units.

- (3) A person must not destroy, injure or attempt to destroy or injure any structure or enclosure in which a dog or cat is kept by a Council, person or body for the purposes of this Act.

Penalty: 5 penalty units.

84ZA Offence to unlawfully seize or destroy a dog or cat

S. 84AZA
inserted by
No. 65/2007
s. 29.

- (1) A person—
- (a) who seizes, sells, injures or destroys a dog or cat; and

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s. 84ZA

(b) who is not authorised to do so by the owner
or under this Act or any other Act—

is guilty of an offence and liable to a penalty of
not more than 3 penalty units.

(2) A person who is guilty of an offence under
subsection (1) of the destruction of an animal is
liable to pay the owner of the animal the full value
of the animal.

PART 7B—INFRINGEMENT NOTICES

Pt 7 Div. 3
 (Heading)
 substituted as
 Pt 7B
 (Heading) by
 No. 65/2007
 s. 30.

85 Power to serve infringement notice

- (1) If an authorised officer of a class referred to in column one of the Table at the foot of this subsection has reason to believe that a person has committed an offence against a section of this Act set out in column 2 of the Table that corresponds to that class of authorised officer, he or she may serve an infringement notice on that person.

S. 85
 amended by
 Nos 87/2000
 s. 35, 103/2003
 s. 20(as
 amended by
 No. 69/2004
 s. 58), 69/2004
 s. 32, 76/2005
 s. 22, 32/2006
 s. 94(Sch.
 item 11(1)),
 substituted by
 No. 65/2007
 s. 31.

Table

<i>Column 1</i>	<i>Column 2</i>
<i>Class of authorised officer</i>	<i>Sections of this Act</i>
Authorised officer appointed under section 71	10, 12A, 20, 21, 22, 23, 24, 25, 26, 27, 32, 37(1C), 37(2), 38, 41D(b), 41D(ba), 41D(bb), 41D(c), 41E, 41EA, 41F, 41G, 63A, 63D, 63F, 63G, 63H(1), 63H(2), 63I(1), 63J(1), 96
Authorised officer appointed under section 71A	63D, 63F, 63G, 63H(1), 63H(2), 63I(1), 63J(1)
Authorised officer appointed under section 72	10, 12A, 20, 21, 22, 23, 24, 25, 26, 27, 29(3), 29(4), 32, 37(1C), 37(2), 38, 39, 41H, 41D(b), 41D(ba), 41D(bb), 41D(c), 41E, 41EA, 41F, 41G, 41I, 63A, 63J(1), 96
Authorised officer appointed under section 72A	10, 12A, 20, 21, 22, 23, 24, 25, 26, 27, 29(3), 29(4), 32, 38, 39, 41E, 41EA, 41G, 41H, 41I

- (2) If an authorised officer has reason to believe that a person has committed an offence against the regulations, which the officer has power to enforce under this Act, and the offence is prescribed in the regulations for the purposes of this Part, the officer may serve an infringement notice on that person.
- (3) An offence referred to in subsection (1) or (2) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

S. 86 substituted by No. 87/2000 s. 36, repealed by No. 32/2006 s. 94(Sch. item 11(2)).

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S. 87 amended by No. 103/2003 s. 21, repealed by No. 32/2006 s. 94(Sch. item 11(2)).

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S. 88 amended by No. 65/2007 s. 32.

88 Penalties to be paid for offences under infringement notices

The penalty for an offence for which an infringement notice has been issued is the penalty prescribed by the regulations, which must not exceed 5 penalty units and must not exceed the penalty for that offence.

**PART 7C—PROVISIONS RELATING TO ENFORCEMENT
AND COURT PROCEEDINGS**

Pt 7C
(Heading)
inserted by
No. 65/2007
s. 33.

* * * * *

Ss 89, 90
repealed by
No. 32/2006
s. 94(Sch.
item 11(2)).

Division 1—Provisions related to court proceedings

Pt 7 Div. 4
(Heading)
substituted as
Pt 7C Div. 1
(Heading) by
No. 65/2007
s. 34.

91 Liability of officers of bodies corporate for offences

If a body corporate is guilty of an offence against this Act, any person who is concerned in or takes part in the management of that body corporate who was, in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the commission of the offence is also guilty of, that offence.

92 Power to file charges under this Act

A charge for an offence under this Act or under the regulations made under this Act, may only be filed by—

- (a) a member of the police force; or
- (b) an authorised officer appointed under section 71, 71A or 72.

S. 92(b)
substituted by
No. 103/2003
s. 22.

93 Service of documents

Except where otherwise provided for in this Act, a notice or other document authorised or required by this Act to be served on or given to a person is to be taken to have been served on or given to that person—

- (a) if it is delivered to him or her personally; or
- (b) it is left at his or her last known address, last known residence or business premises with a person apparently over 16 years of age and apparently residing or employed there; or
- (c) if it is sent to him or her by post.

94 Evidentiary provisions

(1) In any proceedings for an offence under this Act—

- (a) evidence that a person is the occupier of a house or premises where an animal is usually kept or permitted to remain is evidence and in the absence of evidence to the contrary is proof that that person is the owner of the animal; and
- (b) a registration certificate issued under section 19 or an instrument of appointment of an authorised officer issued under Part 7 is admissible in evidence and in the absence of evidence to the contrary is proof of the facts and matters contained in it.

(2) In any proceedings for an offence under this Act related to a restricted breed dog, it is a defence to an allegation that the dog in respect of which the offence was committed was a restricted breed dog, if the owner reasonably believed the dog was not a restricted breed dog.

S. 94
amended by
No. 83/2001
s. 21 (ILA
s. 39B(1)).

S. 94(1)(b)
amended by
Nos 103/2003
s. 23, 65/2007
s. 35.

S. 94(2)
inserted by
No. 83/2001
s. 21.

95 Payment of fines

If a fine is recovered under this Act—

- (a) on a charge filed by an authorised officer of a Council, it shall be paid to that Council; and
- (b) on a charge filed by any other person, it shall be paid into and form part of the Consolidated Fund.

* * * * *

Pt 7 Div. 4A
(Heading and
ss 95A–95D)
inserted by
No. 103/2003
s. 24,
repealed by
No. 65/2007
s. 36.

Division 2—Supplementary offences

Pt 7 Div. 5
(Heading)
substituted as
Pt 7C Div. 2
(Heading) by
No. 65/2007
s. 37.

96 Offence to sell certain animals outside certain places

S. 96
amended by
No. 69/2004
s. 33(b).

A person must not sell any animal referred to in the definition of pet shop or prescribed by the regulations for the purposes of that definition—

- (a) unless the animal is sold in the course of conducting a domestic animal business in a premises that is registered under Part 4 for that purpose; or
- (aa) unless the animal is sold in a place that is a private residence; or

S. 96(a)
substituted by
No. 69/2004
s. 33(a).

S. 96(aa)
inserted by
No. 69/2004
s. 33(a).

- (b) unless the sale is approved under the **Wildlife Act 1975**.

Penalty: 10 penalty units.

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Part 7C—Provisions Relating to Enforcement and Court Proceedings

s. 97

S. 97
amended by
No. 76/2005
s. 23.

97 False information

A person making an application under this Act must not give false information in that application.

Penalty: 10 penalty units, in the case of information relating to a declaration under section 10(3);

5 penalty units, in any other case.

**PART 7D—REVIEW OF DECISIONS BY VICTORIAN CIVIL
AND ADMINISTRATIVE TRIBUNAL**

Pt 7 Div. 6
(Heading)
amended by
No. 52/1998
s. 311(Sch. 1
item 21.3),
substituted as
Pt 7D
(Heading) by
No. 65/2007
s. 38.

**98 Review of decisions by Victorian Civil and
Administrative Tribunal**

- (1) The proprietor of a domestic animal business conducted on a premises registered under Part 4 or a person applying for registration of premises under Part 4 to conduct a domestic animal business may apply to the Victorian Civil and Administrative Tribunal for review of a decision by the Council—
- (a) to refuse to register or to renew the registration of a premises; or
 - (b) to refuse to transfer registration to a new premises; or
 - (c) to suspend the registration of a premises; or
 - (d) to impose terms, conditions, limitations or restrictions on the registration of a premises; or
 - (e) to revoke the registration of a premises.

S. 98(1)
amended by
No. 52/1998
s. 311(Sch. 1
item 21.4).

- (1A) A Council conducting a domestic animal business on a premises registered under Part 4 or a Council applying for registration of premises under Part 4 to conduct a domestic animal business may apply to the Victorian Civil and Administrative Tribunal for review of a decision by the Minister—
- (a) to refuse to register or to renew the registration of a premises; or

S. 98(1A)
inserted by
No. 87/2000
s. 37(1).

Domestic (Feral and Nuisance) Animals Act 1994
No. 81 of 1994

Part 7D—Review of Decisions by Victorian Civil and Administrative
Tribunal

s. 98

S. 98(2)
amended by
No. 52/1998
s. 311(Sch. 1
item 21.4).

- (b) to refuse to transfer registration to a new premises; or
 - (c) to suspend the registration of a premises; or
 - (d) to impose terms, conditions, limitations or restrictions on the registration of a premises; or
 - (e) to revoke the registration of a premises.
- (2) The owner of a dog may apply to the Victorian Civil and Administrative Tribunal for review of a decision by the Council—

S. 98(2)(a)
substituted by
No. 87/2000
s. 37(2).

- (a) to declare the dog to be dangerous under section 34; or

S. 98(2)(aa)
inserted by
No. 87/2000
s. 37(2).

- (aa) to declare the dog to be a menacing dog; or

S. 98(2)(b)
amended by
Nos 83/2001
s. 22, 65/2007
s. 39.

- (b) if the dog is a dangerous dog or a restricted breed dog that is not prohibited from being registered or having its registration renewed by the Council under section 10A(4), 10C(6) or 17(1AA), to refuse to register or renew the registration of the dog.

S. 98(2A)
inserted by
No. 52/1998
s. 311(Sch. 1
item 21.5).

- (2A) An application for review under subsection (1) or (2) must be made within 28 days after the later of—
- (a) the day on which the decision is made;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the applicant requests a statement of reasons for the decision, the day on which the statement of reasons is given to the applicant or the applicant is informed under section 46(5) of

that Act that a statement of reasons will not be given.

- (3) A decision made under this Act by a Council which is subject to review by the Victorian Civil and Administrative Tribunal takes effect—

S. 98(3) amended by No. 52/1998 s. 311(Sch. 1 item 21.6(a)(i)).

- (a) if an application for a review of the decision is not made, at the end of the period within which such an application could have been made; or
- (b) if such an application is made, in accordance with the determination of the Tribunal.

S. 98(3)(b) amended by No. 52/1998 s. 311(Sch. 1 item 21.6(a)(ii)).

- (4) If the decision which is subject to review is a refusal by the Council to renew registration of a premises on which a domestic animal business is being conducted, the registration of that premises continues—

- (a) if an application for review of the decision is not made, until the end of the period within which that application could have been made; or
- (b) if an application is made, in accordance with the determination of the Tribunal.

S. 98(4)(b) amended by No. 52/1998 s. 311(Sch. 1 item 21.6(b)).

98AA Review of decisions made under Part 4A

S. 98AA inserted by No. 103/2003 s. 25.

- (1) A person, whose interests are affected by the relevant decision, may apply to the Victorian Civil and Administrative Tribunal for review of—

- (a) a decision refusing to grant or renew an animal registry licence; or

S. 98AA(1)(a) amended by No. 65/2007 s. 44(Sch. 1 item 25(a)).

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Part 7D—Review of Decisions by Victorian Civil and Administrative
Tribunal

s. 98AA

S. 98AA(1)(b)
amended by
No. 65/2007
s. 44(Sch. 1
item 25(a)).

(b) a decision by the Secretary to impose conditions on an animal registry licence; or

S. 98AA(1)(c)
amended by
No. 65/2007
s. 44(Sch. 1
item 25(a)).

(c) a decision to cancel an animal registry licence; or

S. 98AA(1)(d)
amended by
No. 65/2007
s. 44(Sch. 1
item 25(b)).

(d) a decision to prohibit a person from implanting permanent identification devices in animals of prescribed classes of animal.

(2) An application for review under subsection (1) must be made within 28 days of—

(a) the day on which the decision is made; or

(b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

**PART 7E—IDENTIFICATION OF RESTRICTED BREED
DOGS**

Pt 7 Div. 7
(Heading)
inserted by
No. 83/2001
s. 23,
substituted as
Pt 7E
(Heading) by
No. 65/2007
s. 40.
Pt 7 Div. 7
(Heading and
ss 98A–98G)
inserted by
No. 83/2001
s. 23.

**98A Power of authorised officers to make declarations as
to breed of dogs**

S. 98A
inserted by
No. 83/2001
s. 23,
amended by
No. 103/2003
s. 26 (ILA
s. 39B(1)).

- (1) If an authorised officer is of the opinion that a dog is a restricted breed dog, the authorised officer may make a declaration to the effect that the dog is a restricted breed dog.
- (2) In this section *authorised officer* means an authorised officer appointed under section 72.
- (3) A declaration under this section—
 - (a) has effect throughout Victoria; and
 - (b) cannot be revoked, amended or otherwise altered.

S. 98A(2)
inserted by
No. 103/2003
s. 26.

S. 98A(3)
inserted by
No. 69/2004
s. 34.

98B Service of notice of declaration

- (1) An authorised officer who has made a declaration under section 98A must serve written notice of that declaration on the owner of the dog, either personally or by registered post, within 7 days of the making of the declaration.

S. 98B
inserted by
No. 83/2001
s. 23.

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- (2) A notice under subsection (1) must—
- (a) set out that the owner has a right to apply for a review of the decision to make the declaration under this Division; and
 - (b) set out how to make an application for such a review; and
 - (c) set out the requirements of the Act as to restricted breed dogs that must be complied with immediately.

S. 98C
inserted by
No. 83/2001
s. 23.

98C Application of certain offences at the time of the making of a declaration

Sections 19(2), 41G and 41H are to be taken not to apply to the owner of a dog which has been declared to be a restricted breed dog by an authorised officer until—

- (a) in the case of a declaration in respect of which an application to the panel has not been made within 30 days of the service of the notice of the declaration, 60 days after the service of the notice of the declaration; or
- (b) in the case of a declaration in respect of which—
 - (i) an application has been made to the panel within 30 days of the service of the notice of the declaration; and
 - (ii) the panel has affirmed the making of the declaration—

30 days after the decision to affirm the making of the declaration.

98D Right to apply for review of decision to make declaration

S. 98D
inserted by
No. 83/2001
s. 23.

- (1) The owner of a dog in respect of which a declaration has been made under this Division may apply for that decision to be reviewed by a review panel.
- (2) An application under subsection (1) must—
 - (a) be made to the Minister; and
 - (b) be made within 30 days of the service of the notice; and
 - (c) be accompanied by the fee prescribed by the regulations.

98E Review panel

S. 98E
inserted by
No. 83/2001
s. 23.

- (1) A review of a declaration made under this Division must be heard by a review panel consisting of a chairperson and 2 other persons appointed by the Minister for the purposes of that review.
- (2) A review panel must be constituted from a pool of persons appointed by the Minister because of their knowledge of or experience in the identification of dog breeds.

98F Procedure and decisions of review panels

S. 98F
inserted by
No. 83/2001
s. 23.

- (1) A review panel—
 - (a) must consider the application for review of the declaration which is before it; and
 - (b) may affirm or set aside that declaration.
- (2) A decision of a review panel must be determined by a majority of the members of the panel.
- (3) Subject to subsection (2), a review panel may regulate its own procedure.

s. 98G

S. 98G
inserted by
No. 83/2001
s. 23.

98G Terms and conditions of appointment of members of the pool and of panels

- (1) Subject to this section, the members of—
 - (a) any review panel appointed by the Minister under section 98E(1); and
 - (b) the pool of persons appointed by the Minister under section 98E(2)—are appointed on the terms and conditions determined by the Minister.
- (2) A member of a review panel who is not a public servant is entitled to receive the fees and travelling and other allowances, if any, fixed by the Minister.
- (3) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to any member of the pool or a panel in respect of the office of member.

S. 98G(3)
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 59.3),
80/2006
s. 26(Sch.
item 28).

**PART 8—LIMITATION OF JURISDICTION AND
REGULATIONS**

99 Supreme Court—Limitation of Jurisdiction

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court from entertaining proceedings to the extent provided in sections 30(2) and 31(2).

100 Regulations

(1) The Governor in Council may make regulations for or with respect to—

- (a) the principles to apply to schemes for fees for the registration of dogs and cats; and
- (b) the marking of dogs and cats to enable their identification or any other method of identifying dogs and cats; and

(ba) prescribing classes of permanent identification devices; and

S. 100(1)(ba)
inserted by
No. 103/2003
s. 27(1).

(bb) prescribing the standards that are to apply to prescribed permanent identification devices and the scanning of such devices; and

S. 100(1)(bb)
inserted by
No. 103/2003
s. 27(1).

(bc) prescribing the methods of implantation of permanent identification devices, including the procedures and standards in the handling of animals being implanted with such devices; and

S. 100(1)(bc)
inserted by
No. 103/2003
s. 27(1).

(bd) in relation to the record keeping of holders of domestic animals registry licences, providing for—

S. 100(1)(bd)
inserted by
No. 103/2003
s. 27(1).

- (i) the content of, and procedures relating to, keeping the records of the licence holder; and

Domestic (Feral and Nuisance) Animals Act 1994
No. 81 of 1994
Part 8—Limitation of Jurisdiction and Regulations

s. 100

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- (ii) access to and provision of information kept in the records; and
 - (iii) persons who can access the records or obtain information from the records; and
 - (iv) prohibiting and regulating charges for the provision of access to, or information kept in, the records; and
- S. 100(1)(be) inserted by No. 103/2003 s. 27(1).**
- (be) charges made by the holders of domestic animals registry licences for the provision of domestic animals registry services; and
- S. 100(1)(bf) inserted by No. 103/2003 s. 27(1).**
- (bf) the duties and obligations of persons (including implanters and owners of animals that have been implanted with permanent identification devices) in relation to the provision of information to the holders of domestic animals registry licences; and
- S. 100(1)(bg) inserted by No. 103/2003 s. 27(1).**
- (bg) any other matter related to the implantation of domestic animals with permanent identification devices; and
 - (c) enclosures in which dogs or cats are required to be kept; and
 - (d) warning signs to be displayed at premises where dangerous dogs are kept; and
 - (e) conditions and restrictions which may be imposed on registration of premises where domestic animal businesses are conducted; and
 - (f) notification of change of address of registered dog and cat owners; and
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- (fa) in relation to the register kept by the Secretary under Part 3A—
- (i) information to be provided to the Secretary for the purposes of the register; and
 - (ii) the manner and procedures for the giving of any information to the Secretary required for the purposes of the register; and
 - (iii) the form of the register and the manner of keeping information, and the information, to be kept in the register; and
 - (iv) persons or classes of person who may inspect (within the meaning of Part 3A) and obtain information from the register and the purposes for which inspections of the register may be made; and
 - (v) the procedures (including the times and methods of inspection) relating to the inspection of information kept in the register and the obtaining of that information; and
 - (vi) the fees that may be charged for obtaining information from the register and the persons or classes of person that are to be charged such fees; and
- (fb) prescribing infringement offences for the purposes of Part 7B; and
- (fc) prescribing, for the purposes of Part 7B, penalties not exceeding 5 penalty units for infringement offences; and
- (g) forms for the purposes of this Act; and

S. 100(1)(fa)
inserted by
No. 69/2004
s. 35.

S. 100(1)(fb)
inserted by
No. 65/2007
s. 41(4).

S. 100(1)(fc)
inserted by
No. 65/2007
s. 41(4).

s. 100

- (h) fees for the purposes of this Act; and
- (i) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

(2) Regulations—

- (a) may be of general or limited application; and
- (b) may differ according to differences in time, place or circumstances; and
- (c) may leave any matter to be approved or determined by the Minister, the Secretary or an authorised officer; and

S. 100(2)(c)
amended by
No. 103/2003
s. 27(2)(a).

- (ca) may confer discretionary authority or impose a duty on a specified person or a specified class of person; and

S. 100(2)(ca)
inserted by
No. 103/2003
s. 27(2)(b).

- (cb) may provide in a specified case or a specified class of case for the exemption of a class of people or things from any provision of the regulations, whether unconditionally or on specified conditions and whether wholly or to such an extent as is specified in the regulations; and

S. 100(2)(cb)
inserted by
No. 103/2003
s. 27(2)(b).

- (d) may impose penalties not exceeding 10 penalty units for contravention of the regulations.

S. 100(2)(d)
amended by
No. 65/2007
s. 41(5).

- (2A) Regulations made under this Act may be made so as to apply, adopt or incorporate any matter contained in any code, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—

S. 100(2A)
inserted by
No. 103/2003
s. 27(3).

- (a) wholly or partially or as amended by the regulations; or

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- (b) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or
- (c) as amended from time to time.
- (3) The regulations may be disallowed in whole or in part by resolution of either House of Parliament in accordance with the requirements of section 6(2) of the **Subordinate Legislation Act 1962**.
- (4) Disallowance under subsection (3) must be taken to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1962**.

S. 100(2A)(b)
amended by
No. 76/2005
s. 24(a).

S. 100(2A)(c)
inserted by
No. 76/2005
s. 24(b).

PART 9—REPEALS AND TRANSITIONAL PROVISIONS

101 Repeal of Dog Act

The **Dog Act 1970** is repealed.

102 Saving provisions

- (1) The Victorian Canine Association and any organisation approved by the Council for the purposes of the Schedule before the commencement of section 39 of the **Domestic (Feral and Nuisance) Animals (Amendment) Act 2000** is deemed to be an applicable organisation for the purposes of the Schedule.
- (2) The Feline Control Council, the Governing Council of the Cat Fancy Australia and Victoria Incorporated, the Democratic Cat Council Incorporated and any breed society approved by the Council before the commencement of section 39 of the **Domestic (Feral and Nuisance) Animals (Amendment) Act 2000** is deemed to be an applicable organisation for the purposes of the Schedule.
- (3) The bodies referred to in the definition of *applicable organisation* before the commencement of section 4(a) of the **Domestic (Feral and Nuisance) Animals (Amendment) Act 2000** are deemed to be applicable organisations for the purposes of the Act.

S. 102
substituted by
No. 87/2000
s. 38.

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- (4) Any organisation approved by the Council for the purposes of the definition of *domestic animal business* before the commencement of section 4(b) of the **Domestic (Feral and Nuisance) Animals (Amendment) Act 2000** is deemed to be an applicable organisation for the purposes of the definition of *domestic animal business* and section 20.

103 Transitional provisions—Animals Legislation Amendment (Animal Care) Act 2007

S. 103
inserted by
No. 69/2004
s. 36,
substituted by
No. 65/2007
s. 43.

- (1) The amendments made to this Act by sections 9, 10(2), 11, 15, 17 and 19 of the **Animals Legislation Amendment (Animal Care) Act 2007** apply only to offences alleged to have been committed on or after the commencement of those sections.
- (2) For the purposes of subsection (1), if an offence is alleged to have been committed between two dates and the provision of the **Animals Legislation Amendment (Animal Care) Act 2007** effecting the amendment commences on a date between those two dates, the offence is taken to have been alleged to have been committed before the commencement of that provision.
- (3) An agreement entered into under section 81 as in force immediately before the commencement of section 29 of the **Animals Legislation Amendment (Animal Care) Act 2007** is taken to be an agreement entered into under section 84Y.
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Sch.

Sch.
amended by
Nos 87/2000
s. 39(1)(2),
103/2003
s. 28(a)(b),
76/2005
s. 25(a)-(c).

SCHEDULE

Section 15(4)

REGISTRATION FEES

PART 1—DOGS

Column 1 <i>Maximum fee</i>	Column 2 <i>Reduced fee</i>
Any dogs (other than dangerous dogs, menacing dogs or restricted breed dogs) to which a description in Column 2 does not apply	Desexed dogs. Dogs over 10 years old. Dogs kept for working stock. Dogs kept for breeding by the proprietor of a domestic animal business conducted on registered premises. Dogs that have undergone obedience training which complies with the regulations. Dogs registered with an applicable organisation, if their owners are members of the applicable organisation with which the dogs are registered. Dogs that are implanted with a prescribed permanent identification device or permanently identified in the prescribed manner.

PART 2—CATS

Column 1 <i>Maximum fee</i>	Column 2 <i>Reduced fee</i>
Any cats to which a description in column 2 does not apply.	Desexed cats. Cats over 10 years old. Cats kept for breeding by the proprietor of a domestic animal business conducted on registered premises. Cats registered with an applicable organisation, if their owners are members of the applicable organisation with which the cats are registered. Cats that are implanted with a prescribed permanent identification device.

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 8 September 1994

Legislative Council: 19 October 1994

The long title for the Bill for this Act was "A Bill to provide for the management of feral and nuisance domestic animals, the regulation of domestic animals and domestic animal businesses, to repeal the **Dog Act 1970** and for other purposes."

Constitution Act 1975:

Section 85(5) statement:

Legislative Assembly: 8 September 1994

Legislative Council: 19 October 1994

Absolute majorities:

Legislative Assembly: 14 October 1994 and 15 November 1994

Legislative Council: 9 November 1994

The **Domestic (Feral and Nuisance) Animals Act 1994** was assented to on 29 November 1994 and came into operation as follows:

Sections 1 and 2 on 29 November 1994: section 2(1); rest of Act on 9 April 1996: Government Gazette 20 July 1995 page 1824.

2. Table of Amendments

This Version incorporates amendments made to the **Domestic (Feral and Nuisance) Animals Act 1994** by Acts and subordinate instruments.

Veterinary Practice Act 1997, No. 58/1997

Assent Date: 28.10.97
Commencement Date: S. 96(Sch. item 2) on 17.3.98: Government Gazette 12.3.98 p. 520
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 21) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 36) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Domestic (Feral and Nuisance) Animals (Amendment) Act 2000, No. 87/2000

Assent Date: 5.12.00
Commencement Date: Ss 4(c)–(e), 5–8, 10–19(1), 20–37 on 6.12.00: s. 2(1); Ss 4(a)(b), 9, 19(2), 38, 39 on 1.1.02: s. 2(3)
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Animals Legislation (Responsible Ownership) Act 2001, No. 83/2001

Assent Date: 11.12.01
Commencement Date: Ss 24–30 on 12.12.01: s. 2(1); ss 9–23 on 1.11.02: s. 2(3)
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Domestic (Feral and Nuisance) Animals Act 1994
No. 81 of 1994

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Fisheries (Amendment) Act 2003, No. 56/2003

Assent Date: 16.6.03
Commencement Date: S. 11(Sch. item 6) on 17.6.03: s. 2
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Animals Legislation (Animal Welfare) Act 2003, No. 103/2003 (as amended by Nos 69/2004, 108/2004)

Assent Date: 9.12.03
Commencement Date: Ss 4, 6–8, 24 on 10.12.03: s. 2(1); s. 26 on 19.10.04: Government Gazette 7.10.04 p. 2795; s. 20(1) on 16.12.04: Government Gazette 16.12.04 p. 3381; ss 3, 5, 9–19, 20(2), 21–23, 25, 27, 28 on 1.12.05: s. 2(3)
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Primary Industries Legislation (Further Miscellaneous Amendments) Act 2004, No. 69/2004

Assent Date: 19.10.04
Commencement Date: Ss 22–29, 31, 33, 34 on 20.10.04: s. 2(1); s. 32 on 1.3.05: s. 2(7); ss 30, 35, 36 on 2.2.06: Government Gazette 25.1.06 p. 108
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

State Concessions Act 2004, No. 82/2004

Assent Date: 16.11.04
Commencement Date: S. 13(Sch. item 1) on 1.3.05: s. 2(2)
Current State: This information relates only to provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 59) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Primary Industries Acts (Amendment) Act 2005, No. 50/2005

Assent Date: 24.8.05
Commencement Date: Ss 11, 12 on 25.8.05: s. 2(1); s. 10 on 2.2.06: Government Gazette 25.1.06 p. 108
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Domestic (Feral and Nuisance) Animals Act 1994
No. 81 of 1994

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Primary Industries Acts (Further Amendment) Act 2005, No. 76/2005

Assent Date: 2.11.05
Commencement Date: Ss 3–5, 9(1), 10–20, 21(1)–(5)(7), 23, 25 on 3.11.05:
s. 2(1); ss 6, 8, 9(2), 21(6), 22, 24 on 1.12.05:
Government Gazette 17.11.05 p. 2610; s. 7 on 1.5.07:
s. 2(2)
Current State: This information relates only to the provision/s
amending the **Domestic (Feral and Nuisance)
Animals Act 1994**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 11) on 1.7.06: Government Gazette
29.6.06 p. 1315
Current State: This information relates only to the provision/s
amending the **Domestic (Feral and Nuisance)
Animals Act 1994**

**Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006,
No. 80/2006**

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 28) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Domestic (Feral and Nuisance)
Animals Act 1994**

Animals Legislation Amendment (Animal Care) Act 2007, No. 65/2007

Assent Date: 11.12.07
Commencement Date: Ss 4, 5(1), 6–21, 26–40, 41(4)(5), 43, Sch 1 on
12.12.07: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Domestic (Feral and Nuisance)
Animals Act 1994**

Endnotes

3. Explanatory Details

No entries at date of publication.