

# **Companion Animals Bill**

## **EXPLANATORY MEMORANDUM**

### **PART 1—PRELIMINARY**

*Clause 1* sets out the purpose of the Bill.

*Clause 2* is the commencement provision. The Act is to come into operation on a day or days to be proclaimed.

*Clause 3* defines various terms used in the Bill.

*Clause 4* provides a mechanism for exempting companion animals and companion animal businesses from requirements of the Act. It also sets out special provisions which are to apply to guide dogs for the blind or deaf, and to police dogs and police horses.

### **PART 2—REGISTRATION OF COMPANION ANIMALS**

#### **Division 1—Registration Requirements**

*Clause 5* requires that dogs and cats over 6 months old must be registered with local Councils.

*Clause 6* requires that a companion animal other than a dog or cat must be registered if it is over 6 months old and if the local Council has made a law requiring that species of animal to be registered.

*Clause 7* contains provisions relating to the date for renewal of registration.

*Clause 8* enables Councils to appoint veterinary surgeons and proprietors of companion animal businesses as registration agents.

*Clause 9* requires the proprietor of a companion animal business who sells an unregistered animal to notify, at the time of the sale, the Council with which the animal should be registered.

#### **Division 2—Procedures for Registration**

*Clause 10* sets out the requirements relating to applications for registration.

*Clause 11* requires Councils to fix application fees for registration or renewal of registration. A scheme of application fees in respect of dogs, cats and horses must apply specified principles in relation to the fixing of maximum, reduced and minimum fees.

*Clause 12* requires the owner of a registered companion animal to notify the relevant Council if the owner changes address.

#### **Division 3—Powers and Duties of Councils with respect to Registration**

*Clause 13* enables a Council to make a local law requiring a companion animal, other than dogs or cats, to be registered.

*Clause 14* requires a Council to register or renew the registration of an animal, other than a dangerous dog, which is required to be registered.

*Clause 15* enables a Council to register or renew the registration of a dangerous dog and gives it the ability to impose conditions upon registration. A Council must follow specified procedures if it proposes or decides not to register or renew the registration of a dangerous dog.

*Clause 16* requires Councils to keep and allow inspection of a register of all registered animals.

#### **Division 4—Identification of Registered Animals**

*Clause 17* requires a Council to allocate a registration number to every registered animal, to provide the owner with a registration certificate and to issue identification markers to the owners of registered cats and dogs. The owner of a registered dangerous dog or a registered horse must ensure that the animal is permanently identified in a prescribed manner.

*Clause 18* requires that a registered cat or dog must have its identifying marker when outside its owner's premises. This requirement will not apply in specified circumstances to certain dogs.

*Clause 19* provides that an unregistered cat or dog must not have an identifying marker.

*Clause 20* prohibits a person who is not the owner of a registered cat or dog from removing or altering the identifying marker of that animal.

### **PART 3—CONTROL OF COMPANION ANIMALS**

#### **Division 1—Stray Animals**

*Clause 21* provides for offences if dogs are found at large.

*Clause 22* makes it a particular offence if a dog is found in certain specified places.

*Clause 23* makes it an offence if a cat is found at large in the period between an hour before sunset and an hour after sunrise in a municipality where an order has been made for such a purpose.

*Clause 24* enables a dog or cat to be seized if it is found in an area or in circumstances described in clauses 21, 22 or 23. A dog or cat which is seized must be delivered to an authorised officer of the municipality in which it was found.

*Clause 25* requires an authorised officer to notify the owner of any dog or cat which has been seized, if the owner can be identified by a marker. There are specified procedures to be followed in relation to the notification of owners, the recovery or disposal of animals and the payment of costs.

*Clause 26* enables a Council to enter into an agreement with an animal welfare organisation in relation to the seizure and disposal of dogs or cats. There are specified procedures to be followed in relation to the notification of owners, recovery of animals and payment of costs.

*Clause 27* makes it an offence if a dog which is not sufficiently muzzled is found in a railway trucking yard while sheep are present.

## **Division 2—Particular Provisions for the Control of Dogs and Cats**

*Clause 28* contains provisions requiring the effective muzzling and restraint of a greyhound outside the premises of its owner.

*Clause 29* prohibits a person from wilfully setting on or urging a dog to attack, worry or chase any person or animal except when lawfully hunting.

*Clause 30* makes it an offence if a dog rushes at, attacks, worries or chases a person or an animal, except in certain specified circumstances. If a dog owner is convicted of such an offence, a Court may order the destruction of a dog.

*Clause 31* enables the destruction of a dog or cat found at large where farming animals or birds are confined or tethered.

*Clause 32* enables an authorised officer to destroy a dog or cat found at large in a wildlife sanctuary or conservation zone.

*Clause 33* provides that the owner or person in charge of a dog must not allow it to chase a vehicle.

*Clause 34* prohibits the owner of premises where a dog or cat is present from allowing that animal to be a nuisance.

## **Division 3—Particular Provisions for the Control of Dangerous Dogs**

*Clause 35* requires the owner of a dangerous dog to notify the Council within 24 hours if certain specified events occur.

*Clause 36* requires that a dangerous dog when on its owner's premises must be kept indoors or in a specified enclosure.

*Clause 37* requires prescribed warning signs to be displayed at all entrances to premises where a dangerous dog is kept.

*Clause 38* requires the owner of a dangerous dog to ensure that the dog wears a prescribed collar at all times.

*Clause 39* contains provisions requiring the adequate muzzling and effective control by chain, cord or leash of a dangerous dog when outside the premises of its owner.

*Clause 40* enables an authorised officer of the relevant Council to seize and destroy a dangerous dog if its owner is found guilty of specified offences in relation to dangerous dogs.

## **Division 4—Powers and Duties of Councils with a respect to the Control of Companion Animals**

*Clause 41* enables Councils to make local laws prohibiting or regulating the numbers of companion animals kept on premises and the keeping of companion animals in a specified area. Local laws may also require owners of dogs to remove and dispose of faeces deposited by their dogs in public places.

*Clause 42* provides that if a Council has prohibited the keeping of a species of animal in a specified area, an authorised officer may destroy an animal of that species found at large in that area.

*Clause 43* provides that if a Council has prohibited the keeping of a dog or cat in a specified area, the Council may require the owner of any dog or cat already kept in the area to be desexed or confined in a pen on the owner's premises.

## **PART 4—REGISTRATION AND CONDUCT OF COMPANION ANIMAL BUSINESSES**

### **Division 1—Registration**

*Clause 44* provides that it is an offence to conduct a companion animal business on unregistered premises.

*Clause 45* deals with applications for registration.

*Clause 46* provides for the registration of premises by Councils.

*Clause 47* specifies the period for which a registration continues in force and makes provision for renewals of registration.

*Clause 48* requires the payment of fees for registration and renewal of registration.

*Clause 49* makes it an offence to give false information in an application.

### **Division 2—Surrender or Transfer of Registration**

*Clause 50* allows a proprietor to surrender a registration.

*Clause 51* contains provisions relating to the transfer of registration.

### **Division 3—Refusal to Register or Suspension or Revocation of Registration**

*Clause 52* enables a Council to refuse registration or a transfer of registration, and to suspend or revoke a registration if the proprietor has failed to comply with specified requirements or has been found guilty of an offence under the **Prevention of Cruelty to Animals Act 1986**.

*Clause 53* requires a Council to give notice before exercising its powers under clause 52.

*Clause 54* requires a Council, before acting under clause 52, to give an opportunity for a proprietor or applicant for registration to make a submission to the Council.

*Clause 55* requires the Council to give written notice of its decision with reasons.

### **Division 4—Codes of Practice**

*Clause 56* provides that the Minister may make Codes of Practice which specify standards for the conduct of companion animal businesses.

*Clause 57* sets out the requirements relating to the giving of notice of a proposal to make a Code.

*Clause 58* requires the Minister to consider submissions lodged within the time limit fixed.

*Clause 59* requires the giving of notice of the making of a Code before it is made.

*Clause 60* contains requirements relating to the publication, operation and availability of a Code.

## **PART 5—BOARDING AND AGISTMENT OF COMPANION ANIMALS**

*Clause 61* provides that a person who has custody or possession of a companion animal for boarding or agistment is responsible for the animal's welfare unless the owner agrees otherwise. The duties and rights of a person responsible for a boarded or agisted animal are specified.

*Clause 62* deals with liens over companion animals held by persons who are responsible for the boarding or agistment of companion animals.

*Clause 63* deals with the disposal of a companion animal by a person who holds a lien over the animal.

*Clause 64* makes provision relating to sale of companion animals by lien holders.

*Clause 65* deals with the passing of property upon the sale of a companion animal by a lien holder.

## **PART 6—ESTABLISHMENT AND MANAGEMENT OF THE ANIMAL WELFARE FUND**

### **Division 1—The Animal Welfare Fund Administration Board**

*Clause 66* establishes an Animal Welfare Fund Administration Board.

*Clause 67* sets out the functions of the Board. These include the receipt and payment of money into the Animal Welfare Fund, and payments from the Fund.

*Clause 68* deals with the membership of the Board. The Board is to consist of 8 members appointed by the Governor in Council on the recommendation of the Minister. Two members are to be appointed from a panel of names submitted by the Municipal Association of Victoria, and four are to be appointed from panels submitted by animal welfare organisations. The members of the Board are to appoint a Deputy Chairperson.

*Clause 69* deals with the terms and conditions of appointment of Board members and provides for their remuneration.

*Clause 70* provides for members to be appointed for a term not exceeding three years. Members are to be eligible for reappointment.

*Clause 71* sets out the circumstances in which the office of a member becomes vacant. It provides for the appointment of persons to fill casual vacancies.

*Clause 72* requires a member who has a pecuniary interest in a matter considered by the Board to declare that interest. A declaration is to be recorded in the minutes, and the member making the declaration must not be present during any relevant deliberation and is not entitled to vote on the matter.

*Clause 73* provides that the Board is subject to the general direction and control of the Minister and to any specific directions of the Minister.

*Clause 74* provides that five members of the Board including the chairperson or deputy chairperson constitute a quorum. Questions are to be decided by a majority of votes, with the person presiding having a casting vote. Minutes must be kept of every meeting.

## **Division 2—The Animal Welfare Fund**

*Clause 75* provides for the establishment and keeping by the Board of an Animal Welfare Fund. The Fund is to consist of moneys paid to the Board by Councils under Clause 76.

*Clause 76* requires Councils to pay to the Board 5 per cent of application fees collected in any year for the registration of companion animals. Special provision is made for the first payments to be made by Councils.

*Clause 77* provides for payments to be made from the Fund towards research into and the promotion of animal welfare, the remuneration of Board members and the costs incurred in the administration of the Fund and the operation of the Board. Before the Board makes a payment towards research into or the promotion of animal welfare it must obtain the Minister's approval.

*Clause 78* makes provision for the date when payment must be made by a Council to the Board.

*Clause 79* requires the Board to prepare and forward to the Minister an annual report containing a report on its operations and audited financial statements. The Minister is required to lay the report before Parliament and to advise Parliament of any failure to submit a report.

*Clause 80* enables the granting of an extension of time for submitting an annual report.

*Clause 81* requires the Board to keep proper accounts and records. It sets out specific requirements which are to be observed.

*Clause 82* requires the accounts and records to be audited, and provides the Auditor General with power to undertake the audit, the costs of which are to be borne by the Board.

*Clause 83* provides that the reporting, accounting and auditing requirements do not apply if the Board is subsequently brought under the **Annual Reporting Act 1983**.

## **PART 7—DECLARATION OF DANGEROUS DOGS**

*Clause 84* sets out the circumstances in which a Council may declare a dog to be a dangerous dog, and specifies circumstances in which a Council must not make a declaration.

*Clause 85* sets out the procedures to be followed by a Council in declaring that a dog is dangerous.

*Clause 86* requires a Council to give notice to the owner of a dog if that dog has been declared to be dangerous.

## **PART 8—ENFORCEMENT AND PROCEDURAL PROVISIONS**

### **Division 1 Authorised Officers**

*Clause 87* enables the Director General of Agriculture and Councils to appoint authorised officers, who are to be issued with certificates of appointment which must be produced on demand.

*Clause 88* sets out the powers of authorised officers.

*Clause 89* provides that it is an offence to wilfully assault, obstruct, threaten or intimidate an authorised officer.

#### **Division 2—Infringement Notices**

*Clause 90* enables an authorised officer to serve infringement notices for specified offences.

*Clause 91* deals with the form of an infringement notice.

*Clause 92* enables the withdrawal of an infringement notice.

*Clause 93* provides for infringement notice penalties to be prescribed in the regulations.

*Clause 94* contains provisions relating to the payment of penalties shown on infringement notices.

*Clause 95* provides that an infringement notice is not to prejudice further proceedings.

#### **Division 3—Provisions about Evidence and Proceedings before Court**

*Clause 96* contains liability provisions in respect of offences by officers of bodies corporate.

*Clause 97* contains evidentiary provisions.

*Clause 98* provides that where a person is convicted of an offence, the informant is entitled to costs.

#### **Division 4—Review of Decisions by the Administrative Appeals Tribunal**

*Clause 99* contains provisions relating to reviews of decisions by the Administrative Appeals Tribunal.

### **PART 9—GENERAL**

*Clause 100* deals with offences relating to seized dogs or cats.

*Clause 101* provides that a person authorised to destroy a companion animal must destroy it speedily and without causing unnecessary suffering. A person authorised to sell or destroy an animal may give the animal to any approved person or body.

*Clause 102* makes it an offence to unlawfully seize, sell, injure or destroy a companion animal.

*Clause 103* makes it an offence to sell a cat or dog outside a registered companion animal business or a place of residence.

*Clause 104* makes provision for the payment of fines recovered under the Act.

*Clause 105* sets out requirements for the service of notices and documents.

*Clause 106* expresses an intention to alter or vary section 85 of the **Constitution Act 1975** in relation to the jurisdiction of the Supreme Court.

*Clause 107* contains the regulation making powers.

**PART 10—AMENDMENTS TO AND REPEAL OF OTHER ACTS AND  
TRANSITIONAL PROVISIONS**

*Clause 108* repeals the **Dog Act 1970**.

*Clause 109* amends the **Livery and Agistment Act 1958** as specified in Schedule 2.

*Clause 110* is a transitional provision relating to the registration of dogs.

**SCHEDULES**

*Schedule 1* deals with application fees for the registration of dogs, cats and horses to which the principles in Clause 11 (4) must be applied.

*Schedule 2* specifies the amendments to the **Livery and Agistment Act 1958**.