

PARLIAMENT OF VICTORIA

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**Animals Legislation Amendment (Animal Care) Bill  
2007**

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PARLIAMENT OF VICTORIA

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Introduced in the Assembly

**Animals Legislation Amendment  
(Animal Care) Bill 2007**

A Bill for an Act to amend the **Domestic (Feral and Nuisance) Animals Act 1994**, the **Impounding of Livestock Act 1994** and the **Prevention of Cruelty to Animals Act 1986** and for other purposes.

**The Parliament of Victoria enacts:**

**PART 1—PRELIMINARY**

**1 Purposes**

The purposes of this Act are to—

- (a) amend the **Domestic (Feral and Nuisance) Animals Act 1994**—
  - (i) to rename that Act; and
  - (ii) to regulate the permanent identification of horses and other animals; and

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Part 1—Preliminary

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- 5
- (iii) to provide for further enforcement powers particularly in relation to restricted breed dogs; and
- (iv) to provide for further offences that may be subject to infringement notices; and
- (v) to create additional offences and increase certain penalties; and
- 10 (b) amend the **Impounding of Livestock Act 1994**—
- (i) to provide for the impounding of abandoned livestock; and
- (ii) to provide for infringement notices to be served for certain offences; and
- 15 (iii) to provide for further enforcement powers; and
- (iv) to create additional offences; and
- (v) to provide for further regulation making powers; and
- 20 (c) amend the **Prevention of Cruelty to Animals Act 1986**—
- (i) to provide for further enforcement powers; and
- (ii) to provide further for the regulation of rodeos and rodeo schools; and
- 25 (iii) to increase the penalties for offences; and
- (iv) to provide further for the prohibition of certain procedures; and
- 30 (v) to create offences for the breeding and displaying of animals with heritable defects; and

(d) make other miscellaneous amendments to the **Domestic (Feral and Nuisance) Animals Act 1994**, the **Impounding of Livestock Act 1994** and the **Prevention of Cruelty to Animals Act 1986**.

## 2 Commencement

- (1) This Act (except sections 3, 5(2), 22, 23, 24, 25, 41(1), 41(2), 41(3), 42, 44, 77(2), 77(3), 79(1), 87, 90, 92(4), 109 and Part 5) comes into operation on the day after the day on which it receives the Royal Assent.
- (2) Subject to subsection (3), sections 3, 5(2), 22, 23, 24, 25, 41(1), 41(2), 41(3), 42, 44, 77(2), 77(3), 79(1), 87, 90, 92(4), 109 and Part 5 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 before 1 December 2009, it comes into operation on that day.

**PART 2—AMENDMENTS TO THE DOMESTIC (FERAL AND  
NUISANCE) ANIMALS ACT 1994**

**3 Change of title of Act**

5 See:  
Act No.  
81/1994.  
Reprint No. 3  
as at  
1 December  
2005  
and  
amending  
Act Nos  
69/2004,  
50/2005,  
76/2005,  
32/2006 and  
80/2006.  
LawToday:  
www.  
legislation.  
vic.gov.au

For the title to the **Domestic (Feral and  
Nuisance) Animals Act 1994** substitute—  
**"Domestic Animals Act 1994"**.

**4 Purpose amended**

In section 1 of the **Domestic (Feral and  
Nuisance) Animals Act 1994**—

10

(a) for paragraph (c) **substitute**—

"(c) the identification and control of  
dangerous dogs, menacing dogs and  
restricted breed dogs; and";

15

(b) after paragraph (e) **insert**—

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

## 5 Definitions

(1) In section 3(1) of the **Domestic (Feral and Nuisance) Animals Act 1994**—

(a) **insert** the following definitions—

*"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;

*notice of seizure* means a notice under section 84I;

*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;"

(b) the definition of *subordinate instrument* is **repealed**.

(2) In section 3(1) of the **Domestic (Feral and Nuisance) Animals Act 1994**—

(a) **insert** the following definitions—

*"animal registry licence* means a licence granted under section 63K;

*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—

- (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;

*prescribed class of animal* means any of the following—

- (a) dogs;
  - (b) cats;
  - (c) horses;
  - (d) a class of animal prescribed by the regulations;"
- (b) the definition of *domestic animals registry licence* is **repealed**;
  - (c) the definition of *domestic animals registry service* is **repealed**;
  - (d) in the definition of *permanent identification device*, for "a dog or cat" **substitute** "an animal of a prescribed class of animal";



(e) for the definition of *prescribed identifying information* substitute—

*"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;"

(f) in the definition of *prohibited implanter*, for "dogs and cats" substitute "animals of prescribed classes of animal".

**6 Penalty increases for failure to register or renew registration of dog or cat**

For the penalty at the foot of sections 10(1) and 10(2) of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

"Penalty: 10 penalty units."

**7 Council may refuse to register dogs and cats unless desexed**

For section 10A(4)(b) of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

"(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."

**8 Registration of dangerous and restricted breed dogs**

(1) After section 17(1) of the **Domestic (Feral and Nuisance) Animals Act 1994** insert—

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

(2) For section 17(1A) of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

"(1A) A Council may register a restricted breed dog if—

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

**Note**

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

20 (3) In section 17(2) of the **Domestic (Feral and Nuisance) Animals Act 1994**, after "restricted breed dog" insert "that is able to be registered or have its registration renewed by the Council under this Act".

**9 References to conviction removed**

25 In sections 20(1) and 21 of the **Domestic (Feral and Nuisance) Animals Act 1994** omit "upon conviction".

**10 Dogs and cats on private property without permission**

30 (1) For section 23(3) of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

35 "(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."

- 5 (2) In section 23(4) of the **Domestic (Feral and Nuisance) Animals Act 1994** omit ", upon conviction,".

**11 References to conviction removed**

- 10 (1) In sections 24(1) and 24(2) of the **Domestic (Feral and Nuisance) Animals Act 1994** omit "upon conviction".

- (2) In sections 25(1), 26(1) and 27(1) of the **Domestic (Feral and Nuisance) Animals Act 1994** omit ", upon conviction,".

**12 Section 29 substituted**

15 For section 29 of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

**"29 Penalty and liability for attack by dog**

- 20 (1) If a dangerous dog, that is not a guard dog guarding non-residential premises, attacks or bites any person or animal, the owner is guilty of an offence and liable to a term of imprisonment not exceeding 6 months or to a fine not exceeding 120 penalty units.
- 25 (2) If a dog that is not a dangerous dog, attacks or bites any person or animal and causes death or a serious injury to the person or animal, the owner of the dog is guilty of an offence and liable to a penalty not exceeding 20 penalty units.
- 30 (3) If a dog that is not a dangerous dog, attacks or bites any person or animal and the injuries caused by the dog to the person or animal are not in the nature of a serious injury, the owner of the dog is guilty of an offence and

liable to a penalty not exceeding 10 penalty units.

(4) If a dog rushes at or chases any person, the owner is guilty of an offence and liable to a penalty of not more than 4 penalty units.

(5) Subsections (1), (2), (3) and (4) do not apply if, the incident occurred—

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

(b) because a person was trespassing on the premises on which the dog was kept; or

(c) because another animal was on the premises on which the dog was kept; or

(d) because a person known to the dog was being attacked in front of the dog.

(6) Subsections (2), (3) and (4) do not apply if, the incident occurred as part of a hunt in which the dog was taking part and which was conducted in accordance with the **Prevention of Cruelty to Animals Act 1986**.

(7) If an owner of a dog is found guilty of an offence under this section the court may, in addition to any other order made by the court, order that the owner pay compensation for any damage caused by the conduct of the dog.

(8) If the owner of a dog is found guilty of an offence under this section, the court may order that the dog be destroyed by an authorised officer of the Council of the municipal district in which the offence occurred.

- 5 (9) In this section, *owner*, in relation to a dog, means the person who apparently has control of the dog at the time the dog conducts itself in the manner specified in subsection (1), (2), (3) or (4)."

**13 References to conviction removed**

In section 32(3) of the **Domestic (Feral and Nuisance) Animals Act 1994**—

- 10 (a) for "person is convicted" **substitute** "person is found guilty";  
(b) for "the convicted person" **substitute** "that person".

**14 Council may declare a dog to be dangerous**

- 15 (1) In section 34(1)(a) of the **Domestic (Feral and Nuisance) Animals Act 1994**, after "caused" **insert** "the death of or".  
(2) Section 34(3) of the **Domestic (Feral and Nuisance) Animals Act 1994** is repealed.

**15 Reference to conviction removed**

20 In section 41(1) of the **Domestic (Feral and Nuisance) Animals Act 1994** omit "upon conviction".

**16 Declaration that a dog is a menacing dog**

25 In section 41A(5) of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "convicted of an offence against section 29(1A)" **substitute** "found guilty of an offence under section 29(4)".

**17 Reference to conviction removed**

30 In section 41I of the **Domestic (Feral and Nuisance) Animals Act 1994** omit ", on conviction,".

**18 Limitation on ownership of restricted breed dogs**

(1) After section 41J(1) of the **Domestic (Feral and Nuisance) Animals Act 1994** insert—

5           "(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.

10           (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."

15           (2) For section 41J(2) of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

          "(2) A Council may issue a permit—

20           (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."

25           (3) In section 41J(3) of the **Domestic (Feral and Nuisance) Animals Act 1994**, after "permit" insert "under subsection (2)(a) or (2)(b)".

          (4) After section 41J(5) of the **Domestic (Feral and Nuisance) Animals Act 1994** insert—

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

          Penalty: 5 penalty units."

**19 Reference to conviction removed**

In section 41L of the **Domestic (Feral and Nuisance) Animals Act 1994** omit  
", on conviction,".

5

**20 Revocation or suspension of registration of animal shelter or pound by Minister**

In section 58(1)(b) of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "section 81"  
substitute "section 84Y".

10

**21 Non-compliance with code of practice an offence**

In section 63A(2)(a) of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "section 81"  
substitute "section 84Y".

**22 Amendment to Part 4A heading**

15

In the heading to Part 4A of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "DOGS  
AND CATS" substitute "PRESCRIBED  
CLASSES OF ANIMAL".

**23 Section 63B substituted**

20

For section 63B of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

**"63B Definition**

In this Part, *owner* means—

25

- (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;

30

- (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."

5

**24 Section 63C substituted**

For section 63C of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

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

10

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."

**25 Requirements to keep and maintain records**

15

At the end of section 63Z of the **Domestic (Feral and Nuisance) Animals Act 1994** insert—

"(2) On and from the commencement of section 23 of the **Animals Legislation Amendment (Animal Care) Act 2007**—

20

- (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

25

- (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."

30



**26 Heading to Part 7 substituted**

For the heading to Part 7 of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

**"PART 7—AUTHORISED OFFICERS".**

5 **27 Division heading omitted**

**Omit** the heading to Division 1 of Part 7 of the **Domestic (Feral and Nuisance) Animals Act 1994**.

**28 Powers of authorised officers**

10 (1) In section 74(2)(f) of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "section 77" substitute "Division 2 of Part 7A".

15 (2) In section 74A of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "section 10, 20, 21, 22, 23, 24, 25, 26, 27, 32, 38, 41E or 41G" substitute "section 10, 12A, 20, 21, 22, 23, 24, 25, 26, 27, 29(3), 29(4), 32, 38, 39, 41E, 41EA, 41G, 41H or 41I".

**29 Substitution of Division 2 of Part 7**

20 For Division 2 of Part 7 of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

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

**Division 1—Definition**

25 **77 Definition**

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

**Division 2—Seizure of dogs or cats**

**78 Seizure of dangerous dogs**

- 5 (1) An authorised officer of a Council may seize a dangerous dog that is in the municipal district of that Council if the dog is able to be registered or have its registration renewed by the Council under this Act and if—
- 10 (a) the Council has made a decision to refuse to register or renew the registration of the dog; and
- 15 (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).

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

**79 Seizure of restricted breed dogs**

- 30 (1) An authorised officer of a Council may seize a restricted breed dog that is in the municipal district of that Council if the dog is able to be registered or have its registration renewed by the Council under this Act and if—
- (a) the Council has made a decision to refuse to register or renew the registration of the dog; and

5

(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).

10

(2) An authorised officer of a Council may seize a dog that is in the municipal district of that Council if the dog is a restricted breed dog that is not able to be registered or have its registration renewed by the Council under this Act.

15

(3) An authorised officer of a Council may seize a dog that is in the municipal district of that Council if the dog is a restricted breed dog and—

20

(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.

25

**80 Seizure of dogs believed to be restricted breed dogs**

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

30

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

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

(a) the owner has been found guilty of an offence under section 28, 28A or 29 with respect to that dog; or

5

(b) the authorised officer reasonably suspects that the owner has committed an offence under section 28, 28A or 29 with respect to that dog.

**82 Seizure of unregistered dog or cat**

10

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

15

(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—

20

(i) which has not been withdrawn in accordance with the **Infringements Act 2006**; and

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

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

25

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

30

**84 Seizure of dog or cat in certain circumstances**

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

**84A Seizure of cat without current identification**

A person may seize a cat if—

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

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

(1) An authorised officer of a Council may seize a dog or cat if—

- (a) the Magistrates' Court has made an order under section 84W with respect to the owner of the dog or cat and the order has not been complied with; and
- (b) after the order has been made, the dog or cat that is the subject of the order is found outside the owner's premises in circumstances in which the authorised officer of the Council of the municipal district in which the owner's premises are situated reasonably suspects that the owner of the dog or cat has committed an offence under section 23(4), 24(1), 24(2) or 25(1).

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

**84C Seizure of abandoned dog or cat**

- 5
- (1) An authorised officer may enter any premises (including a person's residence) at the request of the owner of the premises if he or she reasonably suspects that there is an abandoned dog or cat in or on the premises.
- 10
- (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.
- 15
- (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—
- 20
- (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.

25 **84D Seized dog or cat must be delivered up**

- 30
- (1) A person (other than an authorised officer) who seizes a dog or cat under section 84 or 84A must, as soon as is reasonably possible, deliver it to an authorised officer of the Council of the municipal district in which it was seized, or to a person or body which has an agreement under section 84Y with that Council.

Penalty: 5 penalty units.

- 5
- (2) If a person is found guilty of an offence under subsection (1), the Magistrates' Court may, on the application of an authorised officer of the Council of the municipal district in which the animal was seized, order that the person return the animal to the authorised officer.

**Division 3—Search warrants**

**84E Search warrants for dogs or cats**

- 10
- (1) An authorised officer may apply to a magistrate for the issue of a search warrant in relation to a person's residence, if the officer believes on reasonable grounds that there is present in or on the premises a dog or cat, which the officer is entitled to seize under this Part.
- 15
- (2) If the magistrate is satisfied, by the evidence, on oath or by affidavit, of the authorised officer that there are reasonable grounds to believe that a dog or cat that the authorised officer is entitled to seize under this Part is present in or on the premises, the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**, authorising an authorised officer named in the warrant, together with any other person or persons named or otherwise identified in the warrant to assist the officer, and with any necessary equipment—
- 20
- 25
- 30
- (a) to enter the premises specified in the warrant; and
- (b) to search for the dog or cat identified in the warrant; and

- 5
- (c) to examine that dog or cat for the purposes of identifying the owner of the dog or cat; and
- (d) if necessary, to seize that dog or cat.
- 5 (3) A search warrant issued under this section must state—
- (a) the purpose for which the search is required; and
- 10 (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
- 15 (d) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) Except as provided by this Act, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.
- 20
- (5) Despite section 78(1)(b)(iii) of the **Magistrates' Court Act 1989**, a warrant issued under this Division must not authorise an authorised officer to arrest a person.
- 25
- 84F Announcement before entry**
- (1) On executing a search warrant, the authorised officer executing the warrant—
- 30 (a) must announce that he or she is authorised by the warrant to enter the premises; and



(b) if the authorised officer has been unable to obtain unforced entry, must give any person at the premises an opportunity to allow entry to the premises.

5

(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—

10

(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**

15

(1) If the occupier is present at the premises where a search warrant is being executed, the authorised officer must—

(a) identify himself or herself to the occupier; and

(b) give to the occupier a copy of the warrant.

20

(2) If the occupier is not present at the premises where a search warrant is being executed but another person is, the authorised officer must—

25

(a) identify himself or herself to the person at the premises; and

(b) give to the person a copy of the warrant.

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

**84H Identified owners must be served with  
notice of seizure**

- 5 (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  
10 a device implanted in, the animal's body, the  
authorised officer must serve a notice of  
seizure on the owner.
- 15 (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.
- 20 (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.

25 **84I Notice of seizure**

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

- 30 (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;

5

(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;

10

(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;

15

(f) that, if the animal is not recovered within any period for recovery of the animal, the animal may be sold or destroyed after the end of that period;

(g) whether the Council intends to retain custody of the animal under this Act or dispose of the animal under this Act.

**84J Custody of seized dogs or cats**

20

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).

25

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

30

(1) If an authorised officer has seized a dog under section 80 and the authorised officer is able to identify the owner of the dog from a marker attached to, or a device implanted in, the dog's body or information received that is sufficient to enable the identification of the owner and the authorised officer reasonably

35

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**

- (1) If an authorised officer has served a declaration made under section 98A on the owner of a dog in accordance with section 84K, the Council or person or body holding the dog may retain custody of the dog until—

(a) any review of the decision to make a declaration under section 98A is determined under Part 7E; and

(b) the dog is recovered under Division 5 or disposed of under Division 6 (as the case may be).

- (2) If an authorised officer has seized a dog under section 80 in the reasonable belief that it is a restricted breed dog and the authorised officer is not able to serve a declaration made under section 98A on the owner because the authorised officer is not able to identify the owner of the dog, the Council or person or body holding the dog may retain custody of the dog until it is destroyed under Division 6.

**Division 5—Recovery of seized dog or cat**

**84M Recovery of dog or cat**

- 5 (1) A person may recover a dog or cat retained  
by a Council, a person or a body, which has  
been seized under section 23(1), 82, 83, 84,  
84A, 84B or 84C and in respect of which the  
Council has decided not to retain custody, if  
within 8 days (or 14 days in the case of an  
abandoned animal) of the seizure—
- 10 (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
- 15 (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
- 20 (c) the owner has complied with any  
requirements of this Act or the  
regulations placed on the owner with  
respect to that animal.

**Note**

25 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  
30 prescribed permanent identification device to  
be registered under this Act.

- 35 (2) If a person has been prosecuted for an  
offence set out in section 84Q(2) and has not  
been found guilty of that offence, the owner  
of the dog or cat, to which the offence  
relates, may recover the animal if he or she

within 8 days after the completion of proceedings—

- (a) proves to the satisfaction of the Council or person or body retaining the animal that he or she is the owner of the animal; and
- (b) ensures that any requirements of this Act or the regulations placed on the owner with respect to that animal have been complied with.

**Note**

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

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

- (1) A person may recover a dog that was seized under this Part by an authorised officer in the reasonable belief that the dog was a restricted breed dog if—
  - (a) after having been served with a declaration made under section 98A—
    - (i) the declaration has been affirmed by a review under Part 7E; or
    - (ii) an application for review of the declaration has not been made within the time fixed for review under Part 7E; and
  - (b) the dog is able to be registered or have its registration renewed by the Council under this Act; and

- 5 (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
- 10 (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
- 15 (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
- 20 (f) the owner has complied with the  
requirements of this Act or the  
regulations placed on the owner with  
respect to that dog.

**Note**

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

- 35 (2) A person may recover a dog under  
subsection (1) within 8 days after the earlier  
of the following—

- 5
- (a) the affirmation of the declaration made under section 98A by a review under Part 7E; or
- (b) if an application for review of the declaration has not been made within the time fixed under Part 7E, the expiry of that time.
- 10 (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—
- 15 (i) within 7 days after the seizure, the authorised officer does not serve a declaration made under section 98A on the owner of the dog; or
- (ii) such a declaration is served on the owner and it has been set aside by a review under Part 7E; and
- 20 (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
- 25 (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
- 30



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

**Note**

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

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

**Division 6—Disposal of seized dogs or cats**

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

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

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

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

**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—

- 20 (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—
- 25 (i) the Council has made a decision to refuse to register or renew the registration of the dog; and
- 30 (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
- 35 (b) the dog is a restricted breed dog—
- (i) that is not able to be registered or have its registration renewed by the Council under this Act; and

- 5 (ii) if the dog was seized by an authorised officer in the reasonable belief that it was a restricted breed dog, the provisions of this Part have been complied with; or
- 10 (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
- 15 (e) the dog's owner has been found guilty of an offence under section 28, 28A or 29 with respect to the dog.

**84Q Prosecution of identified animal owners suspected of committing offences**

- 20 (1) If an authorised officer reasonably suspects that an owner of a dog or cat seized under this Part has committed an offence set out in subsection (2) with respect to that animal and the Council has sufficient information about
- 25 the owner to enable it to commence prosecution for the offence and it proposes to prosecute the owner for that offence, the Council—
- 30 (a) subject to subsection (3), must commence prosecution as soon as possible after the seizure; and
- 35 (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.
- 5 (2) For the purposes of subsection (1) the offences are as follows—
- (a) an offence under Division 3 of Part 3;
- (b) an offence under Division 3B of Part 3;
- (c) an offence under section 28, 28A or 29;
- 10 (d) an offence under section 23(4), 24(1), 24(2) or 25(1) that has resulted in a breach of an order under section 84W.
- (3) If a dog whose owner is to be prosecuted by the Council under this section for an offence referred to in subsection (2)(b) has been
- 15 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
- 20 (b) the declaration has been affirmed by a review under Part 7E or an application for review of the declaration has not been made within the time fixed under Part 7E.
- 25

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

30 If an authorised officer reasonably suspects that an owner of a dog seized under this Part has committed an offence set out in paragraph (a), (b) or (c) of section 84Q(2) and the Council does not have sufficient

35 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**

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

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

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

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

5

(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.

10

**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.

15

**84V Method of disposal of dogs or cats**

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

20

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.

25

30

**Division 7—Court powers**

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

- 5 (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
- 10 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.
- 15 (2) Section 135 of the **Magistrates' Court Act 1989** applies to an order made under this section.

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

- 20 (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—
- 25 (a) in the case of an offence referred to in section 84Q(2)(d), that the dog or cat be sold or destroyed;
- (b) in any other case, that the dog be destroyed;
- 30 (c) if the dog or cat has been seized by the Council, that the owner pay the amount fixed by the Council for the reasonable costs and expenses incurred by the Council during any period (until the outcome of the proceeding) for which

the Council has had the custody of the animal.

(2) If the Magistrates' Court has found that the owner has not complied with an order under section 84W, the Magistrates' Court may (in addition to any power the Court has to make orders under the **Magistrates' Court Act 1989**) make either or both of the following orders—

- (a) order that the dog or cat be sold or destroyed;
- (b) if the dog or cat has been seized by the Council, that the owner pay the reasonable costs and expenses incurred by the Council for any period (until the outcome of the proceeding) for which the Council has had the custody of the animal.

#### **Division 8—General**

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

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

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



**84Z Offences relating to seized cats or dogs**

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

5

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.

10

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.

15

Penalty: 5 penalty units.

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

20

- (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—

25

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."

30

**30 Substitution for Division 3 of Part 7**

For the heading to Division 3 of Part 7 of the  
**Domestic (Feral and Nuisance) Animals Act  
1994 substitute—**

5

"PART 7B—INFRINGEMENT NOTICES".

**31 Substitution of section 85**

For section 85 of the **Domestic (Feral and  
Nuisance) Animals Act 1994 substitute—**

**"85 Power to serve infringement notice**

10

- (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.

15

**Table**

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

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

(2) If an authorised officer has reason to believe that a person has committed an offence against the regulations, which the officer has power to enforce under this Act, and the offence is prescribed in the regulations for the purposes of this Part, the officer may serve an infringement notice on that person.

(3) An offence referred to in subsection (1) or (2) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**."

**32 Penalties to be paid for offences under infringement notices**

In section 88 of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "which must not exceed 2 penalty units and must not exceed the penalty fixed by the Act for that offence" **substitute** "which must not exceed 5 penalty units and must not exceed the penalty for that offence".

**33 New Part heading inserted**

**Insert** the following heading after section 88 of the **Domestic (Feral and Nuisance) Animals Act 1994**—

5

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

**34 Amendment of Division heading**

10

In the heading to Division 4 of Part 7 of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "**Division 4**" substitute "**Division 1**".

**35 Evidentiary provisions**

15

In section 94(1)(b) of the **Domestic (Feral and Nuisance) Animals Act 1994** omit "Division 1 of".

**36 Repeal of Division 4A of Part 7**

Division 4A of Part 7 of the **Domestic (Feral and Nuisance) Animals Act 1994** is repealed.

**37 Amendment of Division heading**

20

In the heading to Division 5 of Part 7 of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "**Division 5**" substitute "**Division 2**".

**38 Substitution of Division heading**

25

For the heading to Division 6 of Part 7 of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

**"PART 7D—REVIEW OF DECISIONS BY  
VICTORIAN CIVIL AND ADMINISTRATIVE  
TRIBUNAL".**

### 39 Review of decisions by VCAT

In section 98(2)(b) of the **Domestic (Feral and Nuisance) Animals Act 1994**, after "restricted breed dog" **insert** "that is not prohibited from being registered or having its registration renewed by the Council under section 10A(4), 10C(6) or 17(1AA)".

### 40 Substitution of Division heading

For the heading to Division 7 of Part 7 of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

**"PART 7E—IDENTIFICATION OF  
RESTRICTED BREED DOGS"**.

### 41 Regulations

(1) In sections 100(1)(bd) and 100(1)(bf) of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "domestic animals registry licences" (wherever occurring) **substitute** "animal registry licences".

(2) For section 100(1)(be) of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

"(be) charges made by the holders of animal registry licences for the provision of animal registry services; and".

(3) In section 100(1)(bg) of the **Domestic (Feral and Nuisance) Animals Act 1994**, for "domestic animals" **substitute** "animals of prescribed classes of animal".

(4) After section 100(1)(fa) of the **Domestic (Feral and Nuisance) Animals Act 1994** insert—

"(fb) prescribing infringement offences for the purposes of Part 7B; and

(fc) prescribing, for the purposes of Part 7B,  
penalties not exceeding 5 penalty units for  
infringement offences; and".

5 (5) In section 100(2)(d) of the **Domestic (Feral and  
Nuisance) Animals Act 1994**, for "5 penalty  
units" **substitute** "10 penalty units".

**42 Section 102 substituted**

For section 102 of the **Domestic (Feral and  
Nuisance) Animals Act 1994 substitute—**

10 "**102 Transitional provisions—Animals  
Legislation Amendment (Animal Care)  
Act 2007**

15 (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  
20 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.

25 (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.

30 (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  
35 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.

(5) In this section *commencement day* means the day that section 23 of the **Animals Legislation Amendment (Animal Care) Act 2007** comes into operation."

**43 Section 103 substituted**

For section 103 of the **Domestic (Feral and Nuisance) Animals Act 1994** substitute—

**"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.

s. 44

Part 2—Amendments to the Domestic (Feral and Nuisance) Animals Act  
1994

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(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."

**44 Further amendments to the Domestic (Feral and  
Nuisance) Animals Act 1994**

The **Domestic (Feral and Nuisance) Animals  
Act 1994** is amended as set out in Schedule 1.

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**PART 3—AMENDMENTS TO THE IMPOUNDING OF  
LIVESTOCK ACT 1994**

**45 Purposes amended**

5

In section 1(a) of the **Impounding of Livestock Act 1994**, after "livestock" insert "that has been abandoned or found".

See:  
Act No.  
89/1994.  
Reprint No. 2  
as at  
27 March  
2003  
and  
amending  
Act Nos  
12/2004,  
69/2004 and  
28/2007.  
LawToday:  
www.  
legislation.  
vic.gov.au

**46 Definitions**

(1) In section 3 of the **Impounding of Livestock Act 1994**—

10

(a) insert the following definitions—

*Department* means the Department of Primary Industries;

*notice of seizure* means a notice under section 8A;

15

*road* has the same meaning as it has in section 3(1) of the **Local Government Act 1989**;

20

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

s. 47

(b) for the definition of *authorised person*  
**substitute—**

"*authorised person* means a person  
authorised under section 5 to impound  
livestock found trespassing;"

(c) for the definition of *impound* **substitute—**

"*impound* in relation to livestock, means the  
seizing or taking possession of that  
livestock and includes the holding of  
that livestock until the livestock is  
released or disposed of in accordance  
with this Act;"

(2) In section 3 of the **Impounding of Livestock Act  
1994**, in the definition of *livestock*, for "for  
recreational purposes" **substitute** "or used for  
recreational purposes or for the purposes of  
recreational sport".

**47 New Division heading inserted**

Before section 5 of the **Impounding of Livestock  
Act 1994** insert—

**"Division 1—Powers and duties relating to  
impounding and release of livestock"**.

**48 New heading inserted in section 5**

**Insert** the following heading to section 5 of the  
**Impounding of Livestock Act 1994—**

**"Power to impound livestock found  
trespassing"**.

**49 New section 5A inserted**

After section 5 of the **Impounding of Livestock Act 1994** insert—

**"5A Power to enter land or building and impound abandoned livestock**

- 5
- 10
- 15
- 20
- 25
- (1) An authorised officer of a council may enter any land or building (excluding any building occupied as a residence) in the municipal district of that council at the request of the owner if he or she reasonably suspects that there is abandoned livestock in or on the land or building.
  - (2) An authorised officer of a council who enters a land or building under subsection (1)—
    - (a) may impound any livestock in or on the land or building that he or she reasonably believes have been abandoned; and
    - (b) must deliver the livestock to a pound.
  - (3) An authorised officer of a council who impounds livestock under this section must fix a notice of seizure to the building or to the entry gate of the land at the time of the impounding so that it is visible to persons wishing to enter the property.
  - (4) This section does not apply in respect of a horse that is the subject of a lien under Part 3A."

**50 General duty of persons who impound livestock**

In section 6(1) of the **Impounding of Livestock Act 1994**—

- (a) for "An authorised person" **substitute**  
"A person who has impounded livestock under section 5 or 5A";
- (b) in paragraph (e)(iii), **omit** "authorised".

**51 Substitution of section 7**

For section 7 of the **Impounding of Livestock Act 1994 substitute**—

**"7 Entitlement to reimbursement of charges**

A person who has impounded livestock under section 5 or 5A—

- (a) is entitled to payment from the owner of the livestock of charges relating to the impounding of livestock; and
- (b) may recover those charges from the owner of the livestock as a civil debt recoverable summarily in a court of competent jurisdiction."

**52 Duties of authorised officer of council**

For section 8(2) of the **Impounding of Livestock Act 1994 substitute**—

- "(2) As soon as possible after impounding livestock under section 5 or 5A, or receiving impounded livestock from an authorised person, an authorised officer of a council must—
  - (a) take reasonable steps to ascertain the owner of the livestock including scanning the livestock for any permanent identification device and

checking for any other identification marker; and

- (b) if the owner of the livestock is known or ascertained, serve a notice of seizure on the owner."

5

**53 New section 8A inserted**

After section 8 of the **Impounding of Livestock Act 1994 insert—**

**"8A Notice of seizure**

10

- (1) For the purposes of this Act, a notice of seizure is a notice that sets out the following—

15

- (a) details of the impounded livestock including a description of the livestock;
- (b) the contact details of the authorised officer of the council who impounded or received the impounded livestock;
- (c) the date of impounding of the livestock;
- (d) the charges payable in respect of the impounding;
- (e) that the livestock may be sold or disposed of unless the charges for impounding are paid and the livestock claimed;
- (f) the details of the relevant powers under this Act relating to the release and disposal of livestock;
- (g) the effect of sections 26 and 27 of this Act.

20

25

30

- (2) A notice of seizure must be served personally on the owner or by registered post to the last known address of the owner."

**54 Duties of owners and occupiers of land**

In section 9 of the **Impounding of Livestock Act 1994**, after "impounding livestock" **insert** "under section 5".

5

**55 Owners and occupiers of land to deliver livestock to pound**

In section 10(1) of the **Impounding of Livestock Act 1994**, after "who" **insert** "under section 5".

10

**56 Procedure where owner claims livestock from owner or occupier of land**

In section 11(1) of the **Impounding of Livestock Act 1994**, for "impounded livestock" **substitute** "livestock impounded under section 5".

15

**57 Duties of authorised officer who impounds livestock on Crown land**

In section 12 of the **Impounding of Livestock Act 1994**, after "who" **insert** "under section 5".

20

**58 Duties of officer of Roads Corporation**

In section 13 of the **Impounding of Livestock Act 1994**, after "who" **insert** "under section 5".

25

**59 Duties of person authorised by relevant corporation**

In section 13A of the **Impounding of Livestock Act 1994**, after "who" (where secondly occurring) **insert** "under section 5".

30

**60 Duties of councils to notify owners**

(1) In section 15(1) of the **Impounding of Livestock Act 1994**—

(a) after "must" **insert** ", as soon as possible";

(b) for paragraph (d) **substitute**—

"(d) if the owner of the livestock is ascertained by the council, serve a notice of seizure on the owner."

---

(2) For sections 15(2) and 15(3) of the **Impounding of Livestock Act 1994** substitute—

"(2) If livestock impounded under section 5 have been delivered to a council pound by an authorised person (other than an authorised officer of a council) the council must, as soon as possible—

(a) take reasonable steps to ascertain the owner of the livestock, including scanning the livestock for any permanent identification device and checking for any other identification marker; and

(b) if the owner of the livestock is known or ascertained by the council serve a notice of seizure on the owner."

**61 Release of livestock from pound**

In section 16(1) of the **Impounding of Livestock Act 1994**, after "release of livestock" insert "impounded under section 5 or 5A".

**62 New Division 2 of Part 2 and new sections 16A and 16B inserted**

After section 16 of the **Impounding of Livestock Act 1994** insert—

**"Division 2—Powers to serve notices relating to trespassing livestock**

**16A Power to serve notice objecting to the trespassing of livestock**

(1) If an authorised officer of a council reasonably believes that livestock have trespassed on any land or road, he or she may serve a notice on the owner of the livestock objecting to the trespass of the livestock.

(2) A notice under subsection (1) must be served on the owner personally or by registered post to the last known address of the owner.

(3) A notice under subsection (1) must be in a form approved by the council and include the following information—

(a) the date and location of the trespass;

(b) a description of livestock believed to have trespassed;

(c) a description of the offence in section 25A including the maximum penalty;

(d) the contact details of the authorised officer of the council.

**16B Power to serve notice on owner regarding confinement of livestock**

(1) If an authorised officer of a council reasonably believes that livestock are not adequately confined on a property, he or she may serve a notice on the owner of the livestock directing the owner to take the measures set out in the notice to ensure the livestock are adequately confined.

(2) A notice under subsection (1) must be served on the owner personally or by registered post to the last known address of the owner.

(3) A notice under subsection (1) must be in a form approved by the council and include the following—

(a) a direction to take the measures set out in the notice to adequately confine the livestock;

(b) the time within which those measures must be taken;



- (c) a description of the offence in section 25B including the maximum penalty;
- (d) the contact details of the authorised officer of the council."

**63 Livestock to be held for 7 days**

- (1) **Insert** the following heading to section 17 of the **Impounding of Livestock Act 1994**—

**"Livestock found trespassing to be held for 7 days"**.

- (2) In section 17(1) of the **Impounding of Livestock Act 1994**, for "impounded livestock" **substitute** "livestock impounded under section 5".

- (3) Section 17(3) of the **Impounding of Livestock Act 1994** is **repealed**.

**64 New section 17A inserted**

After section 17 of the **Impounding of Livestock Act 1994** insert—

**"17A Livestock found abandoned to be held for 14 days**

A council, an authorised officer of which has impounded livestock under section 5A, must hold the livestock for at least 14 days after the day that the livestock were impounded before the council may dispose of the livestock in accordance with this Part."

**65 Sale of unclaimed livestock**

For section 18(1) of the **Impounding of Livestock Act 1994** **substitute**—

- "(1) A council may offer for sale by public auction or public tender impounded livestock that are not collected within the period within which the livestock are required to be

collected under section 17 or 17A (as the case requires).".

**66 Disposal of livestock**

(1) In section 21 of the **Impounding of Livestock Act 1994**, after "including destroying" insert "or re-housing".

(2) In section 21(b) of the **Impounding of Livestock Act 1994**, after "section 17" insert "or the 14 day period referred to in section 17A (as the case may be)".

**67 Power of authorised officer of council to destroy impounded livestock in certain circumstances**

(1) In section 22(1) of the **Impounding of Livestock Act 1994**, for "sections 8 and 17" substitute "sections 8, 8A, 17 and 17A".

(2) For section 22(2)(b) of the **Impounding of Livestock Act 1994** substitute—

"(b) having considered the duties imposed on the council, the livestock are worth less than the cost of keeping the livestock at the pound—

(i) for at least 7 days (in a case to which section 17 applies); and

(ii) for at least 14 days (in a case to which section 17A applies).".

(3) In section 22(3) of the **Impounding of Livestock Act 1994**, after "apply" insert "to livestock impounded under section 5".

**68 Amendment to Part heading**

In the heading to Part 4 of the **Impounding of Livestock Act 1994**, after "OFFENCES" insert "RELATING TO LIVESTOCK".

**69 New sections 25A and 25B inserted**

After section 25 of the **Impounding of Livestock Act 1994 insert—**

**"25A Offence if livestock trespass after service of notice under section 16A**

If livestock are found trespassing after a notice has been served on the owner of that livestock under section 16A, the owner is guilty of an offence and liable to a penalty of not more than 20 penalty units.

**25B Offence if non-compliance with notice served under section 16B**

An owner of livestock who has been served with a notice under section 16B must comply with the notice.

Penalty: 50 penalty units."

**70 Substitution of Part heading**

For the heading to Part 5 of the **Impounding of Livestock Act 1994 substitute—**

**"PART 5—COURT PROCEEDINGS CONCERNING IMPOUNDED LIVESTOCK".**

**71 Proceedings in the Magistrates' Court**

In section 26 of the **Impounding of Livestock Act 1994**, for "impounded livestock" substitute "livestock impounded under this Act".

**72 New headings inserted**

After section 29 of the **Impounding of Livestock Act 1994 insert** the following headings—

**"PART 5A—GENERAL AND ENFORCEMENT**

**Division 1—General".**

**73 Application of money recovered under this Act**

In section 33(1) of the **Impounding of Livestock Act 1994**, for "Part 4" substitute "this Act".

**74 New section 33A inserted**

After section 33 of the **Impounding of Livestock Act 1994** insert—

**"33A Power to file charges under this Act**

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

- (a) an authorised officer of a council (but only in respect of an alleged offence committed in the municipal district of the council of which that person is an officer); or
- (b) an authorised officer."

**75 New Division 2 inserted in Part 6**

Before Part 6 of the **Impounding of Livestock Act 1994** insert—

**"Division 2—Infringement notices**

**33B Power to serve infringement notices**

- (1) An authorised officer of a council may serve an infringement notice on a person who the authorised officer has reason to believe has committed an offence against section 25(e), 25(g), 25A or 25B.
- (2) An authorised officer of a council may serve an infringement notice on a person who the authorised officer has reason to believe has committed an offence against the regulations if the offence is prescribed in the regulations for the purposes of this Division.

**33C Infringement offence**

An offence referred to in section 33B for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

**33D Infringement penalty**

The infringement penalty for an infringement offence under this Division is the penalty—

- (a) which is prescribed by the regulations as the infringement penalty for that offence for the purposes of this Division; and
- (b) which must not exceed 5 penalty units or the penalty for that offence."

**76 Section 34 substituted**

For section 34 of the **Impounding of Livestock Act 1994 substitute—**

**"34 Regulations**

- (1) The Governor in Council may make regulations for or with respect to—
  - (a) prescribing charges relating to the impounding of livestock in areas outside a municipal district;
  - (b) prescribing infringement offences for the purposes of Division 2 of Part 5A; and
  - (c) prescribing, for the purposes of Division 2 of Part 5A, infringement penalties not exceeding 5 penalty units for infringement offences; and
  - (d) forms for the purposes of this Act; and
  - (e) fees for the purposes of this Act; and

- 5 (f) 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.
- 5 (2) Regulations made under this Act—
- (a) may be of general or limited application; and
- (b) may differ according to differences in time, place or circumstance; and
- 10 (c) may leave any matter to be approved or determined by the Minister or the Secretary; and
- (d) 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—
- 15 (i) wholly or partially or as amended by the regulations; or
- 20 (ii) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or
- 25 (iii) as amended from time to time; and
- (e) may impose penalties not exceeding 20 penalty units for contravention of the regulations."
-

**PART 4—AMENDMENTS TO THE PREVENTION OF  
CRUELTY TO ANIMALS ACT 1986**

**77 Definitions**

(1) In section 3(1) of the **Prevention of Cruelty to  
Animals Act 1986**—

(a) **insert** the following definitions—

*"dock*, in relation to the tail of a dog or a  
horse, means the amputation, removal  
or shortening of the tail of the animal,  
other than the shortening of the tail  
hairs of the animal;

*general inspector* means a person who is a  
general inspector under section 18;

*POCTA inspector* means a general inspector  
or a specialist inspector;

*prohibited procedure* means any of the  
following—

(a) the procedure of cropping the ears  
of a dog, unless the procedure is  
done by a veterinary practitioner  
for the purpose of having a  
therapeutic effect on the dog; or

(b) the procedure of debarking a dog,  
unless the procedure is done by a  
veterinary practitioner and in  
accordance with the Code of  
Practice as to the debarking of  
dogs; or

(c) the procedure of docking the tail  
of a horse, unless the procedure is  
done by a veterinary practitioner  
for the purpose of having a  
therapeutic effect on the horse; or

See:  
Act No.  
46/1986.  
Reprint No. 7  
as at  
1 December  
2005  
and  
amending  
Act No.  
32/2006.  
LawToday:  
www.  
legislation.  
vic.gov.au

- 5 (d) the procedure of grinding,  
clipping or trimming the teeth of a  
sheep using an electrical or  
motorised device, unless the  
procedure is done by a veterinary  
practitioner for the purpose of  
having a therapeutic effect on the  
sheep; or
- 10 (e) the procedure of removing the  
claws of a cat, unless the  
procedure is done by a veterinary  
practitioner for the purpose of  
having a therapeutic effect on the  
cat; or
- 15 (f) the procedure of removing the  
venom sacs of a reptile, unless the  
procedure is done by a veterinary  
practitioner for the purpose of  
having a therapeutic effect on the  
20 reptile;

*specialist inspector* means a person  
appointed as a specialist inspector  
under section 18A;";

(b) the definition of *animal* is **repealed**.

25 (2) In section 3(1) of the **Prevention of Cruelty to  
Animals Act 1986**, in the definition of *prohibited  
procedure*—

- 30 (a) in paragraph (c), before "horse" (where twice  
occurring) **insert** "dog or";
- (b) in paragraph (f), for "reptile;" **substitute**  
"reptile; or";
- (c) after paragraph (f) **insert**—  
"(g) the procedure of thermocautery or  
firing of a horse;".



(3) In section 3(1) of the **Prevention of Cruelty to Animals Act 1986** insert the following definitions—

*"rodeo licence* means a licence granted under section 17;

*rodeo permit* means a permit issued under section 17B(1);

*rodeo school permit* means a permit issued under section 17B(2);".

(4) After section 3(2) of the **Prevention of Cruelty to Animals Act 1986** insert—

"(3) In this Act, other than Part 3, *animal* means—

(a) a live member of a vertebrate species including any—

(i) fish or amphibian; or

(ii) reptile, bird or mammal, other than any human being or any reptile, bird or other mammal that is below the normal mid-point of gestation or incubation for the particular class of reptile, bird or mammal; or

(b) a live adult decapod crustacean, that is—

(i) a lobster; or

(ii) a crab; or

(iii) a crayfish."

**78 Consequential amendments and repeals**

- (1) Section 5 of the **Prevention of Cruelty to Animals Act 1986** is repealed.
- (2) In section 6(1A) of the **Prevention of Cruelty to Animals Act 1986**, for "(within the meaning of Part 2) may exercise a power set out in section 21A or 22A" substitute "may exercise a power set out in Part 2A".

**79 Definitions**

- (1) In section 8(1) of the **Prevention of Cruelty to Animals Act 1986**, for the definition of *rodeo school* substitute—

*"rodeo school* means the activity of training or schooling persons in buck-jumping, rough-riding, animal dogging, roping or tying;"

- (2) In section 8(1) of the **Prevention of Cruelty to Animals Act 1986**, the definitions of *inspector*, *permit* and *specialist inspector* are repealed.

- (3) Section 8(2) of the **Prevention of Cruelty to Animals Act 1986** is repealed.

**80 Acts of cruelty**

In section 9(1) of the **Prevention of Cruelty to Animals Act 1986**—

- (a) for paragraphs (l), (la) and (m) substitute—

"(l) carries out a prohibited procedure on an animal—";

- (b) after "and is guilty of an offence" insert "and is liable to a penalty of not more than, in the case of a natural person, 120 penalty units or imprisonment for 12 months or, in the case of a body corporate, 600 penalty units";

(c) **omit—**

"Penalty: 60 penalty units or imprisonment for 6 months."

**81 Penalty for aggravated cruelty**

In section 10(1) of the **Prevention of Cruelty to Animals Act 1986—**

(a) after "and is guilty of an offence" **insert** "and is liable to a penalty of not more than, in the case of a natural person, 240 penalty units or imprisonment for 2 years or, in the case of a body corporate, 1200 penalty units";

(b) **omit—**

"Penalty: 120 penalty units or imprisonment for twelve months."

**82 Insertion of new section 11A**

After section 11 of the **Prevention of Cruelty to Animals Act 1986 insert—**

**"11A Further prohibited procedure offences**

(1) The owner or person in charge of an animal must not allow a prohibited procedure to be carried out on the animal.

Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

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

(2) The owner or person in charge of an animal on which a prohibited procedure has been carried out must not—

(a) show or exhibit the animal; or

(b) allow another person to show or exhibit the animal—

unless the prohibited procedure was carried out—

5 (c) before the commencement of section 80 of the **Animals Legislation Amendment (Animal Care) Act 2007**; or

10 (d) in a jurisdiction other than Victoria, in accordance with the law of that jurisdiction, and the animal was not, at any time on or before the procedure was carried out, resident in Victoria.

Penalty: 20 penalty units.

15 (3) In this section—

*exhibit*, in relation to an animal, means the general or public display of the animal (whether or not for sale purposes);

20 *show*, in relation to an animal, means causing the animal to participate in any competition, performance or entertainment."

### 83 Serious offences

25 (1) For section 12(1) of the **Prevention of Cruelty to Animals Act 1986** substitute—

30 "(1) If a person has been convicted of one or more offences under this Act and a court considers that the offence or offences is or are of a serious nature, the court may, in addition to or instead of any other penalty, order—

5

(a) that the person be disqualified for the period (not exceeding 10 years) specified in the order, from being a person in charge of an animal of a kind or class specified in the order; or

10

(b) that the conditions, specified in the order, apply for the period specified in the order to the person whenever the person is a person in charge of an animal.

15

(1A) If a court making an order under subsection (1) is satisfied by the evidence, on oath or affidavit, of a POCTA inspector that there are reasonable grounds to believe that the person who has been convicted of the offence or offences is holding an animal on premises, including residential premises, in contravention of this section, the court may, by order, authorise the inspector to enter the premises and search for and seize the animal and dispose of the animal in accordance with Division 6 of Part 2A.

20

(1B) Part 2A applies to an order under subsection (1A) as if it were a search warrant for the animal issued under section 24G."

25

(2) For section 12(7) of the **Prevention of Cruelty to Animals Act 1986 substitute—**

30

"(7) A person who is subject to an order under subsection (1) must comply with the order.

Penalty: 240 penalty units or imprisonment for 2 years."

**84 Penalty for having custody of animals in  
contravention of interstate orders**

For section 12A(8) of the **Prevention of Cruelty  
to Animals Act 1986** substitute—

5           "(8) A person who is the subject of an interstate  
order, that is registered under this section,  
must comply with the order.

Penalty: 240 penalty units or imprisonment  
for 2 years."

10           **85 Penalty for baiting and luring**

(1) In section 13(1) of the **Prevention of Cruelty to  
Animals Act 1986**—

15           (a) after "is guilty of an offence" **insert** "and is  
liable to a penalty of not more than, in the  
case of a natural person, 240 penalty units or  
imprisonment for 2 years or, in the case of a  
body corporate, 1200 penalty units";

(b) **omit**—

20           "Penalty: 120 penalty units or imprisonment  
for 12 months."

(2) For the penalty at the foot of section 13(4) of the  
**Prevention of Cruelty to Animals Act 1986**  
substitute—

"Penalty: 120 penalty units."

25           **86 Penalty for trap shooting**

In section 14 of the **Prevention of Cruelty to  
Animals Act 1986**—

30           (a) after "is guilty of an offence" **insert** "and is  
liable to a penalty of not more than, in the  
case of a natural person, 240 penalty units or  
imprisonment for 2 years or, in the case of a  
body corporate, 1200 penalty units";

(b) **omit**—

"Penalty: 120 penalty units or imprisonment for 12 months."

**87 Substitution of section 15**

5

For section 15 of the **Prevention of Cruelty to Animals Act 1986 substitute**—

**"15 Selling traps**

10

(1) A person must not sell a trap that is not of a kind prescribed by regulations under this Act.

Penalty: 240 penalty units or imprisonment for 2 years, in the case of a natural person.

15

1200 penalty units, in the case of a body corporate.

(2) A person who sells a trap of a kind prescribed by regulations under this Act must do so in accordance with those regulations.

20

Penalty: 240 penalty units or imprisonment for 2 years, in the case of a natural person.

Penalty: 1200 penalty units, in the case of a body corporate.

25

(3) Subsections (1) and (2) do not apply to the sale of traps to a museum or collector of traps.

**15AB Setting or using traps**

- (1) A person must not set or use a trap that is not of a kind prescribed by regulations under this Act.

5                           Penalty: 240 penalty units or imprisonment for 2 years, in the case of a natural person.

1200 penalty units, in the case of a body corporate.

- 10                       (2) A person who sets or uses a trap that is of a kind prescribed by regulations under this Act must do so in accordance with those regulations.

15                           Penalty: 240 penalty units or imprisonment for 2 years, in the case of a natural person.

1200 penalty units, in the case of a body corporate.

- 20                       (3) A person must not set or use a large leghold trap of a prescribed kind in Victoria unless the person does so in an area that is declared by the Minister to be an area in which the setting or using of large leghold traps of that kind is permitted.

25                           Penalty: 240 penalty units or imprisonment for 2 years.

1200 penalty units, in the case of a body corporate.



- (4) A declaration of the Minister under subsection (3)—
- (a) must be made by instrument published in the Government Gazette; and
  - (b) may identify an area by reference to a map, plan or diagram; and
  - (c) may be revoked in the same manner as that in which it is made."

**88 Penalty for dogs on moving vehicles**

For the penalty at the foot of section 15A(2) of the **Prevention of Cruelty to Animals Act 1986** substitute—

"Penalty: 10 penalty units."

**89 Insertion of new sections 15B and 15C**

After section 15A of the **Prevention of Cruelty to Animals Act 1986** insert—

**"15B Offence under section 15A to be operator onus offence**

An offence under section 15A is an operator onus offence for the purposes of Part 6AA of the **Road Safety Act 1986**.

**15C Breeding of animals with heritable defects**

- (1) A person must not, intentionally or recklessly, allow an animal with a heritable defect to breed.

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

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

5 (2) A person must not sell or dispose of an animal with a heritable defect, if the person knows or is reckless as to whether the animal has a heritable defect, unless the person who sells or disposes of the animal advises the person to whom the animal is sold or disposed of (before the sale or disposal) that the animal has the heritable defect.

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

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

15 (3) In this section—

*heritable defect*, in relation to a species of animal set out in Column 1 of the Table in the Schedule, means a heritable defect that is known to cause the disease set out opposite the species of animal in Column 2 of the Table in the Schedule."

## 90 Substitution of Division 2 of Part 2

For Division 2 of Part 2 of the **Prevention of Cruelty to Animals Act 1986** substitute—

### "Division 2—Rodeos

#### 25 **16 Offence to operate rodeos without a licence or permit**

(1) A person must not operate a rodeo unless the person is the holder of a rodeo licence or a rodeo permit.

30 Penalty: 120 penalty units, in the case of a natural person.

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

- (2) A person must not operate a rodeo school unless the person is the holder of a rodeo school permit.

Penalty: 120 penalty units, in the case of a natural person.

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

**17 Grant of rodeo licences**

The Department Head may license a person to operate rodeos.

**17A Duration of licences**

A rodeo licence remains in force for the period specified in the licence, which must not be more than 12 months.

**17B Issue of rodeo permits and rodeo school permits**

- (1) The Department Head may issue a permit to a person to operate the rodeo specified in the permit.

- (2) The Department Head may issue a permit to a person to operate the rodeo school specified in the permit.

**17C Application for a rodeo licence, a rodeo permit or a rodeo school permit**

- (1) A person may apply to the Department Head for the grant of a rodeo licence or the issue of a rodeo permit or a rodeo school permit.

- 5
- (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 Department Head any further information relating to the application that the Department Head requests.

10 **17D Grounds on which Department Head may refuse to grant or issue licence or permit**

The Department Head may refuse to grant or issue a licence or permit under this Division if—

- 15
- (a) he or she is not satisfied that the applicant is the person who intends to supply the stock to be used at any rodeo or rodeo school authorised under the licence or permit; or
  - 20 (b) in the case of an application for a rodeo licence, the application is not lodged at least 28 days before the day on which the first rodeo to which the licence is to relate is to be held; or
  - 25 (c) in the case of an application for a rodeo permit or rodeo school permit, the application is not lodged at least 28 days before the day that the rodeo or rodeo school to which the permit relates is to be held; or
  - 30 (d) the application for the licence or permit does not include the prescribed particulars for that licence or permit; or

- 5 (e) the applicant has been found guilty of—
- (i) an offence against section 9, 10(1) or 11A; or
  - (ii) any other offence under this Act or regulations under this Act in connection with the operation of a rodeo or a rodeo school; or
- 10 (f) the applicant has been served with an infringement notice in respect of an offence against this Act or regulations under this Act—
- (i) that has not been withdrawn in accordance with the **Infringements Act 2006**; and
  - (ii) in respect of which the applicant has paid the penalty in accordance with the **Infringements Act 2006**; or
- 15 (g) the applicant does not agree to operate the rodeo or the rodeo school in accordance with the conditions for the proposed licence or permit; or
- 20 (h) the animals and the facilities and conditions to be provided for animals at the rodeo or rodeo school do not conform to the prescribed minimum requirements.

**17E Conditions on licences and permits**

- 30 (1) Each licence and permit under this Division is subject to any conditions that the Department Head imposes on the licence or permit or the class of licence or permit.

(2) The holder of a licence under this Division must comply with the conditions on the licence imposed by the Department Head under subsection (1).

Penalty: 120 penalty units, in the case of a natural person.

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

(3) The holder of a permit under this Division must comply with the conditions on the permit imposed by the Department Head under subsection (1).

Penalty: 120 penalty units, in the case of a natural person.

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

(4) Each licence and permit under this Division is subject to any conditions prescribed by regulations under this Act for the licence or permit or the class of licence or permit to which the licence or permit belongs.

**17F Variation of licences and permits**

(1) The Department Head may, by instrument, vary a licence or permit under this Division.

(2) An instrument under subsection (1) must be served on the holder of the licence or permit, either personally or by post.

**17G Notice of proposal to cancel a rodeo licence or permit or rodeo school licence**

(1) If the Department Head is satisfied that there may be grounds under section 17I for cancelling a rodeo licence, a rodeo permit or rodeo school permit, the Department Head must serve notice that he or she proposes to

cancel the licence or permit on the licence or permit holder either personally or by post.

- (2) A notice under subsection (1) must—
- (a) state that the Department Head is satisfied that there may be grounds for the cancellation of the licence or permit; and
  - (b) set out those grounds; and
  - (c) set out the time within which written submissions on the proposed cancellation of the licence or permit must be made to the Department Head.

**17H Making of submissions on proposal to cancel**

- (1) The holder of a rodeo licence, a rodeo permit or rodeo school permit who has been given a notice under section 17G may make written submissions on the proposal to cancel the licence or permit.
- (2) Submissions made under subsection (1) must be made within the time fixed by the Department Head under section 17G(2)(c).

**17I Cancellation of a rodeo licence, a rodeo permit or rodeo school permit**

- (1) If, after considering any submissions made within the time fixed for making submissions under section 17G(2)(c), the Department Head is satisfied that—
- (a) the licence or permit holder has failed to comply with a condition of the licence or permit; or
  - (b) the licence or permit holder has been found guilty of an offence against this Act or regulations under this Act; or

5

(c) that the licence or permit holder has been served with an infringement notice in respect of an offence against this Act or regulations under this Act—

(i) that has not been withdrawn in accordance with the **Infringements Act 2006**; and

10

(ii) in respect of which the licence or permit holder has paid the penalty in accordance with the **Infringements Act 2006**—

the Department Head may—

15

(d) cancel the licence or permit; or

(e) require the licence holder or permit holder to take the action specified by the Department Head.

20

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

25

(3) A notice under subsection (2) must be served on the licence holder or permit holder within 28 days after the expiry of the date for the making of submissions under section 17G(2)(c).

30

(4) Cancellation of a rodeo licence, a rodeo permit or rodeo school permit by the Department Head has effect from the date on which notice of the cancellation is served on the holder of the licence or permit."



**91 Substitution of heading**

For the heading to Division 3 of Part 2 of the  
**Prevention of Cruelty to Animals Act 1986**  
substitute—

5

**"Division 3—POCTA Inspectors".**

**92 Certain persons to be general inspectors**

(1) **Insert** the following heading to section 18 of the  
**Prevention of Cruelty to Animals Act 1986**—  
**"General inspectors".**

10

(2) In section 18(1) of the **Prevention of Cruelty to  
Animals Act 1986**—

(a) for "inspectors—" **substitute** "general  
inspectors—";

15

(b) for "who is approved as an inspector"  
**substitute** "who is approved as a general  
inspector".

(3) In section 18(1)(c) of the **Prevention of Cruelty  
to Animals Act 1986**, for "an inspector"  
**substitute** "a general inspector".

20

(4) In section 18(1)(c) of the **Prevention of Cruelty  
to Animals Act 1986**, for "**Domestic (Feral and  
Nuisance) Animals Act 1994**" **substitute**  
**"Domestic Animals Act 1994"**.

25

(5) In section 18(2) and in section 18(3) of the  
**Prevention of Cruelty to Animals Act 1986**, for  
"an inspector" **substitute** "a general inspector".

**93 Change of reference to inspectors**

(1) **Insert** the following heading to section 19 of the  
**Prevention of Cruelty to Animals Act 1986**—

30

**"Identification certificates of POCTA  
inspectors".**

5 (2) In section 19(1) of the **Prevention of Cruelty to Animals Act 1986**, for "inspector (other than a member of the police force) and specialist inspector" **substitute** "POCTA inspector (other than a member of the police force)".

10 (3) In section 19(2) of the **Prevention of Cruelty to Animals Act 1986**, for "an inspector (other than a member of the police force) and specialist inspector" **substitute** "a POCTA inspector (other than a member of the police force)".

**94 Change of reference to inspectors**

15 (1) **Insert** the following heading to section 20 of the **Prevention of Cruelty to Animals Act 1986**—  
"Offence to impersonate etc. POCTA inspectors".

(2) In section 20 of the **Prevention of Cruelty to Animals Act 1986**, for "an inspector or specialist inspector" (wherever occurring) **substitute** "a POCTA inspector".

20 **95 Substitution of sections**

For sections 21 to 24Q of the **Prevention of Cruelty to Animals Act 1986 substitute**—

**"PART 2A—ENFORCEMENT**

**Division 1—Preliminary**

25 **21 Definitions**

In this Part—

*ruminant* means any animal which is capable of chewing its cud;

30 *sample*, in relation to a dead animal, includes the whole of the carcass of the animal.

**Division 2—Emergency powers to deal with animals**

**22 Power to seize abandoned animals in public places**

If a POCTA inspector finds an animal in a public place and the inspector reasonably believes that the animal is abandoned the inspector may seize the animal.

**23 Emergency powers of entry in relation to animals**

(1) If a POCTA inspector suspects on reasonable grounds that on any premises (that is not a person's dwelling) baiting, trap-shooting or the use of animals as lures is occurring, the inspector may, with any assistance that is necessary—

- (a) enter the premises;
- (b) inspect and examine any animals, plant, equipment or facility that the inspector reasonably believes is being used for baiting, trap-shooting or luring.

(2) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling)—

- (a) any animals that are ruminants that have been confined without food or water for more than 36 hours; or
- (b) any animals, being mammals (other than ruminants) or birds that have been confined without food or water for more than 24 hours—

the inspector may, with any assistance that is necessary, enter the premises and may feed and water the animals.

5 (3) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling) an animal that is in an entanglement, tether or bog or that is showing signs of pain or suffering as a result of any injury or disease, the inspector may, with any assistance that is necessary enter the premises and—

10 (a) free any animal on the premises that is in an entanglement, tether or bog, from the entanglement, tether or bog, without removing it from its housing or the premises on which it is located; or

15 (b) if any animal on the premises is showing signs of pain or suffering as a result of injury or disease, inspect the animal in order to determine whether the animal requires treatment by a veterinary practitioner.

20 (4) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling) an animal that is behaving in such a manner and there are such circumstances that it is likely that the animal will cause death or serious injury to any person or another animal, the inspector may, with any assistance that is necessary enter the premises and—

30 (a) contain any animal in or on the premises; or

(b) destroy any animal in or on the premises—

35 that is behaving in such a manner and there are such circumstances that it is likely that the animal will cause death or serious injury to any person or other animal.

**24 Emergency power to enter and seize or destroy abandoned animals**

- 5 (1) If a POCTA inspector suspects on reasonable grounds that there is on any premises (that is not a person's dwelling) an animal that is abandoned, distressed or disabled the inspector may, with any assistance that is necessary—
- 10 (a) enter the premises;
- 15 (b) if the inspector finds any animal on the premises that the inspector reasonably believes is abandoned, distressed or disabled—
- 20 (i) destroy the animal, if the inspector reasonably believes that the animal's condition is such that it would continue to suffer if it remained alive; or
- 25 (ii) immediately seize the animal, if the inspector reasonably believes that the animal's welfare is at risk; or
- 30 (iii) leave notice at the premises that the inspector intends to seize the animal at the end of two days after the giving of the notice, if the inspector is not contacted by the owner or person in charge of the animal within that period.
- 35 (2) If an inspector has left a notice at premises under subsection (1)(b)(iii), and if, on the expiry of the two day period specified in the notice, the inspector has not been contacted by the owner or person in charge of the animal the inspector may, with any assistance that is necessary—

- (a) enter the premises;
- (b) search for and seize the animal.

**24A Additional powers that may be exercised on emergency entry**

5 A POCTA inspector who enters premises under this Division may—

- 10 (a) inspect and take photographs (including video recordings), or make sketches of the premises or any animal or thing in or on the premises;
- (b) take and keep samples of or from any animal or thing in or on the premises;
- 15 (c) open any container at the premises for the purpose of inspecting, or taking a sample of, its contents but must reseal the container after the inspection is made or the sample is taken.

**24B Powers to recover certain costs**

20 A POCTA inspector may, on behalf of a person who provided food or water to an animal by or under the authority of a POCTA inspector under section 23(2), recover from the owner of the animal the reasonable costs of the food and water in any court of competent jurisdiction as a civil debt recoverable summarily.

**24C Obtaining veterinary treatment**

- 30 (1) If a POCTA inspector reasonably believes that treatment by a veterinary practitioner is necessary for the welfare of an animal, subject to subsection (2), the inspector may arrange for a veterinary practitioner to treat the animal.

5 (2) If a POCTA inspector has formed a belief  
under subsection (1) that an animal requires  
treatment by a veterinary practitioner and the  
owner or person in charge of the animal can  
be contacted, after reasonable enquiry, the  
inspector must, before arranging veterinary  
treatment under subsection (1), give the  
owner or person an opportunity to arrange  
for a veterinary practitioner of his or her  
10 choice to undertake the required treatment.

15 (3) The inspector may recover the costs of  
veterinary treatment of an animal arranged  
under subsection (1) from the owner or the  
person in charge of the animal treated in a  
court of competent jurisdiction as a civil debt  
recoverable summarily.

**24D Emergency powers of veterinary  
practitioners and superintendents of  
saleyards**

20 (1) A veterinary practitioner may, with any  
assistance that is necessary, destroy any  
animal—

25 (a) that is behaving in such a manner and  
there are such circumstances that the  
veterinary practitioner reasonably  
believes that the animal is likely to  
cause death or serious injury to any  
person or another animal; or

30 (b) that is abandoned, distressed or  
disabled if the veterinary practitioner  
reasonably believes that the animal's  
condition is such that it would continue  
to suffer if it remained alive.

35 (2) A superintendent of a saleyard may, with any  
assistance that is necessary, destroy any  
animal in any saleyard in the municipal

district in respect of which the superintendent is appointed—

- 5
- (a) that is behaving in such a manner and there are such circumstances that the superintendent reasonably believes that the animal is likely to cause death or serious injury to any person or another animal; or
- 10
- (b) that is abandoned, distressed or disabled if the superintendent reasonably believes that the animal's condition is such that it would continue to suffer if it remained alive.
- 15
- (3) In this section, *superintendent of a saleyard* means the person in charge of a livestock saleyard.

**Division 3—Search for and seizure of animals, warrants and authorisations**

**24E Notice to seize animal**

- 20
- (1) If the Minister believes on reasonable grounds that an animal is in such a condition, or, in such circumstances, that the animal is likely to become distressed or disabled, the Minister may serve notice that the Minister intends to authorise seizure of the animal.
- 25
- (2) A notice under subsection (1) must—
- (a) be in writing; and
- (b) be served by—
- 30
- (i) giving it personally to the owner of the animal; or
- (ii) if the identity of the owner cannot be readily established or the owner cannot be readily



contacted, giving it personally to  
the person in charge of the animal;  
or

(iii) leaving it or sending it by post to  
the last known residential or  
business address of the owner or  
the person in charge of the animal;  
and

(c) set out the action that may be taken  
under section 24F.

**24F Power of specialist inspector to seize  
animal under authorisation of Minister**

If, on the expiration of 7 days after the  
service of a notice under section 24E, the  
Minister is not satisfied that action has been  
or is being taken to remove the likelihood of  
the animal becoming distressed or disabled,  
the Minister may authorise a specialist  
inspector—

(a) to seize the animal; and

(b) to dispose of the animal in the manner  
determined by the Minister, or  
otherwise in accordance with  
Division 6.

**24G Search warrants for abandoned etc  
animals on premises**

(1) A POCTA inspector, with the written  
approval of the Department Head, may apply  
to a magistrate for the issue of a search  
warrant in relation to premises (including  
residential premises), if the inspector  
believes on reasonable grounds that there is  
in or on the premises—

(a) an abandoned, diseased, distressed or  
disabled animal; or

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- (b) an animal, the welfare of which the inspector believes on reasonable grounds is at risk; or
  - (c) an animal, in respect of which a contravention of section 9, 10(1), 11A, 13(1) or regulations under this Act is occurring or has occurred; or
  - (d) an animal, in respect of which the person in charge is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section.
- (2) If a magistrate is satisfied, by the evidence, on oath or by affidavit, of the POCTA inspector that there are reasonable grounds to believe that there is in or on the premises—
- (a) an abandoned, diseased, distressed or disabled animal; or
  - (b) an animal, the welfare of which the inspector believes on reasonable grounds is at risk; or
  - (c) an animal, in respect of which a contravention of section 9, 10(1), 11A, 13(1) or regulations under this Act is occurring or has occurred; or
  - (d) an animal, in respect of which the person in charge is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section—

the magistrate may issue a search warrant in accordance with the **Magistrates' Court Act 1989**.

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- (3) A search warrant issued under this section may authorise a POCTA inspector named in the warrant, together with any member of the police force or any other person or persons named or otherwise identified in the warrant and with any necessary equipment—
- (a) to enter the premises specified in the warrant; and
  - (b) to search for an animal, or an animal of a particular kind, named or referred to in the warrant; and
  - (c) to seize an animal, or an animal of a particular kind, named or referred to in the warrant, and to take the animal to any place that the inspector thinks fit; and
  - (d) to retain possession of any animal seized for the time specified in the warrant; and
  - (e) to examine or inspect an animal, or an animal of a particular kind, named or referred to in the warrant, that is found in or on the premises, to determine if the animal requires treatment by a veterinary practitioner; and
  - (f) to feed and water an animal, or an animal of a particular kind, named or referred to in the warrant, that is found in or on the premises; and
  - (g) to free an animal, or an animal of a particular kind, named or referred to in the warrant, from an entanglement, tether or bog in or on the premises; and

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(h) to take and keep samples of or from an animal, or an animal of a particular kind, named or referred to in the warrant; and

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(i) to take photographs (including video recordings) or make sketches of an animal, or an animal of a particular kind, named or referred to in the warrant, or other thing on the premises; and

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(j) to open any container at the premises for the purpose of inspecting, or taking a sample of, its contents, but must reseal the container after the inspection is made or the sample is taken.

**24H Magistrates' Court may extend period of warrant under section 24G**

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(1) A POCTA inspector to whom a warrant under section 24G has been issued may apply to the Magistrates' Court, before the expiration of the time specified in the warrant for which possession of the animal may be retained, for an extension of that period.

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(2) The Magistrates' Court may order such an extension if it is satisfied that the retention of the animal is necessary for its welfare.

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(3) The Magistrates' Court may adjourn an application to enable notice of the application to be given to any person.

**Division 4—Search for and seizure of things**

**24I Definition**

In this Division *thing* includes animal.

**24J Seizure of things**

If a POCTA inspector finds—

- (a) in a public place; or
- (b) on premises that the inspector is otherwise authorised to enter under this Part—

a thing that he or she reasonably believes has been used in connection with the commission of an offence against this Act or regulations under this Act, the inspector may do one or more of the following—

- (c) seize the thing;
- (d) inspect or examine the thing;
- (e) measure the thing;
- (f) take photographs (including video recordings) of the thing.

**24K Search warrants for premises**

- (1) A POCTA inspector, with the written approval of the Department Head, may apply to a magistrate for the issue of a search warrant in relation to premises (including residential premises), if the inspector believes on reasonable grounds that there is in or on the premises a thing or things of a particular kind connected with a contravention of this Act or regulations under this Act.
- (2) If a magistrate is satisfied, by the evidence, on oath or by affidavit, of the inspector that there are reasonable grounds to believe that there is a thing or things of a particular kind connected with a contravention of this Act or regulations under this Act in or on any premises, the magistrate may issue a search

warrant, in accordance with the **Magistrates' Court Act 1989**, authorising a POCTA inspector named in the warrant, together with any other person or persons named or otherwise identified in 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) seize;

(iii) secure against interference;

(iv) examine, inspect and take and keep samples of or from;

(v) take photographs (including video recordings) of—

a thing or things of a particular kind named or described in the warrant and which the inspector believes, on reasonable grounds, to be connected with the alleged contravention.

**24L Additional power of entry for specialist inspectors**

A specialist inspector may, for the purposes of Part 2, this Part or regulations under this Act, and with the prior written authority of the Minister—

(a) enter premises (that is not a person's dwelling), in or on which an animal or animals are housed or grouped for any purpose; and

(b) inspect any animal, plant, equipment or structure on the premises; and

- (c) observe any practice being conducted in connection with the management of an animal or animals on the premises.

**Division 5—General provisions as to search warrants**

**24M Provisions as to search warrants**

A search warrant issued under this Part must state—

- (a) the purpose for which the warrant is required and, in the case of a warrant under Division 4, 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.

**24N Application of Magistrates' Court Act 1989**

- (1) Despite section 79 of the **Magistrates' Court Act 1989**, a search warrant under this Part must not authorise an inspector to arrest a person.
- (2) Except as provided by this Part, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this Part.

**24O Announcement before entry**

(1) On executing a search warrant issued under this Part the inspector executing the warrant—

- 5 (a) must announce that he or she is authorised by the warrant to enter the premises; and
- 10 (b) if the inspector has been unable to obtain unforced entry, must give any person at the premises or, if the premises is a vehicle, vessel or aircraft, in or in charge of the vehicle, vessel or aircraft an opportunity to allow entry to the premises, vehicle, vessel or aircraft.

15 (2) An inspector need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure—

- 20 (a) the safety of any person; or
- (b) that the effective execution of the search warrant is not frustrated.

**24P Details of warrant to be given to occupier**

25 (1) If the occupier is present at the premises or, if the premises is a vehicle, vessel or aircraft, a person is in or in charge of the vehicle, vessel or aircraft when a search warrant issued under this Part is being executed, the inspector must—

- 30 (a) identify himself or herself to the occupier or person; and
- (b) give to the occupier or person a copy of the warrant.



- 5 (2) If the occupier is not present at the premises when a search warrant issued under this Part is being executed, the inspector must, if there is a person present at the premises, identify himself or herself to the person and give the person a copy of the warrant.

**24Q Seizure of things not mentioned in the warrant and taking of samples**

- 10 (1) A search warrant issued under this Part authorises an inspector executing the warrant, in addition to the seizure of any animal or other thing of the kind described in the warrant, to seize—

- 15 (a) any animal that is not described in the warrant or that is not of a kind described in the warrant, if the inspector believes, on reasonable grounds—

20 (i) that the welfare of the animal is at risk; or

25 (ii) that the person in charge of the animal is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section; or

30 (iii) that the animal is of a kind that could have been included in a search warrant issued under this Part and that will afford evidence of a contravention of this Act or regulations made under this Act; or

- 5 (iv) that it is necessary to seize the animal in order to prevent its concealment, loss or destruction or the contravention of this Act or regulations under this Act;
- (b) any thing (that is not an animal) which is not of the kind described in the warrant if the inspector believes, on reasonable grounds—
- 10 (i) that the thing is of a kind that could have been included in a search warrant issued under this Part and that will afford evidence about the contravention of this Act or regulations under this Act; and
- 15 (ii) that it is necessary to seize that thing in order to prevent its concealment, loss or destruction or its use in the contravention of this Act or regulations under this Act.
- (2) A search warrant issued under this Part authorises an inspector executing the warrant, in addition to seizing a thing of the kind described in the warrant, to take a
- 25 sample of or from any thing that is not of the kind described in the warrant if the inspector believes, on reasonable grounds, that the thing is of a kind—
- 30 (a) that could have been included in a search warrant issued under this Part; and
- (b) that will afford evidence about the contravention of this Act or regulations under this Act.
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**Division 6—Duties and powers as to seized animals**

**24R Duty to take steps to identify owner**

5 If an animal has been seized under this Part  
and the identity of both the owner and the  
person in charge of the animal are not known  
to the person who seized the animal, the  
person who seized the animal must take  
10 reasonable steps to identify and contact the  
owner or person in charge of the animal.

**24S Steps to be taken where welfare of animal not at risk**

(1) If an animal has been seized under this Part  
and—

15 (a) if after taking all reasonable steps under  
section 24R, either the owner or the  
person in charge of the animal is able to  
be contacted; and

20 (b) neither the owner nor person in charge  
of the animal is suspected of  
committing an offence against this Act  
or regulations under this Act; and

25 (c) the person who seized the animal  
reasonably believes that the welfare of  
the animal is not at risk; and

(d) application has not been made and is  
not proposed to be made under  
section 24X—

30 the inspector who seized the animal must  
serve a notice of seizure under this section  
on the person who is able to be contacted, or  
cause such a notice to be served in  
accordance with subsection (2).

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- (2) For the purposes of subsection (1) the notice must—
    - (a) be served either personally or by post; and
    - (b) if the animal has been seized under a warrant issued under section 24G, be served on or before the expiry of the time for which possession of the animal may be retained under the warrant.
  - (3) If an animal has been seized under this Part and—
    - (a) if, after taking all reasonable steps under section 24R, both the owner and person in charge of the animal are not able to be contacted (whether or not the identity of the owner and person in charge are known); and
    - (b) neither the owner nor person in charge of the animal is suspected of committing an offence against this Act or regulations under this Act; and
    - (c) the person who seized the animal reasonably believes that the welfare of the animal is not at risk; and
    - (d) application has not been made and is not proposed to be made under section 24X—the person who seized the animal must serve a notice of seizure in accordance with subsection (4).

(4) For the purposes of subsection (3), the notice must—

- (a) if an animal has been seized from premises, be left at the premises from which the animal has been seized or sent by post to those premises; and
- (b) (whether the animal has been seized from premises or in a public place) be sent by post to any last known address of the owner and of the person in charge of the animal; and
- (c) if the animal has been seized under a warrant under section 24G, be sent on or before the expiry of the time for which possession of the animal may be retained under the warrant.

(5) For the purposes of this section, a notice of seizure is a notice in writing that sets out—

- (a) a description of the animal; and
- (b) the name of the inspector who seized the animal, the inspector's contact details and the reason why the animal has been seized; and
- (c) if the notice is served under subsections (1) and (2)—
  - (i) that the animal may be recovered within 7 days after service of the notice; and
  - (ii) that, if the animal is not recovered within 7 days after service of the notice, the animal may be disposed of in accordance with this Division; and

(d) if the notice is left at or sent to premises under subsections (3) and (4)—

(i) that the animal may be recovered within 14 days after the leaving or sending of the notice and the place where the animal may be recovered; and

(ii) that, if the animal is not recovered within 14 days after the leaving or sending of the notice, the animal may be disposed of in accordance with this Division.

**24T Provision for recovery or disposal of animals that are not at risk**

(1) The owner or person in charge of an animal on whom a notice of seizure has been served under section 24S(1) and 24S(2) may recover the animal if, within 7 days of service of the notice—

(a) the owner or person in charge pays the amount determined by the person or body that is retaining the animal for the reasonable costs and expenses incurred in seizing and retaining the animal until its recovery; and

(b) the person or body retaining the animal reasonably believes that the animal will not be at risk on being returned to the owner or person in charge.

(2) The owner or person in charge of an animal in respect of which a notice of seizure has been left at or sent to premises under section 24S(3) and 24S(4) may recover the animal if, within 14 days of notice being left at or sent to premises—

- 5 (a) the owner or person in charge pays the amount determined by the person or body that is retaining the animal for the reasonable costs and expenses incurred in seizing and retaining the animal until its recovery; and
- 10 (b) the person or body retaining the animal reasonably believes that the animal will not be at risk on being returned to the owner or person in charge.
- 15 (3) If a notice of seizure has been left at or sent to premises under section 24S and the animal is not recovered under subsection (1) or (2), the animal may be disposed of in accordance with this Division.
- (4) If an animal has been seized in a public place, and—
- 20 (a) the welfare of the animal is not reasonably believed to be at risk; and
- 25 (b) it is not possible to send a notice to the last known address of the owner or person in charge under section 24S because both the owner and person in charge of the animal are not able to be contacted (whether or not the identity of the owner and the person in charge of the animal are known); and
- 30 (c) neither the owner nor the person in charge of the animal has recovered the animal within 14 days of the seizure of the animal—
- the animal may be disposed of in accordance with this Division.

**24U Steps to be taken where welfare of animal is at risk**

(1) If an animal has been seized under this Part and—

- 5 (a) if, after taking all reasonable steps under section 24R, either the owner or the person in charge of the animal is able to be contacted; and
- 10 (b) the person who seized the animal reasonably believes that the welfare of the animal is at risk; and
- (c) application has been or is proposed to be made under section 24X—

15 the person who seized the animal must serve a notice of seizure under this section on the person who is able to be contacted, or cause such a notice to be served in accordance with subsection (2).

20 (2) For the purposes of subsection (1), the notice must—

- (a) be served either personally or by post; and
- 25 (b) if the animal has been seized under a warrant under section 24G, be served on or before the expiry of the time for which possession of the animal may be retained under the warrant.

30 (3) If an animal has been seized under this Part and—

- (a) if, after taking all reasonable steps under section 24R, both the owner and person in charge of the animal are not able to be contacted (whether or not the identity of the owner and person in charge of the animal are known); and
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- (b) the person who seized the animal reasonably believes that the welfare of the animal is at risk; and
- (c) application has been or is proposed to be made under section 24X—
- the person who seized the animal must serve a notice of seizure in accordance with subsection (4).
- 10 (4) For the purposes of subsection (3), the notice must—
- (a) if the animal has been seized from premises, be left at the premises from which the animal was seized or be sent by post to those premises; and
- 15 (b) (whether the animal has been seized from premises or in a public place) be sent by post to any last known address of the owner and of the person in charge of the animal; and
- 20 (c) if the animal has been seized under a warrant under section 24G, be sent on or before the expiry of the time for which possession of the animal may be retained under the warrant.
- 25 (5) For the purposes of this section, a notice of seizure is a notice in writing that sets out—
- (a) a description of the animal; and
- (b) the name of the inspector who seized the animal, the inspector's contact details and the reason why the animal has been seized; and
- 30 (c) that the animal will be disposed of in accordance with this Division if the owner or person in charge of the animal does not contact the inspector within
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14 days after the notice is left at or sent to the premises.

**24V Power to retain animal for purposes of application under section 24X**

5 For the purposes of making an application under section 24X, an animal that has been seized under a warrant under section 24G, may continue to be held under the warrant, despite the expiry of the time for which possession of the animal may be retained under the warrant, if notice has been served, left or sent in accordance with section 24U.

**24W Power to dispose of animal at risk not claimed by owner or person in charge**

15 (1) If an animal has been seized from premises, and the welfare of the animal is reasonably believed to be at risk, and if within 14 days of—

20 (a) a notice being served on the owner or person in charge of the animal under section 24U(1) and 24U(2); or

(b) a notice being—

25 (i) left at the premises or sent to the premises under section 24U(3) and 24U(4); or

30 (ii) sent by post to the last known address of the owner or person in charge of the animal under section 24U(3) and 24U(4) (where the address is known)—

whichever is the later—

35 the owner or person in charge of the animal has not contacted the inspector identified in the notice, the animal may be disposed of in accordance with this Division.

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(2) If an animal has been seized in a public place, and the welfare of the animal is reasonably believed to be at risk, and—

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(a) a notice has been served on the owner of the animal under section 24U(1) and 24U(2) and neither the owner nor person in charge of the animal has contacted the inspector identified in the notice, within 7 days of service of the notice, the animal may be disposed of in accordance with this Division; or

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(b) a notice has been sent by post to the last known address of the owner or person in charge of the animal under section 24U(3) and 24U(4), and neither the owner nor person in charge of the animal has contacted the inspector identified in the notice, within 14 days of the sending of the notice, the animal may be disposed of in accordance with this Division.

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(3) If an animal has been seized in a public place, and—

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(a) the welfare of the animal is reasonably believed to be at risk; and

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(b) it is not possible to send a notice to the last known address of the owner or person in charge under section 24U because both the owner and person in charge of the animal are not able to be contacted (whether or not the identity of the owner and the person in charge of the animal are known); and

- (c) neither the owner nor the person in charge of the animal has contacted the inspector who seized the animal within 14 days of the seizure—

5 the animal may be disposed of in accordance with this Division.

**24X Court orders as to costs and disposal of animals**

- 10 (1) If an animal has been seized under this Part and—
    - 15 (a) the owner or person in charge of the animal has been charged with an offence against this Act or regulations under this Act in relation to the animal; or
    - 20 (b) proceedings for an offence against this Act or regulations under this Act have commenced, in relation to the animal, against the owner or person in charge of the animal; or
    - 25 (c) the owner or person in charge of the animal has been found guilty of an offence against this Act or regulations under this Act in relation to the animal within the preceding 10 years; or
    - 30 (d) the person who seized the animal reasonably believes that the welfare of the animal is at risk—
- the person who seized the animal may apply to the Magistrates' Court, or cause an application to be made to the Magistrates' Court for an order under this section.

(2) On application under subsection (1), the Magistrates' Court may make an order as to one or more of the following—

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(a) if the animal is not being returned to the owner or person in charge of the animal because there are proceedings against the owner or person in charge of the animal for an offence against this Act or regulations under this Act in relation to the animal, that—

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(i) the owner or person in charge of the animal pay—

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(A) a bond or security to the applicant to provide for the care and maintenance of the animal; or

(B) any identified costs for the care and maintenance of the animal—

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for the whole or any part of the period of time during which the proceedings are being prosecuted; and

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(ii) any money left over from any payment made under paragraph (a)(i) at the end of the proceedings be repaid to the person who paid the bond or security;

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(b) in any case where the Court has ordered a payment under paragraph (a), that the animal be disposed of in accordance with this Division if the payment is not made in accordance with the order;

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- (c) that the animal be disposed of in accordance with this Division if the owner or person in charge of the animal is or has been found guilty of an offence against this Act or regulations under this Act within the preceding 10 years;
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- (d) that the animal be disposed of in accordance with this Division if the Court reasonably believes that the welfare of the animal is at risk;
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- (e) that the animal be disposed of in accordance with this Division if the Court reasonably believes that the owner or person in charge of the animal is holding the animal in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A, that is registered under that section.
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- (3) If the Court is not satisfied that an order should be made under subsection (2), the Court may order that the animal be returned to the owner or person in charge of the animal.
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- (4) If the Court orders that the animal be returned to the owner or person in charge of the animal under subsection (3)—
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- (a) the owner or person in charge of the animal may recover the animal within 7 days after the making of the order; and
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- (b) if the animal is not recovered within 7 days after the making of the order, the animal may be disposed of in accordance with this Division.
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**24Y Methods of disposal of animals**

(1) If an animal is authorised to be disposed of under this Part, the animal may be disposed of—

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(a) if a court has ordered the manner of disposal of the animal, in that manner; or

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(b) if the Minister has authorised the manner of disposal of the animal under this Part, in that manner;

(c) in any case to which paragraph (a) or (b) does not apply—

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(i) by being sold; or

(ii) by being destroyed; or

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(iii) by being given to a domestic animal business operating from a premises which is registered for the purposes of that business under the **Domestic (Feral and Nuisance) Animals Act 1994**.

(2) Ownership in any animal given to a domestic animal business under subsection (1)(c) passes to that business when the business takes possession of the animal.

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**24Z Power to destroy diseased or distressed animals**

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Despite anything to the contrary in this Part, an inspector may destroy an animal seized under this Part at any time after its seizure if—

(a) a veterinary practitioner has certified that the animal should be immediately destroyed on humane grounds; or

- (b) an inspector under the **Livestock Disease Control Act 1994** knows or reasonably suspects that the animal is diseased or infected with disease.

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**24ZA Disposal of animal by sale**

- (1) An animal that is to be disposed of by sale must be offered for sale by public auction or public tender.
- (2) The person who is selling the animal must give public notice that he or she intends to sell the animal by public auction or public tender, at least 14 days before the sale.
- (3) A notice under subsection (2) must include—
  - (a) details of the location where the animal was seized;
  - (b) the kind of animal;
  - (c) if the animal is branded, where and how it is branded;
  - (d) the sex and colour of the animal and any other descriptive marks;
  - (e) the time and place of the auction, or date and time by which written tenders must be submitted.

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**24ZB Costs and proceeds of sold animals**

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- (1) The proceeds of sale of an animal, that is not subject to forfeiture to the Crown, that is sold under this Division—
  - (a) must first be applied to the costs incurred in any maintenance, care, removal, transport and sale of the animal; and



(b) if any balance is then remaining, it must be paid—

(i) to the owner of the animal, if the owner is not a person who is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A in respect of that animal, that is registered under section 12A; or

(ii) in any other case to the Consolidated Fund.

(2) If the proceeds of the sale of an animal sold under this Division are not enough to satisfy the costs incurred in any maintenance, care removal, transport and sale of the animal, the outstanding amount may be recovered from the owner of the animal in a court of competent jurisdiction as a civil debt recoverable summarily.

**24ZC Costs and proceeds of destroyed animals**

(1) Subject to subsection (2), a person who destroys an animal under this Division may recover the costs of any maintenance, care, removal, transport and destruction of the animal from the owner of the animal in a court of competent jurisdiction as a civil debt recoverable summarily.

(2) Any proceeds derived from the destruction of an animal seized under this Part, that is not subject to forfeiture to the Crown—

(a) must first be applied to the costs incurred in any maintenance, care, removal, transport and destruction of the animal; and

(b) if any balance is then remaining, it must be paid—

(i) to the owner of the animal, if the owner is not a person who is in contravention of an order under section 12(1) or an interstate order within the meaning of section 12A in respect of that animal, that is registered under section 12A; or

(ii) in any other case to the Consolidated Fund.

**24ZD Forfeiture of seized animal**

(1) If a person is found guilty by a court of an offence against this Act or regulations under this Act, the court may, in addition to imposing any other penalty, order that any animal seized under this Part in relation to the offence be forfeited to the Crown if the person who has been found guilty of the offence is the owner or person in charge of the animal.

(2) If a forfeited animal is destroyed or sold, the costs associated with any maintenance, care, removal and transport of the animal and the sale or destruction of the animal must be deducted before any amount remaining is paid into the Consolidated Fund.

**Division 7—Duties and powers as to seized things (that are not animals)**

**24ZE Definition**

In this Division *thing* does not include animal.

**24ZF Receipt must be given for any thing seized**

- 5 (1) An inspector may not seize a thing under this Part that is apparently in the possession or custody of a person, unless the inspector makes out and tenders to the person a receipt for the thing seized that—
- (a) identifies the thing; and
  - (b) states the name of the inspector and the reason why the thing is being seized.

- 10 (2) If an inspector is unable to discover the identity of the owner or custodian of any thing seized from premises, the inspector must leave the receipt with, or post it to, the owner of the premises from which the thing was seized.

**24ZG Copies of certain seized things to be given**

- 15 (1) If an inspector seizes under this Part—
- (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 inspector must, before finishing the search, give—

- 20 (d) a copy of the information, thing or device; and
- 25 (e) a receipt for the thing—
- to the owner or custodian of the document.
- 30 (2) Subsection (1) does not apply if the inspector is unable to discover the identity of the owner or custodian of the document, thing or device.

5 (3) If it is not practicable to comply with subsection (1)(d) or (1)(e) in respect of a thing before the inspector finishes the search, the inspector must do so as soon as practicable after finishing the search.

10 (4) In the case of a paper document, the inspector 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.

15 (5) A copy of a document certified under subsection (4) is to be received in all courts and tribunals as evidence of equal validity to the original.

15 **24ZH Access to seized things**

20 (1) If a thing is seized under this Part, the inspector who seized the thing must, if practicable, allow the person who would normally be entitled to possession of the thing reasonable access to it while it remains in the possession, or under the control, of the inspector.

(2) This section does not apply—

25 (a) if the inspector has given the person an accurate copy of the thing; or

(b) if the possession, use or setting of the thing is an offence against this Act or regulations under this Act.

30 **24ZI Return of seized thing before commencement of proceedings**

35 (1) If a thing has been seized by an inspector under this Part and proceedings have not been commenced against a person for the commission of an offence in relation to which the thing was seized, any person who

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claims to be entitled to possession of the thing may apply in writing to the Magistrates' Court for an order directing the inspector to return the thing to the person.

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(2) If an application is made to the Magistrates' Court the applicant must, as soon as possible after filing the application at the Court, give a copy of the application to the inspector.

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(3) After hearing an application, the Magistrates' Court may make an order directing the inspector to return the thing to the applicant—

15

(a) if the Court is satisfied that the thing is reasonably required by the applicant to carry on the applicant's business or occupation; and

20

(b) the Court has considered whether the thing is reasonably likely to be tendered as evidence in proceedings for an offence against this Act or regulations under this Act.

25

(4) The Court may include any conditions in the order that it considers appropriate including that the thing be returned for the purposes of proceedings for an offence against this Act or regulations under this Act.

30

(5) This section does not apply to a thing, the possession, use, setting or sale of which is an offence against this Act or regulations under this Act.

**24ZJ Return of seized things**

If an inspector seizes a thing under this Part that is not a thing—

- (a) the possession, use, setting or sale of which is an offence against this Act or regulations under this Act; or
- (b) that is forfeited to the Crown under section 24ZN—

the inspector must take reasonable steps to return the thing to the person from whom it was seized—

- (c) within 60 days after the day on which it was seized; or
- (d) when the reason for its seizure no longer exists; or
- (e) if proceedings have commenced within 60 days after the day on which the thing was seized or any extended period under section 24ZK, the completion of those proceedings (including any appeal); or
- (f) on the expiry of any court order under section 24ZK that has extended the period during which the thing may be retained by the inspector—

whichever is the later.

**24ZK Magistrates' Court may extend retention period**

- (1) Subject to subsection (2), an inspector may apply to the Magistrates' Court within 60 days after seizing a thing under this Part, or within any period extended by the Court under this section, for an extension of the

period during which the inspector may retain the thing.

5 (2) The Court may order an extension if it is satisfied that retention of the thing is necessary for the purposes of the investigation in relation to which the thing was seized.

10 (3) The Court may adjourn an application to enable notice of the application to be given to any person.

15 (4) In ordering an extension the Court must ensure that the period during which a thing may be retained by an inspector does not exceed 12 months after the day that it was seized.

**24ZL Dispute as to person entitled to return of seized thing**

20 (1) If a dispute arises as to whom a thing seized by an inspector under this Part should be returned, any person seeking possession of the thing may apply to the Magistrates' Court for an order that the thing be given to that person.

25 (2) The person making the application must give notice of the application to the inspector and to every other person that the person should reasonably be aware claims, or may have a claim to, possession or ownership of the thing.

30 (3) On receiving notice of an application relating to a thing, the inspector who seized the thing must retain possession of the thing until the application is determined, abandoned or withdrawn.

(4) After hearing an application, the Magistrates' Court may order the inspector to give the thing to a particular person if it is satisfied—

(a) that at the time of making the order, the person has a better claim to the possession of the thing than any other person; and

(b) that every other person whom the Court reasonably believes may have had a claim for possession or ownership of the thing was given notice of the application.

(5) The inspector must comply with the order.

(6) Subsection (4) applies regardless of whether or not the particular person was the applicant.

**24ZM Unclaimed seized thing may be sold or destroyed**

(1) Any thing seized under this Part, that is not subject to forfeiture to the Crown, may be destroyed or sold under the following circumstances—

(a) if the identity of the person from whom the thing was seized is known, that person—

(i) has been notified in writing after the end of the period during which the thing may be retained under this Division that the thing may be claimed; and

(ii) has not claimed the thing within 12 months after that notice is given; or



- 5 (b) if the identity of the person from whom the thing was seized is not known, reasonable steps to identify that person have been taken and no person entitled to possession of the thing has been located within 12 months after the end of the period during which the thing may be retained under this Division.
- 10 (2) The proceeds from any sale of a thing under subsection (1), less the costs associated with any maintenance, care, removal, transport and sale of the thing, are to be paid into the Consolidated Fund.

**24ZN Forfeiture of seized things**

- 15 (1) If a person is found guilty by a court of an offence against this Act or regulations under this Act, the court may, in addition to imposing any other penalty, order that any thing seized under this Part that was used by the person in connection with the offence be
- 20 forfeited to the Crown.
- 25 (2) If a forfeited thing is sold, the costs associated with any maintenance, care, removal, transport and sale of the thing must be deducted before any amount remaining is paid into the Consolidated Fund.

**Division 8—Samples**

**24ZO Provisions relating to the taking and keeping of samples**

- 30 (1) If an inspector proposes to take a sample of or from an animal or a thing under this Part, the inspector must—
- 35 (a) advise the owner or person in charge of the animal or thing, if possible before taking the sample—

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- 10
- 15
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- 25
- (i) that the sample is to be taken for the purpose of examination or analysis; and
  - (ii) that the owner or person in charge of the animal or thing, subject to subsection (2), has a right to be given a part of the sample in accordance with paragraph (b) if the owner or person so requests; and
- (b) if the sample is taken for the purpose of analysis and the owner or person in charge of the animal or thing requests to be given a part of the sample, divide the sample into 3 parts and give one part to the owner or person in charge, one part to the analyst and keep one part untouched for future comparison.
- (2) Despite subsection (1)(b), a sample taken from an animal for analysis must not be divided up into parts if the inspector has been advised by a veterinary practitioner or a pathologist that division of the sample is not practicable or will adversely affect the analysis.

**Division 9—Further miscellaneous powers, duties and offences**

**24ZP Notice to comply**

- 30
- 35
- (1) If a POCTA inspector reasonably believes that an animal is in a situation where an offence under Part 2 or regulations under this Act is being or is about to be committed, the inspector may issue a notice to—
- (a) the owner of the animal; or

(b) if the identity of the owner cannot be readily established or the owner cannot be readily contacted, the person in charge of the animal—

5

requiring that person to ensure that the offence is not committed or that the commission of the offence ceases (as the case requires).

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(2) A person to whom a notice has been issued under subsection (1) must comply with the notice.

Penalty: 120 penalty units.

(3) A notice issued under subsection (1) must—

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(a) be in writing; and

(b) state that it is an offence not to comply with the notice; and

(c) set out the maximum penalty for the offence.

20

**24ZQ Requirement to give information to inspector during entry**

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(1) To the extent that is reasonably necessary to determine whether an offence against this Act or regulations under this Act has been or is about to be committed, a POCTA inspector exercising a power of entry under this Part who produces his or her identity card for inspection by the occupier of the premises or an agent or employee of the occupier—

30

(a) may require that person to give information to the inspector, orally or in writing;

- 5 (b) if the power is being exercised under a warrant, may require that person to produce anything named or referred to in the warrant;
- 10 (c) if the power is being exercised under section 23(1), may, on production of his or her identity card for inspection to any person in or on the premises, require the person to give such information as the inspector requests in relation to the suspected baiting, trap-shooting or luring and to answer any questions put to that person by the inspector in relation to the suspected
- 15 baiting, trap-shooting or luring.
- (2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement of an inspector under subsection (1).
- 20 Penalty: 60 penalty units.
- (3) A person must not, when giving information to a inspector under subsection (1) give information that is false or misleading.
- 25 Penalty: 60 penalty units.
- 24ZR Offences as to inspectors**
- 30 (1) A person must not assault, obstruct, hinder, threaten, abuse, insult, intimidate or attempt to obstruct or intimidate a POCTA inspector in the discharge of the inspector's powers under this Part.
- Penalty: 60 penalty units.
- (2) A person must not refuse admission to a POCTA inspector exercising a power of entry or a person assisting a POCTA

inspector in exercising a power of entry under this Part.

Penalty: 60 penalty units.

- 5 (3) A person must not contravene or fail to comply with any direction or requirement of a POCTA inspector who is acting in the discharge of the inspector's powers under this Part.

Penalty: 60 penalty units.

10 **24ZS Offences as to veterinary practitioners etc.**

- 15 (1) A person must not assault, obstruct, hinder, threaten, abuse, insult, intimidate or attempt to obstruct or intimidate a veterinary practitioner or superintendent of a saleyard (within the meaning of section 24D) in the discharge of that practitioner's or superintendent's powers under this Part.

Penalty: 60 penalty units.

- 20 (2) A person must not contravene or fail to comply with any direction or requirement of a veterinary practitioner or superintendent of a saleyard (within the meaning of section 24D) who is acting in the discharge of that practitioner's or superintendent's powers under this Part.

25 Penalty: 60 penalty units.

**24ZT Offence to fail to provide name and address**

- 30 (1) If a POCTA inspector believes, on reasonable grounds, that a person has committed an offence against this Part or Part 2, the inspector may ask the person to state his or her name and ordinary place of residence or business.

(2) In making a request under subsection (1), the inspector must inform the person of the grounds for his or her belief that the person has not complied with the requirement.

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(3) A person must not—

(a) refuse or fail to comply with a request under subsection (1) without a reasonable excuse for doing so; or

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(b) in response to a request under subsection (1)—

(i) state a name that is false in a material particular; or

15

(ii) state an address that is not the full and correct address of his or her ordinary place of residence or business.

Penalty: 10 penalty units.

20

(4) If a person states a name and address in response to a request under subsection (1) and the inspector suspects, on reasonable grounds, that the stated name and address may be false, the inspector may request the person to produce evidence of the correctness of the name and address.

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(5) A person to whom a request under subsection (4) is made must comply with the request, unless he or she has a reasonable excuse for not doing so.

Penalty: 10 penalty units.

30

(6) It is not an offence for a person to fail to comply with a request under subsection (1) or (4)—

(a) if the inspector did not inform the person, at the time the request was made, that it is an offence to fail to comply with the request; or

5

(b) if the inspector did not identify himself or herself in accordance with section 24ZU before making the request.

10

**24ZU POCTA inspectors must identify themselves**

A POCTA inspector must produce proof of his or her identity and official status—

(a) before exercising a power under section 24ZT; and

15

(b) at any time during the exercise of a power under section 24ZT, if asked to do so.

**24ZV Protection against self-incrimination**

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(1) It is a reasonable excuse for a natural person to refuse or fail to give information or do any other thing that the person is required to do by or under this Part, if the giving of the information or the doing of that other thing would tend to incriminate the person.

25

(2) Despite subsection (1), it is not a reasonable excuse for a natural person to refuse or fail to produce a document that the person is required to produce by or under this Part, if the production of the document would tend to incriminate the person.

30

**24ZW Power to file charges**

(1) A charge for an offence under this Part or Part 2 or an offence under regulations under this Act relating to this Part or Part 2 may only be filed by—

35

- 5 (a) a member of the police force; or
- (b) a person who is authorised for that purpose by the Minister in writing and who is—
- 10 (i) employed under Part 3 of the **Public Administration Act 2004**; or
- (ii) an officer of a council (but only in respect of an alleged offence committed in the municipal district of the council of which that person is an officer); or
- 15 (iii) a full-time officer of the Royal Society for the Prevention of Cruelty to Animals.
- (2) An authorisation under subsection (1)(b)—
- (a) must not be for a period of more than 3 years; and
- 20 (b) remains in force until 30 June in the year specified in the authorisation as the year in which it ceases to have effect.
- (3) The Minister may cancel an authorisation under subsection (1)(b)."

25 **96 Insertion of new definition of animal in Part 3**

**Insert** the following definition in section 25 of the **Prevention of Cruelty to Animals Act 1986**—

**"*animal*** means—

- 30 (a) a live member of a vertebrate species including any—
- (i) fish or amphibian; or



(ii) reptile, bird or mammal, other than any human being or any reptile, bird or other mammal that is below the normal mid-point of gestation or incubation for the particular class of reptile, bird or mammal; or

(b) a live adult decapod crustacean, that is—

(i) a lobster; or

(ii) a crab; or

(iii) a crayfish; or

(c) a live adult cephalopod including—

(i) an octopus; or

(ii) a squid; or

(iii) a cuttlefish; or

(iv) a nautilus;".

**97 Penalties for carrying out scientific procedures without licence**

For the penalty at the foot of sections 26(1), 26(2), 26(3) and 26(4) of the **Prevention of Cruelty to Animals Act 1986 substitute—**

"Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate.".

**98 Penalties for carrying out scientific procedures outside scientific premises**

For the penalty at the foot of sections 27(1) and 27(2) of the **Prevention of Cruelty to Animals Act 1986 substitute—**

"Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate."

**99 Penalties for breeding animals for use in scientific procedures**

For the penalty at the foot of sections 28(1) and 28(2) of the **Prevention of Cruelty to Animals Act 1986 substitute—**

"Penalty: 20 penalty units, in the case of a natural person.

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

**100 Penalties for failure to comply with conditions applying to scientific procedures**

For the penalty at the foot of sections 32(2) and 32(3) of the **Prevention of Cruelty to Animals Act 1986 substitute—**

"Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate."

**101 Penalties for failure to comply with field work conditions**

For the penalty at the foot of sections 32D(2) and 32D(3) of the **Prevention of Cruelty to Animals Act 1986 substitute—**

"Penalty: 120 penalty units or imprisonment for 12 months, in the case of a natural person.

600 penalty units, in the case of a body corporate."

**102 Penalties for failure to comply with conditions on specified animals breeding licence**

For the penalty at the foot of sections 32H(2) and 32H(3) of the **Prevention of Cruelty to Animals Act 1986 substitute—**

"Penalty: 20 penalty units, in the case of a natural person.

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

**103 Penalties for carrying out certain procedures**

(1) In section 36(1) of the **Prevention of Cruelty to Animals Act 1986—**

(a) after "is guilty of an offence" **insert** "and is liable to a penalty of not more than, in the case of a natural person, 120 penalty units or imprisonment for 12 months, or, in the case of a body corporate, 600 penalty units";

(b) **omit—**

"Penalty: For a person who is a corporation—120 penalty units.

For a person other than a corporation—60 penalty units or imprisonment for 6 months."

(2) In section 36(2) of the **Prevention of Cruelty to Animals Act 1986**—

(a) after "is guilty of an offence" **insert** "and is liable to a penalty of not more than, in the case of a natural person, 120 penalty units or imprisonment for 12 months, or, in the case of a body corporate, 600 penalty units";

(b) **omit**—

"Penalty: For a person who is a corporation—120 penalty units.

For a person other than a corporation—60 penalty units or imprisonment for 6 months."

(3) In section 36(3) of the **Prevention of Cruelty to Animals Act 1986**—

(a) after "is guilty of an offence" **insert** "and is liable to a penalty of not more than, in the case of a natural person, 120 penalty units or imprisonment for 12 months, or, in the case of a body corporate, 600 penalty units";

(b) **omit**—

"Penalty: For a person who is a corporation—120 penalty units.

For a person other than a corporation—60 penalty units or imprisonment for 6 months."

**104 Consequential repeal of section**

Section 37 of the **Prevention of Cruelty to Animals Act 1986** is repealed.

**105 Delegation**

In section 38 of the **Prevention of Cruelty to Animals Act 1986**, after "this Act" (where twice occurring) **insert** "or regulations under this Act".

**106 Liability for offences**

Sections 41(3), 41(4) and 41(6) of the **Prevention of Cruelty to Animals Act 1986** are repealed.

**107 Insertion of new sections 41AA, 41AB and 41AC**

After section 41 of the **Prevention of Cruelty to Animals Act 1986** insert—

**"41AA Offences by bodies corporate**

- (1) If a body corporate contravenes any provision of this Act, each officer of the body corporate is deemed to have contravened the same provision if the officer knowingly authorised or permitted the contravention.
- (2) A person may be proceeded against and convicted under a provision in accordance with subsection (1) whether or not the body corporate has been proceeded against under that provision.
- (3) Nothing in this section affects any liability imposed on a body corporate for an offence committed by the body corporate against this Act.

**41AB Conduct by officers, employees or agents**

- (1) If, in any proceedings under this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show—
  - (a) that the conduct was engaged in by an officer of that body corporate within the scope of the officer's actual or apparent authority and the officer had that state of mind; or

- 5
- (b) that the conduct was engaged in by an agent of the body corporate and—
- (i) the agent acted at the specific direction or with the specific consent or agreement of the body corporate; and
- (ii) the agent had that state of mind; and
- 10 (iii) the body corporate was aware of the agent's state of mind when the conduct was engaged in.
- (2) For the purposes of any proceedings under this Act, any conduct engaged in on behalf of a body corporate is deemed to have been engaged in also by the body corporate if the
- 15 conduct was engaged in by—
- (a) an officer of the body corporate within the scope of the officer's actual or apparent authority; or
- 20 (b) any other person at the specific direction or with the specific consent or agreement of an officer of the body corporate, if the giving of the direction, consent or agreement is within the
- 25 scope of the actual or apparent authority of the officer.
- (3) If, in any proceedings under this Act, it is necessary to establish the state of mind of a person other than a body corporate in
- 30 relation to particular conduct, it is sufficient to show—
- (a) that the conduct was engaged in by an employee of that person within the scope of the employee's actual or
- 35 apparent authority and the employee had that state of mind; or
-

- 5
- (b) that the conduct was engaged in by an agent of the person and—
- (i) the agent acted at the specific direction or with the specific consent or agreement of the person; and
- (ii) the agent had that state of mind; and
- 10 (iii) the person was aware of the agent's state of mind when the conduct was engaged in.
- (4) For the purposes of any proceedings under this Act, any conduct engaged in on behalf of a person other than a body corporate (*the principal*) is deemed to have been engaged in also by the principal if the conduct was engaged in by—
- 15
- (a) an employee of the principal within the scope of the employee's actual or apparent authority; or
- 20
- (b) any other person at the specific direction or with the specific consent or agreement of an employee of the principal, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the employee.
- 25
- (5) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the intention, opinion, belief or purpose.
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**41AC Time for filing certain charges under this Act**

Despite anything to the contrary in section 26(4) of the **Magistrates' Court Act 1989**, proceedings for any offence under section 9, section 10, Part 3 or any regulations relating to Part 3 may be commenced within the period of three years after the date on which the alleged offence was committed."

**108 Regulation making powers**

(1) In section 42(1) of the **Prevention of Cruelty to Animals Act 1986**—

(a) for paragraph (b) **substitute**—

"(b) traps, including but not limited to the following—

(i) the nature, dimensions and features of traps;

(ii) the use of traps;

(iii) the purposes for which and the places in which traps may be used;"

(b) for paragraph (d) **substitute**—

"(d) rodeo licences, rodeo school permits and rodeo permits, including, but not limited to—

(i) granting or issuing licences or permits; or

(ii) conditions on licences or permits; or

(iii) applications for licences or permits;



(da) the conduct of rodeos or the operation of rodeo schools, including, but not limited to obligations imposed on persons who—

5

(i) participate in; or

(ii) conduct or operate; or

(iii) assist in the conduct or operation of; or

10

(iv) are otherwise involved in—

rodeos or rodeo schools;"

(c) paragraph (j) is **repealed**.

(2) In section 42(2)(c) of the **Prevention of Cruelty to Animals Act 1986**, for "10 penalty units" substitute "20 penalty units".

15

**109 Amendment of reference**

In section 24Y of the **Prevention of Cruelty to Animals Act 1986**, for "**Domestic (Feral and Nuisance) Animals Act 1994**" substitute "**Domestic Animals Act 1994**".

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**110 Further amendment of the Prevention of Cruelty to Animals Act 1986**

The **Prevention of Cruelty to Animals Act 1986** is amended as set out in Schedule 2.

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**PART 5—AMENDMENTS TO THE OMBUDSMAN ACT 1973**

**111 Functions and jurisdiction**

5 See:  
Act No.  
8414.  
Reprint No. 7  
as at  
16 February  
2006  
and  
amending  
Act Nos  
23/2006,  
29/2006,  
43/2006 and  
80/2006.  
LawToday:  
www.  
legislation.  
vic.gov.au

In section 13(2AC) of the **Ombudsman Act 1973**, for "the **Domestic (Feral and Nuisance) Animals Act 1994**" substitute "the **Domestic Animals Act 1994**".

**112 Procedure relating to investigations**

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In section 17(1) of the **Ombudsman Act 1973**, for "the **Domestic (Feral and Nuisance) Animals Act 1994**" (wherever occurring) substitute "the **Domestic Animals Act 1994**".

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**PART 6—REPEAL OF AMENDING ACT**

**113 Repeal of Act**

This Act is **repealed** on 1 December 2010.

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## SCHEDULES

### SCHEDULE 1

Section 44

#### CONSEQUENTIAL AMENDMENTS TO THE DOMESTIC (FERAL AND NUISANCE) ANIMALS ACT 1994

##### 1 Persons who may inspect register

In section 44AC(2)(e)—

- (a) for "a domestic animals registry licence"  
**substitute** "an animal registry licence";
- (b) for "a domestic animals registry service"  
**substitute** "an animal registry service".

##### 2 Offences relating to keeping of records

In section 63E—

- (a) for "a domestic animals registry licence"  
**substitute** "an animal registry licence";
- (b) for "each dog or cat" **substitute** "each animal  
of a prescribed class of animal";
- (c) for "domestic animals registry service"  
**substitute** "animal registry service";
- (d) for "that dog or cat" **substitute** "that animal".

##### 3 Offences relating to implantation of permanent identification devices

In section 63F, for "a dog or cat" **substitute**  
"an animal of a prescribed class of animal".

**4 Offence not to give information to licence holder on implantation**

In section 63G—

- (a) for "a dog or cat" **substitute** "an animal of a prescribed class of animal";
- (b) for "a domestic animals registry licence" **substitute** "an animal registry licence";
- (c) for "a domestic animals registry service" **substitute** "an animal registry service".

**5 Offence not to give identifying information in certain circumstances**

(1) In section 63H(1)—

- (a) for "a dog or cat" **substitute** "an animal of a prescribed class of animal";
- (b) for "domestic animals registry service" **substitute** "animal registry service";
- (c) for "that dog or cat" **substitute** "that animal";
- (d) for "domestic animals registry licence" **substitute** "animal registry licence";
- (e) for "the dog or cat" **substitute** "the animal".

(2) In section 63H(2)—

- (a) for "a domestic animals registry licence" **substitute** "an animal registry licence";
- (b) for "domestic animals registry service for that dog or cat" **substitute** "animal registry service for an animal of a prescribed class of animal";
- (c) for "dog or cat" (where secondly occurring) **substitute** "animal".

Sch. 1

**6 Offence not to provide certain information relating to identification devices to licence holders**

(1) In the heading to section 63I, for "**domestic animals registry licences**" substitute "**animal registry licences**".

(2) In section 63I(1), for "domestic animals registry licences" substitute "animal registry licences".

**7 Requirement to scan animals for permanent identification devices**

(1) In the heading to section 63J, for "**dogs or cats**" substitute "**animals**".

(2) In section 63J—

(a) for "a dog or cat who" substitute "an animal of a prescribed class of animal that";

(b) for "the dog or cat" substitute "the animal".

**8 Division heading substituted**

For the heading to Division 3 of Part 4A substitute—

**"Division 3—Animal registry licences".**

**9 Section 63K substituted**

For section 63K substitute—

**"63K Grant of animal registry licence**

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

**10 Application for animal registry licence**

(1) For the heading to section 63L substitute—

**"Application for an animal registry licence".**

(2) In section 63L(1), for "a domestic animals registry licence" substitute "an animal registry licence".

**11 Duration of licences**

In section 63M, for "A domestic animals registry licence" (wherever occurring) **substitute** "An animal registry licence".

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**12 Conditions on licences**

In section 63N, for "A domestic animals registry licence" **substitute** "An animal registry licence".

**13 Renewal of licences**

In section 63O—

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(a) in subsections (1) and (2), for "a domestic animals registry licence" **substitute** "an animal registry licence";

15

(b) in subsection (5), for "A domestic animals registry licence" **substitute** "An animal registry licence".

**14 Notice of proposal to cancel licence**

(1) For the heading to section 63P **substitute**—

**"Notice of proposal to cancel an animal registry licence"**.

20

(2) In section 63P(1), for "a domestic animals registry licence" **substitute** "an animal registry licence".

**15 Making of submissions on proposal to cancel**

In section 63Q(1), for "a domestic animals registry licence" **substitute** "an animal registry licence".

25

**16 Cancellation of licence**

(1) For the heading to section 63R **substitute**—

**"Cancellation of an animal registry licence"**.

30

(2) In sections 63R(1) and 63R(4), for "a domestic animals registry licence" (wherever occurring) **substitute** "an animal registry licence".

**17 Requirements to surrender records**

In section 63S—

(a) for "a domestic animals registry licence"  
**substitute** "an animal registry licence";

(b) for "the domestic animals registry service"  
**substitute** "the animal registry service".

**18 Qualifications for implanters**

In section 63T, for "domestic animals  
identification devices" **substitute** "permanent  
identification devices".

**19 Notice of proposal to impose prohibition on  
implanting**

In section 63U(1), for "dogs and cats" **substitute**  
"animals of prescribed classes of animal".

**20 Power of the Secretary to prohibit a person from  
implanting devices**

In section 63W(1)—

(a) in paragraph (b), for "a domestic animals  
registry licence" **substitute** "an animal  
registry licence";

(b) in paragraph (c) for "in dogs and cats"  
**substitute** "in animals of prescribed classes  
of animal".

**21 Powers of authorised officers**

In section 74—

(a) in subsections (1)(c) and (1A)(d), for  
"a domestic animals registry licence"  
**substitute** "an animal registry licence";

(b) in subsection (1A), for "domestic animals  
registry services" **substitute** "animal registry  
services";



(c) in subsection (1B)—

(i) in paragraph (e), for "domestic animals registry services" **substitute** "animal registry services";

5

(ii) in paragraph (f), for "dogs or cats" **substitute** "animals of prescribed classes of animal".

**22 Seizure of records of information recorded in permanent identification devices**

10

In section 75A(1), for "a domestic animals registry licence" **substitute** "an animal registry licence".

**23 Disposal of records seized under section 75A**

In section 75B—

15

(a) in subsection (1), for "a domestic animals registry licence" **substitute** "an animal registry licence";

20

(b) in subsection (2), for "the domestic animals registry licence" **substitute** "the animal registry licence";

(c) in subsection (3), for "domestic animals registry service" (wherever occurring) **substitute** "animal registry service".

**24 Application of proceeds of sale**

25

In section 75C, for "domestic animals registry licence" (wherever occurring) **substitute** "animal registry licence".

**25 Review of decisions made under Part 4A**

In section 98AA(1)—

30

(a) for "a domestic animals registry licence" (wherever occurring) **substitute** "an animal registry licence";

**Sch. 1**

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(b) for "dogs and cats" **substitute** "animals of prescribed classes of animal".

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**SCHEDULE 2**

Section 110

**FURTHER AMENDMENT OF THE PREVENTION OF  
CRUELTY TO ANIMALS ACT 1986**

For the Schedule to the **Prevention of Cruelty to Animals Act  
1986 substitute—**

5

**"SCHEDULE**

Section 15C

**TABLE OF DISEASES CAUSED BY HERITABLE DEFECTS**

<i>Column 1</i> <i>Species</i>	<i>Column 2</i> <i>Disease</i>
Dogs	Von Willebrand's Disease (VWD) Progressive Retinal Atrophy (PRA) Neuronal Ceroid Lipofuscinosis (NCL) Collie Eye Anamoly (CEA/CH) Hereditary Cataract (HC)
Cats	Polycystic Kidney Disease (PKD) Mutations causing aplasia or hypoplasia of any long bone Folded ears due to osteochondrodysplasia

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**ENDNOTES**

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