

Authorised Version No. 074
Domestic Animals Act 1994
No. 81 of 1994

Authorised Version incorporating amendments as at
10 April 2018

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Authorised Version No. 074
Domestic Animals Act 1994
No. 81 of 1994

Authorised Version incorporating amendments as at
10 April 2018

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
- (da) the regulation of matters relating to the breeding and sale of dogs and cats; and

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

S. 1(da)
inserted by
No. 69/2017
s. 4.

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S. 1(db)
inserted by
No. 69/2017
s. 4.

(db) the registration of foster carers for certain purposes; and

(e) matters related to the boarding of dogs and cats; and

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

(ea) the regulation of the permanent identification of dogs, cats, horses and other animals; and

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 of *Administrative Appeals Tribunal* repealed by No. 52/1998 s. 311(Sch. 1 item 21.1).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 registry licence means a licence granted under section 63K;

S. 3(1) def. of *animal registry licence* inserted by No. 65/2007 s. 5(2)(a).

animal registry service means a service of keeping and maintaining records relating to a prescribed class of animal that, in relation to each animal about which records are kept and maintained—

S. 3(1) def. of *animal registry service* inserted by No. 65/2007 s. 5(2)(a), amended by No. 44/2010 s. 3(1).

- (a) contain identifying information about the animal and the owner of the animal; and
- (b) are referenced to the animal through information contained in a permanent identification device implanted in the animal; and
- (c) are not records maintained by a Council for the purposes of registration under Part 2; and
- (d) are not records kept and maintained solely for the purpose of tracing the pedigree lineage of an animal of a prescribed class of animal;

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S. 3(1) def. of
animal sale permit
inserted by
No. 69/2017
s. 5(4).

animal sale permit means an animal sale permit issued under section 58N(1);

S. 3(1) def. of
animal shelter
amended by
No. 75/2011
s. 3(1),
substituted by
No. 69/2017
s. 5(1).

animal shelter means any premises maintained for the purpose of providing temporary care or finding new homes for stray, abandoned or unwanted dogs or cats, but does not include premises on which foster care is being provided;

S. 3(1) def. of
Animal Welfare Fund
inserted by
No. 75/2011
s. 3(3).

Animal Welfare Fund means the Animal Welfare Fund established under Part 7F;

S. 3(1) def. of
applicable organisation
substituted by
Nos 87/2000
s. 4(a),
69/2017
s. 5(8).

applicable organisation means an organisation that is the holder of an applicable organisation approval;

S. 3(1) def. of
applicable organisation approval
inserted by
No. 69/2017
s. 5(9).

applicable organisation approval means an approval under section 5A(1), including an approval that is renewed under section 5C;

S. 3(1) def. of
approved commercial dog breeder
inserted by
No. 69/2017
s. 5(9).

approved commercial dog breeder means a person who has a commercial dog breeder approval;

S. 3(1) def. of
approved dog obedience training organisation
inserted by
No. 69/2017
s. 5(5).

approved dog obedience training organisation means an organisation that holds a dog obedience training organisation approval;

| | |
|--|--|
| <p><i>authorised implanter</i> means a person—</p> <p>(a) who is qualified in accordance with section 63T; and</p> <p>(b) who is not a prohibited implanter;</p> | <p>S. 3(1) def. of <i>authorised implanter</i> inserted by No. 103/2003 s. 3(a).</p> |
| <p><i>authorised officer</i> means a person appointed as an authorised officer under section 71, 71A, 72 or 72A;</p> | <p>S. 3(1) def. of <i>authorised officer</i> substituted by No. 103/2003 s. 3(b).</p> |
| <p><i>board</i> 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;</p> | |
| <p><i>breeding domestic animal business</i> means a domestic animal business to which paragraph (b) or (c) of the definition of <i>domestic animal business</i> applies;</p> | <p>S. 3(1) def. of <i>breeding domestic animal business</i> inserted by No. 75/2011 s. 3(3), amended by No. 69/2017 s. 5(7).</p> |
| <p><i>business code of practice</i> means a code of practice made under section 59;</p> | <p>S. 3(1) def. of <i>business code of practice</i> inserted by No. 17/2016 s. 13(2).</p> |
| <p><i>caged bird sale</i> means an event conducted over a day or days at which caged birds are sold;</p> | <p>S. 3(1) def. of <i>caged bird sale</i> inserted by No. 69/2017 s. 5(4).</p> |
| <p><i>chief veterinary officer</i> has the same meaning as in the Meat Industry Act 1993;</p> | <p>S. 3(1) def. of <i>chief veterinary officer</i> inserted by No. 69/2017 s. 5(9).</p> |

S. 3(1) def. of
commercial dog breeder approval
inserted by
No. 69/2017
s. 5(9).

commercial dog breeder approval means an approval under section 58AA;

S. 3(1) def. of
community foster care network
inserted by
No. 75/2011
s. 3(3).

community foster care network means an organisation that—

- (a) arranges temporary housing for cats or dogs in private residential premises instead of other premises; and
- (b) seeks permanent housing for the dogs or cats;

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

S. 3(1) def. of
Council authorised officer
inserted by
No. 69/2017
s. 5(3).

Council authorised officer means a person appointed as an authorised officer under section 72;

S. 3(1) def. of
Council contracted authorised officer
inserted by
No. 69/2017
s. 5(3).

Council contracted authorised officer means a person appointed as an authorised officer under section 72A;

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

dangerous dog means—

- (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;

S. 3(1) def. of
declared bird organisation
inserted by
No. 69/2017
s. 5(4).

declared bird organisation means an organisation that is declared to be a declared bird organisation under section 58T;

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Department means the Department of Economic Development, Jobs, Transport and Resources;

S. 3(1) def. of *Department* substituted by No. 46/1998 s. 7(Sch. 1), amended by Nos 56/2003 s. 11(Sch. item 6.1), 70/2013 s. 4(Sch. 2 item 11.1), 69/2017 s. 5(6).

Departmental authorised officer means a person appointed as an authorised officer under section 71;

S. 3(1) def. of *Departmental authorised officer* inserted by No. 69/2017 s. 5(3).

desexing in relation to a dog or cat means a surgical procedure to remove all or part of the reproductive organs of the dog or cat to prevent it breeding and to prevent or eliminate secondary sexual behaviours;

S. 3(1) def. of *desexing* inserted by No. 44/2010 s. 3(3).

dog obedience training organisation approval means an approval under section 5B(1), including an approval that is renewed under section 5C;

S. 3(1) def. of *dog obedience training organisation approval* inserted by No. 69/2017 s. 5(5).

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S. 3(1) def. of
*domestic
animal
business*
amended by
Nos 87/2000
s. 4(c),
76/2005 s. 3,
44/2010
s. 3(2),
75/2011
s. 3(2),
71/2014
s. 12(a),
17/2016
s. 13(1),
substituted by
No. 69/2017
s. 5(2).

domestic animal business means—

- (a) an animal shelter, Council pound or pet shop; or
- (b) an enterprise which carries out the breeding of dogs (other than GRV greyhounds) to sell, if the enterprise has 3 or more fertile female dogs and the proprietor is not a recreational breeder; or
- (c) an enterprise which carries out the breeding of cats to sell, if the enterprise has 3 or more fertile female cats and the proprietor is not a recreational breeder; or
- (d) an enterprise which trains or boards dogs (other than GRV greyhounds) or cats for the purpose of profit; or
- (e) an enterprise which rears or keeps dogs (other than GRV greyhounds) or cats—
 - (i) for the purpose of profit or sale; or
 - (ii) for a fee or for exchange of services;

S. 3(1) def. of
*domestic
animals
registry
licence*
inserted by
No. 103/2003
s. 3(a),
repealed by
No. 65/2007
s. 5(2)(b).

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S. 3(1) def. of
*greyhound
code of
practice*
inserted by
No. 17/2016
s. 13(2).

greyhound code of practice means a code of
practice made under section 63AC;

S. 3(1) def. of
*Greyhound
Racing
Victoria*
inserted by
No. 17/2016
s. 13(2).

Greyhound Racing Victoria has the same
meaning as in Division 2 of Part III of the
Racing Act 1958;

S. 3(1) def. of
*GRV
greyhound*
inserted by
No. 17/2016
s. 13(2).

GRV greyhound means a greyhound registered
with Greyhound Racing Victoria except a
greyhound that has—

- (a) gone through a greyhound adoption
program operated by Greyhound
Racing Victoria; or
- (b) been retired from the industry and is
being kept in the community as a pet
by a person who is not registered by
Greyhound Racing Victoria as a
greyhound racing participant;

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

implant includes insert;

S. 3(1) def. of
keeping
inserted by
No. 17/2016
s. 13(2).

keeping in relation to a GRV greyhound, includes
any one or more of the following activities—

- (a) the breeding of a GRV greyhound;
- (b) the rearing of a GRV greyhound;
- (c) the training of a GRV greyhound;
- (d) the breaking of a GRV greyhound;
- (e) the racing of a GRV greyhound;
- (f) the boarding of a GRV greyhound;

- (g) any other activity that involves the care of a GRV greyhound;

Note

The breaking of a greyhound involves teaching the greyhound to jump from a starting box and to chase a lure.

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).

microbreeder means—

- (a) a person who carries out the breeding of dogs to sell, who is not a member of an applicable organisation, if the person has no more than 2 fertile female dogs; or
(b) a person who carries out the breeding of cats to sell, who is not a member of an applicable organisation, if the person has no more than 2 fertile female cats;

S. 3(1) def. of *microbreeder* inserted by No. 69/2017 s. 5(3).

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;

S. 3(1) def. of *permanent identification device* inserted by No. 103/2003 s. 3(a), amended by No. 65/2007 s. 5(2)(d).

permanent identification device means a microchip or other electronic device that is capable of being permanently implanted in an animal of a prescribed class of animal 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 *police officer* inserted by No. 37/2014 s. 10(Sch. item 46.1).

police officer has the same meaning as in the **Victoria Police Act 2013**;

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;

prescribed class of animal means any of the following—

- (a) dogs;
- (b) cats;
- (c) horses;
- (d) a class of animal prescribed by the regulations;

S. 3(1) def. of *prescribed class of animal* inserted by No. 65/2007 s. 5(2)(a).

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

S. 3(1) def. of *prescribed identifying information* inserted by No. 103/2003 s. 3(a), substituted by No. 65/2007 s. 5(2)(e).

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

primary production means the maintenance of animals or poultry for the purpose of selling them or their natural increase or bodily produce;

S. 3(1) def. of *primary production* inserted by No. 69/2017 s. 5(3).

prohibited implanter means a person who is prohibited by the Secretary from implanting permanent identification devices in animals of prescribed classes of animal under Division 4 of Part 4A;

S. 3(1) def. of *prohibited implanter* inserted by No. 103/2003 s. 3(a), amended by No. 65/2007 s. 5(2)(f).

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

S. 3(1) def. of *rateable property* inserted by No. 69/2017 s. 5(3).

rateable property has the same meaning as in section 3 of the **Local Government Act 1989**;

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

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

S. 3(1) def. of *recreational breeder* inserted by No. 69/2017 s. 5(3).

recreational breeder means—

- (a) a person who carries out the breeding of dogs to sell, who is a member of an applicable organisation, if the person has no more than 10 fertile female dogs; or
- (b) a person who carries out the breeding of cats to sell, who is a member of an applicable organisation, if the person has no more than 10 fertile female cats;

S. 3(1) def. of *registered foster carer* inserted by No. 69/2017 s. 5(3).

registered foster carer means a person who holds a foster carer registration;

S. 3(1) def. of *relevant Council* inserted by No. 69/2017 s. 5(9).

relevant Council, in relation to a domestic animal business, means the Council of the municipal district in which the premises is situated on which the domestic animal business is being or is proposed to be conducted;

S. 3(1) def. of *relevant fertile female dog* inserted by No. 69/2017 s. 5(3).

relevant fertile female dog means a female dog, 12 months of age or more, that has not been rendered permanently infertile;

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| <p><i>restricted authorised officer</i> means a person appointed as an authorised officer under section 71A;</p> | <p>S. 3(1) def. of <i>restricted authorised officer</i> inserted by No. 69/2017 s. 5(3).</p> |
| <p><i>restricted breed dog</i> means a dog that is any one of the following breeds—</p> <ul style="list-style-type: none">(a) Japanese Tosa;(b) fila Brasileiro;(c) dogo Argentino;(d) Perro de Presa Canario (or Presa Canario);(e) American Pit Bull Terrier (or Pit Bull Terrier); | <p>S. 3(1) def. of <i>restricted breed dog</i> inserted by No. 83/2001 s. 9, substituted by No. 44/2010 s. 3(4), amended by No. 71/2014 s. 12(b).</p> |
| <p><i>rush at</i>, 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;</p> | <p>S. 3(1) def. of <i>rush at</i> inserted by No. 87/2000 s. 4(e).</p> |
| <p><i>scan</i> means to pass a reader over the skin of an animal of a prescribed class of animal or a permanent identification device at a distance of no greater than 50 millimetres and at a sweep speed of no greater than 50 centimetres per second;</p> | <p>S. 3(1) def. of <i>scan</i> inserted by No. 44/2010 s. 3(5).</p> |
| <p><i>Secretary</i> means the person who is, for the time being, the Department Head (within the meaning of the Public Administration Act 2004) of the Department;</p> | <p>S. 3(1) def. of <i>Secretary</i> inserted by No. 103/2003 s. 3(a) (as amended by No. 108/2004 s. 117(1) (Sch. 3 item 12.1)).</p> |

S. 3(1) def. of
sell
inserted by
No. 75/2011
s. 3(3).

sell has the same meaning as in the **Wildlife Act 1975**;

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

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
subordinate instrument
repealed by
No. 65/2007
s. 5(1)(b).

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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),
70/2013
s. 4(Sch. 2
item 11.2).

- (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 Environment and 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.

- (3) A dog that falls within an approved standard for a breed of dog specified in a paragraph of the definition of *restricted breed dog* is taken to be a dog of that breed. **S. 3(3) inserted by No. 44/2010 s. 3(6), amended by No. 39/2011 s. 3(1).**
- (4) For the purposes of subsection (3) an approved standard is a standard that has been approved by the Minister and published in the Government Gazette. **S. 3(4) inserted by No. 39/2011 s. 3(2).**
- (5) In this Act—
- (a) a fertile female dog or cat and the litter of that dog or cat are taken as one animal adult equivalent if the offspring in the litter are with the dog or cat and are under 8 weeks old; and
 - (b) the offspring in a dog's or cat's litter are taken as one animal adult equivalent if the offspring are not with the dog or cat and are under 16 weeks old.
- (6) For the purpose of paragraph (b) of the definition of *domestic animal business*, a farmer is not to be taken to be conducting a domestic animal business in respect of any fertile female dog that the farmer has that—
- (a) is primarily being kept or worked by the farmer as a farm working dog; or
 - (b) is primarily being trained to be a farm working dog by the farmer.
- S. 3(6) inserted by No. 69/2017 s. 5(10).**

4 Parent or guardian deemed to be owner

Where the owner of a dog or cat is under the age of 18 years, for the purposes of this Act, the parent or guardian of that person is deemed to be the owner.

S. 4 amended by Nos 87/2000 s. 5, 29/2012 s. 10.

S. 5
amended by
No. 87/2000
s. 6 (LA
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.

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

5A Applicable organisations and recognised organisations

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

S. 5A(1)
amended by
No. 69/2017
s. 6(1)(a).

S. 5A(1)(a)
amended by
No. 69/2017
s. 6(1)(b).

- (1) The Minister may approve an organisation as an applicable organisation, by notice published in the Government Gazette, if—
 - (a) the organisation has applied to the Minister to be approved as 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.

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| | | | | | S. 5A(1AA) inserted by No. 8/2014 s. 3, repealed by No. 69/2017 s. 6(2). |
| (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 in accordance with subsection (2); and | | | | S. 5A(1A)(a) amended by No. 69/2017 s. 6(3). |
| | (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 a recognised organisation must include— | | | | S. 5A(2) amended by Nos 83/2001 s. 10(3), 69/2017 s. 6(4). |
| | (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. | | | | |
| (3) | An application for an applicable organisation approval— | | | | S. 5A(3) inserted by No. 69/2017 s. 6(5). |
| | (a) must include a report containing the prescribed details about the organisation and its activities; and | | | | |

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

S. 5A(4)
inserted by
No. 69/2017
s. 6(5).

- (4) In making a decision to give an applicable organisation approval, the Minister may consider any information included in or accompanying the application for the approval.

S. 5A(5)
inserted by
No. 69/2017
s. 6(5).

- (5) An applicable organisation approval must specify the following—
 - (a) the period for which the approval is to remain in force, which must not exceed 3 years;
 - (b) the matters that must be set out in the report required by the condition in section 5D(b);
 - (c) any condition to which the Minister considers that the approval should be subject.

S. 5A(6)
inserted by
No. 69/2017
s. 6(5).

- (6) An applicable organisation approval remains in force until the earlier of—
 - (a) the period determined under subsection (5)(a); or
 - (b) the revocation of the approval.

S. 5B
inserted by
No. 69/2017
s. 7.

5B Approval of dog obedience training organisations

- (1) For the purposes of this Act the Minister may approve an organisation to provide dog obedience training.

- (2) The Minister may give an approval under subsection (1) if—
- (a) the organisation has applied to the Minister in accordance with subsection (4); and
 - (b) the Minister is satisfied that—
 - (i) the organisation is established for the purpose of providing wide representation to the dog obedience training community; and
 - (ii) adequate dog obedience training in the prescribed matters is or will be provided by or on behalf of the organisation; and
 - (iii) the individuals who train or will train the dogs are adequately trained in the prescribed matters.
- (3) In making a decision to approve an organisation the Minister may consider any information included in or accompanying the application for approval under this section.
- (4) An application for approval under this section—
- (a) must include a report containing the prescribed details about the organisation and its activities; and
 - (b) must include any other information required by the Minister; and
 - (c) must be accompanied by the prescribed application fee.
- (5) An approval under subsection (1) must specify the following—
- (a) the period for which the approval is to remain in force, which must not exceed 3 years;

- (b) the matters that must be set out in the report required by the condition in section 5D(b);
 - (c) any condition to which the Minister considers the approval should be subject.
- (6) An approval under subsection (1) remains in force until the earlier of—
- (a) the period determined by the Minister; or
 - (b) the revocation of the approval.

S. 5C
inserted by
No. 69/2017
s. 7.

5C Renewal of approval

- (1) The holder of a dog obedience training organisation approval or applicable organisation approval may apply to the Minister for renewal of the approval.
- (2) An application under subsection (1)—
 - (a) must include a report containing the prescribed details about the organisation and its activities; and
 - (b) must include any other information required by the Minister; and
 - (c) must be accompanied by the prescribed application fee.
- (3) An application under subsection (1) must be made at least 60 days (or any lesser period approved by the Minister) before the expiry of the approval period specified in the approval.
- (4) The Minister may renew the approval if—
 - (a) in the case of a dog obedience training organisation approval, the Minister continues to be satisfied of the matters set out in section 5B(2)(b); or

- (b) in the case of an applicable organisation approval, the Minister continues to be satisfied of the matters set out in the relevant guidelines referred to in section 5A(1)(b).
- (5) In making a decision to renew an approval of an organisation under this section the Minister may consider any information included in or accompanying the application for renewal of approval under this section.
- (6) The Minister must not renew the approval if the organisation has failed to submit any report as required by the condition in section 5D.
- (7) A renewed approval under this section must specify the following—
 - (a) the period for which the renewed approval is to remain in force, which must not exceed 3 years;
 - (b) any conditions that apply to the renewed approval;
 - (c) the matters that must be set out in the report required by the condition in section 5D(b).

5D Condition of approval that report submitted each year of approval

S. 5D
inserted by
No. 69/2017
s. 7.

It is a condition of a dog obedience training organisation approval and an applicable organisation approval that the organisation must submit a report to the Minister by 31 July in each year that sets out—

- (a) the prescribed matters; and
- (b) any other matters specified by the Minister in the approval or renewed approval.

S. 5E
inserted by
No. 69/2017
s. 7.

5E Revocation of approval

The Minister may revoke a dog obedience training organisation approval or an applicable organisation approval if—

- (a) the organisation has failed to submit a report required by the condition in section 5D; or
- (b) in the case of a dog obedience training approval, the Minister is not satisfied of any of the matters set out in section 5B(2)(b); or
- (c) in the case of an applicable organisation approval, the Minister is not satisfied of any of the matters set out in the relevant guidelines referred to in section 5A(1)(b).

S. 5F
inserted by
No. 69/2017
s. 7.

5F Notice of and submissions on proposal to revoke or not renew approval

- (1) If the Minister proposes to revoke a dog obedience training organisation approval or an applicable organisation approval, or proposes not to renew such an approval, before doing so the Minister must give notice in writing to the organisation stating—
 - (a) the reasons for the proposal; and
 - (b) that the organisation may make submissions to the Minister on the proposal within the period specified in the notice.
- (2) The holder of the approval may make written submissions to the Minister in relation to the proposal to revoke or not renew the approval within the period specified in the notice under subsection (1).
- (3) The Minister must consider any submission made under subsection (2), before deciding to revoke the approval or not to renew the approval.

- (4) The Minister must give written notice of the Minister's decision under this section to the relevant organisation.
- (5) A decision by the Minister to revoke an approval under section 5E takes effect on the later of the following—
 - (a) on the day the notice under subsection (4) is given to the relevant organisation;
 - (b) on the date specified in that notice (if any).

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, the powers and duties of the Minister—

- (a) under section 5A, 5B, 5C, 5E or 5F; or
- (b) to approve organisations under section 7; or
- (c) to appoint Departmental authorised officers under section 71 or restricted authorised officers under section 71A; or
- (d) to register a premises under section 58C, including imposing terms, conditions, limitations or restrictions on that registration, but not including any powers under section 58H in relation to the registration of a premises; or
- (e) under Division 3B of Part 4.

S. 6 amended by Nos 46/1998 s. 7(Sch. 1), 83/2001 s. 11, 69/2004 s. 22, 108/2004 s. 117(1) (Sch. 3 item 59.2), 44/2010 s. 4, 29/2012 s. 11, 8/2014 s. 4, substituted by No. 69/2017 s. 8.

6A Secretary's power to delegate

The Secretary may, in writing, delegate to any employee employed under the **Public Administration Act 2004** in the administration of this Act, all or any of his or her powers under this Act or the regulations, except this power to delegate.

S. 6A inserted by No. 44/2010 s. 5.

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

S. 10(1)
amended by
Nos 69/2004
s. 23, 65/2007
s. 6, 44/2010
s. 6.

- (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.

Penalty: 20 penalty units.

S. 10(2)
amended by
Nos 65/2007
s. 6, 44/2010
s. 6.

- (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: 20 penalty units.

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

- (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.

Penalty: 10 penalty units.

S. 10(4)
inserted by
No. 75/2011
s. 4.

- (4) This section does not apply in relation to a dog or cat that is being kept at an animal shelter or Council pound that is a domestic animal business conducted on premises that are registered under section 47.

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

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

- (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.
- (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, amended by No. 44/2010 s. 31.

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

10B Dogs and cats that are exempt from desexing

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

- (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;

S. 10B(1)(d)
amended by
No. 17/2016
s. 17(Sch. 1
item 1).

- (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;
- (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 business code of practice;
- (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.

S. 10B(1A)
inserted by
No. 29/2012
s. 12.

- (1A) For the purposes of subsection (1)(e), the written veterinary advice must—
 - (a) be given by a veterinary practitioner after he or she has personally examined the dog or cat; and
 - (b) include the reasons why the health of the dog or cat is liable to be significantly prejudiced if it is 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

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

- (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
 - (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.

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

10D Dogs and cats that are exempt from permanent identification

- (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.

S. 10D(2A)
inserted by
No. 69/2017
s. 9.

- (2A) For the purpose of subsection (2), the written veterinary advice must—
- (a) be given by a veterinary practitioner after the veterinary practitioner has personally examined the dog or cat; and
 - (b) include the reasons why the health of the dog or cat is liable to be significantly prejudiced if the dog or cat is implanted with a prescribed permanent identification device.

- (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.

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

- (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.

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

S. 12A
inserted by
No. 76/2005
s. 8,
amended by
No. 75/2011
s. 5 (ILA
s. 39B(1)).

- (1) A person 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.

S. 12A(1)
substituted by
No. 69/2017
s. 10(1).

- (1A) It is not an offence under subsection (1) for a person to give away a dog or cat that is not implanted with a prescribed permanent identification device to a shelter or pound.

S. 12A(1A)
inserted by
No. 69/2017
s. 10(1).

- (2) A person must not advertise a dog or cat for sale or giving away, or cause a dog or cat to be advertised for sale or giving away unless—

S. 12A(2)
inserted by
No. 75/2011
s. 5,
substituted by
No. 69/2017
s. 10(2).

- (a) one of the following applies—
- (i) the advertisement includes the unique number contained in the microchip contained in the prescribed permanent identification device implanted in the dog or cat;
 - (ii) the dog or cat is the subject of written veterinary advice under section 10D(2) and (2A); and

(b) if the dog or cat is being sold by or on behalf of a registered domestic animal business, the advertisement includes—

- (i) the registration number issued by the Council for the registration of the premises on which the business is being conducted; and
- (ii) the name of the Council that registered the premises.

Penalty: 5 penalty units.

13 Notification of sale by domestic animal business or foster carer

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

- (2) If a registered foster carer sells, or gives away, a dog or cat which is not registered, the foster carer must notify the Council with which the animal should be registered of—
- (a) the sale, or the giving away of the animal; and
 - (b) a description of the animal; and

S. 13
(Heading)
amended by
No. 69/2017
s. 11(1).

S. 13
substituted by
No. 76/2005
s. 8,
amended by
No. 69/2017
s. 11(2)(3) (ILA
s. 39B(1)).

S. 13(2)
inserted by
No. 69/2017
s. 11(3).

- (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.

S. 13(3)
inserted by
No. 69/2017
s. 11(3).

- (3) A notification under this section must be made within 7 days after the sale or giving away of the animal.

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, or at any time has been kept, as a guard dog for non-residential premises; or

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

S. 15(4)(d)(i)
amended by
No. 44/2017
s. 4.

Domestic Animals Act 1994
No. 81 of 1994
Part 2—Registration of dogs and cats

S. 15(4)(d)(ii)
amended by
Nos 17/2016
s. 17(Sch. 1
item 2),
69/2017
s. 12(1).

(ii) a dangerous dog that has undergone protection training in accordance with any relevant business code of practice;

S. 15(4)(e)
inserted by
No. 69/2017
s. 12(2).

- (e) the fee payable for a dog (other than a dangerous dog) that is kept in foster care by a registered foster carer—
- (i) for the first 12 month period that the dog is so kept, must not be more than twice the amount required to be paid by the Council to the Treasurer under section 69 in respect of the registration or renewal of registration of a dog; and
 - (ii) on and after the first 12 month period, is the fee determined in accordance with the other provisions of this section, or any lesser fee fixed by the Council;

S. 15(4)(f)
inserted by
No. 69/2017
s. 12(2).

- (f) the fee payable for a cat that is kept in foster care by a registered foster carer—
- (i) for the first 12 month period that the cat is so kept, must not be more than twice the amount required to be paid by the Council to the Treasurer under section 69 in respect of the registration or renewal of registration of a cat; and
 - (ii) on and after the first 12 month period, is the fee determined in accordance with the other provisions of this section, or any lesser fee fixed by the Council.

(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

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

(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(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.

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).

S. 17(1AA)
inserted by
No. 65/2007
s. 8(1),
repealed by
No. 44/2017
s. 5.

* * * * *

S. 17(1A)
inserted by
No. 76/2005
s. 12(3),
substituted by
Nos 65/2007
s. 8(2),
44/2010 s. 7,
39/2011 s. 4,
44/2017 s. 5.

- (1A) A Council—
- (a) may register or renew the registration of a restricted breed dog; and
 - (b) may impose conditions on the registration or the renewal of the registration of 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 the dog has been implanted with a prescribed permanent identification device.

S. 17(1B)(1C)
inserted by
No. 76/2005
s. 12(3),
repealed by
No. 44/2017
s. 5.

* * * * *

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

- (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—

- (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.
- (5) The notice must—
- (a) be served within 7 days of the making of the decision; and
 - (b) give reasons for the decision.

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

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 and the registration number of the animal.

S. 19(1)(c)
amended by
No. 71/2014
s. 13.

- (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.

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

Penalty: 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 to a penalty of not more than 2 penalty units.
- (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

S. 20(1)
amended by
Nos 65/2007
s. 9, 44/2010
s. 8(1).

Domestic Animals Act 1994
No. 81 of 1994
Part 2—Registration of dogs and cats

- | | |
|---|--|
| (b) a dog that is being kept or used as or being trained to be a farm working dog; or | S. 20(2)(b) substituted by No. 69/2017 s. 13. |
| (c) a dog that is going from place to place for the purpose of being kept or used as or being trained to be a farm working dog, if it is under the effective control of a person; or | S. 20(2)(c) substituted by No. 69/2017 s. 13. |
| (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 | S. 20(2)(d) amended by No. 87/2000 s. 9. |
| (da) a dog while it is being exhibited for show purposes at a fixture conducted by a recognised organisation; or | S. 20(2)(da) inserted by No. 83/2001 s. 16. |
| (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; or | S. 20(2)(e) amended by No. 44/2010 s. 8(2). |
| (f) a dog that is in an area designated in an order under section 26(2) as an area where dogs are not required to be on leads, if— | S. 20(2)(f) inserted by No. 44/2010 s. 8(3). |
| (i) the owner of the dog is a member of an applicable organisation and has in the last 12 months exhibited the dog for show purposes at a fixture conducted by an applicable organisation; and | |
| (ii) the person in apparent control of the dog has with him or her the identification required by section 19. | |

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

- (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.
- (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.

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

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

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

- (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),
44/2010
s. 9(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 6 penalty units.

S. 24(2)
amended by
Nos 87/2000
s. 11(b),
65/2007
s. 11(1),
44/2010
s. 9(2).

- (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 10 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.
- (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—
 - (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.
- (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. **S. 26(2A) inserted by No. 87/2000 s. 12(2).**
- (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.

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

- (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**.

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
- (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. 28A
inserted by
No. 103/2003
s. 6.

29 Offences and liability relating to dog attacks

S. 29
amended by
Nos 87/2000
s. 14, 83/2001
s. 25,
substituted by
Nos 65/2007
s. 12, 35/2009
s. 19.

S. 29(1)
amended by
No. 55/2011
s. 4(1).

(1) If a dangerous dog, that is not a guard dog guarding non-residential premises, or a restricted breed dog attacks or bites any person or animal, the person in apparent control of the dog at the time of the attack or biting, whether or not the owner of the dog, 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.

S. 29(2)
amended by
No. 55/2011
s. 4(1).

(2) If a dangerous dog, that is not a guard dog guarding non-residential premises, or a restricted breed dog attacks or bites any person or animal, the owner of the dog, if not liable for the offence under subsection (1), 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.

S. 29(3)
amended by
Nos 44/2010
s. 10, 55/2011
s. 4(2).

(3) If a dog that is not a dangerous dog or a restricted breed dog, attacks or bites any person or animal and causes death or a serious injury to the person or animal, the person in apparent control of the dog at the time of the attack or biting, whether or not the owner of the dog, is guilty of an offence and liable to a penalty not exceeding 40 penalty units.

S. 29(4)
amended by
Nos 44/2010
s. 10, 55/2011
s. 4(2).

(4) If a dog that is not a dangerous dog or a restricted breed 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, if not liable for the offence under subsection (3), is guilty of an offence and liable to a penalty not exceeding 40 penalty units.

Domestic Animals Act 1994
No. 81 of 1994
Part 3—Control of dogs and cats

- (5) If a dog that is not a dangerous dog or a restricted breed 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 person in apparent control of the dog at the time of the attack or biting, whether or not the owner of the dog, is guilty of an offence and liable to a penalty not exceeding 10 penalty units. **S. 29(5) amended by No. 55/2011 s. 4(2).**
- (6) If a dog that is not a dangerous dog or a restricted breed 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, if not liable for the offence under subsection (5), is guilty of an offence and liable to a penalty not exceeding 10 penalty units. **S. 29(6) amended by No. 55/2011 s. 4(2).**
- (7) If a dog rushes at or chases any person, the person in apparent control of the dog at the time the dog rushed at or chased the first-mentioned person, whether or not the owner of the dog, is guilty of an offence and liable to a penalty of not more than 4 penalty units.
- (8) If a dog rushes at or chases any person, the owner of the dog, if not liable for the offence under subsection (7), is guilty of an offence and liable to a penalty of not more than 4 penalty units.
- (9) In any proceeding for an offence under this section, it is a defence to that offence if the incident occurred because—
- (a) the dog was being teased, abused or assaulted; or
 - (b) a person was trespassing on the premises on which the dog was kept; or
 - (c) another animal was on the premises on which the dog was kept; or
 - (d) a person known to the dog was being attacked in front of the dog.

S. 29(12)
amended by
No. 69/2017
s. 14.

- (10) In any proceeding for an offence under subsection (3), (4), (5), (6), (7) or (8), it is a defence to that offence 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**.
- (11) If a person is found guilty of an offence under this section with respect to a dog the court may, in addition to any other order made by the court, order that the person pay compensation for any damage caused by the conduct of the dog.
- (12) If a person is found guilty of an offence under this section with respect to a dog, the court may order that the dog be destroyed by a Council authorised officer 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 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

- (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 business code of practice.

- (3) If a Council accepts a dog under subsection (1) that has exhibited aggressive behaviour or has been involved or suspected of being involved in a dog attack or that is considered to be a restricted breed dog, the Council must give the Secretary the following information—

(a) the municipal district in which the dog was kept before it was given to the Council;

(b) the date that the dog was accepted by the Council;

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

S. 33A(2)(b)
amended by
No. 17/2016
s. 17(Sch. 1
item 3).

S. 33A(3)
inserted by
No. 8/2014
s. 5.

- (c) if the dog has been destroyed, the date on which it was destroyed;
 - (d) the sex and reproductive status of the dog;
 - (e) the age, breed and colour of the dog;
 - (f) the Council reference number for the dog.
- (4) The Council must notify the Secretary of the information under subsection (3)—
- (a) if the Minister specifies a period of time for the purposes of this subsection, within that period after the date that the dog is accepted by the Council;
 - (b) in any other case, within 28 days after the date that the dog is accepted by the Council.

S. 33A(4)
inserted by
No. 8/2014
s. 5.

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 the death of or serious injury to a person or animal by biting or attacking that person or animal; or
 - (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
 - (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

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

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

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

Domestic Animals Act 1994
No. 81 of 1994
Part 3—Control of dogs and cats

S. 34(1)(ca)
inserted by
No. 44/2010
s. 11.

- (ca) if there has been a finding of guilt or the serving of an infringement notice (which has not been withdrawn and the penalty has been paid under the **Infringements Act 2006**) in respect of 2 or more offences under section 29(5), (6), (7) or (8) in respect of the dog; 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**.

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

* * * * *

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

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

34A Dangerous dogs

A dog is a dangerous dog if—

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

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

S. 34A(a)
amended by
No. 44/2017
s. 6(a).

S. 34A(b)
amended by
No. 44/2017
s. 6(b).

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,
amended by
Nos 55/2011
s. 5(a),
44/2017
s. 7(1).

- (1) Immediately upon becoming the owner of a dog that, at any time, 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: 10 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.

S. 37(1BA)
inserted by
No. 44/2017
s. 7(2).

- (1BA) The owner of a dog that has at any time been kept as a guard dog, within 24 hours of commencing to keep the dog, must notify the Council of the municipal district in which the dog is kept that the dog is being kept in that municipal district.

Penalty: 5 penalty units.

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No. 81 of 1994
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- (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—
- (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—
- (a) the municipal district in which the dog is kept changes; or
- (b) the dog is missing; or
- (ba) the owner's address changes; or
- (bb) the place where the dog is kept changes; or
- (c) the ownership of the dog changes.
- Penalty: 20 penalty units.

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

S. 37(2) amended by Nos 69/2004 s. 25(2)(a)(c), 55/2011 s. 5(b).

S. 37(2)(a) repealed by No. 83/2001 s. 26, new s. 37(2)(a) inserted by No. 8/2014 s. 6.

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

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

S. 37A
inserted by
No. 44/2017
s. 8.

37A Offence not to advise person acquiring a dangerous dog that it is dangerous dog

A person must not sell or give away a dangerous dog to another person or otherwise transfer the ownership of a dangerous dog to another person unless before the sale, giving away or transfer of the dog the person advises the other person in writing that the dog is a dangerous dog.

Penalty: 5 penalty units.

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
Nos 69/2004
s. 26, 55/2011
s. 6.

(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 18 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: 20 penalty units.

S. 38(2)
amended by
Nos 69/2004
s. 26, 55/2011
s. 6.

(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: 20 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 18 years of age; and
- (c) that complies with the regulations.

S. 38(3)(b)
amended by
No. 29/2012
s. 13(2).

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: 40 penalty units.

S. 40
amended by
No. 55/2011
s. 7.

41 Restraint of dangerous dogs off the owner's premises

S. 41(1)
amended by
Nos 65/2007
s. 15, 55/2011
s. 8.

- (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 to a penalty of not more than 40 penalty units.

- (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
 - (ab) the dog bites any person or animal causing injury to that person or animal that is not in the nature of a serious injury; 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—

S. 41A(1)(ab)
inserted by
No. 44/2010
s. 12.

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

- (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).
- (4) The Council may delegate its power under subsection (1) to a Council authorised officer. S. 41A(4)
amended by
No. 69/2017
s. 15.
- (5) If a person is found guilty of an offence under section 29(7) or 29(8) with respect to a dog, the court may order the Council to declare the dog to be a menacing dog under subsection (1). S. 41A(5)
amended by
No. 65/2007
s. 16,
substituted by
No. 35/2009
s. 20.
- (6) A declaration under this section has effect throughout Victoria. 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.

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

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

- (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
inserted by
No. 87/2000
s. 20,
amended by
Nos 69/2004
s. 28(a)(c),
55/2011 s. 9.

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
- (ba) the owner's address changes; or
- (bb) the place where the dog is kept changes; or
- (c) the ownership of the dog changes; or
- (d) the municipal district in which the dog is kept changes.

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

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

S. 41D(c)
amended by
No. 8/2014
s. 7(1).

S. 41D(d)
inserted by
No. 8/2014
s. 7(2).

Penalty: 20 penalty units.

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 16 penalty units.

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

S. 41E(2)
amended by
No. 55/2011
s. 10.

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.

* * * * *

S. 41EA
inserted by
No. 76/2005
s. 15,
substituted by
No. 44/2010
s. 13,
amended by
Nos 39/2011
s. 5, 55/2011
s. 11,
repealed by
No. 44/2017
s. 9.

41EB Prohibition against breeding from a restricted breed dog

A person must not breed, or consent to, or arrange the breeding of, or recklessly allow the breeding of, a dog (including a stillborn dog) from a restricted breed dog.

Penalty: 60 penalty units or imprisonment for 6 months.

S. 41EB
inserted by
No. 8/2014
s. 8.

41F Notifications

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

S. 41F(1)
amended by
Nos 69/2004
s. 29(a)(c),
55/2011
s. 12(2).

(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—

(a) the dog is missing; or

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

(aa) the owner's address changes; or

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

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

S. 41F(1)(ac)
inserted by
No. 55/2011
s. 12(1).

(ac) the dog is sold, given or otherwise transferred to them under section 41K; or

S. 41F(1)(b)
amended by
No. 8/2014
s. 9(1).

(b) the ownership of the dog changes; or

S. 41F(1)(c)
inserted by
No. 8/2014
s. 9(2).

(c) the municipal district in which the dog is kept changes.

Penalty: 20 penalty units.

S. 41F(1A)
inserted by
No. 55/2011
s. 12(3).

(1A) Notice given under subsection (1)(ac) must include details of the relationship between the new owner and the previous owner of the restricted breed dog.

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

S. 41F(2)
substituted by
No. 55/2011
s. 12(3).

Penalty: 5 penalty units.

Note

Section 41K prohibits a person from selling, giving or otherwise transferring ownership of a restricted breed dog except in certain circumstances.

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

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

- (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 18 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.

S. 41G(1)
amended by
No. 55/2011
s. 13.

S. 41G(1)(a)(ii)
amended by
No. 29/2012
s. 14.

Penalty: 20 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,
amended by
No. 55/2011
s. 14.

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: For a first offence, 5 penalty units;
For a second or subsequent offence,
10 penalty units.

S. 41HA
inserted by
No. 55/2011
s. 15.

41HA Identification of restricted breed dogs

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

Penalty: 40 penalty units.

S. 41I
inserted by
No. 83/2001
s. 17,
amended by
Nos 65/2007
s. 17, 55/2011
s. 16.

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

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 40 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.

S. 41J(1)
amended by
No. 55/2011
s. 17.

Penalty: 10 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—

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

- (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.

- (3) An application for a permit under subsection (2)(a) or (2)(b) must be—

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

- (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.

S. 41J(5)
amended by
No. 55/2011
s. 17.

- (5) The holder of a permit must comply with the terms and conditions of the permit.

Penalty: 10 penalty units.

S. 41J(6)
inserted by
No. 65/2007
s. 18(4),
amended by
No. 55/2011
s. 17.

- (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: 10 penalty units.

S. 41K
inserted by
No. 83/2001
s. 17,
substituted by
No. 55/2011
s. 18.

41K Prohibition on transfer of ownership of restricted breed dogs

- (1) A person must not sell or transfer (whether by giving or otherwise) ownership of a restricted breed dog to another person.
Penalty: 5 penalty units.
- (2) Subsection (1) does not apply if the person surrenders the dog to a Council or a person who provides pound services to a Council under an agreement with the Council under section 84Y so that the Council or that person may destroy the dog.

- (3) Subsection (1) does not apply if—
 - (a) the owner of the dog has died; and
 - (b) the dog was registered as a restricted breed dog or another breed of dog in Victoria immediately before the commencement of the **Domestic Animals Amendment (Restricted Breeds) Act 2011**; and

(c) the person sells or transfers (by giving, or otherwise) ownership of the dog to the husband, wife, domestic partner, parent, child or sibling (a *related person*) of the owner of the dog and that related person is of or over the age of 18 years.

S. 41K(3)(c)
amended by
No. 29/2012
s. 15.

(4) In this section—

domestic partner has the same meaning as in section 3(1) of the **Victims of Crime Assistance Act 1996**.

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

S. 41L
inserted by
No. 83/2001
s. 17,
amended by
Nos 65/2007
s. 19, 55/2011
s. 19, 29/2012
s. 16.

If a person who is less than 18 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 10 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.

S. 43
amended by
No. 69/2017
s. 16.

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, a Council authorised officer for that municipal district 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

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.

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

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

- (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.

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

44AC Persons who may inspect the register

- (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
inserted by
No. 69/2004
s. 30.

Domestic Animals Act 1994
No. 81 of 1994
Part 3A—Register of dangerous, menacing and restricted breed dogs

S. 44AC(1)(b)
amended by
No. 69/2017
s. 17.

- (b) a Departmental authorised officer or a Council authorised officer 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
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 a Council authorised officer under section 98A to be a restricted breed dog, within 7 days after—

S. 44AE(d)
amended by
No. 69/2017
s. 18.

(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 authorised officer to make the declaration; or

S. 44AE(d)(i)
amended by
No. 44/2010
s. 14(a).

(ii) if the person applies to the Victorian Civil and Administrative Tribunal for a review of the decision to make the declaration—

S. 44AE(d)(ii)
amended by
No. 44/2010
s. 14(a).

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

(B) the day that the Victorian Civil and Administrative Tribunal dismisses, strikes out or otherwise terminates proceedings in relation to the application; or

S. 44AE(d)
(ii)(B)
amended by
No. 44/2010
s. 14(b).

(C) the day that the Victorian Civil and Administrative Tribunal affirms the decision of the authorised officer to make the declaration—

S. 44AE(d)
(ii)(C)
amended by
No. 44/2010
s. 14(b).

whichever occurs first.

S. 44AEA
inserted by
No. 44/2010
s. 15.

44AEA Councils to provide details of dogs destroyed in certain circumstances to Secretary

A Council must provide to the Secretary the following information relating to a dog that has been destroyed under section 84TA, 84TB or 84TC—

S. 44AEA(a)
amended by
No. 69/2017
s. 19.

- (a) the reasons for the dog being destroyed, including, in the case of a dog destroyed under section 84TA, the basis upon which a Council authorised officer formed the reasonable belief under section 84TA(1)(c);
- (b) the time and date of destruction of the dog;
- (c) the following information (if known) relating to the dog—
 - (i) the name, address and contact details of the owner of the dog;
 - (ii) the number of any prescribed permanent identification device that was implanted in the dog;
 - (iii) the sex and the reproductive status of the dog;
 - (iv) the date of birth or age of the dog;
 - (v) the breed and colour of the dog.

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 a Council 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.

S. 44AF(k)
amended by
No. 69/2017
s. 20.

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

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

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;
- (d) details of any change in the municipal district in which the dog is kept.

S. 44AG(c)
amended by
No. 8/2014
s. 10(a).

S. 44AG(d)
inserted by
No. 8/2014
s. 10(b).

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

44AH Secretary may request confirmation of information provided by Councils

- (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.

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—Regulation of domestic animal businesses and related matters

Pt 4 (Heading)
substituted by
No. 69/2017
s. 21.

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.

S. 45
amended by
No. 75/2011
s. 6.

Penalty: In the case of a body corporate,
600 penalty units;

In any other case, 164 penalty units.

45A Transitional offence, acquiring additional fertile female dogs

S. 45A
inserted by
No. 69/2017
s. 23.

- (1) A proprietor of a breeding domestic animal business who conducts the business on a premises where more than 10 relevant fertile female dogs are kept, must not acquire another relevant fertile female dog.

Penalty: In the case of a natural person,
164 penalty units;

In the case of a body corporate,
600 penalty units.

- (2) A person who is the proprietor of the breeding domestic animal business does not commit an offence under subsection (1) if the person is an approved commercial dog breeder.

- (3) This section is **repealed** on 10 April 2020.

46 Application for registration

S. 46(2)
amended by
No. 69/2017
s. 24(1).

(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 and contain the information required by the Council and any other prescribed information.

S. 46(3)
inserted by
No. 69/2017
s. 24(2).

(3) An applicant must give the Council any further information relating to the application that the Council requires.

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.

S. 47(1A)
inserted by
No. 75/2011
s. 7,
amended by
Nos 17/2016
s. 17(Sch. 1
item 4),
69/2017 s. 25.

(1A) Before a Council registers premises under subsection (1), a Council authorised officer of that Council may enter and inspect the premises to determine whether the premises complies with a relevant business code of practice.

(2) The Council may impose any terms, conditions, limitations or restrictions on that registration.

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 no less than 30 days before the registration is due to expire.

S. 48(2)
amended by
No. 69/2017
s. 26(1).

(3) An application for renewal of registration must be made in the form approved by the Council and contain the information required by the Council and any other prescribed information.

S. 48(3)
inserted by
No. 69/2017
s. 26(2).

(4) An applicant for renewal of registration must give the Council any further information relating to the application that the Council requires.

S. 48(4)
inserted by
No. 69/2017
s. 26(2).

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 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.

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

Division 2—Surrender or transfer of registration

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

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.

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.

S. 52
substituted by
No. 69/2017
s. 27.

52 Transfer of registration

- (1) The proprietor of a domestic animal business may apply to the Council to transfer registration of the premises on which the business is conducted to a new premises.
- (2) An application under subsection (1) must be—
 - (a) in writing in a form approved by the Council and contain the information required by the Council and any other prescribed information; 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) A person making an application under subsection (1) must give the Council any further information relating to the transfer of registration that the Council requires.
- (4) If the Council has received an application under subsection (1), it may register the new premises as the premises on which the domestic animal business may be conducted and may impose terms, conditions, limitations and 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) Subject to subsections (3), (3A) and (3B) and sections 54A, 54B, 54C and 54D, a Council may act under subsection (1) if it is satisfied that—

S. 54(2)
amended by
Nos 71/2014
s. 14(1),
69/2017
s. 28(1)(a).

- (a) the proprietor or person applying for registration has failed to comply with the Act, the regulations, any business code of practice applying to the business, or the terms, conditions, limitations or restrictions on registration; or

S. 54(2)(a)
amended by
No. 17/2016
s. 17(Sch. 1
item 5).

- (b) the proprietor or person applying for registration has been found guilty of—
 - (i) an offence against this Act or regulations made under this Act; or
 - (ii) an offence against the **Prevention of Cruelty to Animals Act 1986** or regulations made under that Act; or

S. 54(2)(b)
substituted by
No. 69/2017
s. 28(1)(b).

(iii) an offence against a law of another State or a Territory of the Commonwealth that corresponds with a law referred to in subparagraph (i) or (ii); or

S. 54(2)(c)
inserted by
No. 69/2017
s. 28(1)(b).

(c) a relevant person in relation to the domestic animal business that is or is proposed to be conducted on the premises is a relevant person in relation to another domestic animal business (wherever situated) that is a pet shop, pound, animal shelter or breeding domestic animal business.

Note to
s. 54(2)
inserted by
No. 69/2017
s. 28(2).

Note

See also section 54E for interim duty of the Council, in certain circumstances, to refuse to renew registration of premises at which more than 10 relevant fertile female dogs are being kept.

S. 54(3)
inserted by
No. 71/2014
s. 14(2).

(3) A Council must refuse to register or renew the registration of a premises in relation to a breeding domestic animal business if the Council is satisfied that a relevant person has, at any time within 10 years preceding the date of the application for registration—

(a) been found guilty of a specified offence; or

(b) been the subject of an order made under section 12(1) of the **Prevention of Cruelty to Animals Act 1986**; or

(c) been the subject of an order registered under section 12A(2) of the **Prevention of Cruelty to Animals Act 1986**.

S. 54(3A)
inserted by
No. 69/2017
s. 28(3).

(3A) The Council must refuse to register, renew the registration of, or transfer the registration of, a premises on which a domestic animal business is or is proposed to be conducted that is an animal shelter, a pet shop or a pound if a relevant person in relation to the domestic animal business is a

relevant person in relation to a breeding domestic animal business (wherever situated).

- (3B) The Council must refuse to register, renew the registration of or transfer the registration of a premises on which a domestic animal business is or is proposed to be conducted that is a breeding domestic animal business, if a relevant person in relation to that domestic animal business is a relevant person in relation to an animal shelter, pet shop or pound (wherever situated).

S. 54(3B)
inserted by
No. 69/2017
s. 28(3).

- (4) In this section—

S. 54(4)
inserted by
No. 71/2014
s. 14(2),
amended by
No. 69/2017
s. 28(4)(a).

relevant person, in relation to a domestic animal business means any of the following—

S. 54(4) def. of
*relevant
person*
substituted by
No. 69/2017
s. 28(4)(b).

- (a) the proprietor of the business;
- (b) the person who conducts the business;
- (c) the person applying for registration, renewal of registration or transfer of registration of premises on which the business is being or is to be conducted;

specified offence means an offence against any of the following provisions of the **Prevention of Cruelty to Animals Act 1986**—

S. 54(4) def. of
*specified
offence*
amended by
Nos 17/2016
s. 18, 69/2017
s. 28(4)(c).

- (a) section 9(1);
- (b) section 10(1);
- (c) section 12AF;
- (d) section 12A(8);
- (e) section 15C(1);
- (f) section 15C(2).

S. 54A
inserted by
No. 69/2017
s. 29.

54A Registration where another domestic animal business on rateable property

- (1) If an application is made to register, renew the registration of or transfer registration of premises for a breeding domestic animal business, the Council must refuse to register the premises in respect of which the application is made if—
 - (a) another breeding domestic animal business is being conducted, or is proposed to be conducted, on the rateable property on which the premises is located; or
 - (b) an animal shelter is being conducted, or is proposed to be conducted, on the rateable property on which the premises is located; or
 - (c) a pet shop is being conducted, or is proposed to be conducted, on the rateable property on which the premises is located.
- (2) If an application is made to register, renew the registration of or transfer the registration of premises for an animal shelter, the Council must refuse to register the premises in respect of which the application is made if a breeding domestic animal business or a pet shop is being conducted, or is proposed to be conducted, on the rateable property on which the premises is located.
- (3) If an application is made to register, renew the registration of or transfer the registration of premises for a pet shop, the Council must refuse to register the premises in respect of which the application is made if a breeding domestic animal business or an animal shelter is being conducted, or is proposed to be conducted, on the rateable property on which the premises is located.

54B Registration of breeding domestic animal business premises—10 relevant fertile female dog limit

S. 54B
inserted by
No. 69/2017
s. 29.

- (1) The Council must refuse to register the premises on which a breeding domestic animal business is proposed to be conducted, if the Council is satisfied that more than 10 relevant fertile female dogs are proposed to be kept at the premises.
- (2) Subsection (1) does not apply if the breeding domestic animal business is to be conducted by a proprietor who is an approved commercial dog breeder.

54C Transfer of registration of breeding domestic animal business premises—10 relevant fertile female dog limit

S. 54C
inserted by
No. 69/2017
s. 29.

- (1) The Council must refuse to transfer the registration of premises on which a breeding domestic animal business is being conducted to another premises, if the Council is satisfied that more than 10 relevant fertile female dogs are proposed to be kept at the other premises.
- (2) Subsection (1) does not apply if the breeding domestic animal business is to be conducted by a proprietor who is an approved commercial dog breeder.

54D Renewal of registration of breeding domestic animal business premises—10 relevant fertile female dog limit

S. 54D
inserted by
No. 69/2017
s. 29.

- (1) On and from 10 April 2020, the Council must refuse to renew the registration of a premises on which a breeding domestic animal business is being conducted, if the Council is satisfied that more than 10 relevant fertile female dogs are being kept or are proposed to be kept at the premises.

- (2) Subsection (1) does not apply if the breeding domestic animal business is being conducted by a proprietor who is an approved commercial dog breeder.

S. 54E
inserted by
No. 69/2017
s. 29.

54E Pre-2020 renewal of registration of breeding domestic animal business premises—fertile female dogs

- (1) The Council must refuse to renew the registration of a premises on which a breeding domestic animal business is being conducted if the Council is satisfied that more than 10 relevant fertile female dogs are being kept at the premises and a relevant fertile female dog is being kept at the premises that was not for all of the period of 12 months immediately preceding the Council's decision kept at the premises.
- (2) Subsection (1) does not apply if the breeding domestic animal business is to be conducted by a proprietor who is an approved commercial dog breeder.
- (3) The power of a Council to act under section 54(1) is subject to this section.
- (4) This section is repealed on 10 April 2020.

S. 55
amended by
No. 69/2017
s. 30.

55 Council to give notice

If a Council proposes to exercise its powers under section 54, 54A, 54B, 54C, 54D or 54E 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

S. 56(1)
amended by
No. 69/2017
s. 31.

- (1) Before acting under section 54, 54A, 54B, 54C, 54D or 54E 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.

- (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.

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

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.

S. 58(1)(b)
amended by
No. 65/2007
s. 20.

- (2) The Minister may at any time suspend or revoke the registration of the premises if the Minister is satisfied that—

S. 58(2)(a)
amended by
No. 17/2016
s. 17(Sch. 1
item 6).

- (a) the Council or the person or body (as the case may be) has failed to comply with this Act, the regulations, any business code of practice applying to the business, or any terms, conditions, limitations or restrictions on the registration; or
- (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 3AA—Commercial dog breeder approval

Pt 4 Div. 3AA
(Heading and
ss 58AA–
58AL)
inserted by
No. 69/2017
s. 32.

58AA Approval of commercial dog breeders

S. 58AA
inserted by
No. 69/2017
s. 32.

- (1) The Minister may approve the proprietor of a breeding domestic animal business that is conducted on a registered premises to conduct that business on that premises as a commercial dog breeder, on receiving an application for the grant or renewal of approval under section 58AC.
- (2) Within 40 days of receiving an application under section 58AC for the grant or renewal of approval, the Minister must give the applicant for the approval written notice—
 - (a) of the decision; and
 - (b) if the approval is granted or renewed, of any other conditions imposed on the approval under section 58AF(6).
- (3) A decision by the Minister to grant or renew an approval under subsection (1) takes effect on the later of the following—
 - (a) the day the notice under subsection (2) is given to the applicant;
 - (b) the date specified in the notice.

58AB Considerations in deciding to grant or renew approval

S. 58AB
inserted by
No. 69/2017
s. 32.

- (1) The Minister must not grant or renew an approval of the proprietor of a breeding domestic animal business to conduct that business as a commercial dog breeder under section 58AA unless—

- (a) the chief veterinary officer has recommended, under section 58AE, that the Minister do so; and
 - (b) the Minister is satisfied that the approval should be granted or renewed after considering—
 - (i) the chief veterinary officer's recommendation under section 58AE and the reasons for making it; and
 - (ii) any information contained in or accompanying the application under section 58AC.
- (2) The Minister may refuse to grant or renew the approval of the proprietor of a breeding domestic animal business as a commercial dog breeder if—
- (a) the proprietor has been found guilty of—
 - (i) an offence under this Act or regulations made under this Act; or
 - (ii) an offence against the **Prevention of Cruelty to Animals Act 1986** or regulations made under that Act; or
 - (iii) an offence against a law of another State or a Territory of the Commonwealth that corresponds with a law referred to in subparagraph (i) or (ii); or
 - (b) the Minister reasonably believes that the proprietor has failed to comply with this Act or any regulations made under this Act; or
 - (c) the Minister reasonably believes that—
 - (i) in the case of a grant of an approval, the applicant will not be able to comply with a condition on the approval under section 58AF; or

- (ii) in the case of a renewal of an approval, the applicant has not complied with a condition on the approval under section 58AF.

58AC Application to Minister for commercial dog breeder approval

S. 58AC
inserted by
No. 69/2017
s. 32.

- (1) The proprietor of a breeding domestic animal business may apply to the Minister for the grant or renewal of a commercial dog breeder approval.
- (2) An application under subsection (1)—
 - (a) must be in the form approved by the Minister; and
 - (b) must contain and be accompanied by any information required by the Minister; and
 - (c) must be accompanied by a business plan for the next 3 years of the business which includes and is accompanied by any prescribed information about the business; and
 - (d) must contain and be accompanied by any other prescribed information about the business or other relevant matters; and
 - (e) must be accompanied by the prescribed fee.
- (3) An approved commercial dog breeder may apply for a renewal of the current approval no later than 60 days before the expiry of the approval.

58AD Chief veterinary officer may ask for report and monitoring

S. 58AD
inserted by
No. 69/2017
s. 32.

- (1) For the purpose of making a recommendation under section 58AE, the chief veterinary officer may—
 - (a) ask the relevant Council for a report on the premises on which the domestic animal business is conducted; and

- (b) ask for a Departmental authorised officer to enter and search the premises under Part 7, for the purpose of monitoring compliance with a relevant provision (within the meaning of section 74AB), and give a report on that entry and search.
- (2) For the purpose of subsection (1)(a), a report of the Council must include a copy of any report from an entry and search of the premises under Part 7 carried out in the 5 years preceding the application for grant or renewal of approval.
- (3) For the purpose of subsection (1)(b), a Departmental authorised officer may exercise any power that a Council authorised officer has under Part 7.

S. 58AE
inserted by
No. 69/2017
s. 32.

58AE Chief veterinary officer may make recommendation

- (1) After considering any report under section 58AD(1), the chief veterinary officer may make a recommendation as to whether or not the proprietor of a breeding domestic animal business should be granted a commercial dog breeder approval or the commercial dog breeder approval of the proprietor of a breeding domestic animal business should be renewed.
- (2) The chief veterinary officer must give reasons for any recommendation made under subsection (1).

S. 58AF
inserted by
No. 69/2017
s. 32.

58AF Conditions of commercial dog breeder approval

- (1) It is a condition of a commercial dog breeder approval that a Departmental authorised officer may monitor compliance with a relevant provision under Part 7 on the premises on which the breeding domestic animal business is being conducted when—
 - (a) the approval is being renewed; or

- (b) the premises on which the breeding domestic animal business is being conducted is being transferred.
- (2) It is a condition of a commercial dog breeder approval that the holder of the approval must not keep more than 50 relevant fertile female dogs.
- (3) It is a condition of a commercial dog breeder approval that the approved commercial dog breeder submit a report to the Minister containing the prescribed information at the time required by the Minister.
- (4) It is a condition of a commercial dog breeder approval that the approved commercial dog breeder maintains public liability insurance for the breeding domestic animal business as prescribed.
- (5) It is a condition of a commercial dog breeder approval that the manager of the breeding domestic animal business and any employees of the business have the prescribed qualifications or training.
- (6) A commercial dog breeder approval is subject to any other conditions—
 - (a) that are imposed on the approval by the Minister; or
 - (b) that are prescribed, including conditions for or with respect to—
 - (i) the keeping of dogs and related matters; and
 - (ii) the premises on which dogs are kept and related matters; and
 - (iii) the staffing of premises and related matters.

- (7) An approved commercial dog breeder must comply with any condition of the approval under this section.

Penalty: In the case of a natural person,
246 penalty units;

In the case of a body corporate,
600 penalty units.

S. 58AG
inserted by
No. 69/2017
s. 32.

58AG Period of approval

- (1) A commercial dog breeder approval remains in force—
- (a) for the initial grant of the approval, for a period of 12 months after the approval is granted; and
 - (b) for any renewal of the approval, for a period of 3 years after the approval is renewed.
- (2) If an approved commercial dog breeder has applied for renewal of an approval, the approval remains in force until the application for renewal is determined.
- (3) If an application for approval is made because an approved commercial dog breeder is selling or otherwise transferring the breeding domestic animal business to another proprietor, the commercial dog breeder approval remains in force until the application for approval of the new proprietor has been determined.

S. 58AH
inserted by
No. 69/2017
s. 32.

58AH Transfer of premises

- (1) If an approved commercial dog breeder transfers the premises of the breeding domestic animal business for which the breeder is approved to another premises, on the transfer of the premises the approval is cancelled.

- (2) Despite subsection (1), if a new application for approval for the new premises has been made before the expiry of the existing commercial dog breeder approval, the existing approval remains in force until the application is determined.

58AI Automatic cancellation or suspension of approval

S. 58AI
inserted by
No. 69/2017
s. 32.

- (1) If the relevant Council—
- (a) cancels or does not renew the registration of a premises on which a breeding domestic animal business is being conducted for which there is a commercial dog breeder approval, the approval is cancelled; or
 - (b) suspends the registration of a premises on which a breeding domestic animal business is being conducted for which there is a commercial dog breeder approval, the approval is suspended.
- (2) A Council must give the Minister notice of any suspension, cancellation or refusal to renew to which subsection (1) applies.

58AJ Revocation of approval by Minister

S. 58AJ
inserted by
No. 69/2017
s. 32.

- (1) The Minister may revoke a commercial dog breeder approval if—
- (a) the approved commercial dog breeder has been found guilty of—
 - (i) an offence under this Act or regulations made under this Act; or
 - (ii) an offence against the **Prevention of Cruelty to Animals Act 1986** or regulations made under that Act; or

- (iii) an offence against a law of another State or a Territory of the Commonwealth that corresponds with a law referred to in subparagraph (i) or (ii); or
 - (b) the Minister reasonably believes that the approved commercial dog breeder has failed to comply with this Act or any regulations made under this Act; or
 - (c) the Minister reasonably believes that the approved commercial dog breeder has not complied with a condition on the approval under section 58AF.
- (2) The Minister must give written notice of the Minister's decision under subsection (1) to the holder of the approval.
- (3) A decision by the Minister to revoke an approval under subsection (1) takes effect on the later of the following—
- (a) the day the notice under subsection (2) is given to the holder of the approval;
 - (b) the date specified in the notice.

S. 58AK
inserted by
No. 69/2017
s. 32.

58AK Notice of and submissions on proposal to revoke a commercial dog breeder approval

- (1) If the Minister proposes to revoke a commercial dog breeder approval, before doing so the Minister must give notice in writing to the holder of the approval stating—
- (a) the reasons for the proposal; and
 - (b) that the holder may make submissions to the Minister on the proposal within the period specified in the notice.

- (2) The holder of the approval may make written submissions to the Minister in relation to the proposal to revoke the approval within the period specified in the notice under subsection (1).
- (3) The Minister must consider any submission made under subsection (2), before deciding to revoke the approval.

58AL Council to be notified of commercial dog breeder approval

S. 58AL
inserted by
No. 69/2017
s. 32.

The Minister must give notice of the grant, renewal, revocation or cancellation of a commercial dog breeder approval to the relevant Council as soon as possible after it occurs.

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.

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

58C Registration of premises

- (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.
- (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.

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.

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

58G Transfer of registration

- (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.

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

58H Powers of Minister

- (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.

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

(2) The Minister may act under subsection (1) if he or she is satisfied that the Council—

S. 58H(2)(a)
amended by
No. 17/2016
s. 17(Sch. 1
item 7).

(a) has failed to comply with the Act, the regulations, any business code of practice applying to the business, or the terms, conditions, limitations or restrictions on registration; or

(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 3B—Animal sale permits

Pt 4 Div. 3B
(Heading and
ss 58L–58S)
inserted by
No. 69/2017
s. 33.

58L Definitions

S. 58L
inserted by
No. 69/2017
s. 33.

In this Division—

animal means any animal referred to in paragraph (c) of the definition of *pet shop*;

relevant Council means the Council of the municipal district in which the sale of animals is to take place under an animal sale permit.

58M Application for animal sale permit

S. 58M
inserted by
No. 69/2017
s. 33.

- (1) A person may apply to the Minister for an animal sale permit to sell animals from a place that is not one of the following—
 - (a) a premises registered under Part 4 for the purpose of conducting a domestic animal business from which such a class of animal may be sold;
 - (b) a person's residence.
- (2) An application for an animal sale permit must—
 - (a) be in the form approved by the Minister, which must require the applicant to provide information concerning the matters in section 58O(1); and
 - (b) be accompanied by the prescribed application fee; and
 - (c) include a copy of an agreement entered into between a veterinary practitioner and the applicant confirming that the veterinary practitioner will remain on call for the duration of the sale; and

- (d) include the full name and contact details of the applicant; and
- (e) include any other prescribed information.

S. 58N
inserted by
No. 69/2017
s. 33.

58N Issue of animal sale permit

- (1) The Minister may issue a permit authorising the applicant to sell animals at a place specified in the permit for the period specified in the permit which must not be more than one day.
- (2) The Minister may refuse to issue an animal sale permit if—
 - (a) the Minister is not satisfied that the applicant meets the prescribed criteria; or
 - (b) the applicant has been found guilty of—
 - (i) an offence against this Act or regulations made under this Act; or
 - (ii) an offence against the **Prevention of Cruelty to Animals Act 1986** or regulations made under that Act; or
 - (iii) an offence against a law of another State or a Territory of the Commonwealth that corresponds with a law referred to in subparagraph (i) or (ii); or
 - (c) the Minister believes on reasonable grounds that to issue the permit would be inconsistent with the purposes of this Act.
- (3) An animal sale permit must specify the following—
 - (a) each species of animal that may be sold under the permit;
 - (b) the day on which the sale is to take place;

- (c) the place at which the sale is to take place;
- (d) any conditions imposed on the permit.

58O Conditions on animal sale permit

S. 58O
inserted by
No. 69/2017
s. 33.

- (1) The Minister may impose any conditions on an animal sale permit that the Minister considers necessary including in relation to the following matters—
 - (a) the animal accommodation at the place of the proposed sale;
 - (b) the guarantee of sale to be offered by the applicant when selling animals under the permit;
 - (c) the animal care policies and procedures which the applicant has, or intends to have, in place before, during and after the proposed sale, including veterinary support and emergency management and evacuation plans.
- (2) It is a condition of an animal sale permit that the permit holder must give access or ensure that access to the place of sale is given to a Council authorised officer or restricted authorised officer for the purposes of inspecting the place at any reasonable time before or during the sale.
- (3) It is a condition of an animal sale permit that a person who is given a direction under section 58Q(1) must—
 - (a) immediately cease any activities authorised under the permit; and
 - (b) take any action that is included in the notice under section 58Q(2)(e).

- (4) An animal sale permit is subject to any conditions prescribed by this Act, the regulations made under this Act or imposed by the Minister under subsection (1).

S. 58P
inserted by
No. 69/2017
s. 33.

58P Minister must notify Council of issue of permit before the sale

The Minister must, before the day of the sale under an animal sale permit, give a copy of the permit, including any conditions imposed on the permit, to the relevant Council.

S. 58Q
inserted by
No. 69/2017
s. 33.

58Q Authorised officer may close down sale

- (1) A Council authorised officer or a restricted authorised officer may, in accordance with subsection (2), direct the person apparently in charge of the sale under an animal sale permit to close down the sale at any time if the authorised officer reasonably believes that the welfare of any animal to be sold at the sale is at risk.
- (2) For the purposes of subsection (1), the authorised officer must give a direction to a person under subsection (1) verbally and give to that person at the same time a notice that contains the following—
- (a) the reasons for the closure of the sale;
 - (b) the time the notice was issued;
 - (c) a statement that no further activities authorised under the animal sale permit may continue;
 - (d) the time by which any activities authorised under the animal sale permit must cease;

- (e) any action that must be taken by the person given the direction to address the animal welfare issues identified in the notice.
- (3) An authorised officer who has given a direction under subsection (1) must without delay notify the Minister and the relevant Council of the closure of the sale.

58R Holder of permit must submit report

S. 58R
inserted by
No. 69/2017
s. 33.

- (1) The holder of an animal sale permit must submit a report that complies with subsection (2) to the Minister no later than 28 days after the day of the sale specified in the permit.

Penalty: In the case of a natural person,
30 penalty units;

In the case of a body corporate,
150 penalty units.

- (2) The report must contain the following information—
 - (a) each species of animal and the number of each species of animal offered for sale;
 - (b) the number of animals of each species of animal sold;
 - (c) any non-compliance, of which the holder of the permit was aware at the time of preparing the report, with—
 - (i) any guarantee of sale offered by the holder of the permit; or
 - (ii) the animal care policies and procedures that the holder of the permit had in place during the sale;

- (d) any offence, with which the holder of the permit has been charged, against a law referred to in section 58N(2)(b) relating to the conduct of the sale of animals under the animal sale permit;
 - (e) any adverse welfare outcomes for the animals offered for sale under the animal sale permit of which the holder of the permit was aware at the time of preparing the report.
- (3) The Minister must cause a copy of a report under this section to be given to the relevant Council as soon as practicable after receiving the report.

S. 58S
inserted by
No. 69/2017
s. 33.

58S Offences relating to non-compliance with animal sale permit

- (1) The holder of an animal sale permit must comply with any condition imposed on the permit.

Penalty: In the case of a natural person,
30 penalty units;

In the case of a body corporate,
150 penalty units.

- (2) The holder of an animal sale permit must ensure that the person in charge of the animal sale authorised under the permit complies with any condition imposed on the permit.

Penalty: In the case of a natural person,
30 penalty units;

In the case of a body corporate,
150 penalty units.

**Division 3C—Bird sales held by declared
bird organisations**

Pt 4 Div. 3C
(Heading and
ss 58T, 58U)
inserted by
No. 69/2017
s. 33.

**58T Minister may declare an organisation to be a
declared bird organisation**

S. 58T
inserted by
No. 69/2017
s. 33.

- (1) The Minister may declare that an organisation is a declared bird organisation if—
- (a) the organisation has applied to the Minister to be declared a declared bird organisation; and
 - (b) the Minister is satisfied that the organisation represents members with an interest in—
 - (i) birds and bird keeping; and
 - (ii) the promotion of aviculture; and
 - (iii) the wellbeing of birds, whether in captivity or in the wild; and
 - (c) the Minister is satisfied that the organisation has processes in place to educate its members about, and to ensure that its members comply with—
 - (i) the Code of Practice for the Housing of Caged Birds made under the **Prevention of Cruelty to Animals Act 1986**, as varied from time to time; or
 - (ii) any other code of practice relating to caged birds approved by the Minister for the purposes of this section.
- (2) An application for a declaration under subsection (1) must be made in the form approved by the Minister.

- (3) A declaration under this section remains in force until the earlier of—
 - (a) the end of the period (if any) specified in the declaration; or
 - (b) the revocation of the declaration.
- (4) The Minister must cause a notice of a declaration made under this section, or a revocation of such a declaration, to be published in the Government Gazette.

S. 58U
inserted by
No. 69/2017
s. 33.

58U Notice to Secretary of caged bird sales

- (1) A declared bird organisation that intends to conduct a caged bird sale from any place other than the following places must give notice in accordance with this section, to the Secretary of its intention to hold the caged bird sale—
 - (a) a premises registered under Part 4 for the purpose of conducting a domestic animal business from which caged birds may be sold;
 - (b) a person's residence.

Penalty: 10 penalty units.
- (2) The declared bird organisation must notify the Secretary in writing of the caged bird sale at least 14 days before the caged bird sale commences.
- (3) The notification to the Secretary must include the day or days on which the caged bird sale is to be conducted and any other prescribed details.
- (4) A declared bird organisation does not commit an offence under subsection (1), if the organisation intends to conduct the caged bird sale in accordance with an animal sale permit.

Division 4—Business codes of practice

Pt 4 Div. 4
(Heading)
substituted by
No. 17/2016
s. 17(Sch. 1
item 8).

59 Making of business codes of practice

S. 59
(Heading)
substituted by
No. 17/2016
s. 17(Sch. 1
item 9(a)).

- (1) The Minister may make business codes of practice which specify standards for the conduct of domestic animal businesses. S. 59(1) amended by No. 17/2016 s. 17(Sch. 1 item 9(b)).
- (2) A business code of practice may be prepared for any particular kind of business. S. 59(2) amended by No. 17/2016 s. 17(Sch. 1 item 9(c)).
- (3) A business code of practice may specify all or any of the following— S. 59(3) amended by No. 17/2016 s. 17(Sch. 1 item 9(c)).
- (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 business 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— S. 59(4) amended by No. 17/2016 s. 17(Sch. 1 item 9(c)(d)).
- (a) wholly or partially or as amended by the code; or S. 59(4)(a) amended by No. 17/2016 s. 17(Sch. 1 item 9(d)).

Domestic Animals Act 1994
No. 81 of 1994
Part 4—Regulation of domestic animal businesses and related matters

S. 59(4)(b)
amended by
No. 17/2016
s. 17(Sch. 1
item 9(d)).

(b) as formulated, issued, prescribed or
published at the time the code is made or at
any time before then.

S. 60
amended by
Nos 8/2014
s. 11, 17/2016
s. 17(Sch. 1
item 10),
repealed by
No. 69/2017
s. 34.

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S. 61
repealed by
No. 69/2017
s. 34.

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S. 62
amended by
No. 17/2016
s. 17(Sch. 1
item 11),
repealed by
No. 69/2017
s. 34.

* * * * *

S. 63
(Heading)
substituted by
No. 17/2016
s. 17(Sch. 1
item 12(a)).

**63 Publication, operation and availability of business
code of practice**

S. 63(1)
repealed by
No. 8/2014
s. 12(1).

* * * * *

S. 63(2)
substituted by
No. 8/2014
s. 12(2),
amended by
No. 17/2016
s. 17(Sch. 1
item 12(b)).

(2) A business code of practice comes into operation
on the later of—

S. 63(2)(a)
amended by
No. 17/2016
s. 17(Sch. 1
item 12(c)).

(a) the day specified in the code (if any), which
may be on or after the day on which the code
is made; or

- | | |
|--|---|
| (b) the day that the code is published in the Government Gazette. | S. 63(2)(b) amended by No. 17/2016 s. 17(Sch. 1 item 12(c)). |
| (3) A business code of practice 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. 63(3) amended by No. 17/2016 s. 17(Sch. 1 item 12(d)). |
| 63A Non-compliance with business code of practice an offence | S. 63A (Heading) substituted by No. 17/2016 s. 17(Sch. 1 item 13(a)). S. 63A inserted by No. 87/2000 s. 27, substituted by No. 76/2005 s. 19. |
| (1) A person or body must not conduct a domestic animal business that does not comply with the relevant business code of practice. Penalty: In the case of a body corporate, 600 penalty units; In any other case, 246 penalty units. | S. 63A(1) amended by Nos 75/2011 s. 8, 17/2016 s. 17(Sch. 1 item 13(b)). |
| (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 | S. 63A(2)(a) amended by No. 65/2007 s. 21. |

- (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).

Pt 4 Div. 5
(Heading and
s. 63AB)
inserted by
No. 71/2014
s. 15.

Division 5—Offences

S. 63AB
inserted by
No. 71/2014
s. 15.

63AB Record keeping offences for pet shop proprietors

- (1) The proprietor of a pet shop must, in relation to each dog or cat that is offered for sale or sold at the pet shop—
 - (a) make and keep records—
 - (i) of the name and address of the person from whom the proprietor obtained the dog or cat; and
 - (ii) of any other prescribed information; and

(b) keep and maintain copies of all such records in the prescribed manner.

Penalty: 120 penalty units.

(2) A person who is required to make and keep records under subsection (1) must not knowingly make or keep records that are incomplete, inaccurate or false.

Penalty: 120 penalty units.

Pt 4AA
(Heading and
ss 63AC–
63AE)
inserted by
No. 17/2016
s. 14.

Part 4AA—Keeping of GRV greyhounds

S. 63AC
inserted by
No. 17/2016
s. 14.

63AC Making of greyhound codes of practice

- (1) The Minister may make a code of practice relating to the keeping of GRV greyhounds.
- (2) A greyhound code of practice may specify all or any of the following—
 - (a) standards for the keeping, treatment, handling and care of GRV greyhounds;
 - (b) standards for the facilities, equipment and conditions at premises where GRV greyhounds are being kept;
 - (c) standards for the procedures and practices to be adopted in relation to the keeping of GRV greyhounds.
- (3) A greyhound 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.

Note

For the purposes of subsection (1) see section 3(1) for a definition of *keeping* in relation to a GRV greyhound.

63AD Operation and availability of greyhound code of practice

S. 63AD
inserted by
No. 17/2016
s. 14.

- (1) A greyhound code of practice comes into operation on the later of—
 - (a) the day specified in the code (if any), which may be on or after the day on which the code is made; or
 - (b) the day that the code is published in the Government Gazette.
- (2) A greyhound code of practice and any documents incorporated in a greyhound code of practice 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 on payment of the fee determined by the Minister.

63AE Non-compliance with greyhound code of practice an offence

S. 63AE
inserted by
No. 17/2016
s. 14.

- (1) A person who, or body which, keeps a GRV greyhound must comply with any greyhound code of practice applying to the keeping of GRV greyhounds.

Penalty: In the case of a body corporate,
600 penalty units;

In any other case, 246 penalty units.
- (2) If a body, being a partnership or an unincorporated body, contravenes subsection (1), each reference to the body in this section must 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).

Part 4A—Regulation of the permanent identification of prescribed classes of animal

Pt 4A
(Heading)
amended by
No. 65/2007
s. 22.

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

Division 1—General

63B Definition

S. 63B
inserted by
No. 103/2003
s. 9,
substituted by
No. 65/2007
s. 23.

In this Part, *owner* means—

- (a) in relation to a dog or cat, 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;
- (b) in relation to a horse or any other animal of a prescribed class of animal, the person who has legal ownership of the animal.

Division 2—Offences

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

S. 63C
inserted by
No. 103/2003
s. 9,
substituted by
No. 65/2007
s. 24.

A person must not offer or provide an animal registry service unless that person is the holder of an animal registry licence.

Penalty: 60 penalty units.

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.

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

63E Offences relating to keeping of records

The holder of an animal registry licence must—

- (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.

Penalty: 120 penalty units.

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

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

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—

- (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

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

- (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
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)).

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identification of prescribed classes of animal

- (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

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

(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.

Penalty: 10 penalty units.

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

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

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

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

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

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

- (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
(Heading)
substituted by
No. 65/2007
s. 44(Sch. 1
item 10(1)).
S. 63L
inserted by
No. 103/2003
s. 9.

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

63P Notice of proposal to cancel an animal registry licence

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

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.

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

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

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)).

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

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

63T Qualifications for implanters

- (1) A person is qualified to implant permanent identification devices into animals of a prescribed class of animal if—
- (a) the person is a veterinary practitioner who has completed a course approved by the Secretary on the implantation of permanent identification devices into such animals; or
 - (b) the person has a qualification approved by the Secretary and has completed a course approved by the Secretary for persons who are not veterinary practitioners on the implantation of permanent identification devices into such animals; or

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

S. 63T(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 18),
substituted by
No. 44/2010
s. 16(1).

(c) the person is training to be a veterinary practitioner or to have a qualification approved by the Secretary and the person implants the devices under the direct supervision of a veterinary practitioner who has completed a course approved by the Secretary on the implantation of permanent identification devices into such animals.

(2) An approval of a course or qualification by the Secretary under subsection (1) must be published in the Government Gazette.

(3) Nothing in this section authorises a person who is not a veterinary practitioner or a person training to be a veterinary practitioner to implant a device in a prescribed class of animal other than dogs or cats.

S. 63T(3)
inserted by
No. 44/2010
s. 16(2).

**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.

S. 63U(1)
amended by
No. 65/2007
s. 44(Sch. 1
item 19).

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

63V Making of submissions on the proposal

- (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
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. 64W(1)(b)
amended by
No. 65/2007
s. 44(Sch. 1
item 20(a)).

the Secretary may—

S. 64W(1)(c)
amended by
No. 65/2007
s. 44(Sch. 1
item 20(b)).

- (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.
- (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

- (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.

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

Division 5—Transitional matters

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

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. 63Z
inserted by
No. 103/2003
s. 9,
amended by
No. 65/2007
s. 25 (ILA
s. 39B(1)).

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

- (1) 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 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.

S. 63Z(2)
inserted by
No. 65/2007
s. 25.

- (2) On and from the commencement of section 23 of the **Animals Legislation Amendment (Animal Care) Act 2007**—
 - (a) in relation to a person who is taken to be the holder of an animal registry licence by the operation of section 102(2), a reference to the holder of a domestic animals registry licence in subsection (1) is taken to be a reference to the holder of an animal registry licence; and

Domestic Animals Act 1994
No. 81 of 1994
Part 4A—Regulation of the permanent
identification of prescribed classes of animal

- (b) a reference to a domestic animals registry service in subsection (1) is to be taken to be a reference to an animal registry service.

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).

- (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.

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

- (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.

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.

Part 5A—Domestic animal management plans

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

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

68A Councils to prepare domestic animal management plans

S. 68A(1)
amended by
No. 35/2009
s. 21,
substituted by
No. 69/2017
s. 36.

(1) Subject to subsection (1A), each Council must, in consultation with the Secretary, prepare a domestic animal management plan on 4 December 2021 and at the end of each period of 4 years after that day.

S. 68A(1A)
inserted by
No. 69/2017
s. 36.

(1A) A Council may apply to the Secretary for an extension of time within which to prepare a domestic animal management plan.

S. 68A(1B)
inserted by
No. 69/2017
s. 36.

(1B) The Secretary may grant an extension of time under subsection (1A) if the Secretary believes that special circumstances exist that warrant the granting of an extension.

(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
 - (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.

Domestic Animals Act 1994
No. 81 of 1994
Part 5A—Domestic animal management plans

- (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.

Part 5B—Foster carer registration

Pt 5B
(Heading and
ss 68B–68K)
inserted by
No. 69/2017
s. 37.

68B Grant of foster carer registration

On application under section 68C, a Council may register a person to provide foster care on a premises in the municipal district of the Council, if the person provides or intends to provide foster care on that premises.

S. 68B
inserted by
No. 69/2017
s. 37.

68C Application for foster carer registration

A person who provides or intends to provide foster care on a premises in the municipal district of a Council may apply to that Council for a foster carer registration.

S. 68C
inserted by
No. 69/2017
s. 37.

68D Renewal of foster carer registration

- (1) On the expiry of a foster carer registration, the Council may renew the registration.
- (2) Before a foster carer registration expires, the holder may apply to the Council for renewal of the registration.
- (3) An application under subsection (2) must be made to the Council at least 60 days before the expiry of the registration.

S. 68D
inserted by
No. 69/2017
s. 37.

68E Matters to be considered in granting or renewing foster carer registration

The Council must have regard to the following matters in deciding whether or not to grant or renew a foster carer registration—

- (a) the applicant has failed to comply with any requirement of this Act or regulations made under this Act;

S. 68E
inserted by
No. 69/2017
s. 37.

- (b) the applicant has been found guilty of—
 - (i) an offence against this Act or regulations made under this Act; or
 - (ii) an offence against the **Prevention of Cruelty to Animals Act 1986** or regulations made under that Act; or
 - (iii) an offence against a law of another State or a Territory of the Commonwealth that corresponds with a law referred to in subparagraph (i) or (ii);
- (c) the applicant is or has been subject to a notice to comply under this Act or a control order under the **Prevention of Cruelty to Animals Act 1986**;
- (d) the premises on which the applicant is providing or proposes to provide the foster care is on the same rateable property as a registered premises or proposed registered premises of a domestic animal business;
- (e) the applicant is a proprietor of a domestic animal business (whether in the municipal district of the Council or another municipal district).

S. 68F
inserted by
No. 69/2017
s. 37.

68F Duration of foster carer registration

A foster carer registration remains in force until 10 April of the year following the granting or renewal of registration.

S. 68G
inserted by
No. 69/2017
s. 37.

68G Form of application for registration or renewal of registration

An application under section 68C or 68D(2) must—

- (a) be in the form required by the Council; and

- (b) include any information required by the Council and any prescribed information; and
- (c) be accompanied by the fee fixed by the Council.

68H Foster carer registration fees

S. 68H
inserted by
No. 69/2017
s. 37.

- (1) A Council may, by resolution, fix fees to be paid for a foster carer registration.
- (2) If a foster carer registration only applies for part of a year, the Council may permit a pro rata fee to be paid for that registration which represents the proportion of the year for which the registration applies.

68I Conditions on foster carer registration

S. 68I
inserted by
No. 69/2017
s. 37.

- (1) A foster carer registration is subject to—
 - (a) any prescribed conditions; and
 - (b) any conditions imposed on the registration by the Council that the Council considers necessary.
- (2) A registered foster carer must comply with the conditions to which the foster care registration is subject.

Penalty: 5 penalty units.

68J Suspension or cancellation of registration

S. 68J
inserted by
No. 69/2017
s. 37.

- (1) The Council may suspend or cancel a foster carer registration if—
 - (a) the holder of the registration is a person to whom a paragraph of section 68E applies; or
 - (b) the holder has failed to comply with a condition of the registration.
- (2) The Council must notify the registered foster carer of a suspension or cancellation under subsection (1).

- (3) A suspension or cancellation under subsection (1) comes into effect on the day specified in the notice under subsection (2), which must not be before the day on which the notice is given to the registered foster carer.
- (4) If a Council suspends a registration—
 - (a) the suspension remains in force for the period specified in the notice under subsection (2); and
 - (b) a foster carer whose registration is suspended is taken not to be registered for the period that the suspension remains in force.

S. 68K
inserted by
No. 69/2017
s. 37.

68K Notice of and submissions on proposal to suspend, cancel or not renew foster carer registration

- (1) If the Council proposes to suspend, cancel or not renew a foster carer registration, before doing so the Council must give notice in writing to the holder of the registration stating—
 - (a) the reasons for the proposal; and
 - (b) that, under subsection (2), the holder of the registration may make submissions to the Council on the proposal within the period specified in the notice.
- (2) The holder of the registration may make written submissions to the Council in relation to the proposal to suspend, cancel or not renew the registration within the period specified in the notice under subsection (1).
- (3) The Council must consider any submission made under subsection (2), before deciding to suspend, cancel or not renew the registration.

Part 6—Financial provisions

69 Payments to the Treasurer

(1) Each Council must pay to the Treasurer—

(a) \$2.00 in respect of each registration fee collected by it in each financial year for the registration or renewal of registration of a cat; and

S. 69(1)(a)
amended by
Nos 83/2001
s. 27(1)(a),
44/2010
s. 17(1).

(aa) \$3.50 in respect of each registration fee collected by it in each financial year for the registration or renewal of registration of a dog; and

S. 69(1)(aa)
inserted by
No. 83/2001
s. 27(1)(b),
amended by
No. 44/2010
s. 17(2).

(b) \$20.00 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.

S. 69(1)(b)
amended by
No. 69/2017
s. 38.

(1A) Each Council must pay to the Treasurer in respect of each registration fee collected by the Council in each financial year for the registration or renewal of registration of a dog or cat—

S. 69(1A)
inserted by
No. 44/2017
s. 10(2).

(a) \$4.00 for the financial year that commences immediately after the commencement of section 10(2) of the **Domestic Animals Amendment (Restricted Breed Dogs) Act 2017**; and

(b) for each financial year after that, an amount that increases from the previous financial year by the annual rate approved by the Treasurer in relation to the State Budget for the purposes of section 8 of the **Subordinate Legislation Act 1994**.

S. 69(2)
amended by
No. 44/2017
s. 10(3).

(2) Payments made under subsection (1) and (1A) 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

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

(aa) research into domestic animal management; and

(b) the administration of this Act.

S. 69(3)
inserted by
No. 17/2016
s. 15.

(3) Greyhound Racing Victoria must pay to the Treasurer \$3.50 in respect of each registration fee collected by it in each financial year for the registration of a GRV greyhound.

S. 69(4)
inserted by
No. 17/2016
s. 15.

(4) Payments made under subsection (3) are made for the purpose of the administration of this Act in relation to GRV greyhounds including—

(a) the education by the Department of persons or bodies that keep GRV greyhounds; and

(b) the training by the Department of authorised officers appointed under section 71A who are persons authorised under section 77A of the **Racing Act 1958**; and

(c) the making of greyhound codes of practice under section 63AC.

S. 69(5)
inserted by
No. 17/2016
s. 15.

(5) In this section, **GRV greyhound** means a GRV greyhound whelped after 1 January 2011.

70 Due date for payments to the Treasurer

- (1) Each Council must pay the money required to be paid to the Treasurer under section 69(1) and (1A) in respect of a financial year not later than 31 July next following the end of that year.
- (2) Greyhound Racing Victoria must pay the money required to be paid to the Treasurer under section 69(3) in respect of a financial year not later than 31 July next following the end of that year.

S. 70
amended by
No. 17/2016
s. 16(1)(2) (ILA
s. 39B(1)).

S. 70(1)
amended by
No. 44/2017
s. 11.

S. 70(2)
inserted by
No. 17/2016
s. 16(2).

Pt 7 (Heading)
substituted by
Nos 65/2007
s. 26, 69/2017
s. 39.

Part 7—General enforcement

Pt 7 Div. 1
(Heading)
repealed by
No. 65/2007
s. 27, new
Pt 7 Div. 1
(Heading)
inserted by
No. 69/2017
s. 40.

Division 1—Appointment of authorised officers

S. 71
(Heading)
inserted by
No. 69/2017
s. 41.

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

71A Appointment of restricted authorised officers

S. 71A
(Heading)
substituted by
No. 69/2017
s. 42.

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

72 Appointment of Council authorised officers

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

S. 72
(Heading)
substituted by
No. 69/2017
s. 43.

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

72A Appointment of Council contracted authorised officers

- (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.

S. 72A
(Heading)
substituted by
No. 69/2017
s. 44.

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

73 Identity cards for authorised officers

- (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

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

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

- (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.
- (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.

New Pt 7
Div. 2
(Heading)
inserted by
No. 69/2017
s. 45.

Division 2—General enforcement powers of authorised officers

S. 74
(Heading)
inserted by
No. 69/2017
s. 46(1).

74 Entry, search and other powers of authorised officers for some purposes

- (1) A Departmental 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

S. 74(1)
amended by
Nos 103/2003
s. 13(1)(a),
69/2017
s. 46(2)(a).

(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)).

(ca) a notice to comply issued under this Act that relates to an offence under this Act other than an offence under section 63AE—

S. 74(1)(ca) inserted by No. 75/2011 s. 9(1), amended by Nos 17/2016 s. 17(Sch. 1 item 14(a)), 69/2017 s. 46(2)(b).

* * * * *

S. 74(1)(d) amended by No. 17/2016 s. 17(Sch. 1 item 14(b)), repealed by No. 69/2017 s. 46(2)(c).

are being complied with.

(1A) A restricted authorised officer may take any reasonable action that is necessary to find out whether the provisions of—

S. 74(1A) inserted by No. 103/2003 s. 13(2), amended by Nos 65/2007 s. 44(Sch. 1 item 21(b)), 17/2016 s. 17(Sch. 1 item 14(d)), 69/2017 s. 46(3)(a).

(a) this Act; or

(b) the regulations; or

* * * * *

S. 74(1A)(c) amended by No. 17/2016 s. 17(Sch. 1 item 14(c)), repealed by No. 69/2017 s. 46(3)(b).

(ca) a notice to comply issued under this Act; or

S. 74(1A)(ca) inserted by No. 75/2011 s. 9(2).

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

(d) an animal registry licence—

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

S. 74(1B)
inserted by
No. 103/2003
s. 13(2),
amended by
No. 69/2017
s. 46(4)(a).

(1B) A Council authorised officer may take any reasonable action that 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

S. 74(1B)(ca)
inserted by
No. 75/2011
s. 9(3),
amended by
No. 69/2017
s. 46(4)(b).

(ca) a notice to comply issued under this Act—

S. 74(1B)(d)
amended by
No. 17/2016
s. 17(Sch. 1
item 14(e))
repealed by
No. 69/2017
s. 46(4)(c).

* * * * *

that do not relate to—

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

(e) the conduct of animal registry services; or

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

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

are being complied with.

- (1C) For the avoidance of doubt, a Council authorised officer may scan an animal of a prescribed class of animal to find out whether the following are being complied with—
- (a) this Act;
 - (b) the regulations;
 - (c) any local law made under this Act by a Council;
 - (ca) a notice to comply issued under this Act.
- * * * * *
- (2) An authorised officer who is exercising a power under subsection (1), (1A) or (1B) may—
- (a) at any reasonable time and by any reasonable means and with any assistance which the authorised officer requires enter any premises or part of premises not occupied as a place of residence or any vehicle; or
 - (b) search the whole or any part of any premises or any vehicle entered under paragraph (a);
or

S. 74(1C)
inserted by
No. 44/2010
s. 18,
amended by
No. 69/2017
s. 46(5)(a).

S. 74(1C)(ca)
inserted by
No. 75/2011
s. 9(4),
amended by
No. 69/2017
s. 46(5)(b).

S. 74(1C)(d)
amended by
No. 17/2016
s. 17(Sch 1
item 14(f)),
repealed by
No. 69/2017
s. 46(5)(c).

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

S. 74(2)(a)
amended by
Nos 83/2001
s. 28(a),
69/2017
s. 46(6)(a).

S. 74(2)(b)
substituted by
No. 83/2001
s. 28(b),
amended by
No. 69/2017
s. 46(6)(b).

S. 74(2)(f)
amended by
Nos 65/2007
s. 28(1),
8/2014
s. 13(1).

- (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 Division 2 of Part 7A; or

S. 74(2)(g)
inserted by
No. 8/2014
s. 13(2),
amended by
No. 69/2017
s. 46(6)(c).

- (g) in the case of a Council authorised officer, take samples in accordance with section 74B.

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, new
s. 74(4)
inserted by
No. 69/2017
s. 46(7).

- (4) The powers of an authorised officer under the other provisions of this Act are in addition to the powers of an authorised officer under this section.

74A Council contracted authorised officers may request name and address, ask questions

A Council contracted authorised officer may, if he or she believes, on reasonable grounds, that an offence under section 10, 12A(1), 12A(2), 13, 20, 21, 22, 23, 24, 25, 26, 27, 29(5), 29(7), 32, 38, 39, 41E, 41G, 41H or 41I has been committed—

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

S. 74A
(Heading)
substituted by
No. 69/2017
s. 47(1).

S. 74A
inserted by
No. 103/2003
s. 14,
amended by
Nos 65/2007
s. 28(2),
44/2010 s. 19,
44/2017 s. 12,
69/2017
s. 47(2).

Division 3—Enforcement powers—domestic animal businesses and the keeping of GRV greyhounds

New Pt 7
Div. 3
(Heading and
ss 74AB–
74AJ)
inserted by
No. 69/2017
s. 48.

74AB Definition

In this Division—

relevant provision means any of the following—

- (a) section 12A(1) or (2) or 13(1) or (2);
- (b) a provision of Part 4 or 4AA;
- (c) a regulation that relates to a provision referred to in paragraph (a) or (b).

S. 74AB
inserted by
No. 69/2017
s. 48.

74AC Entry and search powers to monitor compliance of domestic animal businesses and keeping of GRV greyhounds

- (1) For the purpose of monitoring compliance with a relevant provision, a restricted authorised officer, a Council authorised officer or a Departmental authorised officer may enter and search any premises or vehicle in which

S. 74AC
inserted by
No. 69/2017
s. 48.

the authorised officer reasonably suspects that a domestic animal business is being conducted or that a GRV greyhound is being kept.

- (2) An authorised officer may enter and search any premises or vehicle under subsection (1)—
 - (a) by any reasonable means; and
 - (b) with any reasonable assistance that the authorised officer requires.
- (3) An authorised officer who enters and searches any premises or vehicle under subsection (1) may do all or any of the following—
 - (a) inspect any animal, enclosure or thing in the premises or vehicle;
 - (b) in the case of any document in the premises or vehicle, do all or any of the following—
 - (i) require the document to be produced for examination;
 - (ii) examine, make copies of or take extracts from the document, or arrange for the making of copies or the taking of extracts;
 - (iii) remove the document for so long as is reasonably necessary to make copies of or take extracts from the document;
 - (c) bring any equipment into the premises or vehicle, if the authorised officer reasonably believes that the equipment is necessary for the examination or processing of any thing (including any document) in the premises or vehicle in order to determine whether the thing may be seized under paragraph (d);
 - (d) seize any document or other thing, other than an animal, in the premises or vehicle, if the authorised officer reasonably believes that

- the thing is connected with a contravention of a relevant provision;
- (e) secure any animal or thing in the premises or vehicle against interference, if the authorised officer reasonably believes that the animal or thing is connected with a contravention of a relevant provision;
 - (f) make any still or moving image or audio-visual recording of any document, animal or other thing in the premises or vehicle, if the authorised officer reasonably believes that it is connected with a contravention of a relevant provision;
 - (g) take and keep a sample of any thing in the premises or vehicle, if the authorised officer reasonably believes that the thing is connected with a contravention of a relevant provision;
 - (h) ask questions of a person present in the premises or vehicle if the authorised officer reasonably believes that the person may be connected with a contravention of a relevant provision.
- (4) A power under this section must not be exercised in any part of a premises that is residential.
- (5) If an authorised officer exercises a power of entry to any premises or vehicle under this section without the owner or occupier being present the authorised officer must, on leaving the premises or vehicle, leave a notice setting out—
- (a) the time of entry; and
 - (b) the purpose of entry; and
 - (c) a description of things done while in the premises or vehicle; and
 - (d) the time of departure; and

- (e) the procedure for contacting the authorised officer for further details of the entry.

S. 74AD
inserted by
No. 69/2017
s. 48.

74AD Application for search warrant under section 74AE

- (1) A restricted authorised officer, a Council authorised officer or a Departmental authorised officer may apply to a magistrate for the issue of a search warrant in relation to any premises or vehicle if the authorised officer reasonably believes that there is in the premises or vehicle any thing, or kind of thing, that is relevant to determining if an offence against a relevant provision has been committed.
- (2) An application under subsection (1) must not be made without the written approval of the Secretary.
- (3) In this section and section 74AE a reference to *premises* includes the whole or any part of a premises that is residential.

S. 74AE
inserted by
No. 69/2017
s. 48.

74AE Search warrant

- (1) If a magistrate is satisfied by the evidence, on oath or by affidavit, that there is in the premises or vehicle specified in an application under section 74AD any thing, or kind of thing, that is relevant to determining if an offence against a relevant provision has been committed, the magistrate may issue the search warrant applied for in accordance with the **Magistrates' Court Act 1989**.
- (2) A search warrant issued under subsection (1) may authorise a person authorised in the warrant to execute the warrant to do all or any of the following—
 - (a) enter the premises or vehicle specified in the warrant;

- (b) search for any thing, or kind of thing, named or described in the warrant;
- (c) seize any document or other thing, other than an animal, that is or is of a kind named or described in the warrant which the authorised officer reasonably believes to be connected with a contravention of a relevant provision;
- (d) do all or any of the following in relation to any thing that is or is of a kind named or described in the warrant and which the authorised officer reasonably believes to be connected with a contravention of a relevant provision—
 - (i) secure the thing against interference;
 - (ii) examine, inspect and take and keep samples of or from the thing;
- (e) as to any document, or document of a kind, named or described in the warrant, do all or any of the following—
 - (i) require the document to be produced for inspection and examination;
 - (ii) examine the document;
 - (iii) if the authorised officer reasonably believes the document is connected with a contravention of a relevant provision, make copies of or take extracts from the document, or arrange for the making of copies of or the taking of extracts from the document and remove the document for so long as is reasonably necessary to make copies of or take extracts from the document;

- (f) make any still or moving image or audio-visual recording of any thing that is or is of a kind named or described in the warrant, if the authorised officer believes on reasonable grounds that it is connected with a contravention of a relevant provision;
 - (g) take and keep a sample of any thing that is or is of a kind named or described in the warrant, if the authorised officer reasonably believes that the thing is connected with a contravention of a relevant provision.
- (3) A search warrant issued under subsection (1)—
- (a) may authorise an authorised officer to execute the warrant; and
 - (b) may authorise any other person named or otherwise identified in the warrant to assist the authorised officer to execute the warrant.

S. 74AF
inserted by
No. 69/2017
s. 48.

74AF Seizure and samples of things not mentioned in the warrant

- (1) A search warrant under this Division authorises the person executing the warrant, in addition to seizing any thing or kind of thing named or described in the warrant, to seize any document or other thing (that is not an animal) if the person reasonably believes—
- (a) that the thing is of a kind that could have been included in the search warrant and that is connected with a contravention of a relevant provision; and
 - (b) that it is necessary to seize the thing in order to prevent its concealment, loss or destruction or its use in the contravention of the relevant provision.

- (2) A search warrant under this Division authorises the person executing the warrant, in addition to seizing any thing or kind of thing named or described in the warrant, to take a sample of or from any thing, if the person reasonably believes, that—
- (a) the thing is of a kind that could have been included in the search warrant; and
 - (b) the sample is of or from a thing that is connected with a contravention of a relevant provision.

74AG Requirements for search warrants

S. 74AG
inserted by
No. 69/2017
s. 48.

A search warrant under this Division must state—

- (a) the purpose for which the warrant is required and the nature of any alleged contravention; and
- (b) any conditions to which the warrant is subject; and
- (c) whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and
- (d) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.

74AH Application of Magistrates' Court Act 1989

S. 74AH
inserted by
No. 69/2017
s. 48.

- (1) Despite section 78 of the **Magistrates' Court Act 1989**, a search warrant under this Division must not authorise an authorised officer to arrest a person.
- (2) Except as provided by this Division, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this Division.

S. 74AI
inserted by
No. 69/2017
s. 48.

74AI Announcement before entry

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

S. 74AJ
inserted by
No. 69/2017
s. 48.

74AJ Details of warrant to be given to occupier

- (1) If the occupier is present at the premises when a search warrant under this Division is being executed, the authorised officer must—
 - (a) show the authorised officer's identification to the occupier; and
 - (b) give a copy of the warrant to the occupier.
- (2) If the occupier is not present at the premises when a search warrant under this Division is being executed, the authorised officer must, if there is a person present at the premises—
 - (a) show the authorised officer's identification to the person; and
 - (b) give the person a copy of the warrant.

- (3) If a person is present at a vehicle when a search warrant under this Division is being executed, the authorised officer must—
- (a) show the authorised officer's identification to the person; and
 - (b) give a copy of the warrant to the person.
- (4) If a person is not present at a vehicle when a search warrant under this Division is being executed, the authorised officer must—
- (a) leave information as to a means of contacting the authorised officer on the vehicle; and
 - (b) leave a copy of the warrant on the vehicle.

Division 4—Miscellaneous enforcement powers

New Pt 7
Div. 4
(Heading)
inserted by
No. 69/2017
s. 49.

74B Taking samples from dogs

S. 74B
inserted by
No. 8/2014
s. 14.

- (1) If a Council authorised officer or Council contracted authorised officer reasonably suspects that an offence has been committed against section 41EB or section 29(1), (2), (3), (4), (5) or (6) in relation to a dog—
- (a) the authorised officer may take a non-intimate sample from the dog; or
 - (b) the authorised officer may arrange for a veterinary practitioner (whether or not assisted by the authorised officer) to take an intimate or non-intimate sample from the dog—

S. 74B(1)
amended by
No. 69/2017
s. 50(1).

for the purposes of determining whether the dog is involved in the offence.

S. 74B(2)
amended by
No. 69/2017
s. 50(2).

- (2) A Council authorised officer or Council contracted authorised officer must not take a non-intimate sample or assist a veterinary practitioner to take a non-intimate or intimate sample under this section unless the authorised officer has completed a course of training approved by the Minister and published in the Government Gazette.
- (3) If, in the opinion of the authorised officer, a dog from which a sample is to be taken is aggressive or difficult to manage, the authorised officer may direct the owner of the dog to accompany the authorised officer to a pound or other place where a sample can safely be taken.

(4) In this section—

S. 74B(4) def.
of *authorised officer*
repealed by
No. 69/2017
s. 50(3).

* * * * *

intimate sample means a sample of a dog's blood;

non-intimate sample means a sample of a dog's saliva, fur, faeces or urine.

S. 74C
inserted by
No. 8/2014
s. 14.

74C Procedures for taking samples

S. 74C(1)
amended by
No. 69/2017
s. 51.

- (1) If a Council authorised officer or Council contracted authorised officer proposes to take a sample or arranges for a veterinary practitioner to take a sample from a dog under section 74B, he or she must—
 - (a) advise the owner of the dog, if possible before taking the sample, that it is taken for the purpose of analysis; and

- (b) advise the owner of the dog that the owner may nominate a person to analyse part of the sample; and
 - (c) forward a part of the sample that is sufficient for analysis—
 - (i) to any person nominated by the owner of the dog; and
 - (ii) to a qualified person nominated by the authorised officer; and
 - (d) keep part of the sample untouched for future comparison; and
 - (e) return the remainder of the sample to the owner of the dog within 28 days if the sample is not required for the purposes of a proceeding under this Act or the regulations.
- (2) In this section, *qualified person* means a person whom the Secretary has approved in writing as being qualified to conduct the analysis of samples taken under section 74B.

75 Seizure of documents

- (1) An authorised officer may not seize any document under this Part 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.

S. 75(1)
amended by
No. 69/2017
s. 52.

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

S. 75AA
inserted by
No. 69/2017
s. 53.

75AA Copies of certain seized things to be given

- (1) If an authorised officer seizes under section 74 or 74AC or under a warrant under section 74AE—
 - (a) a document; or
 - (b) a thing that can be readily copied; or
 - (c) a storage device that contains information that can be readily copied—

the authorised officer must, as soon as practicable after completing the search, give—

- (d) a copy of the document, information or thing; and
- (e) a receipt for the document, information or thing—

to the owner or custodian of the document, information or thing.

- (2) Subsection (1) does not apply if the authorised officer is unable to discover the identity of the owner or custodian of the document, information or thing.
- (3) In the case of a paper document, the authorised officer must certify on any copy of the document given to a person under this section that the copy is an accurate copy of the document.
- (4) In any proceeding under this Act a copy of a document, thing or information given to an owner or custodian in accordance with this section is evidence and in the absence of evidence to the contrary is proof that the copy is a copy of that document, thing or information.

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

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

- (1) If the holder of an animal registry licence has not complied with section 63S, a Departmental authorised officer 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. 75A(1)
amended by
Nos 65/2007
s. 44(Sch. 1
item 22),
69/2017 s. 54.

75B Disposal of records seized under section 75A

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

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)—

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

- (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
- (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—

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

- (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)(b)
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.

75C Application of proceeds of sale

- (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.
- (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 Money Act 2008**.

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

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

S. 75C(2)
amended by
Nos 44/2008
s. 107, 65/2007
s. 44(Sch. 1
item 24).

76 Offences relating to authorised officers

- (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

S. 76
(Heading)
inserted by
No. 8/2014
s. 15(1).

S. 76(1)
amended by
No. 8/2014
s. 15(3).

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

S. 76(1)(c)
amended by
No. 8/2014
s. 15(2)

(c) destroy, damage, interfere with or remove, without reasonable excuse, any matter or thing done by an authorised officer in accordance with his or her powers under this Act.

Penalty: 60 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(3)
inserted by
No. 8/2014
s. 15(4).

(3) A person must not, without reasonable excuse, obstruct or hinder or attempt to obstruct or hinder an authorised officer in the discharge of his or her powers, duties or functions under this Act.

Penalty: 60 penalty units.

S. 76(4)
inserted by
No. 8/2014
s. 15(4).

(4) For the purposes of subsection (3), a reasonable excuse includes the failure of the authorised officer to inform the person of the existence of the offence before the authorised officer attempts to exercise the power or carry out the duty or function under this Act.

S. 76(5)
inserted by
No. 8/2014
s. 15(4).

(5) A person must not, without reasonable excuse, refuse admission to an authorised officer exercising a power of entry under this Act or a person assisting an authorised officer in exercising a power of entry under this Act.

Penalty: 60 penalty units.

76A Notice to comply

(1) 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,
amended by
No. 75/2011
s. 10 (ILA
s. 39B(1)).

(2) A notice issued under this section must set out the following details—

S. 76A(2)
inserted by
No. 75/2011
s. 10.

- (a) the offence under this Act that the authorised officer believes has been committed; and
- (b) the action that the person is required to undertake; and
- (c) the time within which the specified action must be taken.

(3) Without limiting subsection (2), if a notice is issued in relation to an offence believed to have been committed under section 63A or 63AE, the notice may contain specific directions in relation to—

S. 76A(3)
inserted by
No. 75/2011
s. 10,
amended by
No. 17/2016
s. 17(Sch. 1
item 15(a)).

- (a) improving the condition of specified premises so that they comply with any relevant business code of practice or greyhound code of practice; or
- (b) replacing or repairing specified equipment;
or
- (c) the person removing or not removing a specified animal from specified premises.

S. 76A(3)(a)
amended by
No. 17/2016
s. 17(Sch. 1
item 15(b)).

Division 5—Enforcement powers—breeding restricted breed dogs

New Pt 7
Div. 5
(Heading)
inserted by
No. 69/2017
s. 55.

76B Requirement to make documents available for inspection

S. 76B
inserted by
No. 8/2014
s. 16.

S. 76B(1)
amended by
No. 69/2017
s. 56(1).

(1) The Secretary, on the application of a Council authorised officer, may give written approval to that officer to serve a notice under subsection (2) on a veterinary practitioner.

S. 76B(2)
amended by
No. 69/2017
s. 56(2).

(2) A Council authorised officer, who has obtained the approval of the Secretary under subsection (1), may serve a notice on the veterinary practitioner requiring the veterinary practitioner to produce or make available for inspection any document in the custody or possession of the veterinary practitioner which the authorised officer believes on reasonable grounds to be relevant to determining whether another person has committed an offence against section 41EB in the municipal district of the Council.

(3) The notice must—

- (a) specify a time within which the veterinary practitioner must produce or make the document available for inspection that is not less than 14 days after service of the notice; and
- (b) inform the veterinary practitioner that it is an offence to fail to comply with the notice unless compliance with the notice would tend to incriminate the veterinary practitioner.

- (4) The notice must be served on the veterinary practitioner either personally or by registered post at the last known address of the veterinary practitioner.
- (5) The authorised officer may inspect, take a copy of, or make an extract of, any document produced or made available under subsection (2).
- (6) A veterinary practitioner served with a notice under subsection (2) must comply with the notice within the time for compliance specified in the notice unless compliance with the notice would tend to incriminate the veterinary practitioner.

Penalty: 20 penalty units.

76C Approval of Secretary for search warrant

The Secretary, on the application of a Council authorised officer, may give written approval to that officer to apply under section 76D to a magistrate for the issue of a search warrant in relation to premises (including residential premises) from which a veterinary practice is conducted.

S. 76C
inserted by
No. 8/2014
s. 16,
amended by
No. 69/2017
s. 57.

76D Search warrant for document connected with section 41EB offence

- (1) A Council authorised officer who has obtained the approval of the Secretary under section 76C, may apply to a magistrate for the issue of a search warrant in relation to premises referred to in section 76C if the authorised officer believes on reasonable grounds that a document that is relevant to determining whether an offence has been committed against section 41EB in the municipal district of the Council is in or on the premises and has not been produced or made available under a notice under section 76B.

S. 76D
inserted by
No. 8/2014
s. 16.

S. 76D(1)
amended by
No. 69/2017
s. 58(1).

S. 76D(2)
amended by
No. 69/2017
s. 58(2).

- (2) If a magistrate is satisfied by the evidence, on oath or by affidavit, of the authorised officer that there are reasonable grounds to believe that there is in or on the premises a document that is relevant to determining whether a person has committed an offence against section 41EB, which has not been produced or made available under a notice under section 76B, the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**, authorising a Council authorised officer authorised in the warrant to execute the warrant, and with any necessary equipment—
- (a) to enter the premises specified in the warrant; and
 - (b) to do all or any of the following—
 - (i) search for;
 - (ii) secure against interference;
 - (iii) examine, inspect and take a copy or make an extract of—

the document named or described in the warrant, which the authorised officer believes on reasonable grounds to be relevant to determining whether an offence has been committed against section 41EB.

S. 76D(2A)
inserted by
No. 69/2017
s. 58(3).

- (2A) A search warrant issued under subsection (2)—
- (a) may authorise a Council authorised officer of the Council to execute the warrant; and
 - (b) may authorise any other person named or otherwise identified in the warrant to assist the Council authorised officer to execute the warrant.

- (3) A Council authorised officer of a Council may apply for, and a magistrate may issue, a warrant under this section authorising the authorised officer to enter a premises that is not in the municipal district of the Council that appointed the authorised officer and the authorised officer may enter that premises despite section 224(7) of the **Local Government Act 1989**.
- (4) Sections 84EB, 84F and 84G apply to a search warrant issued under this section as if it were a search warrant issued under Part 7A.

S. 76D(3)
amended by
No. 69/2017
s. 58(4).

Pt 7A
(Heading)
amended by
No. 8/2014
s. 17.

Part 7A—Powers to seize and dispose of dogs or cats and related matters

Pt 7 Div. 2
(Heading and
ss 77–84)
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.

Pt 7A Div. 1
(Heading
and s. 77),
amended by
No. 65/2007
s. 29,
repealed by
No. 69/2017
s. 59.

* * * * *

Division 2—Seizure of dogs or cats

S. 78
substituted by
No. 65/2007
s. 29.

78 Seizure of dangerous dogs

S. 78(1)
amended by
No. 69/2017
s. 60(1).

- (1) A Council authorised officer 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).
- (2) A Council authorised officer 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.

S. 78(2)
amended by
No. 69/2017
s. 60(2).

79 Seizure of restricted breed dogs

S. 79
substituted by
No. 65/2007
s. 29.

- (1) A Council authorised officer 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).

S. 79(1)
amended by
No. 69/2017
s. 61(1).

S. 79(2)
amended by
No. 69/2017
s. 61(2).

(2) A Council authorised officer 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.

S. 79(3)
amended by
No. 69/2017
s. 61(3).

(3) A Council authorised officer 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.

S. 80
substituted by
No. 65/2007
s. 29,
amended by
Nos 44/2017
s. 13, 69/2017
s. 62.

80 Seizure of dogs believed to be restricted breed dogs

A Council authorised officer may seize a dog that is in the municipal district of that Council, for the purpose of determining whether or not the dog is a restricted breed dog, if the authorised officer reasonably believes the dog is a restricted breed dog.

S. 81
substituted by
Nos 65/2007
s. 29, 35/2009
s. 22.

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

S. 81(1)
amended by
No. 69/2017
s. 63(1).

(1) A Council authorised officer 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 or 28A with respect to that dog; or

(b) the authorised officer reasonably suspects that the owner has committed an offence under section 28 or 28A with respect to that dog.

(2) A Council authorised officer may seize a dog that is in the municipal district of that Council if—

S. 81(2)
amended by
No. 69/2017
s. 63(2).

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

82 Seizure of unregistered dog or cat

S. 82
substituted by
No. 65/2007
s. 29,
amended by
No. 69/2017
s. 64.

A Council authorised officer 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**.

82A Seizure of dog or cat from unregistered breeding domestic animal businesses

S. 82A
inserted by
No. 75/2011
s. 11.

(1) In this section—

authorised officer means a Departmental authorised officer, a Council authorised officer, a Council contracted authorised officer or a restricted authorised officer.

S. 82A(1)
substituted by
No. 69/2017
s. 65(1).

Domestic Animals Act 1994

No. 81 of 1994

Part 7A—Powers to seize and dispose of dogs or cats and related matters

(2) Subject to subsection (3), an authorised officer may enter any premises on which a breeding domestic animal business is being conducted and seize a dog or cat if—

(a) the premises are not registered under section 47 and a notice to comply has been issued requiring that an application for registration of the premises be made and the authorised officer reasonably believes that the notice has not been complied with within the time specified in the notice; or

(b) the registration of the premises has been refused or revoked under Division 3 of Part 4; or

(ba) the renewal of registration of the premises was refused under Division 3 of Part 4; or

(c) the authorised officer reasonably believes that a person who conducts the breeding domestic animal business at the premises is in breach of an order under section 84WA.

(3) A Council authorised officer must not enter premises under subsection (2) unless the premises are located within the municipal boundaries of the Council that appointed the authorised officer.

(4) Any dog or cat seized under this section is forfeited—

(a) in the case of a dog or cat seized by a Council contracted authorised officer or a restricted authorised officer, to the person or body on whose behalf the officer is seizing the dog or cat;

S. 82A(2)(b)
amended by
Nos 71/2014
s. 16(1),
69/2017
s. 65(2)(a).

S. 82A(2)(ba)
inserted by
No. 71/2014
s. 16(2),
amended by
No. 69/2017
s. 65(2)(b).

S. 82A(3)
amended by
No. 69/2017
s. 65(3).

S. 82A(4)(a)
amended by
No. 69/2017
s. 65(4)(a).

- (b) in the case of a dog or cat seized by a Council authorised officer, to the Council that appointed the officer.

S. 82A(4)(b)
amended by
No. 69/2017
s. 65(4)(b).

82B Seizure of dog or cat for certain offences

S. 82B
inserted by
No. 69/2017
s. 66(1).

- (1) In this section—

authorised officer means a Departmental authorised officer, a Council authorised officer or a restricted authorised officer.

- (2) An authorised officer may—

(a) seize a dog that is on premises where GRV greyhounds are being kept if the authorised officer reasonably believes that there has been, is or is about to be, a contravention of Part 4AA; or

(b) seize a dog or cat that is on premises where a domestic animal business is being conducted if the authorised officer reasonably believes that there has been, is or is about to be, a contravention of section 45A, 58AF or 63A or of a notice to comply under section 76A.

- (3) An authorised officer must not enter premises for the purpose of seizing a dog or cat under subsection (2) unless the entry is under section 74AC or by warrant under section 74AE or section 84E.

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

S. 83
substituted by
No. 65/2007
s. 29,
amended by
No. 69/2017
s. 67.

A Council authorised officer 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.

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

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.

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

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. 84B
inserted by
No. 65/2007
s. 29,
substituted by
No. 69/2017
s. 68.

84B Seizure of dog or cat outside premises

A Council authorised officer or a Council contracted authorised officer may seize a dog or cat that is outside its owner's premises 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) the authorised officer 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); and
- (c) the premises is in the municipal district of the Council that has contracted or appointed the authorised officer.

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

84C Seizure of abandoned dog or cat

- (1) A Council authorised officer may enter any premises in the municipal district of the Council appointing the authorised officer at the request of the owner of the premises if the authorised officer

reasonably suspects that there is an abandoned dog or cat in or on the premises.

- (1A) Premises that may be entered under subsection (1) include a person's residence.

S. 84C(1A)
inserted by
No. 69/2017
s. 69.

- (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.

84CA Seizure of dog involved in suspected breeding offence

S. 84CA
inserted by
No. 8/2014
s. 18.

- (1) The Secretary, on the application of a Council authorised officer, may give written approval to that officer to seize a dog under subsection (2).

S. 84CA(1)
amended by
No. 69/2017
s. 70(1).

- (2) A Council authorised officer who reasonably suspects that an offence under section 41EB has been committed in the municipal district of the Council that appointed the authorised officer may, with the approval of the Secretary under subsection (1), seize a dog, which cannot be

S. 84CA(2)
amended by
No. 69/2017
s. 70(2).

seized under section 79 or 80, to determine if the dog has been used, or is the progeny of a dog used, in the alleged commission of that offence.

- (3) The authorised officer must return the dog seized to its owner within 3 days after the seizure.
- (4) Any reference in this Part (other than this section) to a dog seized under this Part or words to that effect does not include a dog seized under this section.

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

84D Seized dog or cat must be delivered up

S. 84D(1)
amended by
No. 69/2017
s. 71(1).

- (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 a Council authorised officer 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.

S. 84D(2)
amended by
No. 69/2017
s. 71(2).

- (2) If a person is found guilty of an offence under subsection (1), the Magistrates' Court may, on the application of a Council authorised officer 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

S. 84E
inserted by
No. 65/2007
s. 29,
amended by
No. 8/2014
ss 19, 20,
substituted by
No. 69/2017
s. 72.

84E Search warrants for dogs or cats

- (1) An authorised officer who may seize a dog or cat under this Part (other than section 84CA) may apply to a magistrate for the issue of a search warrant for a premises, if the authorised officer believes on reasonable grounds that there is

present on the premises any dog or cat that the authorised officer may so seize.

- (2) If a magistrate is satisfied, by the evidence on oath or by affidavit, that there is on the premises specified in the application under subsection (1) any dog or cat which the authorised officer may seize, the magistrate may issue the search warrant applied for in accordance with the **Magistrates' Court Act 1989**.
- (3) A search warrant issued under subsection (2) may authorise the authorised officer named in the warrant to execute the warrant to do any of the following with any necessary equipment—
 - (a) enter the premises specified in the warrant;
 - (b) search for any dog or cat named or described in the warrant;
 - (c) examine any dog or cat, named or described in the warrant for the purposes of identifying the owner of the dog or cat;
 - (d) if necessary, seize any dog or cat named or described in the warrant.
- (4) A search warrant issued under subsection (2)—
 - (a) may authorise the authorised officer who applied for the warrant or another authorised officer of the same class as the authorised officer who applied for the warrant to execute the warrant; and
 - (b) may authorise any other person named or otherwise identified in the warrant to assist the authorised officer to execute the warrant.
- (5) In this section a reference to *premises* includes the whole or any part of the premises that is residential.

S. 84EA
(Heading)
amended by
No. 44/2017
s. 14.

84EA Search warrant if restricted breed dog breeding offence suspected of being committed

S. 84EA
inserted by
No. 8/2014
s. 20.

S. 84EA(1)
amended by
No. 69/2017
s. 73(1).

(1) The Secretary, on the application of a Council authorised officer, may give written approval to that officer to apply under subsection (2) to a magistrate for the issue of a search warrant in relation to a person's residence.

S. 84EA(2)
amended by
No. 69/2017
s. 73(2)(a).

(2) A Council authorised officer, may with the approval of the Secretary under subsection (1), 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) a dog that the authorised officer is entitled to seize under section 84CA; or

S. 84EA(2)(b)
amended by
No. 69/2017
s. 73(2)(b).

(b) a document or thing that the authorised officer believes on reasonable grounds is relevant to determining if an offence under section 41EB has been committed in the municipal district of the Council that appointed the authorised officer.

S. 84EA(3)
amended by
Nos 37/2014
s. 10(Sch.
item 46.2),
69/2017
s. 73(3).

(3) 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 that the authorised officer is entitled to seize under section 84CA is present in or on the premises or there is a document or thing in or on the premises that is relevant to determining if an offence under section 41EB has been committed, the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**, authorising a

Council authorised officer authorised in the warrant to execute the warrant with any necessary equipment—

- (a) to enter the premises specified in the warrant; and
- (b) to search for the dog identified in the warrant; and
- (c) to examine that dog for the purposes of identifying the owner of the dog; and
- (d) if necessary, to seize the dog for the purposes of determining if the dog has been used, or is the progeny of a dog used, in the alleged commission of an offence under section 41EB including for the purposes of taking a sample from the dog in accordance with section 74B; and
- (e) to search for, examine, take copies or photographs of, take extracts from or seize, a document or thing, named or described in the warrant, which the authorised officer reasonably believes is relevant to determining if an offence under section 41EB has been committed.

(3A) A search warrant issued under subsection (3)—

- (a) may authorise a Council authorised officer to execute the warrant; and
- (b) may authorise any other person named or otherwise identified in the warrant to assist the authorised officer to execute the warrant.

S. 84EA(3A)
inserted by
No. 69/2017
s. 73(4).

(4) A Council authorised officer of a Council may apply for, and a magistrate may issue, a warrant under this section authorising the authorised officer to enter a premises that is not in the municipal district of the Council and the authorised officer may enter that premises

S. 84EA(4)
amended by
No. 69/2017
s. 73(5).

despite section 224(7) of the **Local Government Act 1989**.

- (5) Any reference in this Part (other than this section) to a dog seized under this Part or words to that effect does not include a dog seized under this section.

S. 84EB
inserted by
No. 8/2014
s. 20.

84EB Search warrants under this Part

- (1) A search warrant issued under this Part in relation to premises 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.
- (2) 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 search warrants under this Part.
- (3) Despite section 78(1)(b)(iii) of the **Magistrates' Court Act 1989**, a search warrant issued under this Part must not authorise an authorised officer to arrest a person.

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

84F Announcement before entry

- (1) On executing a search warrant under this Part, the authorised officer executing the warrant—
- (a) must announce that he or she is authorised by the warrant to enter the premises; and

S. 84F(1)
amended by
No. 8/2014
s. 21.

- (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 under this Part 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 under this Part 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.

S. 84G(1)
amended by
No. 8/2014
s. 22.

S. 84G(2)
amended by
No. 8/2014
s. 22.

84GA Seizure of documents or things

S. 84GA
inserted by
No. 8/2014
s. 23.

- (1) An authorised officer may not seize any document or thing under this Part 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 or thing seized.

- (2) An authorised officer must take all reasonable steps to return a seized document or thing 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 or thing 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 or thing may be kept.
- (4) An application under subsection (3) must be made within 60 days of the seizure of the document or thing, 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 or thing 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 Magistrates' Court may adjourn an application under this section to enable notice of the application to be given to any person.

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

84H Identified owners must be served with notice of seizure

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

- (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.

84I Notice of seizure

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

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.

S. 84J
inserted by
No. 65/2007
s. 29,
amended by
No. 69/2017
s. 74 (ILA
s. 39B(1)).

84J Custody of seized dogs or cats

- (1) 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).
- (2) If a Departmental authorised officer, a Council authorised officer or a restricted authorised officer has seized a dog or cat under section 82B, the Council or person or body holding the dog or cat may retain custody of the dog or cat until the dog or cat is recovered under Division 5 or disposed of under Division 6 (as the case may be).

S. 84J(2)
inserted by
No. 69/2017
s. 74.

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

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

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.

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

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

- (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 by the Victorian Civil and Administrative Tribunal; and

S. 84L(1)(a)
amended by
No. 44/2010
s. 20.

(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 and the authorised officer reasonably believes the dog 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.

S. 84L(2)
amended by
No. 44/2017
s. 15.

Division 5—Recovery of seized dog or cat

84M Recovery of dog or cat

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

S. 84M(1)
amended by
No. 69/2017
s. 75(1).

- (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, 82B, 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 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.

S. 84M(2)
amended by
No. 69/2017
s. 75(2).

- (2) If a person has been prosecuted for an offence set out in section 84Q(2) or (2A) 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.

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

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

(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) the person has been served with a declaration under section 98A and—

S. 84N(1)(a)
amended by
No. 44/2010
s. 21,
substituted by
No. 44/2017
s. 16(1).

(i) the person has not applied for a review of that declaration within the time fixed under section 98(2A); or

(ii) the person has applied for a review of that declaration within the time fixed under section 98(2A) and—

(A) the declaration has been affirmed by the Victorian Civil and Administrative Tribunal; or

(B) the application for the review has been withdrawn, dismissed or struck out for want of prosecution; and

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- (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 to
s. 84N(1)
substituted by
No. 44/2017
s. 16(2).**

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 the dog has been implanted with a prescribed permanent identification device.

**S. 84N(2)
amended by
No. 44/2010
s. 21,
substituted by
No. 44/2017
s. 16(3).**

- (2) A person may recover a dog under subsection (1)—
 - (a) if the person has not applied for a review of the declaration within the time fixed under section 98(2A), within 8 days after the expiry of the time fixed under section 98(2A); or

- (b) if the person has applied for a review of the declaration within the time fixed under section 98(2A), within 8 days after whichever of the following applies—
 - (i) the declaration is affirmed by the Victorian Civil and Administrative Tribunal;
 - (ii) the application for the review is withdrawn, dismissed or struck out for want of prosecution.
- (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 by the Victorian Civil and Administrative Tribunal; 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

S. 84N(3)(a)(ii)
amended by
No. 44/2010
s. 21.

- (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

84O Power to sell or destroy dogs or cats seized under this Part

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

- (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 may recover the dog under Division 5 but does not comply with the requirements under that Division for recovery of the dog within the period specified in that Division, the Council or person or body retaining custody of the dog must destroy the dog as soon as possible after the expiry of that period.

S. 84O(2)
substituted by
No. 44/2017
s. 17.

- (3) If the owner of a dog or cat (other than a dangerous dog or a restricted breed dog) seized under this Part may recover the animal under Division 5 but does not comply with the requirements under that Division for recovery of the animal within the period specified in that Division, 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 business code of practice or greyhound code of practice.
- (4) An authorised officer may destroy a dog or cat seized under this Part if a veterinary practitioner has certified that the dog or cat—
- (a) should be immediately destroyed on humane grounds; or
 - (b) is diseased or infected with disease.

S. 84O(3)
amended by
No. 17/2016
s. 17(Sch. 1
item 16),
substituted by
No. 44/2017
s. 17.

S. 84O(4)
inserted by
No. 75/2011
s. 12.

84P Further power to destroy dogs

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

S. 84P
inserted by
No. 65/2007
s. 29,
amended by
No. 13/2015
s. 3 (ILA
s. 39B(1)),
amended by
No. 44/2017
s. 18(1).

Domestic Animals Act 1994

No. 81 of 1994

Part 7A—Powers to seize and dispose of dogs or cats and related matters

S. 84P(b)
repealed by
No. 44/2017
s. 18(2).

* * * * *

(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

S. 84P(e)
amended by
No. 35/2009
s. 23(a).

(e) the dog's owner has been found guilty of an offence under section 28, 28A or 29 with respect to the dog; or

S. 84P(f)
inserted by
No. 35/2009
s. 23(b).

(f) a person other than the dog's owner has been found guilty of an offence under section 29 with respect to the dog.

S. 84P(2)(3)
inserted by
No. 13/2015
s. 3(2),
repealed by
No. 44/2017
s. 18(2).

* * * * *

S. 84P(4)
inserted by
No. 13/2015
s. 3(2),
amended by
No. 48/2016
s. 7,
repealed by
No. 44/2017
s. 18(2).

* * * * *

84Q Prosecution of identified persons suspected of committing offences

S. 84Q
(Heading)
amended by
No. 35/2009
s. 24(1).

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

(1) If a Council authorised officer reasonably suspects that a person has committed an offence set out in subsection (2) with respect to a dog or cat seized under this Part other than section 82A or 82B and the Council has sufficient information about the person to enable it to commence prosecution for the offence and it proposes to prosecute the person for that offence, the Council—

S. 84Q(1)
amended by
Nos 35/2009
s. 24(2),
69/2017
s. 76(1).

- (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.

(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;
- (ba) an offence under section 45;

S. 84Q(2)(ba)
inserted by
No. 75/2011
s. 13.

Domestic Animals Act 1994

No. 81 of 1994

Part 7A—Powers to seize and dispose of dogs or cats and related matters

S. 84Q(2)(bb)
inserted by
No. 75/2011
s. 13,
amended by
No. 17/2016
s. 17(Sch. 1
item 17).

(bb) an offence under section 63A or 63AE;

(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.

S. 84Q(2A)
inserted by
No. 69/2017
s. 76(2).

(2A) If a Council, person or body has custody of a dog
or cat that has been seized under section 82B and
the Council, person or body proposes to prosecute
the owner of the dog or cat for an offence under
section 45A, 58AF, 63A, in relation to the dog or
cat, the Council, person or body—

(a) must commence prosecution as soon as
possible after the seizure and after sufficient
information is available to enable the
commencement of prosecution; and

(b) must retain custody of the dog or cat and any
offspring of the dog or cat until the outcome
of the prosecution is known.

S. 84Q(2B)
inserted by
No. 69/2017
s. 76(2).

(2B) If the outcome of the prosecution referred to in
subsection (2A) is that the owner of the dog or cat
is found guilty of the offence, the dog or cat and
any offspring of the dog or cat are forfeited to the
Council or to the person or body who has custody
of the dog or cat and offspring (if any).

(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 by the Victorian Civil and Administrative Tribunal or an application for review of the declaration has not been made within the time fixed under section 98(2A).

S. 84Q(3)(b)
amended by
Nos 44/2010
s. 22, 44/2017
s. 21.

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

S. 84R
inserted by
No. 65/2007
s. 29,
amended by
Nos 75/2011
s. 14, 69/2017
s. 77.

If a Council authorised officer reasonably suspects that an owner of a dog seized under this Part has committed an offence set out in paragraph (a), (b), (ba), (bb) 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.

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

S. 84S
inserted by
No. 65/2007
s. 29,
amended by
No. 69/2017
s. 78.

If a Council 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,
amended by
No. 8/2014
s. 24 (ILA
s. 39B(1)).

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

- (1) 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.
- (2) A Council must notify the Secretary of the following information after destroying a dog under subsection (1)—
 - (a) the municipal district in which the dog was seized;
 - (b) the date on which the dog was seized;
 - (c) the date on which the dog was destroyed;
 - (d) the sex and reproductive status of the dog;
 - (e) the age, breed and colour of the dog;
 - (f) the Council reference number for the dog.

S. 84T(2)
inserted by
No. 8/2014
s. 24.

(3) A notice under subsection (2) must be given by the Council—

S. 84T(3)
inserted by
No. 8/2014
s. 24.

(a) if the Minister specifies a period of time for the purposes of this subsection, within that period after the date on which the dog was destroyed;

(b) in any other case, within 28 days after the date on which the dog was destroyed.

84TA Destruction of dog that is a danger to the public

S. 84TA
inserted by
No. 44/2010
s. 23.

(1) Subject to subsection (6), a Council may destroy a dog seized under this Part if—

(a) the Council authorised officer of the Council who seized the dog held the reasonable belief at the time of the seizure that the owner of the dog would be guilty of an offence under section 24 or 26; and

S. 84TA(1)(a)
amended by
No. 69/2017
s. 79(a).

(b) the dog is unregistered and the owner is not able to be identified from—

(i) a marker attached to, or a device implanted in, the dog's body; or

(ii) any information received by the Council that is sufficient to enable identification of the owner; and

(c) a Council authorised officer of the Council, at or after the time of the seizure of the dog, reasonably believes that the behaviour of the dog has resulted, or is likely to result, if the dog were at large, in the commission of an offence under section 29.

S. 84TA(1)(c)
amended by
No. 69/2017
s. 79(b).

(2) In forming the reasonable belief referred to in subsection (1)(c), the authorised officer must have regard to any guidelines or practice notes approved by the Minister for the purposes of this section.

- (3) The authorised officer who holds the belief referred to in subsection (1)(c) must record, as soon as is practicable but no longer than 24 hours after the seizure of the dog, in respect of the seized dog each of the matters set out in subsection (1) including the reasons for holding that belief and the reasons for the holding of the belief referred to in subsection (1)(a).
- (4) The Council must decide whether or not to destroy the dog under subsection (1) within 48 hours after the record under subsection (3) is made.
- (5) A Council that decides to destroy a dog under this section must record the time and date of that decision.
- (6) A dog may be destroyed under subsection (1) as soon as possible after an authorised officer makes a record under subsection (3) but no earlier than 48 hours after that record is made.
- (7) This section does not limit any other powers to destroy a dog under this Division.
- (8) Divisions 4 and 5 of this Part do not apply to a person acting in accordance with this section.
- (9) If the Council decides not to destroy a dog under subsection (1)—
 - (a) section 84H(3) is to be read as if the reference to "4 days" were a reference to "7 days"; and
 - (b) section 84M(1) is to be read as if a reference to "8 days" were a reference to "11 days".

84TB Immediate destruction of dog that may cause serious injury or death

S. 84TB
inserted by
No. 44/2010
s. 23.

- (1) A Council authorised officer may immediately destroy a dog if the officer reasonably believes that the dog is behaving in a manner or in circumstances that will result in imminent serious injury or death to a person or other animal.
- (2) Subsection (1) applies whether or not the dog is registered or the owner is identifiable.
- (3) Divisions 4 and 5 of this Part do not apply to a person acting in accordance with this section.

S. 84TB(1)
amended by
No. 69/2017
s. 80.

84TC Destruction of declared dangerous dog found at large

S. 84TC
inserted by
No. 44/2010
s. 23.

- (1) Subject to subsection (6), the Council may destroy a dangerous dog if—
 - (a) the dog was declared under section 34(1)(a) as a dangerous dog; and
 - (b) a Council authorised officer of the Council has seized the dog in the reasonable belief that the owner of the dog would be guilty of an offence under section 24 or 26.
- (2) Despite subsection (1), the Council may not destroy a dangerous dog seized in the circumstances described in that subsection if the authorised officer has formed a reasonable belief that the alleged offence has been caused by the act or omission of a person who is not the owner of the dog.
- (3) An authorised officer who seizes a dog in the circumstances described in subsection (1) must record, as soon as is practicable but no longer than 24 hours after the seizure of the dog—

S. 84TC(1)(b)
amended by
No. 69/2017
s. 81.

- (a) each of the matters set out in subsection (1), including the reason for holding the reasonable belief referred to in subsection (1)(b); and
 - (b) if applicable, the reason for holding the reasonable belief referred to in subsection (2).
- (4) The Council must decide whether or not to destroy the dog under subsection (1) within 24 hours after the record under subsection (3) is made.
 - (5) A Council that decides to destroy a dog under this section must record the time and date of that decision.
 - (6) A dog may be destroyed under subsection (1) as soon as possible after an authorised officer makes a record under subsection (3) but no earlier than 24 hours after that record is made.
 - (7) This section does not limit any other powers to destroy a dog under this Division.

Note

There are other powers of destruction under Division 6 of Part 7A that may still apply to a dangerous dog that has been seized because an authorised officer has the reasonable belief that the owner of the dog would be guilty of an offence under section 24 or 26.

- (8) Divisions 4 and 5 of this Part do not apply to a person acting in accordance with this section.
- (9) If the Council decides not to destroy a dog under subsection (1)—
 - (a) section 84H(3) is to be read as if the reference to "4 days" were a reference to "6 days"; and
 - (b) section 84M(1) is to be read as if a reference to "8 days" were a reference to "10 days".

84TD Disposal of forfeited dog or cat

A person or body to whom a dog or cat is forfeited under section 82A(4) or 84Q(2B) must, within a reasonable time—

- (a) arrange for permanent housing of the dog or cat through an animal shelter; or
- (b) give the dog or cat to a person or body to whom the dog or cat may be given under an agreement under section 84Y(ca) or (cb); or
- (c) if section 84O(4) applies, dispose of the dog or cat under that subsection.

S. 84TD
(Heading)
substituted by
No. 69/2017
s. 82(1).

S. 84TD
inserted by
No. 75/2011
s. 15,
amended by
No. 69/2017
s. 82(2).

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, the Council, person or body 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.

S. 84V(1)
amended by
No. 44/2010
s. 24.

S. 84VA
inserted by
No. 75/2011
s. 16,
substituted by
No. 69/2017
s. 83.

84VA Recovery of costs for forfeited dogs or cats

- (1) The Council, person or body to which a dog or cat has been forfeited under section 82A(4) or 84Q(2B) may recover any reasonable cost incurred by the Council, person or body for the care, transport, maintenance and disposal of the dog or cat for the whole or any part of the time from when the dog or cat is seized under Division 2 until the time when the dog or cat is disposed of under section 84TD.
- (2) The Council, person or body may recover costs under subsection (1)—
 - (a) from the owner or person in charge of the dog or cat when the dog or cat was seized; and
 - (b) in a court of competent jurisdiction as a debt due to the Council, person or body.
- (3) In recovering costs under this section any amount that has been recovered under an order of the Magistrates' Court under section 84WC must be taken into account.

Division 7—Court powers

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

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.

84WA Power of Court to make orders prohibiting ownership of dogs or cats

S. 84WA inserted by No. 75/2011 s. 17.

(1) If a person is found guilty by the Magistrates' Court of an offence under section 45, 45A, 58AF, 63A or 63AE, the Court may make one or both of the following orders—

S. 84WA(1) amended by Nos 17/2016 s. 17(Sch. 1 item 18), 69/2017 s. 84(1).

(a) that the person is prohibited from keeping or selling animals of a specified species; or

(b) that the person is prohibited from conducting or working in a domestic animal business.

(2) An order made under subsection (1) has effect for a period of 10 years from the date of the order, unless a shorter period is specified in the order.

84WAB Offence not to comply with order under section 84WA

S. 84WAB inserted by No. 69/2017 s. 85.

(1) A person who is subject to an order under section 84WA must comply with the order.

Penalty 240 penalty units or imprisonment for 2 years.

(2) Nothing in this section affects the powers of the court, or of the Supreme Court, in relation to contempt of court.

* * * * *

S. 84WB inserted by No. 75/2011 s. 17, repealed by No. 69/2017 s. 86.

S. 84WC
inserted by
No. 75/2011
s. 17.

84WC Order for bond or costs

S. 84WC(1)
substituted by
No. 69/2017
s. 87.

- (1) In a proceeding before the Magistrates' Court for an offence against this Act or regulations made under this Act, the Court, on application under subsection (1C), may make an order that either of the following be paid—
- (a) a bond or security to provide for the care and maintenance of the dog or cat that is the subject of the proceeding;
 - (b) any identified costs for the care, transport and maintenance of the dog or cat that is the subject of the proceeding.

S. 84WC(1A)
inserted by
No. 69/2017
s. 87.

- (1A) The Magistrates' Court may make an order under subsection (1) if—
- (a) the dog or cat has been seized under this Part; and
 - (b) the dog or cat—
 - (i) is in the custody of a Council, person or body pending the outcome of the proceeding; or
 - (ii) has been forfeited under section 82A(4) or 84Q(2B).

S. 84WC(1B)
inserted by
No. 69/2017
s. 87.

- (1B) The bond, security or costs to be paid—
- (a) may be for the whole or any part of the time for which the proceeding is prosecuted and for any period of time between the seizure of the dog or cat and the commencement of the proceeding; and

(b) must be paid by—

- (i) for a dog or cat to which subsection (1A)(b)(i) applies, the owner or person in charge of the dog or cat at the time of seizure of the dog or cat; or
- (ii) for a dog or cat to which subsection (1A)(b)(ii) applies, the proprietor of the domestic animal business from which the dog or cat was seized, or, for a GRV greyhound, the person who kept the GRV greyhound.

(1C) An application may be made under subsection (1) by the person prosecuting the offence on behalf of the Council, person or body who has custody of the dog or cat or to whom the dog or cat has been forfeited.

S. 84WC(1C)
inserted by
No. 69/2017
s. 87.

(2) If the Magistrates' Court makes an order under subsection (1), the Court may also order that any money left over from any payment made under subsection (1)(a) at the end of the proceedings be repaid to the person who paid the bond or security.

(3) If the Court orders that a person pay a bond or security under subsection (1)(a) and it is not paid within 21 days of the date of the order being made, the Court may on application make an order under section 84WA(1) in respect of the person.

84WD Order for disposal if bond or costs not paid

If the Magistrates' Court has ordered a payment under section 84WC, the Court may also order that, if the payment is not made in accordance with the order—

S. 84WD
inserted by
No. 75/2011
s. 17.

- (a) the dog or cat be given to a person or body to whom the dog or cat may be given under an agreement under section 84Y(ca) or (cb); or

- (b) in the case of a dangerous dog or a restricted breed dog, the dog be destroyed.

S. 84WE
inserted by
No. 75/2011
s. 17.

84WE Order for disposal if owner found guilty

If the Magistrates' Court has ordered a payment under section 84WC, the Court may also order that, if the owner or person in charge of the dog or cat is or has been found guilty of an offence against this Act or regulations under this Act within the preceding 10 years—

- (a) the dog or cat be given to a person or body to whom the dog or cat may be given under an agreement under section 84Y(ca) or (cb); or
- (b) in the case of a dangerous dog or a restricted breed dog, the dog be destroyed.

S. 84WF
inserted by
No. 75/2011
s. 17.

84WF Order for disposal in certain circumstances

If the Magistrates' Court has ordered a payment under section 84WC, the Court may also order that the dog or cat be destroyed, if a veterinary practitioner has provided written evidence certifying that the dog or cat should be destroyed—

- (a) on humane grounds; or
- (b) because the dog or cat is diseased or infected with disease.

S. 84WG
inserted by
No. 75/2011
s. 17.

84WG Order for return of dog or cat

- (1) If on an application under section 84WB the Magistrates' Court is not satisfied that an order should be made under section 84WC, 84WD, 84WE or 84WF, the Court may order that the dog or cat be returned to the owner or person in charge of the dog or cat.
- (2) If the Court orders under subsection (1) that the dog or cat be returned to the owner or person in charge of the dog or cat—

- (a) the owner or person in charge of the dog or cat may recover the dog or cat within 8 days after the making of the order; and
- (b) if the dog or cat is not recovered within 8 days after the making of the order, the dog or cat—
 - (i) may be given to a person or body to whom the dog or cat may be given under an agreement under section 84Y(ca) or (cb); or
 - (ii) in the case of a dangerous dog or a restricted breed dog, may be destroyed.

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

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

- (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 the case of an offence referred to in section 84Q(2)(a), (b) or (c), that the dog be destroyed;
- (ba) in the case of an offence referred to in section 84Q(2)(ba) or (bb) or (2B), that the dog or cat be given to a person or body to whom the dog or cat may be given under an agreement under section 84Y(ca) or (cb);
- (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)

S. 84X(1)(b)
amended by
No. 75/2011
s. 18(1).

S. 84X(1)(ba)
inserted by
No. 75/2011
s. 18(2),
amended by
No. 69/2017
s. 88(1).

S. 84X(1)(c)
amended by
No. 44/2010
s. 25(1).

for which the Council has had the custody of the animal;

S. 84X(1)(d)
inserted by
No. 44/2010
s. 25(2).

- (d) in the case of an offence involving a dog, that the owner attend a training course relating to responsible dog ownership, which is approved by the Minister for the purposes of this section;

S. 84X(1)(e)
inserted by
No. 44/2010
s. 25(2),
substituted by
No. 69/2017
s. 88(2).

- (e) in the case of an offence involving a dog, that the owner and the dog attend dog obedience training provided by or on behalf of an approved dog obedience training organisation.

- (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.

Pt 7A Div. 7A
(Heading and
ss 84XA–
84XH)
inserted by
No. 8/2014
s. 25.

Division 7A—Disqualification of person from owning or being in charge or control of a dog

S. 84XA
inserted by
No. 8/2014
s. 25.

84XA Court may disqualify person from owning or being in charge or control of a dog

If a person has been convicted, found guilty or found not guilty because of mental impairment, of an offence against section 28 or 29(1), (2), (3)

or (4), the Magistrates' Court may, in addition to or instead of any other penalty, order—

- (a) that the person be disqualified, for the period (not exceeding 10 years) specified in the order, from owning or being in charge or control of a dog; or
- (b) that the conditions, specified in the order apply, for the period specified in the order, to the person whenever the person is in charge or control of a dog.

84XB Search warrant for failure to comply with court order

S. 84XB
inserted by
No. 8/2014
s. 25.

(1) A Council authorised officer may apply to a magistrate for the issue of a search warrant in relation to premises (including residential premises) in the municipal district of the Council that appointed the authorised officer, if the authorised officer believes on reasonable grounds that a person subject to an order under section 84XA is holding a dog on the premises in contravention of that order.

S. 84XB(1)
amended by
No. 69/2017
s. 89(1).

(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 person subject to an order under section 84XA is holding a dog on the premises in contravention of that order, the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**, authorising a Council authorised officer authorised in the warrant to execute the warrant—

S. 84XB(2)
amended by
No. 69/2017
s. 89(2).

- (a) to enter the premises; and
- (b) to search for and seize the dog; and

- (c) to dispose of the dog in accordance with the directions set out in the warrant.

Note

There are general provisions in sections 84EB, 84F and 84G that apply to search warrants issued under this Part.

S. 84XB(3)
inserted by
No. 69/2017
s. 89(3).

- (3) A search warrant issued under subsection (2) may authorise a Council authorised officer appointed by the Council for the municipal district in which the premises is situated to execute the warrant.

S. 84XC
inserted by
No. 8/2014
s. 25.

84XC Order under section 84XA may be suspended

If the Magistrates' Court has made an order under section 84XA, it may suspend the order—

- (a) for any period which the Magistrates' Court considers necessary for the person subject to the order to make arrangements for the custody of a dog; or
- (b) pending the determination of an appeal against the order.

S. 84XD
inserted by
No. 8/2014
s. 25.

84XD Person subject to order under section 84XA may apply for variation, suspension or revocation of order

- (1) A person who is subject to an order under section 84XA may apply to the Magistrates' Court for the variation, suspension or revocation of the order.
- (2) An application under subsection (1) may be made no earlier than 12 months after the order is made.

S. 84XE
inserted by
No. 8/2014
s. 25.

84XE Power of Magistrates' Court to vary etc. order under section 84XA

- (1) On application under section 84XD, the Magistrates' Court may by order—
- (a) vary an order under section 84XA as specified, and from the date specified, in the order; or

- (b) suspend the order, from the date specified in the order, for a specified period; or
 - (c) revoke the order; or
 - (d) refuse the application.
- (2) In making an order under subsection (1), the Magistrates' Court may have regard to any one or more of the following matters—
- (a) the applicant's character;
 - (b) the applicant's conduct since the order under section 84XA was made;
 - (c) the nature of the offence or offences (if any) on which that order was based;
 - (d) any other relevant circumstances.

84XF Person may not make another application for variation, suspension or revocation of order for 12 months

S. 84XF
inserted by
No. 8/2014
s. 25.

If the Magistrates' Court makes an order for a variation under section 84XE(1)(a) or refuses an application under section 84XE(1)(d), the person who applied for the relevant application under section 84XD must not make another application under section 84XD until 12 months after the order for the variation was made or the application was refused (as the case may be).

84XG Orders under section 84XA are to operate consecutively

S. 84XG
inserted by
No. 8/2014
s. 25.

If a person is disqualified under an order under section 84XA(a) and, during the period of disqualification, the Magistrates' Court makes a further order under that section in respect of that person, the further order takes effect immediately after the end of the period of disqualification fixed by the initial order.

S. 84XH
inserted by
No. 8/2014
s. 25,
amended by
No. 69/2017
s. 90 (ILA
s. 39B(1)).

84XH Person must comply with order under section 84XA

- (1) A person who is subject to an order under section 84XA must comply with the order.

Penalty: 240 penalty units or imprisonment for 2 years.

S. 84XH(2)
inserted by
No. 69/2017
s. 90.

- (2) Nothing in this section affects the powers of the Magistrates' Court, or of the Supreme Court, in relation to contempt of court.

Division 8—General

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

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

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;

S. 84Y(ca)
inserted by
No. 75/2011
s. 19.

- (ca) give a seized dog or cat to a community foster care network, on the condition that the dog or cat is desexed and implanted with a permanent identification device before it is given;

S. 84Y(cb)
inserted by
No. 75/2011
s. 19.

- (cb) give a seized dog or cat to an animal shelter;

- (d) charge fees for any of the above.

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

84Z 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 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
 - (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.

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,
amended by
No. 35/2009
s. 25.

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(1)
(Table)
amended by
Nos 75/2011
s. 20, 43/2012
s. 3(Sch.
item 12),
17/2016
s. 17(Sch. 1
item 19),
44/2017 s. 19,
substituted by
No. 69/2017
s. 91(1).

| <i>Column 1</i> | <i>Column 2</i> |
|------------------------------------|--|
| <i>Class of authorised officer</i> | <i>Sections of this Act</i> |
| Departmental authorised officer | 10(1), 10(2), 10(3), 12A(1), 12A(2), 20(1), 21, 22, 23(4), 24(1), 24(2), 25(1), 26(1), 27(1), 32(1), 32(4), 37(1C), 37(2), 37A, 38(1), 38(2), 41D(b), 41D(ba), 41D(bb)), 41D(c), 41E(2), 41F(1), 41F(2), 41G(1), 58R(1), 58U(1), 63A(1), 63D, 63F, 63G, 63H(1), 63H(2), 63I(1), 63J(1), 96 |
| Restricted authorised officer | 12A(1), 12A(2), 63A(1), 63AE(1), 63D, 63F, 63G, 63H(1), 63H(2), 63I(1), 63J(1), 96 |

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| <i>Column 1</i> | <i>Column 2</i> |
|---------------------------------------|--|
| <i>Class of authorised officer</i> | <i>Sections of this Act</i> |
| Council authorised officer | 10(1), 10(2), 10(3), 12A(1), 12A(2), 13(1), 13(2), 20(1), 21, 22, 23(4), 24(1), 24(2), 25(1), 26(1), 27(1), 29(5), 29(7), 32(1), 32(4) 37(1C), 37(2), 37A, 38(1), 38(2), 39, 41D(b), 41D(ba), 41D(bb), 41D(c), 41E(2), 41F(1), 41F(2), 41G(1), 41H, 41I, 45A(1), 63A(1), 63AE(1), 63J(1), 96 |
| Council contracted authorised officer | 10(1), 10(2), 10(3), 12A(1), 12A(2), 13(1), 20(1), 21, 22, 23(4), 24(1), 25(1), 26(1), 27(1), 29(5), 29(7), 32(1), 32(4), 38(1), 38(2), 39, 41E(2), 41G(1), 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)).

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
Nos 65/2007
s. 32, 55/2011
s. 20, 75/2011
s. 21, 17/2016
s. 17(Sch. 1
item 20).

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 12 penalty units or, in the case of an offence against section 63A or 63AE that has been committed by a body corporate, 60 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 charge-sheets under this Act

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

S. 92
(Heading)
inserted by
No. 68/2009
s. 97(Sch.
item 45.1).

S. 92
amended by
No. 68/2009
s. 97(Sch.
item 45.2).

(a) a police officer; or

S. 92(a)
substituted by
No. 37/2014
s. 10(Sch.
item 46.3) (as
amended by
No. 21/2015
s. 3(Sch. 1
item 62.1)).

S. 92(b)
substituted by
Nos 103/2003
s. 22, 69/2017
s. 92.

- (b) a Departmental authorised officer,
a restricted authorised officer or
a Council 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.

S. 94
amended by
No. 83/2001
s. 21 (ILA
s. 39B(1)).

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.

S. 94(1)(b)
amended by
Nos 103/2003
s. 23, 65/2007
s. 35.

- (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(2)
inserted by
No. 83/2001
s. 21.

95 Payment of fines

If a fine is recovered under this Act—

- (a) on a charge contained on a charge-sheet filed by a Council authorised officer of a Council, it shall be paid to that Council; and
- (b) on a charge contained on a charge-sheet filed by any other person, it shall be paid into and form part of the Consolidated Fund.

S. 95(a)
amended by
Nos 68/2009
s. 97(Sch.
item 45.3),
69/2017 s. 93.

S. 95(b)
amended by
No. 68/2009
s. 97(Sch.
item 45.3).

95A Extended period to prosecute offence

Despite section 7 of the **Criminal Procedure Act 2009**, proceedings for an offence against section 41EB may be commenced within the period of 3 years after the commission of the alleged offence.

New s. 95A
inserted by
No. 8/2014
s. 26.

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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.

S. 96
amended by
Nos 69/2004
s. 33(b),
75/2011 s. 22.

S. 96(a)
substituted by
No. 69/2004
s. 33(a).

S. 96(aa)
inserted by
No. 69/2004
s. 33(a).

S. 96(ab)
inserted by
No. 69/2017
s. 94.

S. 96(ac)
inserted by
No. 69/2017
s. 94.

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) 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
- (ab) unless the animal is sold at a place specified in an animal sale permit and under and in accordance with that permit; or
- (ac) unless, in the case of a caged bird, the bird is sold at a caged bird sale that is notified to the Secretary by a declared bird organisation in accordance with section 58U; or
- (b) unless the sale is approved under the **Wildlife Act 1975**.

Penalty: In the case of a body corporate,
150 penalty units;
In any other case, 30 penalty units.

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.

**S. 97
amended by
No. 76/2005
s. 23.**

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

S. 98(1)
amended by
No. 52/1998
s. 311(Sch. 1
item 21.4).

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

- (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

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- (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—
- (a) to declare the dog to be dangerous under section 34; or
 - (aa) to declare the dog to be a menacing dog; or
 - (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) or 10C(6), to refuse to register or renew the registration of the dog.
- (2AA) The owner of a dog may apply to the Victorian Civil and Administrative Tribunal for review of a decision by an authorised officer under section 98A to declare the dog a restricted breed dog.

S. 98(2)
amended by
No. 52/1998
s. 311(Sch. 1
item 21.4).

S. 98(2)(a)
substituted by
No. 87/2000
s. 37(2).

S. 98(2)(aa)
inserted by
No. 87/2000
s. 37(2).

S. 98(2)(b)
amended by
Nos 83/2001
s. 22, 65/2007
s. 39, 44/2017
s. 20.

S. 98(2AA)
inserted by
No. 44/2010
s. 26(1).

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S. 98(2A)
inserted by
No. 52/1998
s. 311(Sch. 1
item 21.5),
amended by
Nos 44/2010
s. 26(2),
8/2014 s. 27.

- (2A) An application for review under subsection (1) or (2) must be made within 28 days, and an application for review under subsection (2AA) must be made within 14 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.

S. 98(2B)
inserted by
No. 44/2010
s. 26(3).

- (2B) For the purposes of subsection (2A), a decision referred to in subsection (2AA) is taken to be made when the notice of the declaration is served on the owner of the dog.

S. 98(3)
amended by
Nos 52/1998
s. 311(Sch. 1
item 21.6(a)(i)),
44/2010
s. 26(4).

- (3) A decision made under this Act by a Council or an authorised officer which is subject to review by the Victorian Civil and Administrative 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 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)).

98AAA Order for costs of retaining restricted breed dog in custody

S. 98AAA
inserted by
No. 8/2014
s. 28.

The Victorian Civil and Administrative Tribunal, may on application, make an order that the owner of a dog pay the reasonable costs and expenses incurred by the Council or person or body in retaining custody of the dog after its seizure under Part 7A if—

- (a) the Victorian Civil and Administrative Tribunal affirms the decision of an authorised officer under section 98A to declare the dog a restricted breed dog; and
- (b) the dog is no longer to be retained in custody by the Council or person or body (as the case may be).

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
 - (b) a decision by the Secretary to impose conditions on an animal registry licence; or

S. 98AA(1)(a)
amended by
No. 65/2007
s. 44(Sch. 1
item 25(a)).

S. 98AA(1)(b)
amended by
No. 65/2007
s. 44(Sch. 1
item 25(a)).

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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 a Council 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.

S. 98A(1)
amended by
No. 69/2017
s. 95(1).

* * * * *

S. 98A(2)
inserted by
No. 103/2003
s. 26,
repealed by
No. 69/2017
s. 95(2).

(3) A declaration under this section—

S. 98A(3)
inserted by
No. 69/2004
s. 34.

(a) has effect throughout Victoria; and

(b) cannot be revoked, amended or otherwise altered.

(4) If a declaration is made under subsection (1) to the effect that a dog is a restricted breed dog, then for the purposes of any proceedings under this Act, including a proceeding in the Tribunal, it is presumed, in the absence of evidence to the

S. 98A(4)
inserted by
No. 8/2014
s. 29.

contrary, that the dog is a restricted breed dog if at the time of the making of the declaration—

- (a) the authorised officer who made the declaration had completed a course of training for the purposes of making declarations under this section that had been approved by the Minister; and
- (b) the Minister's approval of the course of training had been published in the Government Gazette.

S. 98B
inserted by
No. 83/2001
s. 23.

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.
- (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,
substituted by
No. 44/2010
s. 27.

98C Application of certain offences at the time of the making of a declaration

Sections 19(2), 41G and 41H are 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 Victorian Civil and Administrative Tribunal has not been

made within the time it must be made under section 98(2A), 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 Victorian Civil and Administrative Tribunal within the time it must be made under section 98(2A); and
 - (ii) the Victorian Civil and Administrative Tribunal has affirmed the making of the declaration—

30 days after the decision to affirm the making of the declaration.

| | | | | | |
|---|---|---|---|---|--|
| * | * | * | * | * | Ss 98D–98F inserted by No. 83/2001 s. 23, repealed by No. 44/2010 s. 28. |
| * | * | * | * | * | S. 98G inserted by No. 83/2001 s. 23, amended by Nos 108/2004 s. 117(1) (Sch. 3 item 59.3), 80/2006 s. 26(Sch. item 28), repealed by No. 44/2010 s. 28. |

Part 7F—Animal Welfare Fund

Pt 7F
(Heading and
ss 98D–98G)
inserted by
No. 75/2011
s. 23.

98D Animal Welfare Fund

New s. 98D
inserted by
No. 75/2011
s. 23.

There is established in the Public Account as part of the Trust Fund an account to be known as the Animal Welfare Fund.

98E Payments into the Fund

New s. 98E
inserted by
No. 75/2011
s. 23.

There is to be paid into the Animal Welfare Fund those moneys appropriated for the purpose from the Consolidated Fund.

98F Investment of money in the Fund

New s. 98F
inserted by
No. 75/2011
s. 23.

Money in the Animal Welfare Fund may be invested in accordance with the **Trustee Act 1958** or in any other manner that the Treasurer directs.

98G Payment of money out of the Fund

New s. 98G
inserted by
No. 75/2011
s. 23.

On the recommendation of the Minister, money may be paid out of the Animal Welfare Fund to any organisation that—

- (a) provides for the welfare of animals; or
- (b) provides an animal shelter; or
- (c) provides education on the responsible ownership of animals; or
- (d) provides a community foster care network in respect of dogs or cats; or
- (e) provides animal relief services and use of facilities during an emergency within the meaning of the **Emergency Management Act 2013**.

S. 98G(e)
amended by
No. 73/2013
s. 94.

Part 8—General

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).

Pt 8 (Heading)
substituted by
No. 8/2014
s. 30.

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
- (ab) prescribing a standard for restricted breed dogs for the purposes of section 3(3); and

S. 100(1)(ab)
inserted by
No. 44/2010
s. 29.

(ac) in relation to applicable organisations and approved dog obedience training organisations—

S. 100(1)(ac)
inserted by
No. 69/2017
s. 96(1).

- (i) reports to be provided by applicable organisations, including the form and content of the reports, the intervals at which the reports must be provided and any information or documents accompanying the reports; and
- (ii) fees to be charged for assessing an application by an organisation under section 5A, 5B or 5C; and
- (iii) reports to be provided by approved dog obedience training organisations or dog obedience training organisations seeking approval, including the form and content of the reports and any information or documents accompanying the reports; and

S. 100(1)(ad)
inserted by
No. 69/2017
s. 96(1).

(ad) requirements relating to the provision of dog obedience training by or on behalf of approved dog obedience training organisations, including requirements as to the training of individuals to carry out dog obedience training for or on behalf of those organisations; and

S. 100(1)(ae)
inserted by
No. 69/2017
s. 96(1).

(ae) animal sale permits including—

- (i) fees to be charged for applications for animal sale permits; and
- (ii) prescribing criteria in relation to applicants for animal sale permits; and
- (iii) prescribing conditions that apply to animal sale permits; and
- (iv) any other matter relating to the sale of animals under animal sale permits; and

S. 100(1)(af)
inserted by
No. 69/2017
s. 96(1).

(af) the sale of caged birds, including the details to be included in a notification of a caged bird sale given to the Secretary by a declared bird organisation under section 58U; and

(b) the marking of dogs and cats to enable their identification or any other method of identifying dogs and cats; and

S. 100(1)(ba)
inserted by
No. 103/2003
s. 27(1).

(ba) prescribing classes of permanent identification devices; and

S. 100(1)(bb)
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)(bc)
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

- (bd) in relation to the record keeping of holders of animal registry licences, providing for—
- (i) the content of, and procedures relating to, keeping the records of the licence holder; and
 - (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
- (be) charges made by the holders of animal registry licences for the provision of animal registry services; and
- (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 animal registry licences; and
- (bg) any other matter related to the implantation of animals of prescribed classes of animal 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

S. 100(1)(bd)
inserted by
No. 103/2003
s. 27(1),
amended by
No. 65/2007
s. 41(1).

S. 100(1)(be)
inserted by
No. 103/2003
s. 27(1),
substituted by
No. 65/2007
s. 41(2).

S. 100(1)(bf)
inserted by
No. 103/2003
s. 27(1),
amended by
No. 65/2007
s. 41(1).

S. 100(1)(bg)
inserted by
No. 103/2003
s. 27(1),
amended by
No. 65/2007
s. 41(3).

- (e) conditions and restrictions which may be imposed on registration of premises where domestic animal businesses are conducted; and
- S. 100(1)(ea)
inserted by
No. 69/2017
s. 96(2).
- (ea) the prohibition or regulation of the sale or giving away of dogs and cats kept in foster care; or
 - (eb) prescribing records to be kept by registered foster carers, including, in relation to any dog or cat kept in foster care by the carer—
 - (i) details of the dog or cat; and
 - (ii) details of the person from whom the dog or cat has been obtained and to whom the dog or cat is sold or given; and
- S. 100(1)(ec)
inserted by
No. 69/2017
s. 96(2).
- (ec) prescribing requirements for medical treatment to be carried out on any dog or cat kept in foster care before the dog or cat is sold or given away (including vaccination, worming and desexing); and
- S. 100(1)(ed)
inserted by
No. 69/2017
s. 96(2).
- (ed) information to be given in applications for registration, renewals of registration and transfers of registration of premises where domestic animal businesses are conducted; and
 - (f) notification of change of address of registered dog and cat owners; and
- S. 100(1)(fa)
inserted by
No. 69/2004
s. 35.
- (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 12 penalty units or, in the case of an offence against section 63A or 63AE that is committed by a body corporate, 60 penalty units for infringement offences; and
- (g) forms for the purposes of this Act; and
- (h) fees for the purposes of this Act; and

S. 100(1)(fb)
inserted by
No. 65/2007
s. 41(4).

S. 100(1)(fc)
inserted by
No. 65/2007
s. 41(4),
amended by
Nos 55/2011
s. 21(1),
75/2011 s. 24,
17/2016
s. 17(Sch. 1
item 21).

S. 100(1A)
inserted by
No. 69/2017
s. 96(3).

(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.

(1A) As to fees that may be prescribed under this Act, the regulations may provide for—

- (a) maximum or minimum fees; and
- (b) the reduction, waiver or refund, in whole or in part, of fees; and
- (c) scales of fees according to different cases or different classes of case; and
- (d) methods of calculation of fees according to different cases or different classes of case.

(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 20 penalty units for contravention of the regulations.

S. 100(2)(d)
amended by
Nos 65/2007
s. 41(5),
55/2011
s. 21(2).

(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

(b) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or

S. 100(2A)(b)
amended by
No. 76/2005
s. 24(a).

(c) as amended from time to time.

S. 100(2A)(c)
inserted by
No. 76/2005
s. 24(b).

(3) The regulations may be disallowed in whole or in part by resolution of either House of Parliament.

S. 100(3)
amended by
No. 78/2010
s. 24(Sch. 1
item 11.1).

* * * * *

S. 100(4)
repealed by
No. 78/2010
s. 24(Sch. 1
item 11.2).

100A Council must give information to Secretary

S. 100A
inserted by
No. 8/2014
s. 31.

(1) If the Victorian Civil and Administrative Tribunal or the Supreme Court sets aside—

(a) a decision by a Council to declare a dog to be a dangerous dog or a menacing dog; or

(b) a decision of a Council authorised officer to declare a dog to be a restricted breed dog—

S. 100A(1)(b)
amended by
No. 69/2017
s. 97.

the Council must notify the Secretary of the decision of the Tribunal or Supreme Court.

(2) A notice under subsection (1) must contain the following information—

(a) the date the declaration was set aside;

- (b) whether the declaration was set aside by the Victorian Civil and Administrative Tribunal or the Supreme Court;
 - (c) the municipal district in which the declaration was made;
 - (d) the Council reference number for the dog;
 - (e) in the case of a declaration of a dog as a dangerous or a menacing dog, the date the declaration was made and the Council that made the declaration;
 - (f) in the case of a declaration of a dog as a dangerous dog, the reasons that the dog was declared to be dangerous;
 - (g) in the case of a declaration of a dog as a restricted breed dog, the date the declaration was made and the name of the authorised officer who made the declaration.
- (3) A notice under subsection (1) must be made—
- (a) if the Minister specifies a period of time for the purposes of this subsection, within that period after the declaration was set aside;
 - (b) in any other case, within 28 days after the declaration was set aside.

S. 100B
inserted by
No. 69/2017
s. 98.

100B Offence to disclose information

- (1) A person who is or was engaged in the administration of Part 5B or 5C must not disclose any information obtained under, or in relation to the administration of Part 5B or 5C, except as permitted under section 100C.
- Penalty: 10 penalty units.
- (2) For the purpose of the **Freedom of Information Act 1982**, information referred to in subsection (1) is information of a kind to which section 38 of that Act applies.

100C Permitted disclosures

A person who is or was engaged in the administration of Part 5B or 5C may disclose information obtained under, or in relation to, the administration of Part 5B or 5C—

- (a) in connection with the administration of Part 5B or 5C; or
- (b) in accordance with a requirement imposed under an Act; or
- (c) to a Council.

S. 100C
inserted by
No. 69/2017
s. 98.

100D Disclosure of information by Councils

A Council may disclose information held by that Council to—

- (a) another Council; or
- (b) a restricted authorised officer; or
- (c) a Departmental authorised officer—

for the purpose of the performance of functions under Part 4 or Part 4AA or regulations under those Parts by that person.

S. 100D
inserted by
No. 69/2017
s. 98.

Part 9—Repeals and transitional provisions

101 Repeal of Dog Act

The **Dog Act 1970** is repealed.

102 Transitional provisions—Animals Legislation Amendment (Animal Care) Act 2007

- (1) A reference in any Act (other than this Act) or in any instrument made under any Act or in any other document of any kind to the **Domestic (Feral and Nuisance) Animals Act 1994** is deemed to be a reference to the **Domestic Animals Act 1994** so far as it applies to any period on or after the commencement day, unless the contrary intention appears.
- (2) A domestic animals registry licence in force immediately before the commencement day is taken to be an animal registry licence.
- (3) If a horse has been implanted with a permanent identification device immediately before the commencement day, that horse is taken to have been implanted with a prescribed permanent identification device.
- (4) The holder of an animal registry licence must, in relation to any record of identifying information kept and maintained in respect of a horse by the holder as part of a service in the nature of an animal registry service provided by the holder immediately before the commencement day—
 - (a) keep and maintain that record in the manner prescribed and containing the prescribed information; and
 - (b) keep and maintain a copy of that record in the manner prescribed.

Penalty: 120 penalty units.

S. 102
substituted by
Nos 87/2000
s. 38, 65/2007
s. 42.

- (5) In this section *commencement day* means the day that section 23 of the **Animals Legislation Amendment (Animal Care) Act 2007** comes into operation.

103 Transitional provisions—Animals Legislation Amendment (Animal Care) Act 2007

- (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.

S. 103
inserted by
No. 69/2004
s. 36,
substituted by
No. 65/2007
s. 43.

104 Transitional provision—Primary Industries Legislation Amendment Act 2009

Despite the commencement of section 21 of the **Primary Industries Legislation Amendment Act 2009**, section 68A(1) as in force immediately before that commencement continues to apply to the preparation by a Council of its first domestic animal management plan.

S. 104
inserted by
No. 35/2009
s. 26.

S. 105
inserted by
No. 44/2010
s. 30.

**105 Transitional provision—Domestic Animals
Amendment (Dangerous Dogs) Act 2010**

- (1) On the commencement day, a review panel constituted under Part 7E is abolished and its members go out of office.
- (2) Despite subsection (1), if before the commencement day—
 - (a) a review panel has begun to hear a review under Part 7E, the review panel may continue to hear the review and make a determination of the matter; and
 - (b) an application for review of a declaration that a dog is a restricted breed dog is made to a review panel under Part 7E, the review panel may hear the review and make a determination of the matter—

as if this Act as in force before the commencement day continued to apply.

- (3) Despite the amendments made to sections 84L, 84N and 84Q by the **Domestic Animals Amendment (Dangerous Dogs) Act 2010**, the references to a review by the Victorian Civil and Administrative Tribunal are taken to include any review heard by a review panel under subsection (2).
- (4) In this section *commencement day* means the day that section 30 of the **Domestic Animals Amendment (Dangerous Dogs) Act 2010** comes into operation.

**106 Transitional provision—Primary Industries
Legislation Amendment Act 2012**

S. 106
inserted by
No. 29/2012
s. 17.

- (1) Despite the amendments made to the Schedule by section 18 of the **Primary Industries Legislation Amendment Act 2012**, the Schedule as in force immediately before the commencement day continues to apply to a dog or cat registered immediately before the commencement day.
- (2) In this section the *commencement day* means the day that section 18 of the **Primary Industries Legislation Amendment Act 2012** comes into operation.

Domestic Animals Act 1994
No. 81 of 1994
Schedule

Sch.
amended by
Nos 87/2000
s. 39, 103/2003
s. 28, 76/2005
s. 25, 29/2012
s. 18, 69/2017
s. 99.

Schedule
Registration fees

Section 15(4)

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 or used as or being trained to be farm working dogs. Dogs kept for breeding by the proprietor of a domestic animal business conducted on registered premises. Dogs that have undergone dog obedience training provided by or on behalf of an approved dog obedience training organisation. Dogs registered with an applicable organisation, if their owners are members of the applicable organisation with which the dogs are registered. Dogs that are permanently identified in the prescribed manner. |

Domestic Animals Act 1994
No. 81 of 1994
Registration fees

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. |

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative 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.

The title of this Act was changed from the **Domestic (Feral and Nuisance) Animals Act 1994** to the **Domestic Animals Act 1994** by section 3 of the **Animals Legislation Amendment (Animal Care) Act 2007**, No. 65/2007.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the

insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the **Domestic 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 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 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 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 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 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 Animals Act 1994**

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 Animals Act 1994**

Domestic Animals Act 1994
No. 81 of 1994
Endnotes

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 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 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 the provision/s amending the **Domestic 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 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 Animals Act 1994**

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 Animals Act 1994**

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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 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 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); ss 3, 5(2), 22–25, 41(1)–(3), 42, 44 on 1.9.09: Special Gazette (No. 298) 1.9.09 p. 1
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Unclaimed Money Act 2008, No. 44/2008

Assent Date: 26.8.08
Commencement Date: S. 107 on 1.1.09: s. 2(2)
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Primary Industries Legislation Amendment Act 2009, No. 35/2009

Assent Date: 30.6.09
Commencement Date: Ss 19–26 on 1.7.09: s. 2(1)
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 45) on 1.1.10: Government Gazette 10.12.09 p. 3215
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Domestic Animals Amendment (Dangerous Dogs) Act 2010, No. 44/2010

Assent Date: 17.8.10
Commencement Date: Ss 3–16, 18–31 on 1.9.10: Special Gazette (No. 354) 31.8.10 p. 1; s. 17 on 1.1.11: Special Gazette (No. 354) 31.8.10 p. 1
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

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Subordinate Legislation Amendment Act 2010, No. 78/2010

Assent Date: 19.10.10
Commencement Date: S. 24(Sch. 1 item 11) on 1.1.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Domestic Animals Amendment (Restricted Breeds) Act 2011, No. 39/2011

Assent Date: 31.8.11
Commencement Date: Ss 3–5 on 30.9.11: s. 2
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Crimes and Domestic Animals Acts Amendment (Offences and Penalties) Act 2011, No. 55/2011

Assent Date: 2.11.11
Commencement Date: Ss 4–21 on 3.11.11: s. 2
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Domestic Animals Amendment (Puppy Farm Enforcement and Other Matters) Act 2011, No. 75/2011

Assent Date: 13.12.11
Commencement Date: Ss 3–24 on 1.1.12: Special Gazette (No. 423) 21.12.11 p. 2
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Primary Industries Legislation Amendment Act 2012, No. 29/2012

Assent Date: 29.5.12
Commencement Date: Ss 10–16 on 1.9.12: Special Gazette (No. 267) 31.7.12 p. 1; ss 17, 18 on 11.4.13: s. 2(2)
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Statute Law Revision Act 2012, No. 43/2012

Assent Date: 27.6.12
Commencement Date: S. 3(Sch. item 12) on 28.6.12: s. 2(1)
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Statute Law Revision Act 2013, No. 70/2013

Assent Date: 19.11.13
Commencement Date: S. 4(Sch. 2 item 11) on 1.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Emergency Management Act 2013, No. 73/2013

Assent Date: 3.12.13
Commencement Date: S. 94 on 1.7.14: Special Gazette (No. 148) 13.5.14 p. 1
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

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Domestic Animals Amendment Act 2014, No. 8/2014

Assent Date: 25.2.14
Commencement Date: Ss 3–31 on 1.7.14: s. 2(2)
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014 (as amended by No. 21/2015)

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 46) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Primary Industries Legislation Amendment Act 2014, No. 71/2014

Assent Date: 30.9.14
Commencement Date: Ss 12–14, 16 on 11.4.15: Special Gazette (No. 66) 31.3.15 p. 1, s. 15 on 1.7.15: s. 2(3)
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Domestic Animals Amendment Act 2015, No. 13/2015

Assent Date: 12.5.15
Commencement Date: S. 3 on 13.5.15: s. 2
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Racing and Other Acts Amendment (Greyhound Racing and Welfare Reform) Act 2016, No. 17/2016

Assent Date: 19.4.16
Commencement Date: Ss 13, 14, 17(Sch. 1), 18 on 4.5.16: Special Gazette (No. 131) 3.5.16 p. 1; ss 15, 16 on 10.4.17: Special Gazette (No. 111) 4.4.17 p. 1
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Primary Industries Legislation Amendment Act 2016, No. 48/2016

Assent Date: 6.9.16
Commencement Date: S. 7 on 29.9.16: Special Gazette (No. 296) 27.9.16 p. 2
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

Domestic Animals Amendment (Restricted Breed Dogs) Act 2017, No. 44/2017

Assent Date: 26.9.17
Commencement Date: Ss 4–9, 10(2)(3), 11–21 on 30.9.17: s. 2(2)
Current State: This information relates only to the provision/s amending the **Domestic Animals Act 1994**

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**Domestic Animals Amendment (Puppy Farms and Pet Shops) Act 2017,
No. 69/2017**

Assent Date: 20.12.17
Commencement Date: Ss 34, 36 on 21.12.17: s. 2(1); ss 4–21, 23–33, 37–
66(1), 67–76(2), 77–84(1), 85–91(1), 92–99 on
10.4.18: s. 2(8)
Current State: This information relates only to the provision/s
amending the **Domestic Animals Act 1994**

3 Amendments Not in Operation

This publication does not include amendments made to the **Domestic Animals Act 1994** by the following Act/s.

Domestic Animals Act 1994, No. 81/1994

Assent Date: 29.11.94
Commencement Date: S. 45A(3) inserted on 10.4.18 by No. 69/2017 s. 23;
s. 54E(4) inserted on 10.4.18 by No. 69/2017 s. 29
Note: S. 45A(3) repeals s. 45A on 10.4.20; s. 54E(4) repeals
s. 54E on 10.4.20
Current State: This information relates only to the provision/s
amending the **Domestic Animals Act 1994**

Domestic Animals Amendment (Restricted Breed Dogs) Act 2017, No. 44/2017

Assent Date: 26.9.17
Commencement Date: S. 10(1) on 1.7.18; s. 2(3)
Current State: This information relates only to the provision/s
amending the **Domestic Animals Act 1994**

Domestic Animals Amendment (Puppy Farms and Pet Shops) Act 2017, No. 69/2017

Assent Date: 20.12.17
Commencement Date: Ss 22, 110–113 on 10.4.20; s. 2(2); ss 35, 66(2), 76(3),
84(2), 91(2), 100–109 not yet proclaimed
Current State: This information relates only to the provision/s
amending the **Domestic Animals Act 1994**

Oaths and Affirmations Act 2018, No. 6/2018

Assent Date: 27.2.18
Commencement Date: S. 68(Sch. 2 item 41) not yet proclaimed
Current State: This information relates only to the provision/s
amending the **Domestic Animals Act 1994**

At the date of this publication, the following provisions amending the **Domestic Animals Act 1994** were Not in Operation:

Amending Act/s:

Domestic Animals Act 1994, No. 81/1994

45A Transitional offence, acquiring additional fertile female dogs

(3) This section is **repealed** on 10 April 2020.

54E Pre-2020 renewal of registration of breeding domestic animal business premises—fertile female dogs

- (4) This section is repealed on 10 April 2020.
-

Domestic Animals Amendment (Restricted Breed Dogs) Act 2017, No. 44/2017

10 Payments to the Treasurer

- (1) Section 69(1)(a) and (aa) of the Principal Act are **repealed**.
-

Domestic Animals Amendment (Puppy Farms and Pet Shops) Act 2017, No. 69/2017

22 New section 44B inserted

After section 44A of the Principal Act **insert—**

"44B Ten fertile female dog limit for breeding domestic animal business

- (1) A proprietor of a breeding domestic animal business must not conduct the business on a premises where more than 10 relevant fertile female dogs are kept.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

- (2) A person who is the proprietor of the breeding domestic animal business does not commit an offence under subsection (1) if the person is an approved commercial dog breeder."

35 New sections inserted in Division 5 of Part 4

After the heading to Division 5 of Part 4 of the Principal Act **insert**—

"63AAA Definition

In this Division—

approved source means any of the following—

- (a) an animal shelter that is conducted on premises that are registered under section 47;
- (b) a pound that is conducted on premises that are registered under section 47;
- (c) a registered foster carer.

63AAB Offences as to sale or giving away of animals by pet shops

- (1) A person must not, in the conduct of the business of a pet shop, sell or give away a dog or cat unless the dog or cat is from an approved source.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

- (2) A person must not, in the conduct of the business of a pet shop, cause or allow a dog or cat that is not from an approved source to be sold or given away.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

- (3) The proprietor of a pet shop must not act as an agent in the sale or giving away of a dog or cat that is not from an approved source.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

- (4) A person must not, in the conduct of the business of a pet shop, accept or receive a dog or cat for sale or giving away that is not from an approved source.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

63AAC Offences as to sale or giving away or provision of animals to pet shops

- (1) A person must not sell, give away or provide a dog or cat that is not from an approved source to the proprietor of a pet shop or an agent of the proprietor.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

- (2) A person must not cause or allow a dog or cat that is not from an approved source to be sold, given away or provided to the proprietor of a pet shop or an agent of the proprietor.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

63AAD Offences where dog or cat is in foster care and that is not of a certain age

- (1) A person must not sell, give away or provide to the proprietor of a pet shop or an agent of the proprietor a dog or cat that is—
- (a) in foster care with a registered foster carer; and
 - (b) under—
 - (i) 6 months of age, if a dog; or
 - (ii) 8 weeks of age, if a cat.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

- (2) A person must not cause or allow a dog or cat to be sold, given away or provided to the proprietor of a pet shop or an agent of the proprietor if the dog or cat is—
- (a) in foster care with a registered foster carer; and
 - (b) under—
 - (i) 6 months of age, if a dog; or
 - (ii) 8 weeks of age, if a cat.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

- (3) The proprietor of a pet shop must not act as an agent in the sale or giving away of a dog or cat that is—
- (a) in foster care with a registered foster carer; and

- (b) under—
 - (i) 6 months of age, if a dog; or
 - (ii) 8 weeks of age, if a cat.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

- (4) A person must not, in the conduct of a business that is a pet shop, accept or receive a dog or cat for sale or giving away that is—
 - (a) in foster care with a registered foster carer; and
 - (b) under—
 - (i) 6 months of age, if a dog; or
 - (ii) 8 weeks of age, if a cat.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

63AAE Offence to sell a dog or cat to an animal shelter or pound

- (1) A person must not sell a dog or cat to the proprietor or an agent of the proprietor of an animal shelter or a pound.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units.

- (2) A person must not cause or allow a dog or cat to be sold to the proprietor or an agent of the proprietor of an animal shelter or a pound.

Penalty: In the case of a natural person,
164 penalty units;
In the case of a body corporate,
600 penalty units."

66 New section 82B inserted

- (2) In section 82B(2)(b) of the Principal Act, for "or 63A" **substitute** "63A, 63AAB, 63AAC, 63AAD or 63AAE".

76 Prosecution of suspected persons

- (3) In section 84Q(2A) of the Principal Act, after "63A" **insert** ", 63AAB, 63AAC, 63AAD, 63AAE".

84 Orders prohibiting ownership of dogs or cats

- (2) In section 84WA(1) of the Principal Act, after "63A" **insert** ", 63AAB, 63AAC, 63AAD, 63AAE".

91 Power to serve infringement notice

- (2) In the Table at the foot of section 85(1) of the Principal Act—
- (a) in Column 2 opposite the reference to Departmental authorised officer in Column 1, after "63A(1)," **insert** "63AAE(1), 63AAE(2),";
- (b) in Column 2 opposite the reference to Restricted authorised officer in Column 1, after "63A(1)," **insert** "63AAB(1), 63AAB(2), 63AAB(3), 63AAB(4), 63AAC(1), 63AAC(2), 63AAD(1), 63AAD(2), 63AAD(3), 63AAD(4), 63AAE(1), 63AAE(2),";

(c) in Column 2 opposite the reference to Council authorised officer in Column 1, after "63A(1)," **insert** "63AAB(1), 63AAB(2), 63AAB(3), 63AAB(4), 63AAC(1), 63AAC(2), 63AAD(1), 63AAD(2), 63AAD(3), 63AAD(4), 63AAE(1), 63AAE(2),".

100 Amendment of definitions

Insert the following definitions in section 3(1) of the Principal Act—

"information register means the register established and maintained under section 68M;

source number means a number issued under Division 3 of Part 5C;".

101 Repeal of section 12A(2), advertising of dogs or cats

Section 12A(2) of the Principal Act is **repealed**.

102 New sections inserted after section 12A

After section 12A of the Principal Act **insert**—

"12B Offence as to advertising dogs or cats for sale

A person must not advertise a dog or cat for sale, or cause a dog or cat to be advertised for sale, unless—

- (a) the advertisement includes the source number of the person who is selling the dog or cat; and
- (b) one of the following applies—
 - (i) the advertisement includes the unique number contained in the microchip contained in the prescribed permanent

identification device implanted
in the dog or cat;

- (ii) the dog or cat is the subject of
written veterinary advice under
section 10D(2) and (2A).

Penalty: 5 penalty units.

12C Offence as to publication of advertisements for dogs or cats for sale

A person must not publish an advertisement
of a dog or cat for sale, or cause the
publication of an advertisement of a dog or
cat for sale, unless—

- (a) the advertisement includes the source
number of the person who is selling the
dog or cat; and
- (b) one of the following applies—
 - (i) the advertisement includes
the unique number contained
in the microchip contained
in the prescribed permanent
identification device implanted
in the dog or cat;
 - (ii) the dog or cat is the subject of
written veterinary advice under
section 10D(2) and (2A).

Penalty: In the case of a natural person,
5 penalty units;
In the case of a body corporate,
20 penalty units.

12D Interpretation of sell

In section 12B and 12C a reference to *selling* or
sale includes a reference to *giving away*."

103 Amendments consequential to repeal of section 12A(2) and insertion of new sections 12B and 12C

- (1) In section 74A of the Principal Act, for "12A(2)," **substitute** "12B, 12C,".
- (2) For section 74AB(a) of the Principal Act **substitute**—
"(a) section 12A(1), 12B, 12C, 13(1) or 13(2);".

104 New Part inserted after Part 5B

After Part 5B of the Principal Act **insert**—

**"Part 5C—Information register
and source numbers**

Division 1—Definition

68L Definition

- (1) In this Part—
inspect, in relation to the information register, includes the obtaining of information kept on the register either orally or in writing.
- (2) In this Part, a reference to *sell* or *selling* includes a reference to *give away* or *giving away*, and a reference to *sale* includes a reference to *giving away*.

Division 2—Information register

68M Secretary to keep information register

- (1) The Secretary must establish and maintain a register—
 - (a) of information relating to—
 - (i) domestic animal businesses; and

- (ii) registered foster carers; and
 - (iii) recreational breeders; and
 - (iv) microbreeders and others who sell dogs or cats; and
 - (b) of source numbers issued under Division 3 and related matters; and
 - (c) of information relating to the keeping and breeding of dogs or cats.
- (2) The register must contain—
- (a) the source numbers issued by the Secretary under Division 3 and related information; and
 - (b) the information given to the Secretary under this Part; and
 - (c) any other prescribed information.

68N Information as to domestic animal businesses to be given to Secretary

- (1) For the purpose of keeping and maintaining the information register, a Council must give to the Secretary the information set out in section 68Q(1) and (2) relating to each registration of a premises by the Council under Part 4.
- (2) The Council must give the information to the Secretary under subsection (1) within 7 days after making a decision under Part 4 to grant the registration or renew or transfer the registration under that Part.

68O Information as to registered foster carers to be given to Secretary

- (1) For the purpose of keeping and maintaining the information register, a Council must give to the Secretary the information set out in

section 68Q(1)(a), (c)(ii) and (iii), (d)(ii), (h), (i) and (j), relating to each registration of a foster carer by the Council under Part 5B.

- (2) The Council must give the information to the Secretary under subsection (1) within 7 days after making a decision under Part 5B to grant or renew the registration.

68P Information to be given to Secretary for source number applications

- (1) A recreational breeder who is applying for a source number under Division 3 must give the information set out in section 68Q(1)(a), (c), (d)(i), (e), (f), (g), (h), (i), and (j) and (3) relating to the recreational breeder, to the Secretary with the application for the source number.
- (2) A microbreeder who is applying for a source number under Division 3 must give the information set out in section 68Q(1)(a), (c), (e), (h), (i) and (j), relating to the microbreeder, to the Secretary with the application for the source number.
- (3) Any other person or body who is applying for a source number under Division 3 must give the information set out in section 68Q(1)(a), (c)(ii) and (iii), (h), (i) and (j), relating to the person or body, to the Secretary with the application for the source number.

68Q Information to be given under section 68N, 68O or 68P

- (1) For the purpose of this Division, the following information relating to the proprietor of a domestic animal business, a registered foster carer, a recreational

breeder, a microbreeder or a person or body (*relevant person or body*) is set out—

- (a) the name of the relevant person or body;
- (b) if the relevant person or body is a body corporate, the names of the office holders of the body corporate;
- (c) the following details about the relevant person or body—
 - (i) the address;
 - (ii) the telephone number;
 - (iii) the email address;
- (d) the address of the premises at which a relevant person or body—
 - (i) who carries out breeding of dogs or cats, carries out that breeding; or
 - (ii) who is a registered foster carer, keeps the animals;
- (e) for a relevant person or body who carries out breeding of dogs or cats, the number of registered dogs and cats kept at the premises, and for each registered dog and cat—
 - (i) the unique number contained in the microchip contained in the prescribed permanent identification device implanted in the dog or cat; and
 - (ii) any name and the breed, sex, age and colour of the dog or cat; and

- (iii) for a female dog or cat, the number of litters the animal has had and the date on which the dog or cat had the litter; and
- (iv) if the dog or cat has been desexed;
- (f) the details of any conviction or finding of guilt of the relevant person or body for—
 - (i) an offence against this Act or regulations made under this Act; or
 - (ii) an offence against the **Prevention of Cruelty to Animals Act 1986** or regulations made under that Act; or
 - (iii) an offence against a law of another State or a Territory of the Commonwealth that corresponds to a law referred to in subparagraph (i) or (ii);
- (g) the details of—
 - (i) any order under section 84WA or 84XA to which a relevant person or body has been subject; or
 - (ii) any order under a law of another State or a Territory of the Commonwealth that corresponds to one of those orders;
- (h) the source number of the relevant person or body;

- (i) the name of the Council of the municipality in which the premises is located at which a relevant person or body who does so—
 - (i) carries on business; or
 - (ii) carries out the breeding of dogs or cats;
 - (j) any other prescribed matter.
- (2) For the purpose of this Division, the following additional information is set out for domestic animal businesses—
- (a) the registration number of the premises on which the domestic animal business is being conducted;
 - (b) the type of domestic animal business that is being conducted;
 - (c) the name of the owner of the land on which the premises is situated;
 - (d) the date on which the premises was registered, or the registration of the premises was renewed or transferred;
 - (e) the date of the most recent inspection of the premises by a Council authorised officer.
- (3) For the purpose of this Division, the following additional information is set out for recreational breeders—
- (a) the name of the applicable organisation of which the recreational breeder is a member;
 - (b) the membership number of the applicable organisation of which the recreational breeder is a member;

- (c) the date of the most recent inspection of the premises by the applicable organisation (if known).

68R Secretary to be given information as to refusal etc. of registration

- (1) For the purpose of keeping and maintaining the information register, a Council—
 - (a) must give the information set out in subsection (2) to the Secretary within 7 days after making a decision under Part 4—
 - (i) to refuse to grant, renew or transfer a registration under that Part; or
 - (ii) to suspend or revoke a registration under that Part; and
 - (b) must give the information set out in subsection (3) to the Secretary within 7 days of making a decision under Part 5B—
 - (i) not to grant or renew a registration under that Part; or
 - (ii) to suspend or cancel a registration under that Part.
- (2) For the purpose of subsection (1)(a), the following information is set out—
 - (a) the name of the domestic animal business or proposed domestic animal business;
 - (b) the name of the applicant for registration or the proprietor of the domestic animal business or proposed domestic animal business and, if the applicant or proprietor is a body

corporate, the names of the office holders of the body corporate;

- (c) the following details for the domestic animal business or proposed domestic animal business—
 - (i) the address;
 - (ii) the telephone number;
 - (iii) the email address;
- (d) for registered premises, the registration number of the premises;
- (e) for registered premises, the date on which the premises was first registered;
- (f) the type of domestic animal business or proposed domestic animal business;
- (g) for the land on which the premises is situated—
 - (i) the name of the owner of the land; and
 - (ii) the address of the land; and
 - (iii) a description of the land and premises, including whether the premises is an original or transferred premises;
- (h) the reason for deciding to refuse to register or renew or transfer registration or suspend or revoke registration, including the relevant provision of this Act under which the decision was made;
- (i) for revocation of registration, the date of revocation;

- (j) any details, within the knowledge of the Council, of any conviction or finding of guilt of the applicant or proprietor of the domestic animal business for—
 - (i) an offence against this Act or regulations made under this Act; or
 - (ii) an offence against the **Prevention of Cruelty to Animals Act 1986** or regulations made under that Act;
 - (k) the source number of the business;
 - (l) for a refusal to renew registration or revocation of registration of premises on which a breeding domestic animal business is conducted by an approved commercial dog breeder, the date of the refusal to renew or revocation;
 - (m) any other prescribed matter.
- (3) For the purposes of subsection (1)(b), the following information is set out—
- (a) the name of the foster carer;
 - (b) the address where the foster carer keeps the animals being cared for;
 - (c) the following details for the foster carer—
 - (i) the telephone number;
 - (ii) the email address (if known);
 - (d) the source number of the foster carer;
 - (e) for cancellation of registration, the date of cancellation;

(f) the reason for deciding to refuse to grant or renew registration or to suspend or cancel registration, including the relevant provision of this Act under which the decision was made;

(g) any other prescribed matter.

68S Applicable organisation to give information as to cessation of membership of recreational breeder to Secretary

(1) For the purpose of keeping and maintaining the information register, an applicable organisation must give the information set out in subsection (2) to the Secretary within 7 days after—

(a) the organisation makes a decision to disqualify, cancel, suspend or not renew the membership of a recreational breeder; or

(b) the recreational breeder resigns from the organisation.

(2) The following information is set out for the purpose of subsection (1)—

(a) the name of the recreational breeder;

(b) the membership number of the recreational breeder;

(c) if the recreational breeder's membership was disqualified, cancelled, suspended or not renewed, the date on which that happened;

(d) if the recreational breeder resigned from the applicable organisation, the date on which that happened;

- (e) the name of the Council of the municipality in which the premises is located at which the recreational breeder carried out recreational breeding;
- (f) the name of the applicable organisation.

68T Other information to be included on the information register

If the Minister has granted or refused an application by the proprietor of a breeding domestic animal business for a commercial dog breeder approval, the Secretary must insert that information in the information register within 7 days of the Minister's decision.

68U Persons who may inspect the information register

- (1) In accordance with the regulations (if any), the following persons may inspect information in the information register—
 - (a) the Secretary or a person employed by the Department acting in the course of the person's duties under this Act;
 - (b) a Council authorised officer, restricted authorised officer or Departmental authorised officer acting in the course of the officer's duties under this Act.
- (2) In accordance with the regulations (if any), a member of the public who is proposing to purchase or obtain an animal may inspect the following information in the information register—

- (a) for purchasing or obtaining from a domestic animal business—
 - (i) the information referred to in section 68Q(1)(h) and (i) and (2)(a); and
 - (ii) if the proprietor of the domestic animal business has consented to the giving of all or any of the information referred to in section 68Q(1)(a) and (c)(ii) and (iii), the information consented to;
- (b) for purchasing or obtaining from a registered foster carer—
 - (i) the information referred to in section 68Q(1)(h) and (i); and
 - (ii) if the registered foster carer has consented to the giving of all or any of the information referred to in section 68Q(1)(a), (c)(ii) and (iii), the information consented to;
- (c) for purchasing or obtaining from a recreational breeder—
 - (i) the information referred to in section 68Q(1)(h) and (i) and (3)(a) and (b); and
 - (ii) if the recreational breeder has consented to the giving of all or any of the information referred to in section 68Q(1)(a), (c)(ii) and (iii), the information consented to;

- (d) for purchasing or obtaining from a microbreeder or other person or body, the information referred to in section 68Q(1)(h) and (i).
- (3) For the purposes of subsection (2)(a)(ii), (b)(ii) and (c)(ii), the consent must be given at any time before the information is inspected.

68V Inspections by police officers and public sector bodies

- (1) On application to the Secretary, a police officer or a member, officer or employee of a public sector body (within the meaning of the **Public Administration Act 2004**), who is investigating a relevant offence, may inspect the information register for the purpose of the investigation.
- (2) The Secretary may grant an application under subsection (1), if the Secretary is satisfied, on the information given in the application, that the inspection is necessary for the purposes of the investigation.
- (3) In this section—
relevant offence means—
 - (a) an offence against this Act or regulations made under this Act; or
 - (b) an offence against the **Prevention of Cruelty to Animals Act 1986** or regulations made under that Act; or
 - (c) an offence against Division 9AA of Part I of the **Crimes Act 1958**.

68W Offences as to information register

A person must not inspect or attempt to inspect all or any part of the information register unless the person does so in accordance with this Part.

Penalty: 10 penalty units.

Division 3—Source numbers

68X Secretary may issue source numbers

For the purposes of this Part, the Secretary, in accordance with this Division, may issue source numbers to persons or bodies.

68Y Issue of source numbers to domestic animal businesses

- (1) The Secretary must issue a source number to the proprietor of a domestic animal business on receiving the information from the Council under section 68Q that the Council has registered the premises on which the business is being conducted.
- (2) The Secretary must renew the issue of a source number to the proprietor of a domestic animal business on receiving the information from the Council under section 68Q that the Council has renewed the registration of the premises on which the business is being conducted.
- (3) The Secretary must notify the Council and the proprietor of the domestic animal business of the source number issued under this section.
- (4) If the Council suspends or revokes the registration of a premises on which a domestic animal business is being conducted, any source number issued

under this section is also suspended or revoked on the same terms that apply to the suspension or revocation of the registration.

68Z Issue of source numbers to registered foster carers

- (1) The Secretary must issue a source number to a registered foster carer on receiving the information from the Council under section 68Q that the Council has registered the foster carer.
- (2) The Secretary must renew the issue of a source number to a registered foster carer on receiving the information from the Council under section 68Q that the Council has renewed the registration of the foster carer.
- (3) The Secretary must notify the Council and the registered foster carer of the source number issued under this section.
- (4) If the Council suspends or cancels the registration of a foster carer, any source number issued under this section is also suspended or cancelled on the same terms that apply to the suspension or cancellation of the registration.

68ZA Issue of source numbers to recreational breeders

The Secretary may issue or renew the issue of a source number to a recreational breeder, who may apply for the issue or renewal under section 68ZD, on receiving an application from the recreational breeder under section 68ZD that—

- (a) sets out the information required by section 68P(1); and

(b) complies with this Division.

68ZB Issue of source numbers to other persons or bodies

- (1) The Secretary may issue or renew the issue of a source number to a microbreeder, who may apply for the issue or renewal under section 68ZD, on receiving an application from the microbreeder that—
 - (a) sets out the information required by section 68P(2); and
 - (b) complies with this Division.
- (2) The Secretary may issue or renew the issue of a source number to a person or body who is not a microbreeder, who may apply for the issue or renewal under section 68ZD, on receiving an application from the person or body that—
 - (a) sets out the information required by section 68P(3); and
 - (b) complies with this Division.
- (3) To avoid doubt, this section does not apply to the proprietor of a domestic animal business, a foster carer or a recreational breeder.

68ZC Period for which source numbers remains in force

A source number issued by the Secretary under section 68ZA or 68ZB remains in force for 12 months from the date of issue.

68ZD Application for source numbers or renewal of source numbers

- (1) For the purposes of section 68ZA or 68ZB, a recreational breeder, a microbreeder or a person or body who is selling or who

proposes to sell dogs or cats by advertising or proposing to advertise the dogs or cats for sale may apply to the Secretary for the issue of a source number.

- (2) A person or body who has a source number may apply for the renewal of the source number before the source number ceases to be in force.
- (3) An application under this section—
 - (a) must be in the form approved by the Secretary; and
 - (b) must be accompanied by—
 - (i) the prescribed fee; and
 - (ii) any other prescribed information and any information or documents required by the Secretary.

68ZE Secretary's decision on application to issue or renew

- (1) The Secretary must decide whether or not to issue or renew a source number within 21 days of receiving an application for the issue or renewal of the number under this Division.
- (2) As soon as possible after making a decision under subsection (1), the Secretary must give written notice to the applicant—
 - (a) of the decision; and
 - (b) of the number, if the decision is to issue or renew the issue of a source number.

68ZF Grounds for refusal to issue or suspension or revocation

The Secretary may decide not to issue or renew the issue of a source number or to suspend or to revoke a source number—

- (a) if the applicant has been convicted or found guilty of—
 - (i) an offence against section 9(1), 10(1), 12AF, 12A(8) or 15C(1) or (2) the **Prevention of Cruelty to Animals Act 1986**; or
 - (ii) an offence against a law of another State or a Territory of the Commonwealth that corresponds with a law referred to in subparagraph (i); or
- (b) if the applicant has ever been subject to—
 - (i) an order under section 84WA or 84XA; or
 - (ii) an order under a law of another State or a Territory of the Commonwealth that corresponds to one of those orders; or
- (c) if the person has given false or misleading information on or with the application; or
- (d) for any other prescribed reason.

68ZG Notice of cessation of source number

- (1) At least 28 days before a source number ceases to be in force, the Secretary must give written notice of that fact to the person or body to whom the number was issued.

- (2) A notice under subsection (1) must set out the day on which the source number ceases to be in force.".'.

105 Powers of Council contracted authorised officers

In section 74A of the Principal Act, for "13" **substitute** "12B, 12C, 13".

106 Definition, relevant provision

In section 74AB of the Principal Act, in paragraph (a) of the definition of *relevant provision*, for "12A(1) or (2)" **substitute** "12A(1), 12B, 12C".

107 Power to serve infringement notices

In the Table at the foot of section 85(1) of the Principal Act—

- (a) in Column 2 opposite the reference to Departmental authorised officer in Column 1, for "12A(1), 12A(2)," **substitute** "12A, 12B, 12C,";
- (b) in Column 2 opposite the reference to Restricted authorised officer in Column 1, for "12A(1), 12A(2)," **substitute** "12A, 12B, 12C,";
- (c) in Column 2 opposite the reference to Council authorised officer in Column 1, for "12A(1), 12A(2)," **substitute** "12A, 12B, 12C,";
- (d) in Column 2 opposite the reference to Council contracted authorised officer in Column 1, for "12A(1), 12A(2)," **substitute** "12A, 12B, 12C,".

108 Regulations

After section 100(1)(d) of the Principal Act
insert—

- "(da) matters relating to the information register including—
- (i) circumstances in which the information register may be inspected; and
 - (ii) the manner in which the information may be inspected; and
 - (iii) the information that any particular person or class of person may obtain from the register; and
 - (iv) information to be given to the Secretary for the Secretary to include in the information register; and
 - (v) any other relevant matters; and
- (db) matters relating to the issue of source numbers, including—
- (i) fees for the issue or renewal of numbers; and
 - (ii) information to be included in applications for the issue or renewal of numbers; and
 - (iii) reasons for the cancellation, suspension or non-renewal of numbers; and".

109 New section 105A inserted

After section 105 of the Principal Act **insert**—

"105A Transitional provision—Domestic Animals Amendment (Puppy Farms and Pet Shops) Act 2017

(1) In this section—

commencement day means the day on which section 104 of the **Domestic Animals Amendment (Puppy Farms and Pet Shops) Act 2017** comes into operation;

relevant information means any information in relation to a domestic animal business or foster carer that the Council would, if section 104 of the **Domestic Animals Amendment (Puppy Farms and Pet Shops) Act 2017** were in operation, be required to give to the Secretary under Division 2 of Part 5C, as proposed to be inserted by that section.

(2) For the purpose of establishing the information register, under Part 5C, as proposed to be inserted by section 104 of the **Domestic Animals Amendment (Puppy Farms and Pet Shops) Act 2017**, a Council must, if so requested by the Secretary before the commencement day, give any relevant information to the Secretary relating to any domestic animal business in respect of which the Council has registered premises under Part 4 or in relation to any foster carer registered by the Council under Part 5B."

110 Seizure of dogs or cats for certain offences

In section 82B(2)(b) of the Principal Act, for "45A" **substitute** "44B(1), 45A".

111 Prosecution of suspected persons

In section 84Q(2A) of the Principal Act, for "45A" **substitute** "44B(1), 45A".

112 Orders prohibiting ownership of dogs or cats

In section 84WA(1) of the Principal Act, for "section 45" **substitute** "section 44B(1), 45".

113 Power to serve infringement notice

In the Table at the foot of section 85(1) of the Principal Act, in Column 2 opposite the reference to Council authorised officer in Column 1, for "41I" **substitute** "41I, 44B(1)".

Oaths and Affirmations Act 2018, No. 6/2018

Schedule 2—Further consequential amendments

41 Domestic Animals Act 1994

41.1 In sections 76D(2), 84E(2), 84EA(3) and 84XB(2), after "oath" **insert** "or by affirmation".

4 Explanatory details

No entries at date of publication.