

Western Australia

## **Cat Act 2011**

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Western Australia

# Cat Act 2011

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Western Australia

## **Cat Act 2011**

**An Act to —**

- **provide for the control and management of cats; and**
- **promote and encourage the responsible ownership of cats, and for related matters.**

The Parliament of Western Australia enacts as follows:



## Part 1 — Preliminary

**1. Short title**

This is the *Cat Act 2011*.

**2. Commencement**

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act, other than the provisions referred to in paragraph (c) — on 1 November 2012;
- (c) sections 5, 6, 14(1), 18(1), 22 to 24, 26 to 35, 41, 49, 55 to 60 and 86 — on 1 November 2013.

*[3-4. Has not come into operation<sup>2</sup>.]*

*[Parts 2-6 have not come into operation<sup>2</sup>.]*

**Notes**

<sup>1</sup> This is a compilation of the *Cat Act 2011*. The following table contains information about that Act.

**Compilation table**

Short title	Number and year	Assent	Commencement
<i>Cat Act 2011</i> s. 1 and 2	55 of 2011	9 Nov 2011	9 Nov 2011 (see s. 2(a))

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

Short title	Number and year	Assent	Commencement
<i>Cat Act 2011</i> s. 3-4, Pt. 2-6 <sup>2</sup>	55 of 2011	9 Nov 2011	Act other than s. 1, 2, 5, 6, 14(1), 18(1), 22-24, 26-35, 41, 49, 55-60 and 86: 1 Nov 2012 (see s. 2(b)); s. 5, 6, 14(1), 18(1), 22-24, 26-35, 41, 49, 55-60 and 86: 1 Nov 2013 (see s. 2(c))

<sup>2</sup> On the date as at which this compilation was prepared, the *Cat Act 2011* s. 3-4, Pt. 2-6 have not come into operation. They read as follows:

**3. Terms used**

- (1) In this Act, unless the context otherwise requires —
  - approved cat breeder* means a person who has an approval to breed cats under section 37;
  - authorised person* means —
    - (a) a police officer; or
    - (b) a person appointed under section 48(1);
  - cat* means an animal of the species *felis catus* or a hybrid of that species;
  - cat management facility* means —
    - (a) a facility operated by a local government that is, or may be, used for keeping cats; or

- (b) a facility for keeping cats that is operated by a person or body prescribed; or
- (c) a facility for keeping cats that is operated by a person or body approved in writing by a local government;

**microchip** means an identification device of a prescribed type that —

- (a) is capable of being implanted in a cat; and
- (b) is designed to record information in a way that can be electronically retrieved;

**microchip database** means a database —

- (a) of records containing information about a cat and its owner; and
- (b) kept by a microchip database company;

**microchip database company** means —

- (a) a person or body —
  - (i) that keeps a microchip database; and
  - (ii) that is prescribed as a microchip database company for the purposes of this definition;

and

- (b) in relation to a particular cat, means the microchip database company that keeps, or has agreed to keep, records containing information about that cat and its owner;

**microchip implanter** means —

- (a) a prescribed person; or
- (b) a person holding the prescribed qualifications for a microchip implanter;

**microchipped** means implanted with a microchip in a prescribed manner;

**owner**, in relation to a cat, has the meaning given in section 4;

**premises** includes the following —

- (a) land (whether or not vacant);
- (b) the whole or part of a building or structure (whether of a permanent or temporary nature);
- (c) a vehicle;

**prescribed** means prescribed under regulations made under this Act;

**public place** means any place to which the public has lawful access;

**register** means a register kept by a local government under section 12;

**registered** means registered under section 9;

**registered owner**, in relation to a cat, means the person in whose name the cat is registered;

**registration tag**, in relation to a cat, means the registration tag given to the owner of the cat under section 11(1)(c);

**scan** means to scan in a manner that enables a microchip to be detected and the information recorded to be electronically retrieved;

**sterilised** means made permanently infertile by a surgical procedure;

**transfer**, in relation to ownership of a cat, includes —

- (a) sell, trade, give away, take consideration for, transfer ownership of and offer for sale; and
- (b) to reclaim from a cat management facility;

**veterinarian** means a registered veterinary surgeon as defined in the *Veterinary Surgeons Act 1960* section 2.

- (2) Words and expressions defined in the *Local Government Act 1995* have the same meaning in this Act, unless the contrary intention appears.

**4. Term used: owner**

- (1) In this Act —

**owner**, in relation to a cat, means any of these persons —

- (a) in the case of a cat that is registered, the registered owner of the cat; or
- (b) in the case of a cat that is not registered, a person who, or an owner of a business or organisation that, ordinarily keeps and cares for the cat; or
- (c) if a person referred to in paragraph (b) is a child under 18 years of age, that child's parent or guardian.

- (2) In the case of a cat that is not registered, but is microchipped, a person whose name is recorded as the owner of the cat in a microchip database is to be taken, in the absence of evidence to the contrary, to be a person who ordinarily keeps and cares for the cat.

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**Part 2 — Registration, identification and sterilisation of cats**

**Division 1 — Registration and tagging**

**Subdivision 1 — Cats must be registered and tagged**

**5. Cats to be registered**

- (1) The owner of a cat that has reached 6 months of age must ensure that the cat is registered with the local government in whose district the cat is ordinarily kept.

Penalty: a fine of \$5 000.

- (2) Subsection (1) does not apply if —

- (a) the cat has been kept by the person for less than 14 days; or
- (b) the person has been resident in the State for less than 14 days; or
- (c) the cat belongs to a class of cats prescribed as exempt from registration.

**6. Cats to wear tags**

- (1) The owner of a registered cat must ensure that when the cat is in a public place the cat is wearing its registration tag.

Penalty: a fine of \$5 000.

- (2) Subsection (1) does not apply if the cat belongs to a class of cats prescribed as exempt from wearing registration tags when in a public place.

- (3) It is a defence to a charge under subsection (1) if the accused establishes that —

- (a) the contravention in respect of which the proceeding was instituted was due to —
  - (i) the act or default of another person; or
  - (ii) an accident; or
  - (iii) some other cause beyond the accused's control;and
- (b) the accused took reasonable precautions and could not by the exercise of due diligence have prevented the commission of the offence.

**7. Interference with tag**

A person must not, without reasonable excuse, remove or interfere with a registration tag worn by a cat.

Penalty: a fine of \$5 000.

**Subdivision 2 — How to register a cat**

**8. Application for registration**

- (1) The owner of a cat that is ordinarily kept in the district of a local government may apply to that local government for the grant or renewal of the registration of the cat.
- (2) An application for the grant or renewal of the registration of a cat is to —
  - (a) be made in the manner and form prescribed; and
  - (b) be accompanied by the fee, if any, prescribed; and
  - (c) comply with such other requirements, if any, prescribed.

**9. Registration**

- (1) On receiving an application for the grant or renewal of the registration of a cat under section 8, a local government is to —
  - (a) grant or refuse to grant the registration of the cat; or
  - (b) renew or refuse to renew the registration of the cat.
- (2) A local government must refuse an application for the grant or renewal of the registration of a cat if, and only if, the local government is satisfied that one or more of the following apply —
  - (a) the applicant is a child under 18 years of age;
  - (b) the cat belongs to a class of cats prescribed as exempt from registration;
  - (c) the cat is not microchipped;
  - (d) the cat is not sterilised;
  - (e) the applicant has been convicted within the previous 3 years of 2 or more offences against any of the following —
    - (i) this Act;
    - (ii) the *Dog Act 1976*;
    - (iii) the *Animal Welfare Act 2002*.
- (3) Despite subsection (2)(c), a local government must not refuse an application for the grant or renewal of the registration of a cat that is not microchipped if the cat is exempt from microchipping as referred to in section 14(2).
- (4) Despite subsection (2)(d), a local government must not refuse an application for the grant or renewal of the registration of a cat that is not sterilised if the cat is exempt from sterilisation as referred to in section 18(2).

- (5) A local government to which an application is made may require the applicant to give the local government, within a specified time of not more than 21 days, any document or information that it requires to determine the application and may require the applicant to verify the information by statutory declaration.
- (6) The local government may refuse to consider an application if the applicant does not comply with a requirement under subsection (5) within the specified time.
- (7) Subject to this Act, the grant or renewal of the registration of a cat has effect for the period, or periods, prescribed.

**10. Cancellation of registration**

A local government may cancel the registration of a cat —

- (a) if the cat —
  - (i) has died; or
  - (ii) is no longer kept in the State; or
  - (iii) has been registered with another local government;
- or
- (b) if the owner of the cat has been convicted within the period of 12 months before the cancellation of 2 or more offences against any of the following —
  - (i) this Act;
  - (ii) the *Dog Act 1976*;
  - (iii) the *Animal Welfare Act 2002*.

**11. Registration numbers, certificates and tags**

- (1) A local government that registers a cat is to —
  - (a) allot a registration number to the cat; and
  - (b) give the owner of the cat a registration certificate in the prescribed form for the cat; and
  - (c) give the owner of the cat a registration tag for the cat showing the registration number allotted to the cat.
- (2) If a local government is satisfied that a registration certificate or registration tag for a cat has been stolen, lost, damaged or destroyed, the local government may give the owner a new registration certificate or tag for the cat.

**12. Register of cats**

- (1) A local government is to keep an accurate and up-to-date register of cats registered by the local government.

- (2) The register is to be kept in such form as the local government thinks fit.
- (3) The local government is to record in the register the information prescribed in respect of each cat registered by the local government.
- (4) The local government may cause any error in, or omission from, the register to be corrected.

**13. Notice to be given of certain decisions made under this Subdivision**

- (1) Within 7 days after making a decision referred to in subsection (2) the local government is to give to the owner of the cat the subject of the decision, notice in writing of —
  - (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) the person's rights under Part 4 Division 5 to object against, and apply for a review of, the decision.
- (2) The decisions to which subsection (1) applies are a decision to —
  - (a) refuse to grant or renew the registration of a cat under section 9; or
  - (b) cancel the registration of a cat under section 10.

**Division 2 — Microchipping**

**14. Cats to be microchipped**

- (1) The owner of a cat that has reached 6 months of age must ensure that the cat is microchipped, unless the cat is exempt from microchipping.  
Penalty: a fine of \$5 000.
- (2) A cat is exempt from microchipping if a certificate given by a veterinarian stating that the implantation of a microchip in the cat may adversely affect the health and welfare of the cat applies in respect of the cat.
- (3) A certificate referred to in subsection (2) cannot apply in respect of a cat that is under 6 months of age.

**15. Microchip implanter to give information to microchip database company**

A microchip implanter who implants a microchip in a cat must, within 7 days after the microchip is implanted, give notice in writing in the form, if any, prescribed of the information prescribed to the microchip database company for that cat.  
Penalty: a fine of \$5 000.

**16. Microchip database company's obligations**

A microchip database company for a cat must keep and maintain in its microchip database the information prescribed under section 15 in respect of the cat.

Penalty: a fine of \$5 000.

**17. Interference with microchips**

A person must not, without reasonable excuse, remove or interfere with a microchip implanted in a cat.

Penalty: a fine of \$5 000.

**Division 3 — Sterilisation**

**18. Cats to be sterilised**

- (1) The owner of a cat that has reached 6 months of age must ensure that the cat is sterilised by a veterinarian, unless the cat is exempt from sterilisation.

Penalty: a fine of \$5 000.

- (2) A cat is exempt from sterilisation if any of the following apply in respect of the cat —

- (a) a certificate given by a veterinarian stating that to sterilise the cat may adversely affect the health and welfare of the cat applies in respect of the cat;
- (b) the cat is owned, for the purpose of breeding, by an approved cat breeder;
- (c) the cat belongs to a class of cats prescribed as exempt from sterilisation.

- (3) A certificate referred to in subsection (2)(a) cannot apply in respect of a cat that is under 6 months of age.

**19. Identifying as sterilised a cat that is not sterilised**

A person must not identify a cat as sterilised in the manner prescribed if it is not sterilised.

Penalty: a fine of \$5 000.

**20. Notice of sterilisation to be given to microchip database company**

A veterinarian who sterilises a microchipped cat must, within 7 days after sterilising the cat, give notice in writing in the form, if any, prescribed of the sterilisation of the cat to the microchip database company for that cat.

Penalty: a fine of \$5 000.

**21. Certificate of sterilisation to be given**

A veterinarian who sterilises a cat must give a certificate of sterilisation to the owner of the cat.

Penalty: a fine of \$5 000.

**Division 4 — Transfer of ownership of cats**

**22. Terms used**

In this Division —

*purchaser*, of a cat, means the person to whom the cat is transferred;

*seller*, of a cat, means the person by whom the cat is transferred.

**23. Transfer of ownership of cats**

- (1) A person must not transfer a cat that is not microchipped unless, at the time of the transfer, the person is satisfied that a certificate referred to in section 14(2) applies in respect of the cat.

Penalty: a fine of \$5 000.

- (2) A person must not transfer a cat that is not sterilised unless, at the time of the transfer —

(a) the person is satisfied that —

- (i) a certificate referred to in section 18(2)(a) applies in respect of the cat; or
- (ii) the purchaser is an approved cat breeder and the purchaser is purchasing the cat for the purpose of breeding; or
- (iii) the cat belongs to a class of cats prescribed as exempt from sterilisation;

or

(b) a voucher is given to the purchaser by the person to enable the purchaser to have the cat sterilised at a later date by a veterinarian at no cost to the purchaser.

Penalty: a fine of \$5 000.

- (3) This section, or a part of this section prescribed, does not apply —

- (a) in respect of a cat that belongs to a class of cats, if any, prescribed; or
- (b) in the circumstances, if any, prescribed.

**24. Notice to be given of transfer of cat**

Within 7 days after the transfer of a cat, the seller of the cat must give notice in writing —

- (a) to the local government with which the cat is registered, of —
  - (i) the name and address of the purchaser of the cat; and
  - (ii) any other changes to the information prescribed under section 12(3) in respect of the cat;
- and
- (b) to the microchip database company for that cat, of —
  - (i) the name and address of the purchaser of the cat; and
  - (ii) any other changes to the information prescribed under section 15 in respect of the cat.

Penalty: a fine of \$5 000.

### **Division 5 — Changes to recorded information**

#### **25. Notice to be given of changes to recorded information**

The owner of a cat must give notice in writing —

- (a) to the local government with which the cat is registered, if there is a change to any of the information prescribed under section 12(3) in respect of the cat; and
- (b) to the microchip database company for that cat, if there is a change to any of the information prescribed under section 15 in respect of the cat,

within 7 days after the change to the information.

Penalty: a fine of \$5 000.

## **Part 3 — Management of cats**

### **Division 1 — Cat control notices**

#### **26. Cat control notice may be given to cat owner**

- (1) A local government may give a cat control notice to a person who is the owner of a cat ordinarily kept in its district.
- (2) A cat control notice is to —
  - (a) be in the form prescribed; and
  - (b) identify the cat or cats in respect of which the notice is given and indicate where the cat or cats are, or are suspected to be; and
  - (c) direct the person to whom the notice is given to comply with a provision of this Act, the regulations or a local law in respect of the cat or cats; and

- (d) specify the period within which the person to whom it is given is to comply with the notice.

### **Division 2 — Seizing cats**

#### **27. Cats may be seized**

An authorised person may —

- (a) in any public place, seize any cat that the authorised person believes, or suspects, on reasonable grounds is the subject of an offence against this Act; or
- (b) in any premises lawfully entered by the authorised person, seize any cat —
  - (i) at the request, or with the consent, of the person who is, or appears to be, the owner or occupier of the premises; or
  - (ii) under a warrant issued under Part 4 Division 3 Subdivision 3.

#### **28. Disposing of seized cats**

An authorised person is to ensure that a cat seized is —

- (a) taken to its owner; or
- (b) impounded in a cat management facility.

### **Division 3 — Dealing with cats at cat management facilities**

#### **29. Application of Division**

This Division does not apply to a cat kept temporarily at a cat management facility at the request of its owner.

#### **30. Obligation to identify a cat's owner**

- (1) If the identity of the owner of a cat entering a cat management facility is unknown to the operator of the facility, then, as soon as practicable after the cat enters the facility the operator must make every reasonable attempt to identify the owner of the cat including, where possible, by scanning the cat.  
Penalty: a fine of \$5 000.
- (2) Despite subsection (1), a person does not have to scan a cat if —
  - (a) the cat behaves aggressively towards the person or any other person; and
  - (b) the person believes on reasonable grounds that there is a danger to the health or safety of any person in attempting to scan the cat.

**31. Cat owner liable to pay costs to cat management facility**

- (1) The owner of a cat kept at a cat management facility is liable to pay to the operator of the facility the reasonable costs associated with any of the following that have been incurred in relation to the cat —
- (a) removing and impounding the cat;
  - (b) keeping and caring for the cat;
  - (c) the implantation of a microchip in the cat under section 33;
  - (d) the sterilisation of the cat under section 33;
  - (e) the destruction and the disposal of the cat under section 34.
- (2) The operator of a cat management facility may recover the amount of the costs referred to in subsection (1) from the owner of the cat in a court of competent jurisdiction.

**32. Notice to be given to cat's owner, if identified**

If the operator of a cat management facility knows the identity of the owner of a cat kept at the facility then the operator is to take all reasonable steps to ensure that the owner of the cat is notified in writing —

- (a) of the name and address of the cat management facility where the cat is being kept; and
- (b) that the cat may be re-housed, offered for sale or destroyed if the cat is not reclaimed by its owner within the holding period specified in the notice (that is not to be less than 7 working days from the notice being given); and
- (c) of the costs that the owner may be liable for under section 31; and
- (d) where relevant, that under section 33 —
  - (i) the cat is to be microchipped, unless it is proved to the satisfaction of the operator, within the holding period specified in the notice, that the cat is exempt from microchipping as referred to in section 14(2);
  - (ii) that the cat is to be sterilised, unless it is proved to the satisfaction of the operator, within the holding period specified in the notice, that the cat is exempt from sterilisation as referred to in section 18(2).

Penalty: a fine of \$5 000.

**33. Operator of cat management facility may have cat microchipped and sterilised**

If the operator of a cat management facility —

- (a) believes on reasonable grounds that a cat kept at the facility is not microchipped, and has no reason to believe that the cat is exempt from microchipping as referred to in section 14(2); or
- (b) believes on reasonable grounds that a cat kept at the facility is not sterilised, and has no reason to believe that the cat is exempt from sterilisation as referred to in section 18(2),

then the operator of the cat management facility may do anything necessary to ensure that the cat is microchipped or sterilised, or both, as is relevant, before the cat is reclaimed or otherwise transferred from that facility.

**34. Dealing with unidentified and unclaimed cats**

(1) If —

- (a) the operator of a cat management facility does not know the identity of the owner of a cat and fails to identify the owner within 3 working days of the cat entering the cat management facility; or
- (b) the owner of a cat notified under section 32 has not reclaimed the cat within —
  - (i) 7 working days from the notice being given under that section; or
  - (ii) the holding period specified in the notice, whichever is later; or
- (c) the owner of a cat has surrendered the cat to the cat management facility,

then the operator of the facility may —

- (d) transfer the cat; or
- (e) cause the cat to be destroyed in a humane manner.

(2) Despite subsection (1), the operator of a cat management facility may cause any cat kept at the facility to be destroyed in a humane manner immediately —

- (a) if the operator believes on reasonable grounds that the cat —
  - (i) is feral, diseased or dangerous; and

- (ii) has caused or given, or is likely to cause or give, serious injury, or serious illness, to a person, another animal or itself; or
- (b) in the circumstances, if any, prescribed.

#### **Division 4 — Breeding of cats**

##### **Subdivision 1 — Restrictions on breeding cats**

#### **35. Only approved cat breeders may breed cats**

- (1) A person must not breed cats unless the person is an approved cat breeder.  
Penalty: a fine of \$5 000.
- (2) If a person is convicted of an offence under subsection (1), the court may, in addition to any penalty imposed under that subsection, order that the person must take immediate action to ensure that any, or all, cats owned by the person, as is specified in the order, are sterilised.
- (3) A court that makes an order under this section is to ensure that a copy of the order is provided to the local government for the district in which the person subject to the order lives.
- (4) An order under this section may be enforced as if it were a judgment of the court.

##### **Subdivision 2 — Becoming an approved cat breeder**

#### **36. Application for approval to breed cats**

- (1) The owner of a cat that is ordinarily kept in the district of a local government may apply to the local government for the grant or renewal of an approval to breed cats.
- (2) An application for the grant or renewal of an approval to breed cats is to —
  - (a) be made in the manner and form prescribed; and
  - (b) be accompanied by the fee, if any, prescribed; and
  - (c) comply with such other requirements, if any, prescribed.

#### **37. Approval to breed cats**

- (1) On receiving an application for the grant or renewal of an approval to breed cats under section 36, a local government is to —
  - (a) grant or refuse to grant an approval for the person to breed cats; or
  - (b) renew or refuse to renew an approval for the person to breed cats.

- (2) A local government may refuse an application for the grant or renewal of an approval to breed cats only if the local government is satisfied that one or more of the following apply —
- (a) the applicant is a child under 18 years of age;
  - (b) the applicant has no, or insufficient, facilities to breed cats in a safe and ethical way;
  - (c) the applicant has no, or unsuitable, premises where cats can be bred in a safe and ethical way;
  - (d) the applicant has been convicted within the previous 3 years of an offence against —
    - (i) this Act; or
    - (ii) the *Dog Act 1976*; or
    - (iii) the *Animal Welfare Act 2002*;
  - (e) the applicant is not a fit and proper person to breed cats;
  - (f) such other circumstances, if any, as are prescribed.
- (3) A local government to which an application is made may require the applicant to give the local government, within a specified time of not more than 21 days, any document or information that it requires to determine the application and may require the applicant to verify the information by statutory declaration.
- (4) The local government may refuse to consider an application if the applicant does not comply with a requirement under subsection (3) within the specified time.
- (5) Despite subsection (2), a local government is not to refuse to grant or renew an approval to breed cats if the applicant belongs to a class of persons prescribed for the purposes of this subsection.
- (6) Subject to this Act, the grant or renewal of an approval to breed cats has effect for the period, or periods, prescribed.

**38. Cancellation of approval to breed cats**

A local government may cancel an approval to breed cats if one or more of the things set out in section 37(2) applies in respect of the approved cat breeder.

**39. Certificate to be given to approved cat breeder**

- (1) A local government that gives approval to a person to breed cats is to give the person a certificate in the prescribed form.
- (2) If a local government is satisfied that a certificate has been stolen, lost, damaged or destroyed, the local government may give the approved cat breeder a new certificate.

**40. Notice to be given of certain decisions made under this Subdivision**

- (1) Within 7 days after making a decision referred to in subsection (2) the local government is to give to the person affected by the decision notice in writing of —
  - (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) the person's rights under Part 4 Division 5 to object against, and apply for a review of, the decision.
- (2) The decisions to which subsection (1) applies are a decision to —
  - (a) refuse to approve or renew the approval of a person to breed cats under section 37; or
  - (b) cancel the approval of a person to breed cats under section 38.

**Division 5 — Miscellaneous**

**41. Cats not to be offered as prizes**

A person must not offer a cat as a prize in a raffle or similar event or game of chance.

Penalty: a fine of \$5 000.

**Part 4 — Administration and enforcement**

**Division 1 — Administration**

**42. Administration by local governments**

A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.

**43. Places to be regarded as within district**

- (1) If the Governor has, under section 80, given approval for a local government to make a local law that has effect as if the local government's district included a part of the State that is not in a district, that approval is to be taken to include approval under the *Local Government Act 1995* section 3.19 to the extent necessary for the proper administration of that local law.
- (2) For the purposes of the performance of a function under this Act by an authorised person appointed by a local government, the district of the local government is to be regarded as including —
  - (a) any part of the State into which the authorised person has pursued a cat or person; and

- (b) any part of the State in which the authorised person has performed a function in relation to an offence against this Act that occurred, or that the authorised person believes, or suspects, on reasonable grounds occurred, in the district of the local government that appointed the authorised person.

### **Division 2 — Delegations**

#### **44. Delegation by local government**

- (1) The local government may delegate to its CEO the exercise of any of its powers or the discharge of any of its duties under another provision of this Act.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) A decision to delegate under this section is to be made by an absolute majority.

#### **45. Delegation by CEO of local government**

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under another provision of this Act.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 44, but in the case of such a power or duty —
  - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
  - (b) the exercise of that power or the discharge of that duty by the CEO's delegate,

are subject to any conditions imposed by the local government on its delegation to the CEO.

- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) —  
**conditions** includes qualifications, limitations or exceptions.
- (6) A power or duty under section 63, 64 or 65 cannot be delegated to an authorised person.

**46. Other matters relevant to delegations under this Division**

- (1) Without limiting the application of the *Interpretation Act 1984* sections 58 and 59 —
  - (a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
  - (b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.
- (2) Nothing in this Division is to be read as preventing —
  - (a) a local government from performing any of its functions by acting through a person other than the CEO; or
  - (b) a CEO from performing any of his or her functions by acting through another person.

**47. Register of, and review of, delegations**

- (1) The CEO of a local government is to keep a register of the delegations made under this Division to the CEO and to employees of the local government.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Division is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

**Division 3 — Authorised persons**

**Subdivision 1 — Appointment of authorised persons**

**48. Authorised persons**

- (1) A local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions under this Act.
- (2) A person who is not an employee of a local government cannot be appointed to be an authorised person for the purposes of section 62.
- (3) An authorisation under this section may be made on such conditions as the local government determines, in writing given to the authorised person.
- (4) The local government may, in writing given to the authorised person, at any time, cancel an authorisation under this section or add, vary or cancel a condition of an authorisation.

- (5) The local government is to issue to each authorised person appointed under subsection (1) a certificate stating that the person is an authorised person for the purposes of this Act.
- (6) An authorised person appointed under subsection (1) must —
  - (a) carry the certificate at all times when exercising powers or performing functions as an authorised person; and
  - (b) produce for inspection the certificate at the reasonable request of any person; and
  - (c) if he or she ceases to be an authorised person, return the certificate to the local government as soon as is practicable.

Penalty: a fine of \$5 000.

#### **Subdivision 2 — Particular powers of authorised persons**

##### **49. Authorised person may cause a cat to be destroyed**

- (1) An authorised person may cause a cat to be destroyed in a humane manner —
  - (a) if the person believes on reasonable grounds that the cat —
    - (i) is feral, diseased or dangerous; and
    - (ii) has caused or given, or is likely to cause or give, serious injury, or serious illness, to a person, another animal or itself; or
  - (b) at the request of the owner of the cat; or
  - (c) in the circumstances, if any, prescribed.
- (2) The owner of a cat destroyed under this section is liable to pay to the local government that appointed the authorised person the reasonable costs associated with the destruction and the disposal of the cat.
- (3) The local government may recover the amount of the costs referred to in subsection (2) from the owner of the cat in a court of competent jurisdiction.

##### **50. Persons found committing breach of Act to give name on demand**

- (1) An authorised person who —
  - (a) finds a person committing; or
  - (b) on reasonable grounds suspects a person of having committed,

an offence against this Act, may request from the person the person's name, place of residence and date of birth.

- (2) A person from whom information is requested under subsection (1) must not refuse without lawful excuse to give the information.

Penalty: a fine of \$5 000.

**51. Power to enter premises**

- (1) In the performance of a function under this Act, an authorised person may enter any premises if entry is required for the performance of the function —
- (a) with the consent of the person who is, or appears to be, the owner or occupier of the premises; or
  - (b) if a notice has been given in accordance with subsection (2) and the period specified in the notice as the period within which objections may be made has elapsed with no objection being made; or
  - (c) under a warrant issued under Subdivision 3.
- (2) An authorised person wishing to enter any premises may give to the owner or occupier of the premises notice in writing —
- (a) stating that the authorised person wishes to enter the premises; and
  - (b) specifying the purpose for which entry is required; and
  - (c) specifying that the owner or occupier may object to the entry and the period (being not less than 24 hours) within which the objection may be made; and
  - (d) specifying how the objection may be made.
- (3) Where a notice has been given under subsection (2) and no objection has been made to the authorised person within the time specified in the notice —
- (a) the notice continues to have effect until —
    - (i) the purpose for which entry was required has been effected; or
    - (ii) 7 days after the end of the objection period specified in the notice,
 whichever occurs first; and
  - (b) successive entries for that purpose are to be regarded as entries to which the notice relates.
- (4) The powers of entry under this section are in addition to and not in derogation of any power of entry conferred by any other law.
- (5) Entry under this section may be made with such assistants and equipment as are considered necessary for the purpose for which entry is required.

**52. General powers of authorised person**

In the performance of a function under this Act, an authorised person may do any one or more of the following —

- (a) set traps for cats in or on any public place or any premises lawfully entered;
- (b) examine, including by scanning, a cat to determine if the cat is the subject of an offence against this Act;
- (c) in any premises lawfully entered, as is reasonably required in order to investigate or collect evidence that an offence is being, or has been, committed against this Act —
  - (i) examine, seize, copy or take extracts from any documents relevant to the offence; or
  - (ii) take photographs, films and audio, video or other recordings relevant to the offence; or
  - (iii) direct a person to answer questions; or
  - (iv) take any other action that the authorised person believes, on reasonable grounds, is necessary.

**53. Act does not derogate from powers of police officers**

Nothing in this Act derogates from the powers of an authorised person who is a police officer.

**54. Obstruction**

A person must not delay, threaten, obstruct or otherwise hinder an authorised person in the performance of a function by that person under this Act.

Penalty: a fine of \$5 000.

**Subdivision 3 — Warrants**

**55. Grounds for a search warrant**

A justice may issue a warrant authorising an authorised person to enter premises if satisfied, by an application supported by evidence on oath, that —

- (a) there are reasonable grounds for suspecting that there is at the premises anything that may afford evidence of the commission of an offence against this Act; or
- (b) entry onto the premises is reasonably required to investigate a suspected offence against this Act.

**56. Grounds for a warrant to seize cat**

A justice may issue a warrant authorising an authorised person to seize a cat, or cats, if satisfied, by an application supported by

evidence on oath, that there are reasonable grounds for suspecting that the cat is, or cats are, the subject of an offence, or offences, against this Act.

**57. Application for warrant**

- (1) An authorised person may apply for a warrant even if, under this Act, the authorised person may enter the premises, or seize the cat, or cats, without a warrant.
- (2) The *Criminal Investigation Act 2006* section 13 applies to and in respect of an application for a warrant under this Act.

**58. Form of warrant**

A warrant is to be in the prescribed form.

**59. Effect of warrant**

- (1) A warrant has effect according to its content and this Subdivision.
- (2) A warrant comes into force when it is issued by a justice.

**60. Execution of warrant**

- (1) A warrant may be executed by —
  - (a) the authorised person to whom it is issued; or
  - (b) a person specified on the warrant; or
  - (c) any other authorised person.
- (2) A person executing a warrant must, at the reasonable request of a person who is, or appears to be, the owner or occupier of the premises, produce the warrant.

**Division 4 — Infringement notices**

**61. Terms used**

In this Division —

*local government* means the local government that could, or an employee of which could, prosecute for the offence concerned;

*prescribed* means prescribed by a local law or, if the alleged offence is against a regulation or this Act, prescribed by regulations or by a local law.

**62. Giving an infringement notice**

- (1) An authorised person who has reason to believe that a person has committed a prescribed offence against this Act or a regulation or local law made under this Act may, within 28 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.

- (2) A local government can only prescribe an offence for the purposes of subsection (1) if a prosecution for the offence could be commenced by the local government or any of its employees and the local government is satisfied that —
  - (a) commission of the offence would be a relatively minor matter; and
  - (b) only straightforward issues of law and fact would be involved in determining whether the offence was committed, and the facts in issue would be readily ascertainable.

**63. Content of infringement notice**

- (1) An infringement notice is to be in the prescribed form and is to —
  - (a) contain a description of the alleged offence; and
  - (b) advise that if the alleged offender does not wish to be prosecuted for the alleged offence in a court, the amount of money specified in the notice as being the modified penalty for the offence may be paid to the CEO of the local government within a period of 28 days after the giving of the notice; and
  - (c) inform the alleged offender how and where the money may be paid.
- (2) In an infringement notice the amount specified as being the modified penalty for the offence referred to in the notice is to be the amount that was the prescribed modified penalty at the time the alleged offence is believed to have been committed.
- (3) A modified penalty for an offence must not exceed 10% of the maximum penalty for that offence.

**64. Extension of time**

The CEO of a local government may, in a particular case, extend the period of 28 days within which the modified penalty may be paid and the extension may be allowed whether or not the period of 28 days has elapsed.

**65. Withdrawal of notice**

- (1) Within one year after the notice was given the CEO of the local government may, whether or not the modified penalty has been paid, withdraw an infringement notice by sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.
- (2) Where an infringement notice is withdrawn after the modified penalty has been paid, the amount is to be refunded.

**66. Benefit of paying modified penalty**

- (1) Subsection (2) applies if the modified penalty specified in an infringement notice has been paid within 28 days or such further time as is allowed and the notice has not been withdrawn.
- (2) If this subsection applies it prevents the bringing of proceedings and the imposition of penalties to the same extent that they would be prevented if the alleged offender had been convicted by a court of, and punished for, the alleged offence.
- (3) Payment of a modified penalty is not to be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

**67. Application of penalties collected**

An amount paid as a modified penalty is, subject to section 65(2), to be dealt with as if it were a fine imposed by a court as a penalty for an offence.

**Division 5 — Objections and review**

**68. When this Division applies**

This Division applies when a local government makes a decision to —

- (a) refuse to grant or renew the registration of a cat under section 9; or
- (b) cancel the registration of a cat under section 10; or
- (c) refuse to approve or renew the approval of a person to breed cats under section 37; or
- (d) cancel the approval of a person to breed cats under section 38.

**69. Objection may be lodged**

- (1) A person who has been given notice under section 13 or 40 of a decision may object to the decision if the person has not applied for a review of the decision under this Division.
- (2) The objection is made by preparing it in the prescribed form and lodging it with the local government in the prescribed manner within 28 days after the right of objection arose, or within such further time as the local government may allow.

**70. Dealing with objection**

- (1) The objection is to be dealt with by the council of the local government or by a committee authorised by the council to deal with it.

- (2) A committee cannot deal with an objection against a decision that it made or a decision that the council made.
- (3) The person who made the objection is to be given a reasonable opportunity to make submissions on how to dispose of the objection.
- (4) The objection may be disposed of by —
  - (a) dismissing the objection; or
  - (b) varying the decision objected to; or
  - (c) revoking the decision objected to, with or without —
    - (i) substituting for it another decision; or
    - (ii) referring the matter, with or without directions, for another decision by a committee or person whose function it is to make such a decision.
- (5) The local government is to ensure that the person who made the objection is given notice in writing of how it has been decided to dispose of the objection and the reasons for disposing of it in that way.

**71. Review of decisions**

- (1) A person who has been given notice under section 13 or 40 of a decision may apply to the State Administrative Tribunal for a review of the decision if the person —
  - (a) has not lodged an objection to the decision; or
  - (b) has lodged an objection but, at the expiration of 35 days after it was lodged, has not been given notice in writing of how it has been decided to dispose of the objection.
- (2) If the person lodged an objection and has been given notice in writing of how it has been decided to dispose of the objection, the person may apply to the State Administrative Tribunal for a review of the decision on the objection.
- (3) The application is to be made within 42 days after the right to make it arose.

Examples for section 71(3):

- within 42 days after the original decision, for an application under subsection (1)(a); or
- more than 35 days, but within 77 days, after the objection was lodged, for an application under subsection (1)(b); or
- within 42 days after the objection was decided, for an application under subsection (2).

**72. Suspension of effect of some decisions**

If an objection has been lodged, or an application for review made under this Division against a decision to —

- (a) refuse to renew the registration of a cat under section 9; or
- (b) cancel the registration of a cat under section 10; or
- (c) refuse to renew the approval for a person to breed cats under section 37; or
- (d) cancel the approval for a person to breed cats under section 38,

the effect of the decision is suspended, and the registration or approval, as is relevant, is to be taken to continue to have effect pending the determination of the application unless the State Administrative Tribunal orders that the effect of the decision should not be suspended.

### **Division 6 — Legal proceedings**

#### **73. Prosecutions**

- (1) The following persons are authorised to commence a prosecution for an offence against this Act —
  - (a) a person who is acting in the course of his or her duties as an employee of a local government;
  - (b) a person who is authorised to do so by a local government.
- (2) The following persons are authorised to commence a prosecution for an offence against a local law —
  - (a) a person who is acting in the course of his or her duties as an employee of the local government that made the local law;
  - (b) a person who is authorised to do so by the local government that made the local law.
- (3) In proceedings for an offence against this Act, unless evidence is given to the contrary, proof is not required —
  - (a) that the prosecutor is authorised to commence the prosecution; or
  - (b) that a signature on the prosecution notice alleging the offence is the signature of a person authorised to commence the prosecution.

#### **74. Additional court orders**

- (1) If—
  - (a) a court convicts a person of an offence against this Act; and

- (b) the person has previously been convicted of 2 or more offences against this Act,

the court may, in addition to imposing any other penalty imposed under this Act, order —

- (c) that the person is banned from owning or keeping a cat permanently or for the period specified in the order; or
- (d) that, despite any other provision of this Act, the person is to take immediate action to ensure that any, or all, cats owned by the person, as is specified in the order, are —
  - (i) microchipped; or
  - (ii) sterilised,or both.

- (2) A court that makes an order under this section is to ensure that a copy of the order is provided to the local government for the district in which the person subject to the order lives.
- (3) An order under this section may be enforced as if it were a judgment of the court.

**75. Evidentiary matters**

- (1) In proceedings for an offence against this Act an allegation in the prosecution notice that, at a specified time, any of the following matters existed is taken to be proved in the absence of evidence to the contrary —
  - (a) that a specified cat was not registered;
  - (b) that a specified person was the registered owner of a specified cat;
  - (c) that a specified person's name was recorded as the owner of a specified cat in a microchip database;
  - (d) that a specified person ordinarily kept and cared for a specified cat;
  - (e) that a specified cat was ordinarily kept in the district of a specified local government;
  - (f) that a specified person was the owner of a specified cat;
  - (g) that a specified database was a microchip database;
  - (h) that a specified person or body was a microchip database company;
  - (i) that a specified cat was not sterilised;
  - (j) that a specified cat was not microchipped;
  - (k) that a specified cat had reached 6 months of age.
- (2) In subsection (1) —

*specified* means specified in the prosecution notice.

- (3) This section is in addition to and does not affect the operation of the *Evidence Act 1906*.

## **Part 5 — Subsidiary legislation**

### **Division 1 — Regulations**

#### **76. General regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or that are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may be made as to one or more of the following —
- (a) registration tags;
  - (b) fees and charges payable in respect of any matter under this Act.

#### **77. Regulations that operate as local laws**

- (1) The Governor may make regulations that are to operate as if they were local laws for each district to which they apply.
- (2) Regulations made under this section may deal with any matter in respect of which local laws may be made under Division 2.
- (3) Regulations under this section, other than those that only repeal or amend other regulations, are to contain a statement to the effect that they apply as if they were local laws.
- (4) A local government is to administer any regulation made under this section to the extent that it relates to any place where the local government may perform functions, as if the regulation were a local law.
- (5) Unless a contrary intention appears, a reference to an offence against a local law includes a reference to an offence against a regulation made under this section.
- (6) If there is any inconsistency between a regulation made under this section and a local law made under this Act, the regulation prevails to the extent of the inconsistency.

#### **78. Provisions about regulations**

Regulations, whether under section 76 or 77, may —

- (a) adopt any text that could be adopted by a local law;
- (b) provide that contravention of a provision of regulations is an offence, and provide for the offence to be punishable

- on conviction by the imposition of a fine not exceeding \$5 000;
- (c) make a person who commits an offence of a continuing nature liable to a further fine not exceeding \$500 in respect of each day or part of a day during which the offence has continued;
  - (d) provide for the imposition of a minimum fine for the offence;
  - (e) relate the level of the fine to —
    - (i) the circumstances or extent of the offence;
    - (ii) whether the offender has committed previous offences and, if so, the number of previous offences that the offender has committed;
  - (f) prescribe the method and the means by which any fines imposed are to be paid and collected, or recovered.

### **Division 2 — Local laws**

#### **79. Local laws**

- (1) A local government may make local laws prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.
- (2) A local law made under this Act does not apply outside the local government's district unless it is made to apply outside the district under section 80.
- (3) Without limiting subsection (1), a local law may be made as to one or more of the following —
  - (a) the registration of cats;
  - (b) removing and impounding cats;
  - (c) keeping, transferring and disposing of cats kept at cat management facilities;
  - (d) the humane destruction of cats;
  - (e) cats creating a nuisance;
  - (f) specifying places where cats are prohibited absolutely;
  - (g) requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;
  - (h) limiting the number of cats that may be kept at premises, or premises of a particular type;

- (i) the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;
- (j) the regulation of approved cat breeders, including record keeping and inspection;
- (k) fees and charges payable in respect of any matter under this Act.

**80. Places outside district**

- (1) If the Governor's approval has been first obtained, a local government may make a local law under this Act that applies outside its district.
- (2) A local government cannot, under subsection (1), make a local law that applies to —
  - (a) a part of the State that is in the district of another local government; or
  - (b) a part of the State to which a local law made by another local government concerning the same subject matter applies under this section.
- (3) The Governor may revoke any approval given under subsection (1), and, after that revocation, a local law made under the approval ceases to apply to the part of the State for which the approval was given.
- (4) The Minister is to cause notice of any revocation under subsection (3) to be published in the *Gazette*.

**81. Inconsistency with written laws**

A local law made under this Act is inoperative to the extent that it is inconsistent with this Act or any other written law.

**82. Local laws may adopt codes etc.**

- (1) A local law made under this Act may adopt the text of —
  - (a) any model local law, or amendment to it, published under section 83; or
  - (b) a local law of any other local government; or
  - (c) any code, rules, specifications, or standard issued by Standards Australia or by such other body as is specified in the local law.
- (2) The text may be adopted —
  - (a) wholly or in part; or
  - (b) as modified by the local law; or

- (c) as it exists at a particular date or, except if the text of a model local law is being adopted, as amended from time to time.
- (3) The adoption may be direct, by reference made in the local law, or indirect, by reference made in any text that is itself directly or indirectly adopted.

**83. Model local laws**

- (1) The Governor may cause to be prepared and published in the *Gazette* model local laws the provisions of which a local law made under this Act may adopt by reference, with or without modification.
- (2) Model local laws have no effect except to the extent that they are adopted.
- (3) The Governor may, by notice published in the *Gazette*, amend a model local law published under this section.
- (4) An amendment to a model local law does not affect any local law that adopted the model local law before the amendment but the amendment may be adopted by a further local law.

**84. Creating offences and prescribing penalties**

- (1) A local law may provide that contravention of a provision of the local law is an offence, and may provide for the offence to be punishable on conviction by a penalty not exceeding a fine of \$5 000.
- (2) If the offence is of a continuing nature, the local law may make the person liable to a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.
- (3) The local law may provide for the imposition of a minimum penalty for the offence.
- (4) The level of the penalty may be related to either or both of the following —
  - (a) the circumstances or extent of the offence;
  - (b) whether the offender has committed previous offences and, if so, the number of previous offences that the offender has committed.
- (5) A local law may specify the method and the means by which any fines imposed are to be paid and collected, or recovered.

**Part 6 — Miscellaneous**

**85. False or misleading information**

A person must not give any information that the person knows to be false or misleading in a material particular —

- (a) to an authorised person exercising a power under this Act, or a person assisting an authorised person to exercise a power under this Act; or
- (b) in relation to an application under this Act.

Penalty: a fine of \$5 000.

**86. Review of Act**

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as practicable after —
  - (a) the fifth anniversary of the commencement of this section; and
  - (b) the expiry of each 5 yearly interval after that anniversary.
- (2) In the course of the review the Minister must consider and have regard to —
  - (a) the need for the continuation of this Act; and
  - (b) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.
- (3) The Minister must prepare a report based on the outcome of the review and cause it to be laid before each House of Parliament, as soon as is practicable after the report is prepared but not later than 12 months after the end of the period of 5 years.