

Version No. 028
Domestic (Feral and Nuisance) Animals Act
1994

Act No. 81/1994

Version incorporating amendments as at 25 August 2005

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1. Purpose	1
2. Commencement	2
3. Definitions	2
4. Parent or guardian deemed to be owner	6
5. Governor in Council exemptions	6
5A. Applicable organisations and recognised organisations	6
6. Minister's power to delegate	7
7. Exemptions for guide dogs	8
8. Exemptions for dogs used by government authorities	9
9. Act binds the Crown	9
PART 2—REGISTRATION OF DOGS AND CATS	10
Division 1—Registration requirements	10
10. Requirement to apply for registration	10
11. Period of registration	10
12. Agents for registration	10
13. Notification of sale by domestic animal businesses	11
Division 2—Procedures for registration	11
14. Application for registration or renewal of registration	11
15. Registration fees	12
Division 3—Powers and Duties of Councils with respect to registration	13
16. Council required to register cats and dogs other than dangerous dogs	13
17. Registration of dangerous dogs	13
18. Council to keep and allow inspection of register	14

<i>Section</i>	<i>Page</i>
Division 4—Identification of registered animals	15
19. Registration numbers, certificates and identification markers	15
20. Registered dog or cat to have identification marker outside premises	15
21. Unregistered dog or cat must not have identification marker	16
22. Offence to remove or damage identification marker	16
 PART 3—CONTROL OF DOGS AND CATS	 17
Division 1—Stray dogs and cats	17
23. Dogs and cats on private property without permission	17
24. Dogs found at large	18
25. Cats found at large	18
26. Dogs and cats found in places specified by the Council	19
Division 2—Particular provisions for the control of Dogs and Cats	20
27. Restraint of greyhounds	20
28. Offence to set on dog to attack	21
28A. Offence to train dogs to attack	21
29. Penalty and liability for attack by dog	22
30. Owner of livestock able to destroy dog or cat found at large near livestock	23
31. Authorised officer able to destroy dog or cat found at large in certain areas	24
32. Dogs or cats creating a nuisance	24
33. Dogs and cats not to be abandoned	25
Division 3—Particular provisions for the control of dangerous dogs	25
34. Council may declare a dog to be dangerous	25
34A. Dangerous dogs	26
35. Procedure for making declaration	27
36. Council must give notice of a declaration to owner	27
37. Notification of Council	27
38. Restraint of dangerous dogs when on owner's premises	29
39. Warning signs	30
40. Identification of dangerous dogs	31
41. Restraint of dangerous dogs off the owner's premises	31
Division 3A—Particular provisions for the control of menacing dogs	31
41A. Declaration that a dog is a menacing dog	31
41B. Procedure for declaring a menacing dog	32
41C. Council must give notice of a menacing dog declaration to owner	33
41D. Notification of Council in relation to menacing dog	33
41E. Restraint of menacing dogs	34

<i>Section</i>	<i>Page</i>
Division 3B—Particular provisions for the control of restricted breed dogs	34
41F. Notifications	34
41G. Restraint of restricted breed dogs when on owner's premises	35
41H. Warning signs for restricted breed dogs	36
41I. Restraint of restricted breed dogs off the owner's premises	36
41J. Limitation on ownership of restricted breed dogs	36
41K. Prohibition on transfer of ownership of restricted breed dogs to minors	37
41L. Prohibition on minor having control of dog outside owner's premises	37
Division 4—Powers and duties of Councils with respect to the control of dogs and cats	37
42. Power of Councils to make local laws	37
43. Power of authorised officer to destroy animals at large in specified areas	38
44. Power of Councils to require restraint of animals	38
PART 4—REGISTRATION AND CONDUCT OF DOMESTIC ANIMAL BUSINESSES	39
Division 1—Registration	39
44A. Application of Division	39
45. Offence to conduct domestic animal business on unregistered premises	39
46. Application for registration	39
47. Registration of premises	39
48. Term and renewal of registration	40
49. Fees for registration and renewal of registration	40
50. Animal shelter or pound conducted by Council	40
Division 2—Surrender or transfer of registration	41
50A. Application of Division	41
51. Surrender of registration	41
52. Transfer of registration	41
53. <i>Repealed</i>	41
Division 3—Refusal to register or suspension or revocation of registration	42
54. Powers of Council	42
55. Council to give notice	42
56. Council to hear proprietor or applicant	42
57. Notice of Council's decision	43
57A. Court may cancel or revoke registration	43

<i>Section</i>	<i>Page</i>
Division 3A—Registration of Business conducted by Council	44
58. Revocation or suspension of Council animal shelter or pound	44
58A. Offence to conduct domestic animal business on unregistered premises	44
58B. Application for registration	44
58C. Registration of premises	45
58D. Term and renewal of registration	45
58E. Fees for registration and renewal of registration	45
58F. Surrender of registration	46
58G. Transfer of registration	46
58H. Powers of Minister	46
58I. Minister to give notice	47
58J. Minister to hear proprietor or applicant	47
58K. Notice of Minister's decision	47
Division 4—Codes of Practice	48
59. Making of Codes of Practice	48
60. Advertisement of making	48
61. Consideration of submissions	49
62. Notice of making	49
63. Publication, operation and availability of Code	49
63A. Code of Practice offence	50
PART 5—BOARDING OF DOGS AND CATS	51
64. Responsibility for boarded dogs or cats	51
65. Liens over animals	51
66. Can lien holder dispose of animal?	52
67. Sale of unclaimed animals by lien holders	53
68. Passing of property upon sale of animal	54
PART 6—FINANCIAL PROVISIONS	55
69. Payments to the Treasurer	55
70. Due date for payments to the Treasurer	55
PART 7—ENFORCEMENT AND SUPPLEMENTARY PROVISIONS	56
Division 1—Authorised officers	56
71. Appointment of authorised officers	56
72. Appointment of authorised officers by Council	56
73. Identity cards for authorised officers	56
73A. Offence to impersonate authorised officer	57
74. Powers of authorised officers	57

<i>Section</i>	<i>Page</i>
75. Seizure of documents	58
76. Offence to refuse to give information or documents	59
76A. Notice to comply	60
Division 2—Powers to Seize and Destroy Dogs and Cats	60
77. Seizure of dogs or cats	60
77A. Warrants for search and seizure	62
77B. Announcement before entry	63
77C. Details of warrant to be given to occupier	64
78. Owner to be notified	64
79. Recovery of animal	65
80. Power to sell or destroy seized dogs or cats	66
81. Agreements	68
82. Offences relating to seized cats or dogs	68
83. Method of destroying dogs or cats	69
84. Offence to unlawfully seize or destroy a dog or cat	69
Division 3—Infringement Notices	70
85. Power to serve a notice	70
86. Form of infringement notice	70
87. Withdrawal of notice	71
88. Penalties to be paid for offences under infringement notices	71
89. Payment of penalty	72
90. Notice not to prejudice further proceedings	72
Division 4—Provisions related to court proceedings	73
91. Liability of officers of bodies corporate for offences	73
92. Power to file charges under this Act	73
93. Service of documents	73
94. Evidentiary provisions	74
95. Payment of fines	74
Division 4A—Further Procedures for Dogs and Cats Found at Large	75
95A. Power of the court to make orders in relation to dogs and cats found outside owners' premises	75
95B. Powers and duties of Council if order not complied with	75
95C. Owner to be notified	76
95D. Further power of Court to order payment of costs and destruction of dogs or cats	76
Division 5—Supplementary offences	77
96. Offence to sell certain animals outside certain places	77
97. False information	77

<i>Section</i>	<i>Page</i>
Division 6—Review of decisions by the Victorian Civil and Administrative Tribunal	78
98. Review of decisions by Victorian Civil and Administrative Tribunal	78
Division 7—Procedures for identifying restricted breed dogs	80
98A. Power of authorised officers to make declarations as to breed of dogs	80
98B. Service of notice of declaration	81
98C. Application of certain offences at the time of the making of a declaration	81
98D. Right to apply for review of decision to make declaration	82
98E. Review panel	82
98F. Procedure and decisions of review panels	83
98G. Terms and conditions of appointment of members of the pool and of panels	83
PART 8—LIMITATION OF JURISDICTION AND REGULATIONS	84
99. Supreme Court—Limitation of Jurisdiction	84
100. Regulations	84
PART 9—REPEALS AND TRANSITIONAL PROVISIONS	86
101. Repeal of Dog Act	86
102. Saving provisions	86
SCHEDULE	88
ENDNOTES	90
1. General Information	90
2. Table of Amendments	91
3. Explanatory Details	93

Version No. 028
Domestic (Feral and Nuisance) Animals Act
1994

Act No. 81/1994

Version incorporating amendments as at 25 August 2005

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purpose

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

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

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

Part 1—Preliminary

s. 2

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

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

(g) other related matters.

2. Commencement

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

3. Definitions

(1) In this Act—

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

* * * * *

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

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

Part 1—Preliminary

s. 3

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

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

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

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

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

"dangerous dog" means—

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

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

"Department" means the Department of Primary Industries;

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

"domestic animal business" means—

- (a) an animal shelter, Council pound or pet shop; or
- (b) an enterprise that is run for profit which carries out all or any of the following activities—
 - (i) the breeding of dogs or cats, where—

S. 3(1) def. of "domestic animal business" amended by No. 87/2000 s. 4(c).

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

Part 1—Preliminary

s. 3

- (A) the enterprise has more than 10 fertile female animals of either or both species; or
- (B) the enterprise has less than 10 fertile female animals but the owner is not a member of an applicable organisation; or
- (ii) the rearing, training or boarding of dogs and cats;

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

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

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

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

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

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

"pet shop" means a shop—

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

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

Part 1—Preliminary

s. 3

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 1—Preliminary

s. 4

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

4. Parent or guardian deemed to be owner

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

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

5. Governor in Council exemptions

(1) The Governor in Council may by order published in the Government Gazette exempt—

- (a) any animal or class of animal; or
- (b) any domestic animal business or class of domestic animal business—

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

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

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

5A. Applicable organisations and recognised organisations

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

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

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

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

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

Part 1—Preliminary

s. 6

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

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

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

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

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

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

6. Minister's power to delegate

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

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

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

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

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

Part 1—Preliminary

s. 7

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

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

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

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

7. Exemptions for guide dogs

- (1) A visually impaired person or hearing impaired person who keeps and uses a dog as a guide dog is not liable for an offence under this Act in respect of that dog, where, in acting in the manner which would constitute the offence, the dog was performing its functions as a guide dog.
- (2) In the case of a dog which is owned by an organisation which trains guide dogs and which is approved by the Minister, the owner is not liable for an offence under this Act in respect of that dog, where in acting in the manner which would constitute the offence, the dog was being trained as a guide dog.
- (3) Despite Part 2—
 - (a) a visually impaired person or hearing impaired person who keeps and uses a dog as a guide dog is not required to pay a fee for the registration of that dog; or
 - (b) an organisation which trains guide dogs and which is approved by the Minister under subsection (2), is not required to pay a fee for the registration of a dog owned by the organisation which is being trained as a guide dog.

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

8. Exemptions for dogs used by government authorities

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

9. Act binds the Crown

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

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

Part 2—Registration of Dogs and Cats

s. 10

PART 2—REGISTRATION OF DOGS AND CATS

Division 1—Registration requirements

10. Requirement to apply for registration

S. 10(1)
amended by
No. 69/2004
s. 23.

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

Penalty: 5 penalty units.

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

Penalty: 5 penalty units.

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

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

Penalty: 5 penalty units.

11. Period of registration

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

12. Agents for registration

- (1) A Council may appoint a person or organisation to act as an agent for the Council in the registration of cats and dogs, other than dangerous dogs if that person or organisation is—

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

Part 2—Registration of Dogs and Cats

s. 13

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

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

13. Notification of sale by domestic animal businesses

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

Penalty: 3 penalty units.

Division 2—Procedures for registration

14. Application for registration or renewal of registration

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

- (a) be made to the Council or an agent appointed by the Council; and
- (b) be in the form approved by the Council; and
- (c) be accompanied by the relevant registration fee fixed by the Council.

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

Part 2—Registration of Dogs and Cats

s. 15

15. Registration fees

- (1) A Council must, by resolution, fix fees to be paid for registration or renewal of registration under this Part.
- (2) If a dog or cat is required to be registered for part only of a year, the Council may permit a pro rata fee to be paid for that registration which represents that proportion of the year for which the animal is registered.
- (3) A resolution under sub-section (1) must adopt the principles set out in this section but may make provision for other matters including the circumstances in which a fee or part of a fee may be refunded.
- (4) A scheme of registration fees in respect of dogs or cats must apply the following principles—
 - (a) the maximum fee is to be payable in respect of the types of dog or cat described in Column 1 of the Schedule under dog or cat;
 - (b) the reduced fee is to be payable in respect of the types of dog or cat described in Column 2 of the Schedule under dog or cat.
- (5) In fixing a maximum fee for registration of dogs or cats, the Council must fix a fee which is at least 3 times greater than the reduced fee.
- (6) A Council must waive 50% of a registration fee which a person would otherwise be required to pay for a dog or cat under this section if that person—
 - (a) is an eligible recipient within the meaning of the **State Concessions Act 2004**; and
 - (b) has completed and given to the Council an application for such a waiver in the form approved by the Council.

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

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

Part 2—Registration of Dogs and Cats

s. 16

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- (7) Despite sub-sections (1) to (6), the maximum fee for registration of dogs is payable in respect of—
- (a) a menacing dog;
 - (b) a dog that is declared to be a dangerous dog after the commencement of section 8 of the **Domestic (Feral and Nuisance) Animals (Amendment) Act 2000**;
 - (c) a dog that is declared to be a dangerous dog under section 34(1)(a) before the commencement of section 8 of the **Domestic (Feral and Nuisance) Animals (Amendment) Act 2000**.

S. 15(7)
inserted by
No. 87/2000
s. 8.

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

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

S. 16
amended by
No. 83/2001
s. 13.

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

17. Registration of dangerous dogs

- (1) A Council may register or renew the registration of a dangerous dog or a restricted breed dog and may impose conditions upon the registration of that dog.
- (2) If the Council proposes not to register or renew the registration of a dangerous dog or a restricted breed dog, the Council must—
 - (a) notify the owner; and

S. 17(1)
amended by
No. 83/2001
s. 14(a).

S. 17(2)
amended by
No. 83/2001
s. 14(b).

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

Part 2—Registration of Dogs and Cats

s. 18

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

- (b) allow the owner the opportunity to make both written and oral submissions to the Council.
- (3) The Council must consider any submission to it before making its decision.
- (4) If the Council has decided not to register or renew the registration of a dangerous dog or a restricted breed dog, it must serve written notice of that decision on the owner.
- (5) The notice must—
 - (a) be served within 7 days of the making of the decision; and
 - (b) give reasons for the decision.

18. Council to keep and allow inspection of register

- (1) The Council must keep a register of all registered dogs and cats at the Council office.
- (2) The registration of any dog or cat may be inspected by any person—
 - (a) during office hours; and
 - (b) upon payment of the fee fixed by the Council for the inspection of that registration.
- (3) A person may—
 - (a) make a record of the information contained in the registration of a dog or cat; or
 - (b) obtain a certificate from the Council setting out all or any requested particulars in relation to the registration of a dog or cat—

upon payment of the fee fixed by the Council for making such a record or obtaining such a certificate.

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

Part 2—Registration of Dogs and Cats

s. 19

Division 4—Identification of registered animals

19. Registration numbers, certificates and identification markers

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

S. 19(2)
substituted by
No. 83/2001
s. 15.

Penalty: 5 penalty units.

20. Registered dog or cat to have identification marker outside premises

- (1) If a registered dog or cat is found outside the owner's premises without the identification required by section 19, the owner is guilty of an offence and liable upon conviction to a penalty of not more than 1 penalty unit.
- (2) Sub-section (1) does not apply to—
- (a) a fox hound, beagle or greyhound engaged in a public coursing match or in a hunt organised by a hunt club registered with the Hunts Club Association of Victoria Incorporated or any successor in law of that association; or

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

Part 2—Registration of Dogs and Cats

s. 21

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

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

- (b) a dog engaged in working livestock; or
- (c) a dog going to a place for the purpose of working livestock or returning from a place where it has been working livestock if it is under the effective control of some person; or
- (d) a dog or cat while it is being exhibited for show purposes at a fixture conducted under the rules and regulations of an applicable organisation; or
- (da) a dog while it is being exhibited for show purposes at a fixture conducted by a recognised organisation; or
- (e) a dog while it is being trained for or is participating in obedience trials or classes, retrieving game, hunting or some other customary sporting activity and is under the effective control of a responsible person.

21. Unregistered dog or cat must not have identification marker

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

22. Offence to remove or damage identification marker

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

Penalty: 1 penalty unit.

PART 3—CONTROL OF DOGS AND CATS

Division 1—Stray dogs and cats

23. Dogs and cats on private property without permission

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

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

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

Part 3—Control of Dogs and Cats

s. 24

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

24. Dogs found at large

S. 24(1)
amended by
No. 87/2000
s. 11(a).

- (1) If a dog is found at large outside the premises of the owner or not securely confined to the owner's premises, between sunrise and sunset, the owner is guilty of an offence and liable upon conviction to a penalty of not more than 3 penalty units.
- (2) If a dog is found at large outside the premises of the owner or not securely confined to the owner's premises between sunset and sunrise, the owner is guilty of an offence and liable upon conviction to a penalty of not more than 5 penalty units.

S. 24(2)
amended by
No. 87/2000
s. 11(b).

25. Cats found at large

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

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

Part 3—Control of Dogs and Cats

s. 26

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

26. Dogs and cats found in places specified by the Council

- (1) If a dog or cat is found in a place in respect of which an order under this section has been made in contravention of that order or any terms and conditions of that order, the owner is guilty of an offence and liable, upon conviction, to a penalty of not more than 2 penalty units for a first offence and 4 penalty units for a second or subsequent offence.
- (2) A Council may by resolution make an order under this section which may do all or any of the following—
- (a) prohibit the presence of dogs and cats in any public place of the municipal district of the Council;
 - (b) impose all or any of the following conditions on the presence of dogs or cats in any public place of the municipal district of the Council—
 - (i) conditions as to the means of restraint of dogs or cats;
 - (ii) conditions as to the times at which the presence of dogs or cats is or is not permitted;
 - (iii) any other conditions that are specified in the order.

S. 26(2)(a)
amended by
No. 87/2000
s. 12(1).

S. 26(2)(b)
amended by
No. 87/2000
s. 12(1).

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

Part 3—Control of Dogs and Cats

s. 27

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

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

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

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

27. Restraint of greyhounds

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

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

Part 3—Control of Dogs and Cats

s. 28

(3) Sub-section (1) does not apply to—

- (a) a greyhound which is being raced, coursed, exercised or trained upon land which the owner is authorised or entitled to use for that purpose; or
- (b) a greyhound while it is being exhibited for show purposes at a fixture conducted under the rules and regulations of the Victorian Canine Association or any successor in law of that association or an organisation approved by the Council of the municipal district in which the fixture is being conducted; or
- (c) a greyhound while it is participating in obedience trials or classes and is under the effective control of a responsible person.

28. Offence to set on dog to attack

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

Penalty: 120 penalty units or imprisonment for 6 months.

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

28A. Offence to train dogs to attack

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

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

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

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

Part 3—Control of Dogs and Cats

s. 29

(b) that person—

(i) is conducting; or

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

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

Penalty: 60 penalty units or imprisonment for 3 months.

29. Penalty and liability for attack by dog

S. 29(1) substituted by Nos 87/2000 s. 14(1), 83/2001 s. 25(1).

(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, on conviction, to a term of imprisonment not exceeding 6 months or to a fine not exceeding 120 penalty units.

S. 29(1AA) inserted by No. 83/2001 s. 25(1).

(1AA) If a dog that is not a dangerous dog, attacks or bites any person or animal, the owner is guilty of an offence and liable to a fine not exceeding 10 penalty units.

S. 29(1A) inserted by No. 87/2000 s. 14(1).

(1A) If a dog rushes at or chases any person, the owner is guilty of an offence and liable upon conviction to a penalty of not more than 4 penalty units.

S. 29(2) amended by Nos 87/2000 s. 14(2), 83/2001 s. 25(2).

(2) Sub-sections (1), (1AA) and (1A) do not apply if, the incident occurred—

- (a) because the dog was being teased, abused or assaulted; or
- (b) because another person was trespassing on the premises on which the dog was kept; or
- (c) because another animal was on the premises on which the dog was kept; or
- (d) because another person known to the dog was being attacked in front of the dog; or

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

Part 3—Control of Dogs and Cats

s. 30

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

(3) The owner of a dog is liable for any damage caused by conduct of that dog to which sub-section (1), (1AA) or (1A) applies.

S. 29(3)
amended by
Nos 87/2000
s. 14(3),
83/2001
s. 25(3).

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

S. 29(4)
amended by
Nos 87/2000
s. 14(4),
83/2001
s. 25(4).

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

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

(1) The owner of any animals or birds kept for farming purposes, any person authorised by the owner or an authorised officer may destroy any dog or cat found at large—

(a) in the place where the animals or birds are confined; or

(b) if the animals or birds are tethered, in the vicinity of the animals or birds.

(2) The owner, a person authorised by the owner or authorised officer does not incur any civil or criminal liability for acting under sub-section (1).

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

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

32. Dogs or cats creating a nuisance

- (1) The occupier of any premises where a dog or cat is kept or permitted to remain must not allow that animal to be a nuisance.
Penalty: 1 penalty unit.
 - (2) A dog or cat is to be regarded as a nuisance for the purposes of this section—
 - (a) if it injures or endangers the health of any person; or
 - (b) if it creates a noise, by barking or otherwise, which persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises.
 - (3) If a person is convicted of an offence against this section, the court may order the convicted person to take that action (if any) to abate the nuisance which is specified in the order.
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Domestic (Feral and Nuisance) Animals Act 1994
Act No. 81/1994

Part 3—Control of Dogs and Cats

s. 33

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

Penalty: 3 penalty units.

33. Dogs and cats not to be abandoned

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

Penalty: 10 penalty units.

Division 3—Particular provisions for the control of dangerous dogs

34. Council may declare a dog to be dangerous

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

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

S. 34(1)(a) amended by No. 87/2000 s. 15(a).

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

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

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

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

(d) for any other reason prescribed.

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

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

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

Part 3—Control of Dogs and Cats

s. 34A

- (b) in the case of injury to a person, because the person was trespassing on the premises on which the dog was kept; or
- (c) in the case of injury to another animal, because the animal was on the premises on which the dog was kept; or
- (d) because another person known to the dog was being attacked in front of the dog; or
- (e) as part of a hunt in which the dog was taking part and which was conducted in accordance with the **Prevention of Cruelty to Animals Act 1986**.

(3) A Council must not make a declaration under subsection (1)(a) where a dog has caused injury to a person unless the injury caused by the dog was in the nature of broken bones, lacerations requiring multiple sutures or cosmetic surgery or the total or partial loss of sensation or function in a part of the body.

(4) A declaration under this section—

- (a) has effect throughout Victoria; and
- (b) cannot be revoked, amended or otherwise altered.

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

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

34A. Dangerous dogs

A dog is a dangerous dog if—

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

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

Part 3—Control of Dogs and Cats

s. 35

35. Procedure for making declaration

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

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

36. Council must give notice of a declaration to owner

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

37. Notification of Council

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

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

Penalty: 5 penalty units.

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

Part 3—Control of Dogs and Cats

s. 37

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

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

Penalty: 5 penalty units.

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

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

Penalty: 5 penalty units.

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

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

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

Penalty: 5 penalty units.

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

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

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

- (b) the dog is missing; or

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

Part 3—Control of Dogs and Cats

s. 38

(ba) the owner's address changes; or

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

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

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

(c) the ownership of the dog changes.

Penalty: 10 penalty units.

38. Restraint of dangerous dogs when on owner's premises

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

(1) When a dangerous dog is kept on residential premises of the owner of the dog, the owner must ensure that—

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

(a) if the dog is inside any dwelling on the premises, it is confined in such a manner—

(i) that it cannot escape; and

(ii) that a person cannot enter the dwelling unless admitted by an occupier of the premises who is of or over 17 years of age; and

(b) there is on the premises, outside any dwelling, a prescribed enclosure; and

(c) when the dog is not inside any dwelling on the premises, the dog is kept in a prescribed enclosure.

Penalty: 10 penalty units.

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

Part 3—Control of Dogs and Cats

s. 39

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

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

Penalty: 10 penalty units.

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

39. Warning signs

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

Penalty: For a first offence 5 penalty units.

Second or subsequent offence
10 penalty units.

40. Identification of dangerous dogs

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

Penalty: First offence 5 penalty units.

Second or subsequent offence
10 penalty units.

41. Restraint of dangerous dogs off the owner's premises

(1) If a dangerous dog is outside the premises of its owner and is not—

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

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

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

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

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

41A. Declaration that a dog is a menacing dog

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

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

- (a) the dog has rushed at or chased a person; or

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

Part 3—Control of Dogs and Cats

s. 41B

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

(b) the dog has been declared a menacing dog under a law of another State or a Territory of the Commonwealth that corresponds with this Division.

(2) The Council must not make a declaration under sub-section (1)(a) if the incident occurred because—

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

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

(c) another person known to the dog was being attacked in front of the dog.

(3) The Council may revoke any declaration made under sub-section (1).

(4) The Council may delegate its power under sub-section (1) to an authorised officer.

(5) If the owner of a dog is convicted of an offence against section 29(1A), the court may order the Council to declare the dog to be a menacing dog under sub-section (1).

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

(6) A declaration under this section has effect throughout Victoria.

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

41B. Procedure for declaring a menacing dog

(1) If the Council proposes that a dog be declared a menacing dog, the Council must—

(a) notify the owner; and

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

(2) The Council must consider any submissions submitted to it before making a declaration.

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

Part 3—Control of Dogs and Cats

s. 41C

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

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

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

41D. Notification of Council in relation to menacing dog

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

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

- (a) the dog rushes at or chases a person; or
- (b) the dog is missing; or
- (ba) the owner's address changes; or

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

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

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

(c) the ownership of the dog changes.

Penalty: 10 penalty units.

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

Part 3—Control of Dogs and Cats

s. 41E

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

41E. Restraint of menacing dogs

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

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

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

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

41F. Notifications

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

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

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

- (a) the dog is missing; or
- (aa) the owner's address changes; or

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

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

- (b) the ownership of the dog changes.

Penalty: 10 penalty units.

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

Part 3—Control of Dogs and Cats

s. 41G

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

Penalty: 5 penalty units.

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

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

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

Penalty: For a first offence, 5 penalty units.

For a second or subsequent offence,
10 penalty units.

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

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

Part 3—Control of Dogs and Cats

s. 41H

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

41H. Warning signs for restricted breed dogs

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

Penalty: 5 penalty units.

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

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

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

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

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

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

41J. Limitation on ownership of restricted breed dogs

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

Penalty: 5 penalty units.

- (2) A Council may issue a permit to own more than 2 restricted breed dogs to any person who has applied to the Council for such a permit.
- (3) An application for a permit must be—
 - (a) in writing in the form approved by the Council; and
 - (b) accompanied by the fee determined by the Council for such an application.

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

Part 3—Control of Dogs and Cats

s. 41K

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- (4) A permit—
- (a) is subject to any terms and conditions determined by the Council; and
 - (b) remains in force for the period not exceeding 2 years determined by the Council; and
 - (c) may be renewed on application to the Council.
- (5) The holder of a permit must comply with the terms and conditions of the permit.

Penalty: 5 penalty units.

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

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

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

Penalty: 5 penalty units.

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

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

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

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

42. Power of Councils to make local laws

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

- (a) regulating the number of dogs or cats which may be kept on premises situated in the municipal district of the Council;

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

Part 3—Control of Dogs and Cats

s. 43

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

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

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

44. Power of Councils to require restraint of animals

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

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

Part 4—Registration and Conduct of Domestic Animal Businesses

s. 44A

PART 4—REGISTRATION AND CONDUCT OF DOMESTIC ANIMAL BUSINESSES

Division 1—Registration

44A. Application of Division

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

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

45. Offence to conduct domestic animal business on unregistered premises

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

Penalty: 10 penalty units.

46. Application for registration

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

47. Registration of premises

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

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

Part 4—Registration and Conduct of Domestic Animal Businesses

s. 48

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

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

Penalty: 10 penalty units.

48. Term and renewal of registration

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

49. Fees for registration and renewal of registration

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

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

50. Animal shelter or pound conducted by Council

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

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

Part 4—Registration and Conduct of Domestic Animal Businesses

s. 50A

Division 2—Surrender or transfer of registration

50A. Application of Division

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

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

51. Surrender of registration

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

52. Transfer of registration

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

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

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

54. Powers of Council

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

55. Council to give notice

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

56. Council to hear proprietor or applicant

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

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

Part 4—Registration and Conduct of Domestic Animal Businesses

s. 57

- (2) The Council must take into consideration any submissions made to it.

57. Notice of Council's decision

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

57A. Court may cancel or revoke registration

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

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

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

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

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

Part 4—Registration and Conduct of Domestic Animal Businesses

s. 58

Pt 4 Div. 3A
(Heading)
inserted by
No. 87/2000
s. 26.

Division 3A—Registration of Business conducted by Council

S. 58
substituted by
No. 87/2000
s. 26.

58. Revocation or suspension of Council animal shelter or pound

- (1) Subject to sub-section (2), the Minister may at any time suspend or revoke the registration of premises upon which a Council is conducting an animal shelter or pound if the premises is in the municipal district of that Council.
- (2) The Minister must be satisfied that—
 - (a) the Council has failed to comply with the Act, the regulations, any Code of Practice applying to the business, or any terms, conditions, limitations or restrictions on registration; or
 - (b) the Council has been found guilty of an offence under the **Prevention of Cruelty to Animals Act 1986**.

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

58A. Offence to conduct domestic animal business on unregistered premises

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

Penalty: 10 penalty units.

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

58B. Application for registration

- (1) A Council may apply to the Minister to register a premises as a premises on which a domestic animal business (other than an animal shelter or pound) is conducted.

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

Part 4—Registration and Conduct of Domestic Animal Businesses

s. 58C

- (2) The application must be made in the form approved by the Minister.

58C. Registration of premises

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

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

Penalty: 10 penalty units.

58D. Term and renewal of registration

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

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

58E. Fees for registration and renewal of registration

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

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

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

Part 4—Registration and Conduct of Domestic Animal Businesses

s. 58F

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

58F. Surrender of registration

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

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

58G. Transfer of registration

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

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

58H. Powers of Minister

- (1) The Minister may—
 - (a) refuse to register or to renew the registration of a premises; or
 - (b) refuse to transfer registration to a new premises; or
 - (c) suspend the registration of a premises; or
 - (d) revoke the registration of a premises.

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

Part 4—Registration and Conduct of Domestic Animal Businesses

s. 58I

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- (2) The Minister may act under sub-section (1) if he or she is satisfied that the Council—
- (a) has failed to comply with the Act, the regulations, any Code of Practice applying to the business, or the terms, conditions, limitations or restrictions on registration; or
 - (b) has been found guilty of an offence under the **Prevention of Cruelty to Animals Act 1986**.

58I. Minister to give notice

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

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

58J. Minister to hear proprietor or applicant

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

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

58K. Notice of Minister's decision

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

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

Division 4—Codes of Practice

59. Making of Codes of Practice

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

60. Advertisement of making

- (1) The Minister must give notice of any proposal to make the Code—
 - (a) in the Government Gazette; and
 - (b) in a newspaper circulating generally throughout the State.

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

Part 4—Registration and Conduct of Domestic Animal Businesses

s. 61

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- (2) A notice under sub-section (1) must—
- (a) state where a copy of the Code may be obtained; and
 - (b) state that submissions may be made to the Minister and that they must be made within 28 days of the publication of the notice.

61. Consideration of submissions

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

62. Notice of making

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

63. Publication, operation and availability of Code

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

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

Part 4—Registration and Conduct of Domestic Animal Businesses

s. 63A

S. 63A
inserted by
No. 87/2000
s. 27.

63A. Code of Practice offence

A person must not conduct a domestic animal business that does not comply with the relevant Code of Practice made under section 59.

Penalty: 10 penalty units.

PART 5—BOARDING OF DOGS AND CATS

64. Responsibility for boarded dogs or cats

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

Penalty: 10 penalty units.

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

65. Liens over animals

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

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

Part 5—Boarding of Dogs and Cats

s. 66

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

66. Can lien holder dispose of animal?

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

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

Part 5—Boarding of Dogs and Cats

s. 67

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

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

67. Sale of unclaimed animals by lien holders

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

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

Part 5—Boarding of Dogs and Cats

s. 68

68. Passing of property upon sale of animal

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

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

Part 6—Financial Provisions

s. 69

PART 6—FINANCIAL PROVISIONS

69. Payments to the Treasurer

(1) Each Council must pay to the Treasurer—

(a) \$1.00 in respect of each registration fee collected by it in each financial year for the registration or renewal of registration of a cat; and

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

(aa) \$2.50 in respect of each registration fee collected by it in each financial year for the registration or renewal of registration of a dog; and

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

(b) \$10.00 in respect of each registration fee collected by it in each financial year for the registration or renewal of registration of a domestic animal business.

(2) Payments made under sub-section (1) are made for the purpose of—

(a) the promotion by the Department, within the State, of—

- (i) responsible dog and cat ownership; or
- (ii) animal welfare; and

(aa) research into domestic animal management; and

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

(b) the administration of this Act.

70. Due date for payments to the Treasurer

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

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

Part 7—Enforcement and Supplementary Provisions

s. 71

PART 7—ENFORCEMENT AND SUPPLEMENTARY PROVISIONS

Division 1—Authorised officers

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

71. Appointment of authorised officers

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

72. Appointment of authorised officers by Council

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

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

73. Identity cards for authorised officers

- (1) The Minister or Council (as the case requires) must issue an identity card to each authorised officer.
- (2) An identity card must contain a photograph of the authorised officer to whom it is issued.
- (3) An authorised officer must produce his or her identity card for inspection—
 - (a) before exercising a power under this Part; and
 - (b) at any time during the exercise of a power under this Part, if asked to do so.

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

Part 7—Enforcement and Supplementary Provisions

s. 73A

73A. Offence to impersonate authorised officer

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

Penalty: 60 penalty units.

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

74. Powers of authorised officers

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

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

(2) For the purposes of sub-section (1) an authorised officer may—

- (a) at any reasonable time and by any reasonable means and with any assistance which the authorised officer requires enter any building not occupied as a place of residence or any land or vehicle; or
- (b) search the whole or any part of any building, land or vehicle entered under paragraph (a);
or
- (c) inspect animals, enclosures or other goods; or
- (d) ask questions; or
- (e) seize, examine or take copies of, or extracts from documents; or
- (f) seize and remove any animal in accordance with section 77.

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

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

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

Part 7—Enforcement and Supplementary Provisions

s. 75

- (3) An authorised officer may request a person to give his or her name and place of residence if the authorised officer believes, on reasonable grounds, that an offence—
- (a) under this Act; or
 - (b) the regulations; or
 - (c) any local law made under this Act by the Council—
- has been or is about to be committed.

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

* * * * *

75. Seizure of documents

- (1) An authorised officer may not seize any document under section 74(2)(e) that appears to the authorised officer to be in the possession or custody of a person unless the authorised officer makes out and tenders to the person a receipt in the prescribed form for the document seized.
- (2) An authorised officer must take all reasonable steps to return a seized document to the person from whom it was seized if—
- (a) the reason for its seizure no longer exists; or
 - (b) proceedings in which the document may be used in evidence have not commenced within 60 days after its seizure—
- whichever is the earlier.
- (3) An authorised officer may apply to the Magistrates' Court for an extension of the period for which a seized document may be kept.

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

Part 7—Enforcement and Supplementary Provisions

s. 76

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- (4) An application under sub-section (3) must be made within 60 days of the seizure of the document, or if an extension has previously been granted, within the extended period.
 - (5) The Magistrates' Court may order an extension if the court is satisfied that the retention of the document is necessary—
 - (a) for the purposes of an investigation into whether an offence has been committed; or
 - (b) to enable evidence of an offence to be secured for the purposes of a prosecution.
 - (6) The court may adjourn an application under this section to enable notice of the application to be given to any person.

76. Offence to refuse to give information or documents

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

Penalty: 10 penalty units.

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

Part 7—Enforcement and Supplementary Provisions

s. 76A

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

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

76A. Notice to comply

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

Division 2—Powers to Seize and Destroy Dogs and Cats

77. Seizure of dogs or cats

S. 77(1)
amended by
No. 87/2000
s. 31(1).

- (1) An authorised officer of a Council may seize a dog which is in the municipal district of that Council—

S. 77(1)(b)
amended by
Nos 52/1998
s. 311(Sch. 1
item 21.2),
83/2001
s. 18(a).

- (a) if the owner of the dog has been found guilty of an offence of not having applied to register the dog and has not, within 1 month of that finding, applied to register the dog; or
- (b) if the dog is a dangerous dog or a restricted breed dog and the Council has made a decision to refuse to register the dog and any review of that decision has failed or the owner has not applied for a review of that decision within the time fixed under section 98(2A); or
- (c) if the dog is a dangerous dog and—
- (i) the owner has been found guilty of an offence under Division 3 of Part 3 with respect to that dog; or

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

Part 7—Enforcement and Supplementary Provisions

s. 77

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- (ii) the authorised officer reasonably suspects that the owner is guilty of an offence under Division 3 of Part 3 with respect to that dog; or
- (ca) if the dog is a restricted breed dog and—
- (i) the owner has been found guilty of an offence under Division 3B of Part 3 with respect to that dog; or
- (ii) the authorised officer reasonably suspects that the owner is guilty of an offence under Division 3B of Part 3 with respect to that dog; or
- (d) if—
- (i) the owner has been found guilty of an offence under section 28 or 29 with respect to that dog; or
- (ii) the authorised officer reasonably suspects that the owner is guilty of an offence under section 28 or 29 with respect to that dog.
- (2) An authorised officer of a Council may seize a cat which is in the municipal district of that Council if the owner of the cat has been found guilty of an offence of not having applied to register the cat and has not, within one month of that finding, applied to register the cat.
- (3) A dog or cat may be seized by any person or an authorised officer 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.
- (3A) A cat may be seized by an authorised officer or any other person if it is found in circumstances where the owner of the cat would be guilty of an offence under section 20(1).
- S. 77(1)(ca) inserted by No. 83/2001 s. 18(b).**
- S. 77(2) amended by No. 87/2000 s. 31(1).**
- S. 77(3) amended by No. 87/2000 s. 31(2).**
- S. 77(3A) inserted by No. 50/2005 s. 11(1).**

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

Part 7—Enforcement and Supplementary Provisions

s. 77A

- (4) Any person who seizes a dog or cat must, as soon as is reasonably possible, deliver it to an authorised officer of the Council of the municipal district in which it is found, or to a person or body which has an agreement under section 81 with the Council of the municipal district in which the dog or cat is found.

S. 77A
inserted by
No. 87/2000
s. 32.

77A. Warrants for search and seizure

S. 77A(1)
amended by
No. 83/2001
ss 19(a),
29(1)(a)(b).

- (1) An authorised officer may apply to a magistrate for the issue of a search warrant in relation to any building occupied as a place of residence, if the officer believes on reasonable grounds that a dog is present in the building which the officer is entitled to seize under section 77(1)(b), (c), (ca) or (d).

S. 77A(2)
amended by
No. 83/2001
ss 19(b),
29(2)(a).

- (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 the dog which the authorised officer is entitled to seize under section 77(1)(b), (c), (ca) or (d) is present in the building, 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 and with any necessary equipment—

S. 77A(2)(a)
amended by
No. 83/2001
s. 29(2)(b).

- (a) to enter the building specified in the warrant, if necessary by force; and
- (b) to search for the dog identified in the search warrant; and
- (c) to seize that dog.

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

Part 7—Enforcement and Supplementary Provisions

s. 77B

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- (3) A search warrant issued under this section must state—
- (a) the purpose for which the search is required; and
 - (b) any conditions to which the warrant is subject; and
 - (c) that entry is authorised to be made at any reasonable time of the day; and
 - (d) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) Except as provided by this Act, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

77B. Announcement before entry

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

S. 77B
inserted by
No. 87/2000
s. 32.

S. 77B(1)(a)
amended by
No. 83/2001
s. 30(1).

S. 77B(1)(b)
amended by
No. 83/2001
s. 30(1).

S. 77B(2)
amended by
No. 83/2001
s. 30(1).

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

Part 7—Enforcement and Supplementary Provisions

s. 77C

S. 77C
inserted by
No. 87/2000
s. 32.

77C. Details of warrant to be given to occupier

S. 77C(1)
amended by
No. 83/2001
s. 30(2).

- (1) If the occupier is present at the building 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.

S. 77C(2)
amended by
No. 83/2001
s. 30(2).

- (2) If the occupier is not present at the building where a search warrant is being executed, the authorised officer must—

S. 77C(2)(a)
amended by
No. 83/2001
s. 30(2).

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

78. Owner to be notified

- (1) If the owner of a dog or cat which has been seized by or delivered to an authorised officer under section 77 is able to be identified from a marker attached to or implanted in the animal's body, the Council must notify the owner of the seizure of the animal.
- (2) If the owner of a dog or cat which has been seized and delivered to a person or body which has an agreement with a Council under section 81 is able to be identified from a marker attached to or implanted in the animal's body, the person or body holding the animal must notify the owner of the seizure of the animal.

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

Part 7—Enforcement and Supplementary Provisions

s. 79

- (3) A notice under this section must be in writing and must be delivered either personally or by registered post within 4 days after the animal is seized.

79. Recovery of animal

S. 79
substituted by
No. 87/2000
s. 33.

- (1) A person may recover a dog or cat that has been seized under section 77(1)(a) or (2) if he or she—
- (a) applies to register the animal; and
 - (b) pays the amount fixed by the Council within 8 days after the seizure of the animal; and
 - (c) proves to the satisfaction of the Council that he or she is the owner of the animal.
- (2) A person may recover a dog or cat that has been seized under section 23(1), 77(3) or 77(3A) if he or she—

S. 79(2)
amended by
No. 50/2005
s. 11(2).

- (a) where—
 - (i) the animal is held by the Council, pays the amount fixed by the Council within 8 days after the seizure of the animal; or
 - (ii) the animal is held by another person or body, pays the amount charged by that person or body within 8 days after the seizure of the animal; and
- (b) proves to the satisfaction of the Council or the person or body holding the animal, as the case may be, that he or she is the owner of the animal; and
- (c) proves to the satisfaction of the Council or the person or body holding the animal, as the case may be, that he or she has a current registration certificate in respect of the animal or he or she has applied to register the animal.

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

Part 7—Enforcement and Supplementary Provisions

s. 80

80. Power to sell or destroy seized dogs or cats

S. 80(1)
amended by
Nos 87/2000
s. 34(1),
50/2005
s. 11(3).

- (1) If a dog or cat has been seized under section 23(1), 77(1)(a), 77(2), 77(3) or 77(3A)—
- (a) if the animal is a cat which does not bear an identification marker and which is wild, uncontrollable or diseased, the Council or person or body holding the cat may, despite section 79(1), destroy the cat as soon as possible; or
 - (b) if the animal is a dangerous dog or a restricted breed dog and is not recovered by its owner within 8 days of its seizure, the Council or person or body holding the dog may destroy it; or
 - (c) in any other case, if the animal is not recovered by its owner within 8 days of its seizure, the Council or person or body holding the animal may sell or destroy it.

S. 80(1)(b)
amended by
No. 83/2001
s. 20(a).

- (2) The Council may destroy a dog which has been seized under section 77(1)(b), (c)(i), (ca)(i) or (d)(i).

S. 80(2)
amended by
No. 83/2001
s. 20(b).

- (3) If a dog has been seized under section 77(1)(c)(ii), 77(1)(ca)(ii) or 77(1)(d)(ii)—

S. 80(3)
amended by
No. 83/2001
s. 20(c),
substituted by
No. 50/2005
s. 12.

- (a) if the Council has sufficient information about the owner of the dog to enable it to commence prosecution for the offence that the owner is suspected of committing, it must commence such a prosecution as soon as possible after the seizure and must retain custody of the dog until the outcome of the prosecution is known; or

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

Part 7—Enforcement and Supplementary Provisions

s. 80

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- (b) if the owner of the dog is able to be identified from a marker attached to, or a device implanted in, the dog's body, but is not able to be located, the Council must serve on the owner by registered post at the owner's last known address, a notice that—
- (i) states that the dog has been seized; and
 - (ii) specifies the offence that the owner is suspected of committing with respect to the dog; and
 - (iii) states that if the owner does not provide to the Council the owner's current address within 14 days after being served with the notice, that the Council may destroy the dog.

(3A) The Council may destroy a dog seized under section 77(1)(c)(ii), 77(1)(ca)(ii) or 77(1)(d)(ii) if—

S. 80(3A)
inserted by
No. 50/2005
s. 12.

- (a) the owner of the dog is served with a notice under sub-section (3)(b) and does not provide the Council with the owner's current address within 14 days after being served with the notice; or
- (b) 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 the Council has not received, within 8 days after the dog is seized, sufficient information about the owner to enable it to commence prosecution for the offence that the owner is suspected of committing.

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

Part 7—Enforcement and Supplementary Provisions

s. 81

S. 80(4)
substituted by
No. 87/2000
s. 34(2),
amended by
No. 83/2001
s. 20(d).

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- (4) If the owner of a dog seized under section 77(1)(c)(ii), (ca)(ii) or (d)(ii) is found guilty of the offence—
- (a) the Court may order the owner to pay to the Council the reasonable cost of the Council retaining custody of the dog until the outcome of the prosecution; and
 - (b) the Council may destroy the dog.
- (5) If a Council, person or body proposes to sell a dog or cat which has been seized and which has not been desexed, the Council, person or body must ensure that the animal is desexed before it is sold.

81. Agreements

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

- (a) seize dogs or cats under section 77(3);
- (b) retain seized dogs or cats;
- (c) sell or destroy any dog or cat which has been seized;
- (d) charge fees for any of the above—

in accordance with the provisions of this Part.

82. Offences relating to seized cats or dogs

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

Penalty: 5 penalty units.

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

Penalty: 5 penalty units.

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

Penalty: 5 penalty units.

83. Method of destroying dogs or cats

- (1) If a Council, person or body is authorised under this Act to destroy a dog or cat, that person must destroy the animal as quickly as possible and without causing unnecessary suffering.

Penalty: 5 penalty units.

- (2) A Council, person or body which is authorised under this Act to sell or destroy an animal may give that animal to any person or body that is willing to accept it and which has been approved by the Council of the municipal district in which the animal is held in accordance with a Code of Practice made under section 26(2)(h)(ii) of the **Prevention of Cruelty to Animals Act 1986**.

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

- (1) A person—
- (a) who seizes, sells, injures or destroys a dog or cat; and
 - (b) who is not authorised to do so by the owner or under this Act or any other Act—

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

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

Part 7—Enforcement and Supplementary Provisions

s. 85

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

Division 3—Infringement Notices

85. Power to serve a notice

S. 85(1)
amended by
Nos 87/2000
s. 35, 103/2003
s. 20(1),
69/2004 s. 32.

- (1) If an authorised officer, appointed under section 71 or 72, has reason to believe that a person has committed an offence against section 10, 20, 21, 22, 23, 24, 25, 26, 27, 32, 37(1C), 37(2), 38, 41D(b), 41D(ba), 41D(bb), 41D(c), 41E, 41F, 41G, 63A or 96 of this Act he or she may serve an infringement notice on that person.
- (2) An infringement notice may be served—
- (a) by personally serving the notice upon the alleged offender; or
 - (b) by sending the notice by post addressed to him or her at his or her last known place of residence or business.

86. Form of infringement notice

S. 86
substituted by
No. 87/2000
s. 36.

An infringement notice must state—

- (a) the date of the notice;
- (b) the section that creates the alleged offence;
- (c) the nature, and a brief description, of the alleged offence;
- (d) the date, time and place of the alleged offence;
- (e) the infringement penalty for the alleged offence;
- (f) the manner in which the infringement penalty may be paid;

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

Part 7—Enforcement and Supplementary Provisions

s. 87

- (g) the time (being not less than 28 days after the date on which the notice is served) within which the infringement penalty must be paid;
- (h) that, if the amount of the infringement penalty is paid before the end of the time specified in the notice, the matter will not be brought before the Magistrates' Court unless the notice is withdrawn within 28 days after the date on which it was served;
- (i) that the person is entitled to disregard the notice and defend any proceedings in respect of the offences in the Magistrates' Court;
- (j) any other prescribed particulars.

87. Withdrawal of notice

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

88. Penalties to be paid for offences under infringement notices

The penalty for an offence for which an infringement notice has been issued is the penalty prescribed by the regulations, which must not exceed 2 penalty units and must not exceed the penalty fixed by the Act for that offence.

89. Payment of penalty

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

90. Notice not to prejudice further proceedings

- (1) If—
 - (a) a person served with an infringement notice has not paid the penalty within the time specified in the notice; or
 - (b) an infringement notice is withdrawn—proceedings may still be taken or continued for the alleged offence.
 - (2) If proceedings have been taken or continued for an alleged offence because the person has not paid the penalty specified in the infringement notice and a conviction is imposed by the court, the conviction must not be taken to be a conviction for any purpose except in relation to—
 - (a) the making of the conviction itself; and
 - (b) subsequent proceedings which may be taken in respect of the conviction itself, including proceedings by way of appeal.
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Division 4—Provisions related to court proceedings

91. Liability of officers of bodies corporate for offences

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

92. Power to file charges under this Act

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

- (a) a member of the police force; or
- (b) an authorised officer.

93. Service of documents

Except where otherwise provided for in this Act, a notice or other document authorised or required by this Act to be served on or given to a person is to be taken to have been served on or given to that person—

- (a) if it is delivered to him or her personally; or
- (b) it is left at his or her last known address, last known residence or business premises with a person apparently over 16 years of age and apparently residing or employed there; or
- (c) if it is sent to him or her by post.

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

Part 7—Enforcement and Supplementary Provisions

s. 94

S. 94
amended by
No. 83/2001
s. 21 (ILA
s. 39B(1)).

94. Evidentiary provisions

- (1) In any proceedings for an offence under this Act—
 - (a) evidence that a person is the occupier of a house or premises where an animal is usually kept or permitted to remain is evidence and in the absence of evidence to the contrary is proof that that person is the owner of the animal; and
 - (b) a registration certificate issued under section 19 or a certificate of appointment of an authorised officer issued under section 73 is admissible in evidence and in the absence of evidence to the contrary is proof of the facts and matters contained in it.
- (2) In any proceedings for an offence under this Act related to a restricted breed dog, it is a defence to an allegation that the dog in respect of which the offence was committed was a restricted breed dog, if the owner reasonably believed the dog was not a restricted breed dog.

S. 94(2)
inserted by
No. 83/2001
s. 21.

95. Payment of fines

If a fine is recovered under this Act—

- (a) on a charge filed by an authorised officer of a Council, it shall be paid to that Council; and
- (b) on a charge filed by any other person, it shall be paid into and form part of the Consolidated Fund.

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

Part 7—Enforcement and Supplementary Provisions

s. 95A

**Division 4A—Further Procedures for Dogs and Cats Found
at Large**

Pt 7 Div. 4A
(Heading and
ss 95A–95D)
inserted by
No. 103/2003
s. 24.

**95A. Power of the court to make orders in relation to
dogs and cats found outside owners' premises**

S. 95A
inserted by
No. 103/2003
s. 24.

- (1) If the owner of a dog or cat is found guilty by the Magistrates' Court of an offence under section 23(4), 24(1), 24(2) or 25(1), the court may make an order requiring the owner to carry out the works that are specified by the court for the purpose of ensuring that the animal that is the subject of the offence is not able to escape from the owner's premises.
- (2) Section 135 of the **Magistrates' Court Act 1989** applies to an order made under this section.

**95B. Powers and duties of Council if order not complied
with**

S. 95B
inserted by
No. 103/2003
s. 24.

- (1) If—
 - (a) the Magistrates' Court has made an order under section 95A 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 an authorised officer of the Council of the municipal district in which the owner's premises is situated reasonably believes that the owner of the dog or cat has committed an offence under section 23(4), 24(1), 24(2) or 25(1)—the authorised officer may seize the dog or cat.

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

Part 7—Enforcement and Supplementary Provisions

s. 95C

- (2) If a dog or cat has been seized under subsection (1), the Council must commence prosecution for the offence, believed to have been committed by the owner, as soon as practicable after the seizure and may retain custody of the animal until the outcome of the prosecution is known.
- (3) In this section "**authorised officer**" means an authorised officer appointed under section 72 or 72A.

S. 95C
inserted by
No. 103/2003
s. 24.

95C. Owner to be notified

- (1) If a dog or cat has been seized under section 95B, the Council must notify the owner of the dog or cat of the seizure of the animal.
- (2) A notice under this section must be in writing and must be delivered either personally or by post within 4 days after the animal is seized.

S. 95D
inserted by
No. 103/2003
s. 24.

95D. Further power of Court to order payment of costs and destruction of dogs or cats

- (1) If the owner of the dog or cat is found guilty of the offence in a proceeding commenced under section 95B, the Magistrates' Court may make either or both of the following orders—
 - (a) that the dog or cat be destroyed;
 - (b) if the dog or cat has been seized by the Council, that the owner pay the reasonable cost to the Council for any period (until the outcome of the proceeding) for which the Council has had the custody of the dog or cat.

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

Part 7—Enforcement and Supplementary Provisions

s. 96

- (2) If the Magistrates' Court has found that the owner has not complied with an order under section 95A, 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 destroyed;
 - (b) if the dog or cat has been seized by the Council, that the owner pay the reasonable cost to the Council for any period (until the outcome of the proceeding) for which the Council has had the custody of the dog or cat.

Division 5—Supplementary offences

96. Offence to sell certain animals outside certain places

S. 96
amended by
No. 69/2004
s. 33(b).

A person must not sell any animal referred to in the definition of pet shop or prescribed by the regulations for the purposes of that definition—

- (a) unless the animal is sold in the course of conducting a domestic animal business in a premises that is registered under Part 4 for that purpose; or
- (aa) unless the animal is sold in a place that is a private residence; or
- (b) unless the sale is approved under the **Wildlife Act 1975**.

S. 96(a)
substituted by
No. 69/2004
s. 33(a).

S. 96(aa)
inserted by
No. 69/2004
s. 33(a).

Penalty: 10 penalty units.

97. False information

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

Penalty: 5 penalty units.

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

Part 7—Enforcement and Supplementary Provisions

s. 98

Pt 7 Div. 6
(Heading)
amended by
No. 52/1998
s. 311(Sch. 1
item 21.3).

**Division 6—Review of decisions by the Victorian Civil and
Administrative Tribunal**

**98. Review of decisions by Victorian Civil and
Administrative Tribunal**

S. 98(1)
amended by
No. 52/1998
s. 311(Sch. 1
item 21.4).

(1) The proprietor of a domestic animal business conducted on a premises registered under Part 4 or a person applying for registration of premises under Part 4 to conduct a domestic animal business may apply to the Victorian Civil and Administrative Tribunal for review of a decision by the Council—

- (a) to refuse to register or to renew the registration of a premises; or
- (b) to refuse to transfer registration to a new premises; or
- (c) to suspend the registration of a premises; or
- (d) to impose terms, conditions, limitations or restrictions on the registration of a premises;
or
- (e) to revoke the registration of a premises.

S. 98(1A)
inserted by
No. 87/2000
s. 37(1).

(1A) A Council conducting a domestic animal business on a premises registered under Part 4 or a Council applying for registration of premises under Part 4 to conduct a domestic animal business may apply to the Victorian Civil and Administrative Tribunal for review of a decision by the Minister—

- (a) to refuse to register or to renew the registration of a premises; or
- (b) to refuse to transfer registration to a new premises; or
- (c) to suspend the registration of a premises; or

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

Part 7—Enforcement and Supplementary Provisions

s. 98

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- (d) to impose terms, conditions, limitations or restrictions on the registration of a premises; or
- (e) to revoke the registration of a premises.
- (2) The owner of a dog may apply to the Victorian Civil and Administrative Tribunal for review of a decision by the Council—
- (a) to declare the dog to be dangerous under section 34; or
- (aa) to declare the dog to be a menacing dog; or
- (b) if the dog is a dangerous dog or a restricted breed dog, to refuse to register or renew the registration of the dog.
- (2A) An application for review under sub-section (1) or (2) must be made within 28 days after the later of—
- (a) the day on which the decision is made;
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the applicant requests a statement of reasons for the decision, the day on which the statement of reasons is given to the applicant or the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (3) A decision made under this Act by a Council which is subject to review by the Victorian Civil and Administrative Tribunal takes effect—
- S. 98(2) amended by No. 52/1998 s. 311(Sch. 1 item 21.4).
- S. 98(2)(a) substituted by No. 87/2000 s. 37(2).
- S. 98(2)(aa) inserted by No. 87/2000 s. 37(2).
- S. 98(2)(b) amended by No. 83/2001 s. 22.
- S. 98(2A) inserted by No. 52/1998 s. 311(Sch. 1 item 21.5).
- S. 98(3) amended by No. 52/1998 s. 311(Sch. 1 item 21.6(a)(i)).

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

Part 7—Enforcement and Supplementary Provisions

s. 98A

S. 98(3)(b)
amended by
No. 52/1998
s. 311(Sch. 1
item 21.6(a)
(ii)).

- (a) if an application for a review of the decision is not made, at the end of the period within which such an application could have been made; or
- (b) if such an application is made, in accordance with the determination of the Tribunal.

(4) If the decision which is subject to review is a refusal by the Council to renew registration of a premises on which a domestic animal business is being conducted, the registration of that premises continues—

- (a) if an application for review of the decision is not made, until the end of the period within which that application could have been made; or
- (b) if an application is made, in accordance with the determination of the Tribunal.

S. 98(4)(b)
amended by
No. 52/1998
s. 311(Sch. 1
item 21.6(b)).

Pt 7 Div. 7
(Heading and
ss 98A–98G)
inserted by
No. 83/2001
s. 23.

Division 7—Procedures for identifying restricted breed dogs

S. 98A
inserted by
No. 83/2001
s. 23,
amended by
No. 103/2003
s. 26 (ILA
s. 39B(1)).

98A. Power of authorised officers to make declarations as to breed of dogs

- (1) If an authorised officer is of the opinion that a dog is a restricted breed dog, the authorised officer may make a declaration to the effect that the dog is a restricted breed dog.
- (2) In this section "**authorised officer**" means an authorised officer appointed under section 72.

S. 98A(2)
inserted by
No. 103/2003
s. 26.

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

Part 7—Enforcement and Supplementary Provisions

s. 98B

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

S. 98A(3)
inserted by
No. 69/2004
s. 34.

98B. Service of notice of declaration

S. 98B
inserted by
No. 83/2001
s. 23.

- (1) An authorised officer who has made a declaration under section 98A must serve written notice of that declaration on the owner of the dog, either personally or by registered post, within 7 days of the making of the declaration.
- (2) A notice under sub-section (1) must—
- (a) set out that the owner has a right to apply for a review of the decision to make the declaration under this Division; and
 - (b) set out how to make an application for such a review; and
 - (c) set out the requirements of the Act as to restricted breed dogs that must be complied with immediately.

98C. Application of certain offences at the time of the making of a declaration

S. 98C
inserted by
No. 83/2001
s. 23.

Sections 19(2), 41G and 41H are to be taken not to apply to the owner of a dog which has been declared to be a restricted breed dog by an authorised officer until—

- (a) in the case of a declaration in respect of which an application to the panel has not been made within 30 days of the service of the notice of the declaration, 60 days after the service of the notice of the declaration; or

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

Part 7—Enforcement and Supplementary Provisions

s. 98D

- (b) in the case of a declaration in respect of which—
- (i) an application has been made to the panel within 30 days of the service of the notice of the declaration; and
 - (ii) the panel has affirmed the making of the declaration—
- 30 days after the decision to affirm the making of the declaration.

S. 98D
inserted by
No. 83/2001
s. 23.

98D. Right to apply for review of decision to make declaration

- (1) The owner of a dog in respect of which a declaration has been made under this Division may apply for that decision to be reviewed by a review panel.
- (2) An application under sub-section (1) must—
 - (a) be made to the Minister; and
 - (b) be made within 30 days of the service of the notice; and
 - (c) be accompanied by the fee prescribed by the regulations.

S. 98E
inserted by
No. 83/2001
s. 23.

98E. Review panel

- (1) A review of a declaration made under this Division must be heard by a review panel consisting of a chairperson and 2 other persons appointed by the Minister for the purposes of that review.
- (2) A review panel must be constituted from a pool of persons appointed by the Minister because of their knowledge of or experience in the identification of dog breeds.

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

Part 7—Enforcement and Supplementary Provisions

s. 98F

98F. Procedure and decisions of review panels

- (1) A review panel—
 - (a) must consider the application for review of the declaration which is before it; and
 - (b) may affirm or set aside that declaration.
- (2) A decision of a review panel must be determined by a majority of the members of the panel.
- (3) Subject to sub-section (2), a review panel may regulate its own procedure.

S. 98F
inserted by
No. 83/2001
s. 23.

98G. Terms and conditions of appointment of members of the pool and of panels

- (1) Subject to this section, the members of—
 - (a) any review panel appointed by the Minister under section 98E(1); and
 - (b) the pool of persons appointed by the Minister under section 98E(2)—

S. 98G
inserted by
No. 83/2001
s. 23.

are appointed on the terms and conditions determined by the Minister.

- (2) A member of a review panel who is not a public servant is entitled to receive the fees and travelling and other allowances, if any, fixed by the Minister.
- (3) The **Public Administration Act 2004** (other than Part 5 of that Act) does not apply to any member of the pool or a panel in respect of the office of member.

S. 98G(3)
substituted by
No. 108/2004
s. 117(1)
(Sch. 3
item 59.3)

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

Part 8—Limitation of Jurisdiction and Regulations

s. 99

**PART 8—LIMITATION OF JURISDICTION AND
REGULATIONS**

99. Supreme Court—Limitation of Jurisdiction

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court from entertaining proceedings to the extent provided in sections 30(2) and 31(2).

100. Regulations

- (1) The Governor in Council may make regulations for or with respect to—
 - (a) the principles to apply to schemes for fees for the registration of dogs and cats; and
 - (b) the marking of dogs and cats to enable their identification or any other method of identifying dogs and cats; and
 - (c) enclosures in which dogs or cats are required to be kept; and
 - (d) warning signs to be displayed at premises where dangerous dogs are kept; and
 - (e) conditions and restrictions which may be imposed on registration of premises where domestic animal businesses are conducted; and
 - (f) notification of change of address of registered dog and cat owners; and
 - (g) forms for the purposes of this Act; and
 - (h) fees for the purposes of this Act; and
 - (i) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

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

Part 8—Limitation of Jurisdiction and Regulations

s. 100

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- (2) Regulations—
- (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstances; and
 - (c) may leave any matter to be approved or determined by the Minister or an authorised officer; and
 - (d) may impose penalties not exceeding 5 penalty units for contravention of the regulations.
- (3) The regulations may be disallowed in whole or in part by resolution of either House of Parliament in accordance with the requirements of section 6(2) of the **Subordinate Legislation Act 1962**.
- (4) Disallowance under sub-section (3) must be taken to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1962**.
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Domestic (Feral and Nuisance) Animals Act 1994
Act No. 81/1994

Part 9—Repeals and Transitional Provisions

s. 101

PART 9—REPEALS AND TRANSITIONAL PROVISIONS

101. Repeal of Dog Act

The **Dog Act 1970** is repealed.

102. Saving provisions

- (1) The Victorian Canine Association and any organisation approved by the Council for the purposes of the Schedule before the commencement of section 39 of the **Domestic (Feral and Nuisance) Animals (Amendment) Act 2000** is deemed to be an applicable organisation for the purposes of the Schedule.
- (2) The Feline Control Council, the Governing Council of the Cat Fancy Australia and Victoria Incorporated, the Democratic Cat Council Incorporated and any breed society approved by the Council before the commencement of section 39 of the **Domestic (Feral and Nuisance) Animals (Amendment) Act 2000** is deemed to be an applicable organisation for the purposes of the Schedule.
- (3) The bodies referred to in the definition of "applicable organisation" before the commencement of section 4(a) of the **Domestic (Feral and Nuisance) Animals (Amendment) Act 2000** are deemed to be applicable organisations for the purposes of the Act.

S. 102
substituted by
No. 87/2000
s. 38.

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

Part 9—Repeals and Transitional Provisions

s. 102

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- (4) Any organisation approved by the Council for the purposes of the definition of "domestic animal business" before the commencement of section 4(b) of the **Domestic (Feral and Nuisance) Animals (Amendment) Act 2000** is deemed to be an applicable organisation for the purposes of the definition of "domestic animal business" and section 20.
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Domestic (Feral and Nuisance) Animals Act 1994
Act No. 81/1994

Sch.

Sch.
amended by
No. 87/2000
s. 39(1)(2).

SCHEDULE

DOGS

Column 1 <i>Maximum fee</i>	Column 2 <i>Reduced fee</i>
Any dogs to which a description in Column 2 does not apply	Desexed dogs. Dogs over 10 years old. Dogs kept for working stock. Dogs kept for breeding by the proprietor of a domestic animal business conducted on registered premises. Dogs that have undergone obedience training which complies with the regulations. Dogs registered with an applicable organisation, if their owners are members of the applicable organisation with which the dogs are registered. Dogs that are permanently identified in the prescribed manner.

CATS

Column 1 <i>Maximum fee</i>	Column 2 <i>Reduced fee</i>
Any cats to which a description in column 2 does not apply.	Desexed cats. Cats over 10 years old. Cats kept for breeding by the proprietor of a domestic animal business conducted on registered premises.

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

Sch.

Column 1	Column 2
<i>Maximum fee</i>	<i>Reduced fee</i>
	Cats registered with an applicable organisation, if their owners are members of the applicable organisation with which the cats are registered.
	Cats that are permanently identified in the prescribed manner.

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

Endnotes

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 8 September 1994

Legislative Council: 19 October 1994

The long title for the Bill for this Act was "A Bill to provide for the management of feral and nuisance domestic animals, the regulation of domestic animals and domestic animal businesses, to repeal the **Dog Act 1970** and for other purposes."

Constitution Act 1975:

Section 85(5) statement:

Legislative Assembly: 8 September 1994

Legislative Council: 19 October 1994

Absolute majorities:

Legislative Assembly: 14 October 1994 and 15 November 1994

Legislative Council: 9 November 1994

The **Domestic (Feral and Nuisance) Animals Act 1994** was assented to on 29 November 1994 and came into operation as follows:

Sections 1 and 2 on 29 November 1994: section 2(1); rest of Act on 9 April 1996: Government Gazette 20 July 1995 page 1824.

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

Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Domestic (Feral and Nuisance) Animals Act 1994** by Acts and subordinate instruments.

Veterinary Practice Act 1997, No. 58/1997

Assent Date: 28.10.97
Commencement Date: S. 96(Sch. item 2) on 17.3.98: Government Gazette 12.3.98 p. 520
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 21) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 36) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Domestic (Feral and Nuisance) Animals (Amendment) Act 2000, No. 87/2000

Assent Date: 5.12.00
Commencement Date: Ss 4(c)–(e), 5–8, 10–19(1), 20–37 on 6.12.00: s. 2(1); Ss 4(a)(b), 9, 19(2), 38, 39 on 1.1.02: s. 2(3)
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Animals Legislation (Responsible Ownership) Act 2001, No. 83/2001

Assent Date: 11.12.01
Commencement Date: Ss 24–30 on 12.12.01: s. 2(1); ss 9–23 on 1.11.02: s. 2(3)
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

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

Endnotes

Fisheries (Amendment) Act 2003, No. 56/2003

Assent Date: 16.6.2003
Commencement Date: S. 11(Sch. item 6) on 17.6.03: s. 2
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Animals Legislation (Animal Welfare) Act 2003, No. 103/2003

Assent Date: 9.12.03
Commencement Date: Ss 4, 6–8, 24 on 10.12.03: s. 2(1); s. 26 on 19.10.04: Government Gazette 7.10.04 p. 2795; s. 20(1) on 16.12.04: Government Gazette 16.12.04 p. 3381
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Primary Industries Legislation (Further Miscellaneous Amendments) Act 2004, No. 69/2004

Assent Date: 19.10.04
Commencement Date: Ss 22–29, 31, 33, 34 on 20.10.04: s. 2(1); s. 32 on 1.3.05: s. 2(7)
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

State Concessions Act 2004, No. 82/2004

Assent Date: 16.11.04
Commencement Date: S. 13(Sch. item 1) on 1.3.05: s. 2(2)
Current State: This information relates only to provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 59) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

Primary Industries Acts (Amendment) Act 2005, No. 50/2005

Assent Date: 24.8.05
Commencement Date: Ss 11, 12 on 25.8.05: s. 2(1)
Current State: This information relates only to the provision/s amending the **Domestic (Feral and Nuisance) Animals Act 1994**

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

Endnotes

3. Explanatory Details

No entries at date of publication.