

Domestic (Feral and Nuisance) Animals Act 1994

No. 81 of 1994

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SCHEDULE



Victoria

No. 81 of 1994

Domestic (Feral and Nuisance) Animals Act 1994

[Assented to 29 November 1994]

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

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- (c) the identification and control of dangerous 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
- (f) payments to the Treasurer from fees received by Council's 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 sub-section (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 sub-section (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—

“Administrative Appeals Tribunal” means the Administrative Appeals Tribunal established under the **Administrative Appeals Tribunal Act 1984**;

“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 any one of the following—

- (a) the Victorian Canine Association or any successor in law of the Association;
- (b) the Feline Control Council or any successor in law of the Council;
- (c) the Governing Council of the Cat Fancy Australia and Victoria Incorporated or any successor in law of the Council;
- (d) the Democratic Cat Council Incorporated or any successor in law of the Council;

“authorised officer” means any person appointed by the Minister or a Council under Part 7;

“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 a dog which has been declared to be dangerous by a Council under Part 3;

“Department” means the Department referred to as the Department of Agriculture in Column 1 of Schedule 1 to the **Public Sector Management Act 1992**;

“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

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(B) the enterprise has less than 10 fertile female animals but the owner is not a member of an applicable organisation or an organisation approved by the Council of the municipal district in which the enterprise is situated; or

(ii) the rearing, training or boarding of dogs and cats;

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

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

“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;

“pet shop” means a shop situated in a permanent location 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;

“pound” means any premises maintained for the purpose of impounding dogs and cats;

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

“subordinate instrument” has the same meaning as in the **Interpretation of Legislation Act 1984**;

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

(2) If, under the **Public Sector Management Act 1992**, the name of the Department is changed, the reference in the definition of **“Department”** in sub-section (1) to the Department of Agriculture is, from the date

when the name is changed, to be taken to be the reference to the Department by its new name.

4. *Parent or guardian deemed to be owner*

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

5. *Governor in Council exemptions*

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.

6. *Minister's power to delegate*

The Minister may, in writing, delegate to any officer or employee employed under the **Public Sector Management Act 1992** in the administration of this Act all or any of the following powers—

- (a) his or her power to approve organisations under section 7;
- (b) his or her power to issue certificates to authorised officers under section 71.

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

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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 sub-section (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 sub-section (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 6 months old.

Penalty: 5 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.

Penalty: 5 penalty units.

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 surgeon under the **Veterinary Surgeons Act 1958**; or

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- (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.

13. Notification of sale by domestic animal businesses

If the proprietor of a domestic animal business sells a dog or cat which is not registered, he or she must notify the Council with which the animal should be registered, of the sale of the animal at the time of that sale.

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 the relevant registration fee fixed by the Council.

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 sub-section (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 the types of dog or cat described in Column 1 of the Schedule under dog or cat;
 - (b) the reduced fee is to be payable in respect of the types of dog or cat described in Column 2 of the Schedule under dog or cat.
- (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 1986**; and
 - (b) has completed and given to the Council an application for such a waiver in the form approved by the Council.

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

16. Council required to register cats and dogs other than dangerous dogs

A Council must register or renew the registration of a cat or dog, other than a dangerous dog, which is required to be registered by this Act, if the application for registration or renewal is in order and accompanied by the appropriate fee.

17. Registration of dangerous dogs

- (1) A Council may register or renew the registration of a dangerous dog and may impose conditions upon the registration of that dog.
- (2) If the Council proposes not to register or renew the registration of a dangerous 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.
- (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, it must serve written notice of that decision on the owner.
- (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) The owner of a registered dangerous dog must ensure that the animal is permanently identified in the manner prescribed by the regulations.

Penalty applying to this sub-section: 5 penalty units.

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 upon conviction to a penalty of not more than 1 penalty unit.
- (2) Sub-section (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

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- 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 an organisation approved by the Council of the municipal district in which the fixture is being conducted; 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.

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 upon conviction 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*

- (1) If—
 - (a) 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; and

- (b) the owner or occupier of the property has made more than one written or verbal request to the owner of the dog or cat to prevent the dog or cat from entering or remaining on the property; and
- (c) after those requests the dog or cat has again been present on the property—

the Council of the municipal district in which the property is situated may serve on the owner of the dog or cat a notice of objection to the presence of that dog or cat on that property.

- (2) If, after a notice under sub-section (1) has been served, the dog or cat enters or remains on the property, the owner of the dog or cat is guilty of an offence and liable, upon conviction, to a penalty of not more than 1 penalty unit for a first offence, and 3 penalty units for a second or subsequent offence.
- (3) A notice under sub-section (1) must be served either personally or by registered post.

24. *Dogs found at large*

- (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 upon conviction to a penalty of not more than 1 penalty unit for a first offence, or 3 penalty units for a second or subsequent offence.
- (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 upon conviction to a penalty of not more than 3 penalty units for a first offence and 5 penalty units for a second or subsequent offence.

25. *Cats found at large*

- (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 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, upon conviction, 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.
- (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, upon conviction, to a penalty of not more than 2 penalty units for a first offence and 4 penalty units for a second or subsequent offence.
- (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 area of the municipal district of the Council;
 - (b) impose all or any of the following conditions on the presence of dogs or cats in any public area of the municipal district of the Council—
 - (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.
- (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 sub-section (2) (b) (i) does not apply to a dog in any of the circumstances listed in section 20 (2).

Division 2—Particular provisions for the control of Dogs and Cats

27. Restraint of greyhounds

- (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, upon conviction, 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 sub-section (1) (b) control by one person of more than 4 greyhounds at the one time is not "effective control".
- (3) Sub-section (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

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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, worry or chase any person or animal except when hunting in accordance with the provisions of the **Prevention of Cruelty to Animals Act 1986**.

Penalty: 5 penalty units.

29. Penalty and liability for attack by dog

- (1) If a dog rushes at, attacks, bites, worries or chases any person or animal, the owner is guilty of an offence and liable upon conviction to a penalty of not more than 5 penalty units.
- (2) Sub-section (1) does not apply if, the incident occurred—
- (a) because the dog was being teased, abused or assaulted; or
 - (b) because another 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 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**.
- (3) The owner of a dog is liable for any damage caused by conduct of that dog to which sub-section (1) applies.

- (4) In any proceedings under sub-section (1) or (3) evidence that the dog was apparently under the control of a person immediately before the dog conducted itself in the manner which is the subject of the proceedings is evidence and, in the absence of evidence to the contrary, is proof that that person is the owner of the dog.
- (5) If the owner of a dog is convicted 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.

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.
- (2) The owner, a person authorised by the owner or authorised officer does not incur any civil or criminal liability for acting under sub-section (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**.

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- (2) An authorised officer does not incur any civil or criminal liability for acting under sub-section (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 convicted of an offence against this section, the court may order the convicted person to take that action (if any) to abate the nuisance which is specified in the order.

- (4) A person must comply with an order made against him or her under sub-section (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.

**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—
 - (a) if the dog has caused serious injury to a person or animal by biting, attacking, worrying, rushing at or chasing that person or animal; or
 - (b) if the dog has been trained to attack people or animals for the purpose of guarding either persons or property, or is kept as a guard dog for the purpose of guarding non-residential premises; or
 - (c) if the dog has been declared a dangerous dog by another Council; or
 - (d) for any other reason prescribed.
- (2) The Council must not make a declaration under sub-section (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**.
- (3) A Council must not make a declaration under sub-section (1) (a) where a dog has caused injury to a person unless the injury caused by the dog was in the nature of broken bones, lacerations requiring multiple

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sutures or cosmetic surgery or the total or partial loss of sensation or function in a part of the body.

35. Procedure for making declaration

- (1) A declaration that a dog is dangerous may be made by the Council—
 - (a) of its own motion; or
 - (b) upon application by the owner.
- (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

- (1) Immediately upon a dog commencing to be trained to attack people or animals for the purposes of guarding premises or property, 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.

- (2) The owner of a dangerous dog must notify the Council within 24 hours if—
- (a) the dog attacks or injures a person or animal; or
 - (b) the dog is missing; or
 - (c) the ownership of the dog changes.

Penalty: First offence 5 penalty units.

Second or subsequent offence 10 penalty units.

38. *Restraint of dangerous dogs on the owner's premises*

- (1) When a dangerous dog is on its owner's premises the owner must keep the dog indoors or in an enclosure which complies with sub-section (2).

Penalty: For a first offence 5 penalty units.

For a second or subsequent offence 10 penalty units.

- (2) The enclosure must—
- (a) be childproof; and
 - (b) be constructed so that the dog cannot escape from it; and
 - (c) comply with the regulations.
- (3) This section does not apply to a dangerous dog which is a guard dog while the dog is guarding non-residential premises.

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

(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 upon conviction 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.

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 4—REGISTRATION AND CONDUCT OF DOMESTIC ANIMAL BUSINESSES

Division 1—Registration

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.

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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.

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.

50. *Domestic animal business conducted by Council*

In the case of a domestic animal business 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

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.

53. *Application of Division to domestic animal business conducted by Council*

This Division does not apply to a domestic animal business conducted by a Council in the municipal district of that Council.

**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 sub-section (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.

58. Application of Division to a domestic animal business conducted by a Council

- (1) The Minister may at any time suspend or revoke the registration of premises upon which a Council is conducting a domestic animal business, if the premises is in the municipal district of that Council and the Minister is satisfied that—
 - (a) the Council has failed to comply with the Act, the regulations, any Code of Practice applying to the business, or any terms, conditions, limitations or restrictions on registration; or
 - (b) the Council has been found guilty of an offence under the **Prevention of Cruelty to Animals Act 1986**.
- (2) Sections 55 to 57 apply to any action taken by the Minister under sub-section (1) as if "Minister" were substituted for "Council".

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.

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- (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 sub-section (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.

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 sub-section (1), sub-section (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 sub-section (2).
- (2) The holder of a lien under sub-section (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 sub-section (2) and the amount owing to the lien holder has not been paid within 14 days of the service of the notice.
- (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 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 sub-section (1) if he or she has entered into a written agreement with the owner not to do so.

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 sub-section (1) must be paid to the owner or if the owner cannot be found to the Consolidated Fund.

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- (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.

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 dog or cat; 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 sub-section (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
 - (b) the administration of this Act.

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.

PART 7—ENFORCEMENT AND SUPPLEMENTARY PROVISIONS

Division 1—Authorised officers

71. *Appointment of authorised officers by Minister*

The Minister may by instrument appoint as authorised officers any specified officer or employee or a specified class of officers or employees appointed or employed under the **Public Sector Management Act 1992**.

72. *Appointment of authorised officers by Council*

A Council may by instrument appoint as authorised officers any specified officer or employee or a specified class of officers or employees of the Council.

73. *Certificate of appointment of authorised officers*

The Minister or Council (as the case requires) must give to each authorised officer a certificate of appointment.

74. *Powers of authorised officers*

- (1) An authorised officer may take any reasonable action which is necessary to find out whether the provisions of—
 - (a) this Act; or
 - (b) the regulations; or
 - (c) any local law made under this Act by a Council;or

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- (d) any Code of Practice made under this Act—
are being complied with.
- (2) For the purposes of sub-section (1) an authorised officer may—
 - (a) at any reasonable time and by any reasonable means and with any assistance which the authorised officer requires enter any land, vehicle or building not occupied as a place of residence; or
 - (b) search any land, vehicle or building or any part of any land, vehicle or building not occupied as a place of residence 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
 - (f) seize and remove any animal in accordance with section 77.
- (3) An authorised officer 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.
- (4) An authorised officer may not exercise any powers under this section if the authorised officer fails to produce, on request, his or her certificate of appointment for inspection by the occupier of the land or premises or the person in charge of the vehicle.

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

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), 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.

Division 2—Powers to Seize and Destroy Dogs and Cats

77. *Seizure of dogs or cats*

- (1) An authorised officer of a Council may seize a dog which is kept in the municipal district of that Council—
- (a) if the owner of the dog has been found guilty of an offence of not having applied to register the dog and has not, within 1 month of that finding, applied to register the dog; or
 - (b) if the dog is a dangerous dog and the Council has made a decision to refuse to register the dog

and any review of that decision has failed or the owner has not applied for a review of that decision within the time fixed under the **Administrative Appeals Tribunal Act 1984**; or

- (c) if the dog is a dangerous dog and—
 - (i) the owner has been found guilty of an offence under Division 3 of Part 3 with respect to that dog; or
 - (ii) the authorised officer reasonably suspects that the owner is guilty of an offence under Division 3 of Part 3 with respect to that dog; or
 - (d) if—
 - (i) the owner has been found guilty of an offence under section 28 or 29 with respect to that dog; or
 - (ii) the authorised officer reasonably suspects that the owner is guilty of an offence under section 28 or 29 with respect to that dog.
- (2) An authorised officer of a Council may seize a cat which is kept in the municipal district of that Council if the owner of the cat has been found guilty of an offence of not having applied to register the cat and has not, within one month of that finding, applied to register the cat.
- (3) A dog or cat may be seized by any person 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.
- (4) Any person who seizes a dog or cat must, as soon as is reasonably possible, deliver it to an authorised officer of the Council of the municipal district in which it is found, or to a person or body which has an agreement under section 81 with the Council of the municipal district in which the dog or cat is found.

78. Owner to be notified

- (1) If the owner of a dog or cat which has been seized by or delivered to an authorised officer under section 77 is able to be identified from a marker attached to or implanted in the animal's body, the Council must notify the owner of the seizure of the animal.
- (2) If the owner of a dog or cat which has been seized and delivered to a person or body which has an agreement with a Council under section 81 is able to be identified from a marker attached to or implanted in the animal's body, the person or body holding the animal must notify the owner of the seizure of the animal.
- (3) A notice under this section must be in writing and must be delivered either personally or by registered post within 4 days after the animal is seized.

79. Recovery of animal

- (1) The owner of a dog or cat which has been seized under section 77 (1) (a) or (2) may recover that animal if he or she applies to register the animal and pays the amount fixed by the Council within 8 days of the seizure of the animal.
- (2) The owner of a dog or cat which has been seized under section 77 (3) may recover that animal—
 - (a) where the dog or cat is held by the Council, if he or she pays the amount fixed by the Council; or
 - (b) where the dog or cat is held by another person or body, if he or she pays the amount charged by that person or body—

within 8 days of the seizure of that animal.

80. Power to sell or destroy seized dogs or cats

- (1) If a dog or cat has been seized under section 77 (1) (a), (2) or (3)—
 - (a) if the animal is a cat which does not bear an identification marker and which is wild,

- uncontrollable or diseased, the Council or person or body holding the cat may, despite section 79 (1), destroy the cat as soon as possible; or
- (b) if the animal is a dangerous dog and is not recovered by its owner within 8 days of its seizure, the Council or person or body holding the dog may destroy it; or
 - (c) in any other case, if the animal is not recovered by its owner within 8 days of its seizure, the Council or person or body holding the animal may sell or destroy it.
- (2) The Council may destroy a dog which has been seized under section 77 (1) (b), (c) (i) or (d) (i).
 - (3) If a dog has been seized under section 77 (1) (c) (ii) or (d) (ii), the Council must commence prosecution for the offence believed to have been committed by the owner, as soon as possible after the seizure and must retain custody of the seized animal until the outcome of the prosecution is known.
 - (4) If the owner of a dog seized under section 77 (1) (c) (ii) or (d) (ii) is found guilty of the offence, the Council may destroy the dog.
 - (5) If a Council, person or body proposes to sell a dog or cat which has been seized and which has not been desexed, the Council, person or body must ensure that the animal is desexed before it is sold.

81. Agreements

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—

- (a) seize dogs or cats under section 77 (3);
- (b) retain seized dogs or cats;

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(c) sell or destroy any dog or cat which has been seized;

(d) charge fees for any of the above—

in accordance with the provisions of this Part.

82. *Offences relating to seized cats or dogs*

(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 hold 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.

83. *Method of destroying 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 as quickly as possible and without causing unnecessary suffering.

Penalty: 5 penalty units.

(2) A Council, person or body which 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 26 (2) (h) (ii) of the **Prevention of Cruelty to Animals Act 1986**.

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

(1) A person—

- (a) who seizes, sells, injures or destroys a dog or cat; and
- (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 upon conviction to a penalty of not more than 3 penalty units.

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

Division 3—Infringement Notices

85. Power to serve a notice

- (1) If an authorised officer has reason to believe that a person has committed an offence against section 10, 20, 21, 22, 23, 24, 25, 26, 27, or 32 of this Act he or she may serve an infringement notice on that person.
- (2) An infringement notice may be served—
 - (a) by personally serving the notice upon the alleged offender; or
 - (b) by sending the notice by post addressed to him or her at his or her last known place of residence or business.

86. Form of notice

An infringement notice must—

- (a) be in the prescribed form; and
- (b) state the penalty fixed by the regulations for the offence; and
- (c) state that if the amount of the penalty is tendered at the place referred to in the notice the matter will not be brought before the Court unless the notice is withdrawn before the end of the period specified in the notice as the time for payment of the penalty.

87. *Withdrawal of notice*

- (1) The authorised officer may withdraw an infringement notice at any time within 28 days after the notice is served by serving a withdrawal notice on the alleged offender.
- (2) An infringement notice may be withdrawn even if the appropriate penalty has been paid.
- (3) Once the notice of withdrawal is served, the Secretary to the Department or the Council (as the case may be) must refund the amount of any penalty paid on an infringement notice before it is withdrawn.

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 2 penalty units and must not exceed the penalty fixed by the Act for that offence.

89. *Payment of penalty*

- (1) If the person pays the penalty shown on the infringement notice within the time shown in the notice or, if the authorised officer allows, at any time before the service of the summons in respect of the offence—
 - (a) further proceedings may not be taken in respect of the offence; and
 - (b) no conviction is to be recorded against the person for the offence.
- (2) A penalty paid under this section must be applied as if the offender had been convicted of the offence in the Magistrates' Court on a charge filed by the authorised officer who served the infringement notice.

90. Notice not to prejudice further proceedings

(1) If—

(a) a person served with an infringement notice has not paid the penalty within the time specified in the notice; or

(b) an infringement notice is withdrawn—

proceedings may still be taken or continued for the alleged offence.

(2) If proceedings have been taken or continued for an alleged offence because the person has not paid the penalty specified in the infringement notice and a conviction is imposed by the court, the conviction must not be taken to be a conviction for any purpose except in relation to—

(a) the making of the conviction itself; and

(b) subsequent proceedings which may be taken in respect of the conviction itself, including proceedings by way of appeal.

Division 4—Provisions related to court proceedings

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.

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*

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 a certificate of appointment of an authorised officer issued under section 73 is admissible in evidence and in the absence of evidence to the contrary is proof of the facts and matters contained in it.

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.

Division 5—Supplementary offences

96. *Offence to sell certain animals outside certain places*

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) in any place which is not—
 - (i) a premises registered under Part 4; or
 - (ii) a private residence; or
- (b) unless the sale is approved under the **Wildlife Act 1975**.

Penalty: 5 penalty units.

97. *False information*

A person making an application under this Act must not give false information in that application.

Penalty: 5 penalty units.

Division 6—Review of decisions by the Administrative Appeals Tribunal

98. *Review of decisions by Administrative Appeals 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 Administrative Appeals Tribunal for the 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

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- (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 Administrative Appeals Tribunal for the review of a decision by the Council—
- (a) to declare the dog to be dangerous; or
 - (b) if the dog is a dangerous dog, to refuse to register or renew the registration of the dog.
- (3) A decision made under this Act by a Council which is subject to review by the Administrative Appeals Tribunal takes effect—
- (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 Administrative Appeals Tribunal.
- (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 Administrative Appeals Tribunal.

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
 - (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
 - (g) forms for the purposes of this Act; and
 - (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 or an authorised officer; and
 - (d) may impose penalties not exceeding 5 penalty units for contravention of the regulations.

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- (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 sub-section (3) must be taken to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1962**.

PART 9—REPEALS AND TRANSITIONAL PROVISIONS

101. *Repeal of Dog Act*

The **Dog Act 1970** is repealed.

102. *Transitional provision*

- (1) If, immediately before the coming into operation of Division 1 of Part 2, a dog is registered under the old Act, the registration of that dog continues in force as if it were registration under this Act, until the first occurrence of the 10 April after the commencement of that Division.
 - (2) In sub-section (1)—
“old Act” means the **Dog Act 1970** as in force immediately before the coming into operation of section 101.
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Sch.

SCHEDULE

DOGS

Column 1 <i>Maximum fee</i>	Column 2 <i>Reduced fee</i>
Any dogs to which a description in Column 2 does not apply	<p>Desexed dogs.</p> <p>Dogs over 10 years old.</p> <p>Dogs kept for working stock.</p> <p>Dogs kept for breeding by the proprietor of a domestic animal business conducted on registered premises.</p> <p>Dogs that have undergone obedience training which complies with the regulations.</p> <p>Dogs registered with the Victorian Canine Association or any successor in law of that Association or any organisation approved by the Council.</p> <p>Dogs that are permanently identified in the prescribed manner.</p>

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.	<p>Desexed cats.</p> <p>Cats over 10 years old.</p> <p>Cats kept for breeding by the proprietor of a domestic animal business conducted on registered premises.</p> <p>Cats registered with the Feline Control Council, the Governing Council of the Cat Fancy Australia and Victoria Incorporated, the Democratic Cat Council Incorporated or any successor in law of any one of those associations or a breed society approved by the Council.</p> <p>Cats that are permanently identified in the prescribed manner.</p>

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NOTES

1. *Minister's second reading speech—*

Legislative Assembly: 8 September 1994

Legislative Council: 19 October 1994

2. 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."

3. **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

4. Section headings appear in bold italics and are not part of the Act. (See **Interpretation of Legislation Act 1984.**)