



Animal Management (Cats and Dogs) Act 2008

Current as at 5 April 2013

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Queensland

Animal Management (Cats and Dogs) Act 2008

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Animal Management (Cats and Dogs) Act 2008

[as amended by all amendments that commenced on or before 5 April 2013]

An Act for the identification, registration and management of cats and dogs

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Animal Management (Cats and Dogs) Act 2008*.

2 Commencement

- (1) The provisions of this Act, other than the following, commence on 1 July 2009—
 - the provisions mentioned in subsection (2)
 - section 227.
- (2) The following provisions commence on a day to be fixed by proclamation—
 - section 172(1) and (2)
 - section 173(1) to (3)
 - sections 174 to 176.

Part 2 **Purposes and application of Act**

Division 1 **Purposes**

3 **Purposes of Act**

The purposes of this Act are to—

- (a) provide for the identification and registration of cats and dogs; and
- (b) provide for the effective management of regulated dogs; and
- (c) promote the responsible ownership of cats and dogs.

Note—

For the welfare of animals generally, see the *Animal Care and Protection Act 2001*.

4 **How purposes are to be primarily achieved**

The purposes are to be primarily achieved by the following—

- (a) imposing obligations about identification devices for cats and dogs on their owners, sellers, authorised implanters and operators of pounds or shelters;
- (b) imposing obligations on owners and veterinary surgeons about tattooing cats and dogs for desexing;
- (c) imposing registration obligations on cat and dog owners;
- (d) imposing obligations on regulated dog owners;
- (e) providing for the chief executive to establish a regulated dog register;
- (f) appointing authorised officers to investigate, monitor and enforce compliance with this Act;

-
- (g) requiring those who may provide PID registry services to be licensed and imposing obligations on licensees;
 - (h) requiring local governments to keep a general register about cats and dogs;
 - (i) imposing obligations on particular persons to ensure dogs do not attack or cause fear;
 - (j) prohibiting anyone from allowing or encouraging a dog to attack or cause fear to people or other animals.

Division 2 Application

5 Act binds all persons

- (1) This Act binds all persons, including the State, and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act.

6 Relationship with local laws

- (1) This Act does not prevent a local law from imposing requirements in relation to cats or dogs generally.
- (2) Without limiting subsection (1), a local government may make a local law prohibiting anyone in its local government area, other than an exempted person, from possessing a dog of a particular breed.
- (3) Subject to subsection (2), if this Act and a local law are inconsistent about a requirement, the local law is invalid to the extent of the inconsistency.
- (4) This section applies for a local law whenever it was made.
- (5) In this section—
breed includes crossbreed of a breed.

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exempted person means an authorised person exercising functions or powers under this Act or a local law.

local law includes a subordinate local law.

prohibits includes a prohibition that does not provide for a penalty if the prohibition is contravened.

7 Act does not affect other rights or remedies

- (1) Subject to sections 41 and 103, this Act does not limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.
- (2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.
- (3) In addition, a breach of an obligation under this Act does not, of itself, give rise to an action for breach of statutory duty or another civil right or remedy.

Part 3 Interpretation

Division 1 Dictionary

8 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

Division 2 Key definitions

9 Who is an *owner* of a cat or dog

- (1) Each person as follows is an *owner* of a cat or dog—
 - (a) its registered owner;
 - (b) a person who owns the cat or dog, in the sense of it being the person's personal property;
 - (c) a person who usually keeps the cat or dog, including through an agent, employee or anyone else;
 - (d) if a person mentioned in paragraphs (a) to (c) is a minor—a parent or guardian of the minor.
- (2) For subsection (1)(c), a person does not usually keep a cat or dog—
 - (a) merely because the person occupies a place at which the cat or dog is kept if someone else who is an adult and lives at the place keeps it; or
 - (b) if the person keeps the cat or dog as an employee of someone else and the person is acting within the scope of the employment; or
 - (c) merely because the person is an inspector under the *Animal Care and Protection Act 2001* or is performing functions, or exercising powers, in that capacity under that Act.
- (3) If a person owns a female cat or dog and the female has offspring, the person is taken to be the offspring's *owner* immediately after its birth.

10 Who is a *responsible person* for a dog

- (1) A person is a *responsible person* for a dog if—
 - (a) the person, or the person's employee acting within the scope of the employment, has immediate control or custody of the dog; or

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- (b) the person is the parent or guardian of a minor who has immediate control or custody of the dog; or
 - (c) the person occupies the place at which the dog is usually kept.
- (2) However, a person is not a responsible person for the dog—
- (a) merely because the person occupies a place at which the dog is usually kept if someone else who is an adult and lives at the place keeps the dog; or
 - (b) if the person has the control or custody of or keeps the dog as an employee of someone else and the person is acting within the scope of the employment.

11 What is a *cat* or *dog*

- (1) A *cat* is an animal of the species *Felis catus*, or domestic cat.
- (2) A *dog* is an animal of the species *Canis lupus familiaris*, or domestic dog.

12 Identification devices under Act

- (1) A *permanent identification device* or *PID* means a microchip or other electronic device—
 - (a) capable of being permanently implanted in a cat or dog; and
 - (b) designed to record information in a way that can be electronically retrieved.
- (2) A *prescribed permanent identification device* or *PPID* means a PID that complies with the requirements prescribed under a regulation.
- (3) A *registration device* means a device to assist in identifying a cat or dog decided by resolution of a relevant local government for the cat or dog.

Example of a registration device—

a tag for the collar of a cat or dog

Chapter 2 Identification of cats and dogs

Part 1 Prescribed permanent identification devices

Division 1 Obligation on supplier or owner of cat or dog

13 Supplier must ensure cat or dog is implanted

- (1) A person must not, unless the person has a reasonable excuse, supply a cat or dog to anyone else if it is not implanted with a PID.

Note—

For requirements about implanting a PPID in a cat or dog that is less than 8 weeks old, see section 24 (Age restriction for implanting PPID).

Maximum penalty—20 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) for the defendant to prove—
- (a) there is a signed veterinary surgeon's certificate for the cat or dog stating that implanting it with a PPID is likely to be a serious risk to the health of the cat or dog; or
 - (b) for a dog, the supply is to use it as—
 - (i) a government entity dog; or
 - (ii) a working dog; or
 - (iii) another class of dog prescribed under a regulation.

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14 Owner must ensure cat or dog is implanted

- (1) A person who is or becomes an owner of a cat or dog that is not implanted with a PPID must ensure the cat or dog is implanted with a PPID before it is 12 weeks old unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

Note—

A cat or dog that is more than 12 weeks old on the commencement of this section need not be implanted with a PPID unless it is supplied. See section 13 (Supplier must ensure cat or dog is implanted).

- (2) It is a defence to a prosecution for an offence against subsection (1) for the defendant to prove—
- (a) there is a signed veterinary surgeon's certificate for the cat or dog stating that implanting it with a PPID is likely to be a serious risk to the health of the cat or dog;
 - (b) for a dog, the ownership is to use it as—
 - (i) a government entity dog; or
 - (ii) a working dog; or
 - (iii) another class of dog prescribed under a regulation.

16 Notice of changed PID information

- (1) This section applies if PID information for a cat or dog changes (the *changed information*).
- (2) The owner of the cat or dog must, within 7 days, give notice of the changed information to a licence holder unless the person has a reasonable excuse.

Maximum penalty—5 penalty units.

Note—

The licence holder must electronically update the information within 7 days after receiving it. See section 36(2) (Licence holder's obligations).

Division 2 Supplying PIDs

17 PID that is not PPID must not be supplied

A person must not supply a PID that is not a PPID.

Maximum penalty—60 penalty units.

18 Seller must not supply PPID other than to authorised implanter

A seller must not supply a PPID to a person other than an authorised implanter.

Maximum penalty—20 penalty units.

19 Seller must give PID number to authorised implanter

A seller who supplies a PPID to an authorised implanter must, within 7 days after supplying it, give the implanter a notice stating the PID number for the PPID.

Maximum penalty—20 penalty units.

20 Seller must give PID number to licence holder

A seller who supplies a PPID to an authorised implanter must, within 7 days after supplying it, give to all licence holders a notice stating—

- (a) the name and address of the implanter; and
- (b) the PID number for the PPID.

Maximum penalty—20 penalty units.

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Division 3 Implanting PIDs

Subdivision 1 General restriction

21 Only authorised implanter may implant PPID

A person, other than an authorised implanter, must not implant a PPID in a cat or dog.

Maximum penalty—100 penalty units.

Subdivision 2 Requirements for authorised implanters

22 PID that is not PPID must not be implanted

An authorised implanter must not implant a PID that is not a PPID.

Maximum penalty—60 penalty units.

23 Requirements for PPID

Before an authorised implanter implants a PPID in a cat or dog, the authorised implanter must ensure the PPID—

- (a) stores the PID number for the PID; and
- (b) complies with the requirements prescribed under a regulation.

Maximum penalty—40 penalty units.

24 Age restriction for implanting PPID

- (1) An authorised implanter must not implant a PPID in a cat or dog that is less than 8 weeks old, unless—

- (a) the implanter has a reasonable excuse; or

- (b) the implanter is a veterinary surgeon who considers implanting the PPID is not likely to be a serious risk to the health of the cat or dog; or
- (c) there is a signed veterinary surgeon's certificate for the cat or dog stating that implanting the PPID when it is less than 8 weeks old is not likely to be a serious risk to the health of the cat or dog.

Maximum penalty—60 penalty units.

- (2) It is a reasonable excuse if the cat or dog's owner advised the implanter that it was 8 weeks or older.

25 PID information must be given to licence holder

- (1) This section applies to an authorised implanter who implants a PPID in a cat or dog.
- (2) The authorised implanter must, within 7 days, give notice to a licence holder providing a PID registry service relating to the cat or dog stating—
 - (a) that it has been implanted with a PPID; and
 - (b) the PID information for the cat or dog.

Maximum penalty—20 penalty units.

Note—

See also section 37 (Authorised implanter may give identifying information to particular persons).

26 PID information must be kept

- (1) This section applies to an authorised implanter who has, under section 25, given notice to a licence holder.
- (2) The authorised implanter must keep the PID information for the cat or dog for 1 year after the cat or dog is implanted unless the implanter has a reasonable excuse.

Maximum penalty—20 penalty units.

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- (3) It is a reasonable excuse if the PID information is destroyed by fire, flood or storm.

Subdivision 3 Regulation of authorised implanters

27 Chief executive may suspend or prohibit

If the chief executive reasonably believes a ground under section 28 exists in relation to an authorised implanter, the chief executive may, by complying with sections 29 to 33, take the following action (the *proposed action*) against the implanter—

- (a) prohibit the implanter from implanting PPIDs in cats or dogs for a stated period (*suspension*);
- (b) prohibit the implanter from implanting PPIDs in cats or dogs indefinitely (*prohibition*).

28 Grounds for suspension or prohibition

Each of the following is a ground for section 27—

- (a) giving the chief executive or a licence holder false or misleading information relating to the performance of functions under this Act;
- (b) a failure to comply with this part.

29 Show cause notice

- (1) The chief executive must give the implanter a notice under this section (a *show cause notice*).
- (2) The show cause notice must state—
 - (a) the proposed action; and
 - (b) the grounds for the proposed action; and
 - (c) an outline of the facts and circumstances forming the basis for the grounds; and

- (d) if the proposed action is suspension—the proposed suspension period; and
 - (e) that the implanter may, within a stated period (the *show cause period*), make written representations to the chief executive why the proposed action should not be taken.
- (3) The show cause period must be a period ending at least 21 days after the show cause notice is given to the implanter.

30 Representations about show cause notice

- (1) The implanter may, within the show cause period, make written representations to the chief executive about why the proposed action should not be taken.
- (2) The chief executive must consider all representations (the *accepted representations*) made under subsection (1).

31 Ending show cause process without further action

- (1) This section applies if, after considering the accepted representations, the chief executive no longer believes a ground exists to take the proposed action.
- (2) The chief executive must not take any further action about the show cause notice.
- (3) The chief executive must give the implanter a notice stating that the proposed action will not be taken.

32 Suspension or prohibition

- (1) This section applies if—
 - (a) there are accepted representations and, after considering them, the chief executive still believes a ground exists to take the proposed action; or
 - (b) there are no accepted representations.
- (2) If the chief executive believes suspension or prohibition of the implanter is warranted, the chief executive may—

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- (a) if the proposed action was suspension—suspend the implanter for no longer than the stated period; or
 - (b) if the proposed action was prohibition—either prohibit the implanter or suspend the implanter for a stated period.
- (3) The chief executive must give an information notice for the decision to the implanter.
- (4) The decision takes effect on the later of the following days—
- (a) the day the information notice is given to the implanter;
 - (b) the day stated in the information notice for that purpose.

33 Immediate suspension

- (1) The chief executive may suspend the implanter immediately if the chief executive believes—
- (a) a ground exists to suspend or prohibit the implanter from implanting PPIDs; and
 - (b) it is necessary to suspend the implanter immediately because there is an immediate and serious risk of harm to the effectiveness of the identification or registration of cats or dogs under this Act.
- (2) The suspension—
- (a) must be effected by an information notice for the decision given by the chief executive to the implanter to suspend the implanter together with a show cause notice; and
 - (b) operates immediately the notices are given; and
 - (c) continues to operate until the earliest of the following happens—
 - (i) the chief executive cancels the remaining period of the suspension;
 - (ii) the show cause notice is finally dealt with;

- (iii) 28 days have passed since the notices were given to the implanter.

Division 4 Removing PIDs

34 PID must not be removed or otherwise interfered with

- (1) A person must not remove or otherwise interfere with a PID that is implanted in a cat or dog unless—
 - (a) the person is a veterinary surgeon; and
 - (b) the removal or interference is needed to address a serious risk to the health of the cat or dog.

Maximum penalty—100 penalty units.

- (2) In this section—

interfere with, a PID, means to interfere with it in a way that causes the PID not to work properly.

Division 5 PID registry services

35 Person must not offer or provide PID registry service

A person, other than a licence holder, must not offer or provide a PID registry service.

Maximum penalty—100 penalty units.

36 Licence holder's obligations

- (1) A licence holder must, for each cat or dog for which the holder is providing a PID registry service keep and maintain—
 - (a) the PID information for the cat or dog; and

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- (b) copies of the records from which the information was obtained.

Maximum penalty—180 penalty units.

- (2) If, under section 16, the licence holder receives a notice about changed information for the cat or dog, the holder must, within 7 days, electronically update the information in a way that reflects the change.

Maximum penalty—180 penalty units.

Division 6 Giving identifying information

37 Authorised implanter may give identifying information to particular persons

An authorised implanter who has implanted a PPID in a cat or dog must not give any identifying information for the cat or dog to another person unless—

- (a) the person is—
 - (i) engaged or employed by the implanter performing functions under this Act; or
 - (ii) a licence holder or a person engaged or employed by the holder, performing functions under this Act; or
 - (iii) the owner of the cat or dog; or
 - (iv) the chief executive or a person engaged or employed by the chief executive to perform functions under this Act; or
 - (v) the chief executive officer of a local government or a person engaged or employed by the local government to perform functions under this Act; or
 - (vi) an authorised person performing functions under this Act; or

- (b) the owner of the cat or dog has consented to giving the information for the purposes of reuniting the owner with the cat or dog.

Maximum penalty—30 penalty units.

38 Licence holder may give identifying information to particular persons

A licence holder providing a PID registry service must not give any identifying information for a cat or dog to another person unless—

- (a) the person is—
 - (i) another licence holder or person engaged or employed by the holder, performing functions under this Act; or
 - (ii) an authorised implanter or person engaged or employed by the implanter, performing functions under this Act; or
 - (iii) the owner of the cat or dog; or
 - (iv) the chief executive or a person engaged or employed by the chief executive to perform functions under this Act; or
 - (v) the chief executive officer of a local government or a person engaged or employed by the local government to perform functions under this Act; or
 - (vi) an authorised person performing functions under this Act; or
- (b) the owner of the cat or dog has consented to giving the information for the purposes of reuniting the owner with the cat or dog.

Maximum penalty—30 penalty units.

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39 Relevant local government may give identifying information to particular persons

A relevant local government for a cat or dog must not give any identifying information for the cat or dog to a person unless—

- (a) the person is—
 - (i) an authorised planter or person engaged or employed by the planter, performing functions under this Act; or
 - (ii) a licence holder or person engaged or employed by the holder, performing functions under this Act; or
 - (iii) the owner of the cat or dog; or
 - (iv) the chief executive or a person engaged or employed by the chief executive to perform functions under this Act; or
 - (v) the chief executive officer of a local government or a person engaged or employed by the local government to perform functions under this Act; or
 - (vi) an authorised person performing functions under this Act; or
- (b) the owner of the cat or dog has consented to giving the information for the purposes of reuniting the owner with the cat or dog.

Division 7 Pound or shelter operators

40 Operator must ensure cat or dog is scanned

- (1) This section applies to the operator of a pound or shelter.
- (2) The operator must ensure a cat or dog entering the pound or shelter is scanned, within 3 days after its entry, in a way that is likely to detect a PID implanted in the cat or dog.

Maximum penalty—30 penalty units.

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- (3) Subsection (2) does not apply to the operator if—
- (a) the cat or dog behaves aggressively towards a person attempting to scan the cat or dog; and
 - (b) the operator reasonably believes that compliance with subsection (2) may endanger the health of anyone attempting to scan the cat or dog.
- (4) In this section—
- pound or shelter* includes a veterinary surgery to the extent it provides shelter for a cat or dog that is homeless, lost or stray.

41 Protection of particular persons dealing with cat or dog

- (1) This section applies if—
- (a) either—
 - (i) a cat or dog is scanned in the way required under section 40(2) and the result of the scan shows that a PID has not been implanted in the cat or dog; or
 - (ii) section 40(3) applies in relation to the cat or dog; and
 - (b) a person mentioned in section 40 or someone else (the *protected person*) who does not know who owns the cat or dog deals with it relying on—
 - (i) the result of the scan; or
 - (ii) the absence of a scan of the cat or dog because of the matters mentioned in section 40(3).
- (2) The protected person is not civilly liable to the owner in relation to the dealing to the extent that—
- (a) the dealing is adverse to the owner's rights concerning the cat or dog or may have an effect on the owner's health; and

Examples—

- 1 giving the cat or dog away

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- 2 destroying the cat or dog
- (b) apart from this section, the dealing would give rise to a right of action by the owner against the protected person.
- (3) Also, the protected person is not criminally liable for doing any act or making any omission in relation to the cat or dog if the act or omission could lawfully be done or omitted to be done by the owner.

Part 2 Desexing tattoos

42 Desexed cat or dog must be tattooed

- (1) An owner of a desexed cat or dog must ensure the cat or dog is tattooed when it is desexed.

Maximum penalty—20 penalty units.

Note—

See section 215 (Desexed cat or dog at commencement need not be tattooed for desexing) for circumstances in which an owner of a cat or dog does not contravene subsection (1).

- (2) A veterinary surgeon desexing a cat or dog must ensure it is tattooed for desexing.

Maximum penalty—20 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (1) for the defendant to prove the cat or dog—
- (a) is a cat or dog for which there is a signed veterinary surgeon's certificate stating, or other evidence, that tattooing the cat or dog is likely to be a serious risk to its health; or
- (b) is, or is proposed to be, a show cat or dog and tattooing it may reasonably be considered by a person acting as a

judge of the cat or dog as a blemish that is detrimental to its value as a show cat or dog.

(4) In this section—

show cat or dog means a cat or dog participating in or being exhibited at an exhibition supervised by a body recognised for this section by the relevant local government.

43 Person must not tattoo an undesexed cat or dog

A person must not tattoo an undesexed cat or dog for desexing.

Maximum penalty—100 penalty units.

Chapter 3 Registration

Part 1 Particular person's obligations

44 Registration obligation

(1) This section does not apply to—

- (a) the operator of a pound or shelter; or
- (b) the owner of a cat or dog less than 12 weeks old.

(2) An owner of a cat or dog must comply with section 46 to register the cat or dog in the relevant local government's area within 14 days after starting to keep the cat or dog in the area unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(3) A person who becomes an owner of a cat or dog must comply with section 46 to register the cat or dog in the relevant local government's area within 14 days unless the person has a reasonable excuse.

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Note—

See also section 216 (Cat or dog not registered at commencement).

Maximum penalty—20 penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (2) or (3) for the defendant to prove the cat or dog is—
- (a) a government entity dog; or
 - (b) a working dog; or
 - (c) another class of cat or dog prescribed under a regulation.

45 Cat or dog must bear identification in particular circumstances

- (1) This section applies if a cat or dog, other than a regulated dog, is at a place other than the address stated in the registration notice for the cat or dog.
- (2) The person who keeps the cat or dog must ensure it bears the identification prescribed under a local law unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

Note—

See chapter 4, part 3, division 2 for permit conditions for restricted dogs and chapter 4, part 5 for permit conditions applying to declared dangerous dogs and declared menacing dogs.

Part 2 How cat or dog is registered

46 What owner must do

To register a cat or dog with the relevant local government for the cat or dog, the owner of the cat or dog must—

- (a) give the local government a registration form for it that complies with section 47; and
- (b) ensure the registration form is accompanied by—
 - (i) the registration fee for the cat or dog; and
 - (ii) if it is desexed—a signed veterinary surgeon’s certificate stating, or other evidence that, it has been desexed; and
- (c) if a notice is given to the owner under section 48(2)—give the chief executive officer of the local government any other information or documents required to be given in the notice.

47 What registration form must state

- (1) A registration form for the registration of a cat or dog in the relevant local government’s area, must—
 - (a) be in the approved form; and
 - (b) state all of the following information about its owner—
 - (i) name;
 - (ii) residential address;
 - (iii) contact telephone number;
 - (iv) email address, if any; and
 - (c) state all of the following information about the cat or dog—
 - (i) age;
 - (ii) breed;
 - (iii) colour;
 - (iv) sex;
 - (v) any other noticeable distinguishing features or marks;
 - (vi) address;

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- (vii) if it is implanted with a PID, the PID number;
- (viii) if it is desexed—that it has been desexed;
- (ix) if the dog is a regulated dog—whether the dog is a declared dangerous dog, a declared menacing dog or a restricted dog.

(2) In this section—

address, for a cat or dog, means—

- (a) for a restricted dog—the address of the place for which the permit for the dog has been issued; or
- (b) otherwise—the address of the place where the cat or dog is usually kept or proposed to be kept.

48 Chief executive officer may ask for further information

- (1) This section applies if the owner of a cat or dog gives the relevant local government for the cat or dog—
 - (a) a registration form under section 46; or
 - (b) a notice mentioned in section 54(3) or 57(2).
- (2) The chief executive officer of the local government may, by notice, require the owner to give other information or documents reasonably required to register the cat or dog.
- (3) The notice must state a reasonable period of at least 14 days to comply with the notice.

49 Relevant local government must give registration notice

- (1) This section applies if an owner of a cat or dog complies with section 46 for the cat or dog.
- (2) The relevant local government for the cat or dog must give its owner notice (the *registration notice*) that the cat or dog has been registered by the local government.
- (3) The registration notice must—

- (a) be given to the owner within 14 days after the cat or dog is registered in the local government's area; and
- (b) state—
 - (i) the information, for the owner and the cat or dog, required to be given under sections 47 and 48(2); and
 - (ii) the period of the registration; and
- (c) be accompanied by any registration device for the cat or dog; and
- (d) include any other information prescribed under a regulation.

50 Duration of registration

- (1) Registration of a cat or dog is for the period of years fixed by resolution of the relevant local government for the cat or dog.
- (2) However, the period must not be more than 3 years.

51 Local government must keep registration form and information

A local government giving a registration notice to the owner of a cat or dog must—

- (a) keep the registration form and other information about the cat or dog given to it by the owner; and
- (b) if the information must be recorded in a register kept by the chief executive officer of the local government—within 7 days, record the information in the appropriate register.

52 Registration fee must be fixed to give desexing incentive

- (1) This section applies to a relevant local government in fixing the registration fee for a cat or dog usually kept or proposed to be kept in the local government's area.

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- (2) The local government must fix the fee to give the owner of the cat or dog an incentive to desex it.

Example of an incentive to desex a cat or dog—

fixing a lower registration fee for a cat or dog that is desexed

- (3) In this section—

dog means a dog other than a declared dangerous dog or restricted dog.

Note—

See section 70 (Compulsory desexing of declared dangerous dog or restricted dog).

53 Registration fee to be used for achievement of Act's purposes

A registration fee paid to a local government must be used—

- (a) for the purposes of this Act; and
- (b) to administer local laws relating to the management of cats or dogs.

Part 3 Amendment of registration

54 Amendment of registration

- (1) This section applies if any information stated on the registration notice for a cat or dog changes (the **changed information**).
- (2) However, this section does not apply if the changed information is a change of residential address for a relevant person mentioned in schedule 1, section 8.

Note—

See schedule 1, section 8 (Notice of change of address).

- (3) The owner of the cat or dog must, within 7 days, give the relevant local government notice of the changed information.
Maximum penalty—5 penalty units.
- (4) The notice must be—
 - (a) in the approved form; and
 - (b) accompanied by other information or documents to enable the relevant local government to record the changed information in the appropriate register.

55 Relevant local government must give notice of change

- (1) This section applies if the chief executive officer of the relevant local government for a cat or dog is given a notice under section 54(3).
- (2) The chief executive officer may ask the owner of the cat or dog for other information or documents in the way mentioned in section 48.
- (3) The owner must give the chief executive officer the information or documents required to be given in the notice mentioned in section 48(2).
Maximum penalty—5 penalty units.
- (4) If the owner complies with subsection (3), the chief executive officer must—
 - (a) within 7 days after receiving a notice mentioned in section 54(3) or other information or document given under section 48, ensure the information is updated in the appropriate register in a way that reflects the change; and
 - (b) within 14 days after receiving the notice, ensure the owner is given a notice for the cat or dog that includes the changed information mentioned in section 54.

Part 4 Renewal of registration

56 **Relevant local government must give renewal notice**

- (1) The chief executive officer of the relevant local government for a cat or dog must give its owner notice (the *renewal notice*) to renew the registration for the cat or dog.
- (2) The renewal notice must—
 - (a) be given at least 14 days before the period of registration in the local government's area for the cat or dog expires; and
 - (b) state—
 - (i) the information, for the owner and the cat or dog, stated in the general register for the cat or dog; and
 - (ii) the period of renewal of registration; and
 - (iii) that the owner must, within 7 days, give the chief executive officer notice of any change to the information; and
 - (c) include any other information prescribed under a regulation.

57 **What owner must do**

- (1) This section applies to the owner of a cat or dog whether or not the owner has been given a renewal notice.
- (2) The owner of the cat or dog must, before the period of registration for the cat or dog expires—
 - (a) if any information on the renewal notice has changed—give the local government notice of the change (the *changed information*); and
 - (b) pay the registration fee for the cat or dog; and

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- (c) if it is desexed—ensure the fee is accompanied by a signed veterinary surgeon’s certificate stating, or other evidence that, it has been desexed.

Maximum penalty—20 penalty units.

- (3) However, if a registration form for a cat or dog in the relevant local government’s area has already been accompanied by the certificate or evidence mentioned in subsection (2) for the cat or dog, the certificate or evidence need not accompany the fee.

58 Relevant local government’s obligations if owner complies

- (1) This section applies if the owner of a cat or dog given a renewal notice under section 56 complies with section 57 for the cat or dog.
- (2) The chief executive officer of the local government may ask the owner for other information or documents in the way mentioned in section 48.
- (3) The owner must give the chief executive officer the information or documents required to be given in the notice mentioned in section 48(2).

Maximum penalty—5 penalty units.

- (4) If the owner complies with subsection (3), the chief executive officer must—
 - (a) within 7 days after receiving the notice mentioned in section 57(2), ensure the information is updated in the appropriate register in a way that reflects the change; and
 - (b) within 14 days after receiving the fee, any information or documents mentioned in section 57(2) or other information or documents given under section 48, give the owner any registration device for the cat or dog.

Chapter 4 Regulated dogs

Part 1 Preliminary

Division 1 Purpose and application of chapter

59 Purpose of ch 4 and its achievement

- (1) The purposes of this chapter are to—
 - (a) protect the community from damage or injury, or risk of damage or injury, from particular types of dogs called ‘regulated dogs’; and
 - (b) ensure the dogs are—
 - (i) not a risk to community health or safety; and
 - (ii) controlled and kept in a way consistent with community expectations and the rights of individuals.
- (2) The purposes are to be achieved primarily by the following—
 - (a) providing for local governments to declare dogs to be dangerous dogs, menacing dogs or restricted dogs;
 - (b) providing for the compulsory desexing of declared dangerous dogs and restricted dogs;
 - (c) providing for identification of dogs as regulated dogs;
 - (d) providing for permits for restricted dogs;
 - (e) imposing conditions on keeping, and requirements for the control of, regulated dogs;
 - (f) allowing authorised persons to seize or destroy dogs in particular circumstances;

- (g) providing for local governments to administer, and be responsible for, the matters mentioned in paragraphs (a) to (f).

Division 2 Interpretation

60 What is a *regulated dog*

A *regulated dog* is—

- (a) a declared dangerous dog; or
- (b) a declared menacing dog; or
- (c) a restricted dog.

61 What is a *declared dangerous dog*

A *declared dangerous dog* is—

- (a) a dangerous dog declared under section 94 to be a dangerous dog; or
- (b) a dog that is the subject of a declaration, however called, if the declaration—
 - (i) was made under a corresponding law; and
 - (ii) is the same as or similar to a dangerous dog declaration.

62 What is a *declared menacing dog*

A *declared menacing dog* is—

- (a) a menacing dog declared under section 94 to be a menacing dog; or
- (b) a dog that is the subject of a declaration, however called, if the declaration—
 - (i) was made under a corresponding law; and

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- (ii) is the same as or similar to a menacing dog declaration.

63 What is a *restricted dog*

- (1) A *restricted dog* is a dog of a breed prohibited from importation into Australia under the *Customs Act 1901* (Cwlth).

Note—

See the *Customs (Prohibited Imports) Regulations 1956* (Cwlth), section 3 and schedule 1 (Goods the importation of which is prohibited absolutely).

- (2) Also, a dog is a *restricted dog* if it is the subject of a restricted dog declaration.
- (3) In this section—
breed, of a dog, does not include a crossbreed of a breed.

63A Provisions for deciding what is a breed of dog

- (1) Each of the following certificates, for a dog, is evidence the dog is of the breed stated in the certificate—
- (a) a pedigree certificate from the Australian National Kennel Council;
 - (b) a pedigree certificate from a member body of the Australian National Kennel Council;
 - (c) a pedigree certificate from a national breed council registered with the Australian National Kennel Council;
 - (d) a certificate signed by a veterinary surgeon stating, or to the effect, that the dog is of a particular breed.
- (2) However, if a dog is of the breed American Staffordshire terrier it is not of the breed American pit bull terrier.
- (3) Also, the breed American pit bull terrier does not include a dog of the breed American Staffordshire terrier.

64 When a regulated dog is under effective control

- (1) A regulated dog is under the *effective control* of someone only if—
 - (a) an adult who is physically able to control the dog—
 - (i) is holding it by an appropriate leash; or
 - (ii) has appropriately tethered it to an object fixed to a place from which the object can not be moved by the dog and is continuously supervising the dog; or
 - (b) the dog is participating in, or being exhibited or trained at, an exhibition or an obedience trial supervised by a body recognised for this section by the relevant local government.
- (2) For subsection (1), a dog is held by an appropriate leash or appropriately tethered only if the leash or tether is of the dimensions, quality and type that are appropriate to restrain the dog and ensure it is not a risk to community health or safety.

Part 2 General restrictions and prohibitions

Division 1 Application of part

65 Application of pt 2

- (1) This part does not apply to a local government in relation to a regulated dog if the dog has been surrendered to it.
- (2) Section 66 does not apply to another person for an act if the act is the surrender of the dog to the relevant local government.

Note—

See section 100 (Surrender of regulated dog).

Division 2 General prohibitions

66 Prohibition on supply of restricted dog

- (1) A person must not supply a restricted dog or proposed restricted dog to someone else unless—
 - (a) the supply is made under a distribution in the estate of a deceased person; or
 - (b) the person has a reasonable excuse.

Maximum penalty—150 penalty units.

- (2) In this section—

proposed restricted dog means a dog the subject of—

- (a) a proposed declaration notice that has not been withdrawn; or
- (b) a restricted dog declaration that has been stayed under section 184 or 190.

67 Prohibition on supply of declared dangerous dog or menacing dog

- (1) A person (the ***relevant person***) must not supply a declared dangerous dog or a declared menacing dog (a ***designated dog***) or a proposed declared dog (also a ***designated dog***) to someone else unless—
 - (a) the relevant person gives the other person a notice stating that the dog is a designated dog; or
 - (b) the relevant person has a reasonable excuse.

Maximum penalty—150 penalty units.

- (2) In this section—

proposed declared dog means a dog the subject of—

- (a) a proposed declaration notice that has not been withdrawn; or
- (b) a dangerous dog declaration or menacing dog declaration that has been stayed under section 184 or 190.

68 Abandonment prohibited

- (1) The owner of, or a responsible person for, a regulated dog must not abandon it unless the owner or responsible person has a reasonable excuse.

Maximum penalty—300 penalty units.

- (2) In this section—

abandon includes leave for an unreasonable period, having regard to community health and safety.

Division 3 Restricted dogs and declared dangerous dogs only

69 Prohibition on breeding

- (1) A person must not give, or take, possession of a declared dangerous dog or restricted dog for the purpose of allowing it to breed with another dog.

Maximum penalty—150 penalty units.

- (2) The owner of, or a responsible person for, a declared dangerous dog or restricted dog must not allow or encourage the dog to breed with another dog.

Maximum penalty—150 penalty units.

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70 Compulsory desexing of declared dangerous dog or restricted dog

- (1) The owner of a declared dangerous dog or a restricted dog must ensure it is desexed—
- (a) if the dog is a declared dangerous dog—within 3 months after the dog is declared as a dangerous dog unless desexing is likely to be a serious risk to the dog’s health; or
 - (b) if the dog is a restricted dog—within 3 months after the later of the following to happen unless desexing is likely to be a serious risk to the dog’s health—
 - (i) any person is issued a restricted dog permit to keep the dog;
 - (ii) the dog turns 6 months.

Maximum penalty—150 penalty units.

- (2) If the owner does not desex the dog because desexing is likely to temporarily be a serious risk to the dog’s health (the *temporary condition*)—
- (a) the obligation under subsection (1) continues despite the matters mentioned in subsection (1)(a) or (b) having happened; and
 - (b) the owner must ensure the dog is desexed within 3 months after the temporary condition ceases.

Maximum penalty—150 penalty units.

Division 4 Restricted dogs only

71 Permit required for restricted dog

A person must not, unless the person has a reasonable excuse, own, or be a responsible person for, a restricted dog unless the

relevant local government has issued a restricted dog permit to someone to keep the dog.

Maximum penalty—75 penalty units.

Part 3 Restricted dog permits

Division 1 Obtaining permit for restricted dog

Subdivision 1 Permit applications

72 Who may apply for permit

- (1) An adult may apply to the relevant local government for a permit to keep a restricted dog at a stated place in its area (a *permit application*).
- (2) However, a permit application may be made for a place only if—
 - (a) there is a detached house on the place; and
 - (b) someone usually lives in the house.
- (3) A permit application may be made for more than 1 restricted dog for the same place only if the keeping of more than 1 restricted dog and more than 1 dog of any breed is permitted under a local law.

73 Requirements for application

A permit application must—

- (a) be in the approved form; and
- (b) state the following—
 - (i) the applicant's name and residential address;

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- (ii) the following details for each restricted dog the subject of the application—
 - age
 - breed
 - colour
 - sex
 - any other noticeable distinguishing features or marks;
- (iii) the address of the place for which the application is made;
- (iv) the type of each structure at the place; and
- (c) if the dog is 9 months or older—be accompanied by a signed veterinary surgeon’s certificate stating, or other evidence of, either of the following—
 - (i) that the dog has been desexed;
 - (ii) that desexing is likely to be a serious risk to the dog’s health; and
- (d) be supported by enough other information to enable the local government to decide the application; and
- (e) be accompanied by—
 - (i) a recent colour photo of the dog; and
 - (ii) the fee fixed by resolution of a local government.

74 Inquiries into application for permit

- (1) The relevant local government may, after a permit application has been made, by notice, require the applicant to give it a stated document or information that is relevant to the application.
- (2) The notice may require the applicant to verify the correctness of the document or information by statutory declaration.

Note—

See also section 111(1)(e) and (2).

75 Deciding application

- (1) The relevant local government must either grant or refuse a permit application within 21 days after the later of the following to happen—
 - (a) the making of the application;
 - (b) it receives all necessary information to decide the application.
- (2) The local government must refuse the application if—
 - (a) the applicant—
 - (i) is a minor; or
 - (ii) has been convicted of an offence against this chapter and the conviction is not a spent conviction; or
 - (b) it is not satisfied the place for which the application is made has a detached house on it in which someone usually lives; or
 - (c) it is satisfied the restricted dog the subject of the application is 9 months or older and has not been desexed.
- (3) However, subsection (2)(c) does not apply if the local government is satisfied desexing is likely to be a serious risk to the health of the dog.
- (4) A regulation may provide that the application must be refused in another stated circumstance.
- (5) If the local government decides to grant the application, it may impose a condition provided for under a regulation made under section 80(2).

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76 Criteria for decision

In deciding a permit application, the matters the relevant local government must consider include—

- (a) whether the place for which the application is made is suitable, having regard to community health and safety; and
- (b) whether, if the application were to be granted, the permit conditions would be complied with for each restricted dog the subject of the application; and
- (c) another matter prescribed under a regulation.

Subdivision 2 Action after decision on application

77 Grant of application

- (1) As soon as practicable after deciding to grant a permit application, the relevant local government must issue the applicant with a restricted dog permit for the restricted dog the subject of the application.
- (2) The permit must be in the approved form.

78 Duration of permit

A restricted dog permit expires 1 year after the day the permit holder is issued the permit.

79 Notice of refusal of permit application

As soon as practicable after deciding to refuse a permit application, the relevant local government must give the applicant an information notice about the decision.

Division 2 Permit conditions

80 Operation of div 2

- (1) This division imposes conditions on each restricted dog permit.
- (2) Also, a regulation may prescribe other conditions for each restricted dog permit the local government issues.
- (3) The conditions mentioned in subsections (1) and (2) apply for each restricted dog the subject of the permit.
- (4) However, if a restricted dog permit states a condition does not take effect until a stated day, the condition does not apply until that day.
- (5) The stated day can not be more than 21 days after the holder is issued the permit.

81 Obligation to comply with permit conditions under sch 1

- (1) A permit holder must ensure each permit condition stated in schedule 1 is complied with for the restricted dog the subject of the holder's permit.

Maximum penalty—75 penalty units.

- (2) Any responsible person for a restricted dog the subject of a restricted dog permit must ensure each permit condition stated in schedule 1 is complied with for the dog the subject of the permit.

Maximum penalty—75 penalty units.

Division 3 Renewal of permit

82 When permit may be renewed

- (1) A permit holder may apply to the relevant local government to renew the holder's permit (a *renewal application*).

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- (2) However, a renewal application can not be made—
 - (a) if the permit has expired; or
 - (b) within 21 days before the permit's expiry; or
 - (c) if the applicant has been convicted of an offence against this chapter and the conviction is not a spent conviction.

83 Requirements for renewal application

A renewal application must be—

- (a) in the approved form; and
- (b) supported by enough other information to enable the local government to decide the application; and
- (c) accompanied by the fee fixed by resolution of a local government.

84 Deciding renewal application

- (1) The relevant local government must either grant or refuse a renewal application within 21 days after the later of the following to happen—
 - (a) the making of the application;
 - (b) it receives all necessary information to decide the application.
- (2) The local government must refuse the application if the applicant has been convicted of an offence against this chapter and the conviction is not a spent conviction.
- (3) A regulation may provide that the application must be refused in another stated circumstance.
- (4) The local government—
 - (a) must, in deciding the application, consider the criteria mentioned in section 76; and
 - (b) may seek further documents or information in the way mentioned in section 74.

-
- (5) The local government must, as soon as practicable after deciding the application—
- (a) if the decision is to grant—issue the applicant with a restricted dog permit that has been renewed (a *renewed permit*) in the approved form; or
 - (b) if the decision is to refuse—give the applicant an information notice about the decision.

85 Duration of renewed permit

A renewed permit expires 1 year after the day the permit holder is issued the renewed permit.

Division 4 Amendment of permits

86 Application for change of place for permit

- (1) A permit holder may apply to the relevant local government to change the place for which the permit has been issued.
- (2) However, the place can not be changed to a place outside the local government's area.
- (3) Division 1 applies to the application, with necessary changes, as if it were a permit application.

87 Amendment by relevant local government

- (1) The relevant local government may amend a restricted dog permit at any time, by giving the permit holder notice of the amendment and recording particulars of the amendment in its restricted dog register, if the amendment—
 - (a) is to correct a clerical or formal error; or
 - (b) does not adversely affect the holder's interests; or
 - (c) is at the holder's written request.

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- (2) However, the amendment can not be inconsistent with a permit condition or impose a condition on the permit other than a permit condition.

Division 5 Miscellaneous

88 No transfer of restricted dog permit

A restricted dog permit can not be transferred.

Part 4 Regulated dog declarations

89 Power to make declaration

- (1) Any local government may, by complying with the requirements of this part—
- (a) declare a particular dog to be a declared dangerous dog (a *dangerous dog declaration*); or
 - (b) declare a particular dog to be a declared menacing dog (a *menacing dog declaration*); or
 - (c) declare a particular dog to be a restricted dog (a *restricted dog declaration*).

Note—

See sections 61 (What is a *declared dangerous dog*), 62 (What is a *declared menacing dog*) and 63(2) (What is a *restricted dog*).

- (2) A dangerous dog declaration may be made for a dog only if the dog—
- (a) has seriously attacked, or acted in a way that caused fear to, a person or another animal; or
 - (b) may, in the opinion of an authorised person having regard to the way the dog has behaved towards a person

or another animal, seriously attack, or act in a way that causes fear to, the person or animal.

- (3) A menacing dog declaration may be made for a dog only if a ground mentioned in subsection (2) exists for the dog, except that the attack was not serious.
- (4) A restricted dog declaration may be made for a dog only if the local government is satisfied the dog is of a breed mentioned in section 63(1).
- (5) The declaration may be made even if the dog is not in the local government's area.
- (6) A declaration under this section is a ***regulated dog declaration***.
- (7) In this section—
seriously attack means to attack in a way causing bodily harm, grievous bodily harm or death.

90 Notice of proposed declaration

- (1) If a local government proposes to make a regulated dog declaration it must give any owner of the dog a notice (a ***proposed declaration notice***) stating—
 - (a) the following details for the dog—
 - (i) breed;
 - (ii) colour;
 - (iii) sex;
 - (iv) any other noticeable distinguishing features or marks; and
 - (b) the local government proposes to declare the dog to be a regulated dog; and
 - (c) the type of regulated dog declaration proposed to be made, other than for a restricted dog; and

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- (d) if the proposed declaration is for a dangerous dog declaration or menacing dog declaration—reasons for the proposed declaration; and
 - (e) an owner of the dog may make, within a stated period, written representations to show why the proposed declaration should not be made; and
 - (f) if the dog is a restricted dog, that—
 - (i) the representations may include a written opinion from a veterinary surgeon or other evidence about the dog’s breed; and
 - (ii) under section 71, a person must not, unless the person has a reasonable excuse, own, or be a responsible person for, a restricted dog unless the relevant local government has issued a restricted dog permit for the dog.
- (2) The stated period must end at least 14 days after the proposed declaration notice is given.
- (3) The proposed declaration notice may be accompanied by a written opinion from a veterinary surgeon or other evidence about the dog’s breed.

91 Proposed declaration notice does not limit other powers

The giving of a proposed declaration notice does not limit an authorised person’s powers under—

- (a) chapter 5; or
- (b) a regulation.

92 Withdrawing proposed declaration notice

The local government may withdraw the proposed declaration notice by giving notice of the withdrawal to any owner of the dog the subject of the notice.

93 Owner's obligation if proposed declaration notice in force

- (1) Each owner of, and responsible person for, the dog the subject of the proposed declaration notice must ensure the permit condition imposed under schedule 1, section 3, is complied with for the dog.

Maximum penalty—75 penalty units.

Notes—

- schedule 1, section 3 (Muzzling and effective control in place that is not relevant place)
 - See also sections 66 (Prohibition on supply of restricted dog) and 67 (Prohibition on supply of declared dangerous dog or declared menacing dog).
- (2) Subsection (1) ceases to apply if the notice is withdrawn.

94 Making declaration

- (1) The local government must consider any written representations and evidence accompanying them within the period stated in the proposed declaration notice.
- (2) If, after complying with subsection (1), the local government is satisfied that the relevant ground under section 89 still exists, it must make the regulated dog declaration for the dog.

95 Notice and taking effect of declaration

- (1) As soon as practicable after deciding to make a regulated dog declaration, the local government must give any owner of the dog the subject of the declaration a notice under subsection (2) or (3).
- (2) If the proposed declaration notice was for a restricted dog and accompanied by a written opinion from a veterinary surgeon stating, or to the effect, that the dog is of a breed mentioned in section 63(1), the notice must state the decision and reasons for it.

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- (3) If subsection (2) does not apply, the notice must be an information notice about the decision.
- (4) The decision takes effect on the later of the following days—
 - (a) the day any owner of the dog is given the notice;
 - (b) a later day of effect stated in the notice.
- (5) If the information notice is about a declared dangerous dog or declared menacing dog, the information notice must include—
 - (a) that the dog is the subject of—
 - (i) if the dog is a dangerous dog—a dangerous dog declaration; or
 - (ii) if the dog is a menacing dog—a menacing dog declaration; and
 - (b) the reasons for the declaration; and
 - (c) the local government that made the declaration; and
 - (d) the day the decision takes effect; and
 - (e) that the dog must not be kept at a place other than—
 - (i) if the dog is declared dangerous dog or declared menacing dog—the place stated in the registration notice as the address for it; or
 - (ii) if the dog is a restricted dog—the place for which a restricted dog permit has been issued; and
 - (f) if the dog is impounded—a unique number given to the dog by the local government for the purposes of impounding; and
 - (g) any other information prescribed under a regulation.

Part 5 Application of particular permit conditions for declared dangerous or menacing dogs

96 Operation of pt 5

- (1) This part imposes conditions on the owner of, or responsible person for, a declared dangerous dog or declared menacing dog.
- (2) Also, a regulation may prescribe other conditions for a declared dangerous dog or declared menacing dog.
- (3) The conditions mentioned in subsections (1) and (2) apply for a declared dangerous dog or declared menacing dog.
- (4) However, if the information notice mentioned in section 95(5) about the dog states a condition does not take effect until a stated day, the condition does not apply until that day.
- (5) The stated day can not be more than 21 days after the owner is issued the information notice.

97 Declared dangerous dogs

- (1) A relevant person for a declared dangerous dog must ensure each permit condition imposed under schedule 1, sections 2 to 6 and 8 in relation to the dog is complied with for the dog.

Maximum penalty—75 penalty units.

- (2) In this section—

relevant person, for a declared dangerous dog, means the owner of, or any responsible person for, a declared dangerous dog.

98 Declared menacing dogs

- (1) A relevant person for a declared menacing dog must ensure each permit condition imposed under schedule 1, sections 2,

[s 99]

3(1)(b) and (2), 4 to 6 and 8 in relation to the dog is complied with for the dog.

Maximum penalty—75 penalty units.

(2) In this section—

relevant person, for a declared menacing dog, means the owner of, or any responsible person for, a declared menacing dog.

Part 6 Miscellaneous provisions

99 Failure to decide application taken to be refusal

If a local government does not decide a permit application or renewal application within the period required under part 3 for deciding the application, it is taken to have been refused at the end of the period.

100 Surrender of regulated dog

- (1) An owner of a regulated dog may surrender it to the relevant local government.
- (2) On the surrender, the dog becomes the local government's property.
- (3) The local government must destroy the dog as soon as practicable after the surrender.

101 Defence for regulated dog owner

It is a defence in a proceeding for an offence against this chapter relating to a regulated dog against an owner of the dog for the owner to prove—

- (a) another person also owns the dog or owned it when the act or omission the subject of the proceeding happened; and
- (b) the other owner has—
 - (i) been convicted of the same offence or another offence constituted by the act or omission; and
 - (ii) met or paid any penalty imposed for the conviction.

102 Recovery of seizure or destruction costs

- (1) This section applies if a local government has incurred a cost for an authorised person appointed by it to—
 - (a) take possession of, or move, a regulated dog that, under chapter 5, part 4, has been seized (a *seized dog*); or
 - (b) take action to restrict access to a seized dog; or
 - (c) provide a seized dog with accommodation, food, rest, water or other living conditions; or
 - (d) arrange veterinary or other treatment for a seized dog; or
 - (e) destroy a seized dog under section 127.
- (2) The local government may recover the cost from the dog's owner or former owner if the incurring of the cost was necessary and reasonable.
- (3) In considering whether the cost was necessary and reasonable, regard must be had to any surrender of the dog to the local government.
- (4) The cost may be claimed and ordered in a proceeding—
 - (a) to recover a debt of the amount; or
 - (b) for an offence against this chapter to which the claim relates.
- (5) This section does not limit a court's powers under the *Penalties and Sentences Act 1992* or another law.

103 Cost of regulated dog enclosure—dividing fence

- (1) This section applies if an enclosure, or proposed enclosure, for a regulated dog is, or when built will be, a dividing fence under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, in whole or part.
- (2) The liabilities and rights under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, or a proposed order under that Act, of adjoining owners in relation to the fence for the cost of building, altering, repairing, replacing or maintaining the fence must be worked out as if—
 - (a) there is not, and will not be, a regulated dog in the enclosure; and
 - (b) the requirements of this chapter relating to the enclosure do not apply.
- (3) However, if part of the fence forms part of a pool barrier, the liabilities and rights of adjoining owners relating to that part of the fence forming part of a pool barrier for the cost of building, altering, repairing, replacing or maintaining the fence must be worked out under the *Building Act 1975*, chapter 8, part 2A.
- (4) If the fence is, or is proposed to be, built by a person who leases the place that is, or is to be, the relevant place for a regulated dog—
 - (a) the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, section 24 does not apply; and
 - (b) the *Residential Tenancies Act 1994*, chapter 3, part 5, division 1, applies.

Editor's note—

Residential Tenancies Act 1994, chapter 3, part 5, division 1 (Fixtures and structural changes)—see the *Residential Tenancies and Rooming Accommodation Act 2008*, section 532.

- (5) In this section—

pool barrier means a pool barrier under the *Building Act 1975*, section 245XA.

relevant place, for a regulated dog, means—

- (a) if the regulated dog is a declared dangerous dog or a declared menacing dog—the place stated in the registration notice as the address for it; or
- (b) if the regulated dog is a restricted dog—the place for which a restricted dog permit has been issued.

Chapter 5 Investigation, monitoring and enforcement

Part 1 Authorised persons

104 Appointment and qualifications

- (1) The chief executive may appoint any of the following persons as an authorised person to investigate, monitor and enforce compliance with this Act—
 - (a) a public service employee;
 - (b) a person prescribed under a regulation.
- (2) The chief executive officer of a local government may appoint any of the following persons as an authorised person to investigate, monitor and enforce compliance with this Act—
 - (a) an employee of the local government;
 - (b) a person prescribed under a regulation.
- (3) However, the chief executive or chief executive officer (each the *designated officer*) may appoint a person as an authorised person only if the designated officer is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

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105 Appointment conditions and limit on powers

- (1) An authorised person holds office on any conditions stated in—
 - (a) the authorised person’s instrument of appointment; or
 - (b) a signed notice given to the authorised person; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised person or a regulation may limit the authorised person’s powers under this Act.
- (3) In this section—

signed notice means a notice signed by the chief executive officer.

106 Issue of identity card

- (1) The chief executive officer of a local government must issue an identity card to each authorised person.
- (2) The identity card must—
 - (a) contain a recent photo of the authorised person; and
 - (b) contain a copy of the authorised person’s signature; and
 - (c) identify the person as an authorised person under this Act; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

107 Production or display of identity card

- (1) In exercising a power under this Act in relation to another person, an authorised person must—

- (a) produce the authorised person's identity card for the other person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the other person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised person does not exercise a power in relation to another person only because the authorised person has entered a place as mentioned in section 111(1)(b) or (4).

108 When authorised person ceases to hold office

- (1) An authorised person ceases to hold office if any of the following happens—
- (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the authorised person ceases to hold office;
 - (c) the authorised person's resignation under section 109 takes effect.
- (2) Subsection (1) does not limit the ways an authorised person may cease to hold office.
- (3) In this section—
- condition of office* means a condition on which the authorised person holds office.

109 Resignation

An authorised person may resign by signed notice given to the chief executive officer of the local government that appointed the person.

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110 Return of identity card

A person who ceases to be an authorised person must return the person's identity card to the chief executive officer of the local government that appointed the person within 21 days after ceasing to be an authorised person unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Part 2 Entry to places

Division 1 Powers of entry

111 General power to enter places

- (1) An authorised person may enter a place if—
 - (a) an occupier of the place consents to the entry; or
 - (b) it is a public place and the entry is made when it is open to the public; or
 - (c) the entry is authorised by a warrant; or
 - (d) it is mentioned in a licence as a place of business and is—
 - (i) open for carrying on the business; or
 - (ii) otherwise open for entry; or
 - (iii) required to be open for inspection under the licence; or
 - (e) the entry is—
 - (i) to inspect the place to process an application for a restricted dog permit; and
 - (ii) made other than at night; or

- (f) the entry is—
 - (i) to find out whether the conditions on which a restricted dog permit or notice was issued have been or are being complied with; and
 - (ii) made other than at night; or
- (g) the entry is—
 - (i) to inspect work carried out under a lawfully imposed condition of a dangerous dog declaration, menacing dog declaration, restricted dog permit or compliance notice; and
 - (ii) made other than at night; or
- (h) the entry is—
 - (i) under an approved inspection program; and
 - (ii) made at any reasonable time of the day or night.
- (2) However, an authorised person may enter a place at night for a purpose mentioned in subsection (1)(e), (f) or (g) if—
 - (a) the entry is at a time asked by the occupier; or
 - (b) the entry is in accordance with the times provided for in a compliance notice under section 132(3)(a).
- (3) For subsection (1)(d) to (h), a place does not include a part of the place where a person resides.
- (4) For the purpose of asking an occupier of a place for consent to enter, an authorised person may, without the occupier's consent or a warrant—
 - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

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112 Additional entry powers for particular dogs

- (1) An authorised person may enter at a place if—
 - (a) the person reasonably suspects a dog is at the place and—
 - (i) the person reasonably suspects the dog is a restricted dog—no restricted dog permit has been issued for the dog; or
 - (ii) any delay in entering the place will result in—
 - (A) a risk to community health or safety; or
 - (B) the dog being concealed or moved to avoid a requirement under chapter 4; or
 - (b) its occupier has been given a compliance notice and the entry is made at a time stated in the notice to check compliance with the notice.
- (2) A power under subsection (1) can not be exercised using force.

Note—

For power to enter using force, see section 118 (Issue of warrant).

- (3) However, for subsection (1)(a)(ii), an authorised person may enter the place, or part of the place, with the help and using the force that is necessary and reasonable in the circumstances if the place is not a place where a person resides.

113 Approval of inspection program authorising entry

- (1) A local government (the *approving local government*) may by resolution approve a program (an *approved inspection program*) under which an authorised person may enter a place to monitor compliance with this Act or an aspect of this Act.

Examples of approved inspection program—

monitoring compliance with requirements of permit conditions

- (2) An approved inspection program must be a selective inspection program or systematic inspection program.

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- (3) A selective inspection program provides for the selection, in accordance with the resolution, of places in the local government's area, or a particular part of the area, to be entered and inspected.
 - (4) A systematic inspection program provides for all places, or all places of a particular type, in the local government's area, or a particular part of the area, to be entered and inspected.
 - (5) An approved inspection program must state the following—
 - (a) the purpose of the program;
 - (b) when the program starts;
 - (c) for a selective inspection program—
 - (i) objective criteria for selecting places to be entered and inspected; and
 - (ii) if the places are to be selected from a part of the local government's area—a description of the part;
 - (d) for a systematic inspection program—
 - (i) if places in a part of the local government's area are to be entered and inspected—a description of the part; and
 - (ii) if a type of place is to be entered and inspected—a description of the type;
 - (e) the period, of not more than 6 months or another period prescribed under a regulation, over which the program is to be carried out.

114 Notice of proposed inspection program

- (1) At least 14 days, but not more than 28 days, before an approved inspection program starts, the approving local government must give notice of the program.
- (2) The notice must be published—
 - (a) in a newspaper circulating generally in the local government's area; and

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- (b) on the local government's website.
- (3) The notice must state the following—
 - (a) the name of the local government;
 - (b) in general terms, the purpose and scope of the program;
 - (c) when the program starts;
 - (d) the period over which the program is to be carried out;
 - (e) that a copy of the program is open to inspection at the public office of the local government until the end of the program;
 - (f) that a copy of the program may be purchased at the public office of the local government until the end of the program;
 - (g) the price of a copy of the program.
- (4) The price of a copy of the program must be no more than the cost to the local government of having the copy available for purchase and, if the copy is posted to the purchaser, the postage cost.

115 Access to program

From the publication by an approving local government of a notice about an approved inspection program until the end of the program—

- (a) a copy of the program must be open to inspection at the public office of the local government; and
- (b) copies of the program must be available for purchase at the public office of the local government at the price stated in the notice.

Division 2 Entry procedures

Subdivision 1 Consent

116 Entry with consent

- (1) This section applies if an authorised person intends to ask an occupier of a place to consent to the authorised person or another authorised person entering the place under section 111(1)(a).
- (2) Before asking for the consent, the authorised person must tell the occupier—
 - (a) the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- (3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement must state—
 - (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) the occupier gives the authorised person consent to enter the place and exercise powers under this part; and
 - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgement, the authorised person must immediately give a copy to the occupier.
- (6) If—
 - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) an acknowledgement complying with subsection (4) for the entry is not produced in evidence;

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the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

- (7) If the occupier gives permission, the authorised person may stay on the property and exercise the powers that the occupier has agreed to be exercised on the property.
- (8) However, the right to stay on the property—
 - (a) is subject to any conditions that the occupier imposes including, for example, about the times when the property may be entered; and
 - (b) may be cancelled by the occupier at any time.

Subdivision 2 Warrants

117 Application for warrant

- (1) An authorised person may apply to a magistrate for a warrant for a place.
- (2) The authorised person must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.
- (4) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the written application to be given by statutory declaration.

118 Issue of warrant

- (1) The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting—

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- (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
 - (b) the evidence is at the place or, within the next 7 days, will be at the place.
- (2) The warrant must state—
- (a) the place to which the warrant applies; and
 - (b) that a stated authorised person may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry to the place; and
 - (ii) exercise the authorised person’s powers under this part; and
 - (c) particulars of the offence that the magistrate considers appropriate in the circumstances; and
 - (d) the name of the person suspected of having committed the offence, unless the name is unknown or the magistrate considers it inappropriate to state the name; and
 - (e) the evidence that may be seized under the warrant; and
 - (f) the hours of the day or night when the place may be entered; and
 - (g) the magistrate’s name; and
 - (h) the date and time of the warrant’s issue; and
 - (i) the date, within 14 days after the warrant’s issue, the warrant ends.

119 Application by electronic communication and duplicate warrant

- (1) An application under section 117 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised person reasonably considers it necessary because of—

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- (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the authorised person's remote location.
- (2) The application—
- (a) may not be made before the authorised person prepares the written application under section 117(2); but
 - (b) may be made before the written application is sworn.
- (3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
- (a) it was necessary to make the application under subsection (1); and
 - (b) the way the application was made under subsection (1) was appropriate.
- (4) After the magistrate issues the original warrant—
- (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised person, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised person; or
 - (b) otherwise—
 - (i) the magistrate must tell the authorised person the date and time the warrant is issued and the other terms of the warrant; and
 - (ii) the authorised person must complete a form of warrant, including by writing on it—
 - (A) the magistrate's name; and
 - (B) the date and time the magistrate issued the warrant; and
 - (C) the other terms of the warrant.
- (5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either

case the *duplicate warrant*), is a duplicate of, and as effectual as, the original warrant.

- (6) The authorised person must, at the first reasonable opportunity, send to the magistrate—
 - (a) the written application complying with section 117(2) and (3); and
 - (b) if the authorised person completed a form of warrant under subsection (4)(b)—the completed form of warrant.
- (7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—
 - (a) attach the documents to the original warrant; and
 - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
- (8) Despite subsection (5), if—
 - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
 - (b) the original warrant is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (9) This section does not limit section 117.
- (10) In this section—

relevant magistrates court, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

120 Defect in relation to a warrant

A warrant is not invalidated by a defect in the warrant, or in compliance with section 117, 118 or 119, unless the defect affects the substance of the warrant in a material particular.

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121 Warrants—procedure before entry

- (1) This section applies if an authorised person named in a warrant issued under this subdivision for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—
 - (a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the authorised person's identity card or other document evidencing the authorised person's appointment;
 - (b) give the person a copy of the warrant;
 - (c) tell the person the authorised person is permitted by the warrant to enter the place;
 - (d) give the person an opportunity to allow the authorised person immediate entry to the place without using force.
- (3) However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that entry to the place is required to ensure the execution of the warrant is not frustrated.

Subdivision 3 Entry under other powers other than for public places

122 Procedure for other entries

- (1) This section applies if—
 - (a) an authorised person is intending to enter a place under section 111(1), other than paragraph (a) or (c), or 112; and
 - (b) the occupier of the place is present at the place.
- (2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—

- (a) comply with section 107 for the occupier;
- (b) tell the occupier the purpose of the entry;
- (c) tell the occupier the authorised person is permitted under this Act to enter the place without the occupier's consent.

Part 3 Powers on entry

123 General powers after entering places

- (1) An authorised person who has, under part 2, entered a place may—
 - (a) search any part of the place the authorised person is authorised, under section 111(1)(a) or (c), to search; or
 - (b) inspect, test, photograph or film anything in or on the place; or
 - (c) copy a document in or on the place; or
 - (d) take samples of or from anything in or on the place; or
 - (e) take into or onto the place any persons, equipment and materials the authorised person reasonably requires for exercising a power under this part; or
 - (f) require the occupier of the place, or a person in or on the place, to give the authorised person reasonable help to exercise the authorised person's powers under paragraphs (a) to (e).
- (2) This section does not apply to an authorised person who enters a place under section 111(4) to get the occupier's agreement unless the agreement is given or the entry is otherwise authorised.

[s 124]

124 Power to require reasonable help

- (1) A person required to give reasonable help under section 123(1)(f) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—8 penalty units.

- (2) It is a reasonable excuse for a person not to comply with the requirement if complying with the requirement might tend to incriminate the person.
- (3) However, subsection (2) does not apply if the requirement is to produce a document required to be kept by the person under this Act.

125 Seizure powers for dogs

- (1) If an authorised person has, under part 2, entered a place and the person reasonably suspects a dog mentioned in the part is at the place, the person may seize the dog if—
 - (a) the person reasonably believes the dog—
 - (i) has attacked, threatened to attack or acted in a way that causes fear to, a person or another animal; or
 - (ii) is, or may be, a risk to community health or safety; or
 - (b) the dog is a restricted dog and—
 - (i) a permit application to keep the dog at the place has been refused; or
 - (ii) no restricted dog permit has been issued for the dog and the person reasonably believes there is a risk the dog may be concealed or moved to avoid a requirement under chapter 4; or
 - (c) if the dog is a regulated dog—a compliance notice has been given in relation to the dog and the person reasonably believes the notice has not been complied with.

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- (2) Also, if the place is a public place, the person may seize the dog if it is not under anyone's effective control.

Part 4 Seized dogs

126 Application of pt 4

This part applies if an authorised person has, under section 125 or a warrant, seized a dog.

127 Power to destroy seized regulated dog

- (1) This section applies if the dog is a regulated dog.
- (2) The authorised person may, without notice, immediately destroy the dog if—
- (a) the person reasonably believes the dog is dangerous and the person can not control it; or
 - (b) an owner of the dog has asked the person to destroy it.
- (3) The person may destroy the dog 3 days after the seizure if—
- (a) the dog—
 - (i) was not seized under section 125(1)(b)(i); and
 - (ii) has no registered owner, or apparently has no registered owner; and
 - (iii) is not the subject of a regulated dog declaration by the relevant local government; and
 - (b) the person or the relevant local government does not know of anyone who owns, or is a responsible person for, the dog.
- (4) If subsection (3) does not apply, the person may make an order (a *destruction order*) stating the person proposes to destroy the dog 14 days after the order is served.

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- (5) The destruction order must—
 - (a) be served on—
 - (i) the registered owner of the dog; or
 - (ii) if the dog has no registered owner—any person who owns, or is a responsible person for, the dog; and
 - (b) include or be accompanied by an information notice about the decision to give the destruction order.
- (6) If a destruction order is made for the dog, the person may destroy the dog 14 days after the order is served if no application for internal review has been made relating to the order.
- (7) If an application for internal review has been made against the order, the person may destroy the dog if—
 - (a) the internal review is finally decided or is otherwise ended; and
 - (b) no application for external review of the order has been made; and
 - (c) the order is still in force.
- (8) If an application for external review of the order is made, the person may destroy the dog if—
 - (a) the external review is finally decided or is otherwise ended; and
 - (b) the order is still in force.

128 Receipt for dog in particular circumstances

- (1) This section applies if the dog—
 - (a) has, or appears to have, a registered owner; or
 - (b) was seized from a person who had immediate control or custody of it.

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- (2) The authorised person must, as soon as practicable after the seizure, give the registered owner or person a written receipt for the dog—
 - (a) generally describing the dog and its condition; and
 - (b) stating the dog has been seized.
 - (3) If the registered owner is not present at the place at which the dog was seized and—
 - (a) the place is not a public place—the receipt may be given by leaving it at the place in a conspicuous position and in a reasonably secure way; or
 - (b) the place is a public place—the receipt may be given by leaving it at the address stated on the registration notice for the dog.

129 Access to seized dog

- (1) This section applies until the dog is returned under section 130 or 131.
- (2) The authorised person must allow the owner of the dog to inspect it any reasonable time, from time to time.
- (3) Subsection (2) does not apply if it is impracticable or would be unreasonable to allow the inspection.
- (4) The inspection must be provided free of charge.

130 Return of particular dog

- (1) This section applies if—
 - (a) when the dog was seized the authorised person—
 - (i) reasonably suspected it was a regulated dog; or
 - (ii) considers a proposed declaration notice should be given for the dog; and
 - (b) the person becomes satisfied the dog is not a dog mentioned in paragraph (a).

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- (2) As soon as practicable after becoming so satisfied, the person must return the dog to any owner or other person entitled to possession of it.

131 Return of particular dog to registered owner

- (1) This section applies if the dog is a regulated dog, or a dog for which a proposed declaration notice is being made, and it has, or appears to have, a registered owner.
- (2) The authorised person must, within 14 days after the seizure, return the dog to the owner unless—
 - (a) the owner has surrendered the dog to the relevant local government; or
 - (b) a destruction order has been made for the dog; or
 - (c) continued retention of the dog is needed as evidence for a proceeding or proposed proceeding for an offence involving the dog; or
 - (d) if the dog is a regulated dog—the authorised person is reasonably satisfied the owner or a responsible person for the dog has not complied with a permit condition for the dog; or

Note—

See chapter 4, part 5 (Application of particular permit conditions for declared dangerous or menacing dogs).

- (e) if the dog is a dog for which a proposed declaration notice is being made—a regulated dog declaration for the dog has not yet been made.
- (3) The authorised person must return the dog to the owner as soon as practicable if an event as follows happens—
 - (a) if a destruction order has been made for the dog—an application for internal review or external review of the order is made and, as a result of the review, the order is no longer in force;

- (b) if subsection (2)(c) applies—the dog’s continued retention as evidence is no longer required;
- (c) if subsection (2)(d) applies—all of the permit conditions are complied with for the dog;
- (d) if subsection (2)(e) applies—the regulated dog declaration for the dog has been made.

Part 5 Compliance notices for regulated dog offences

132 Power to give compliance notice

- (1) This section applies if an authorised person reasonably believes an owner of, or a responsible person for, a regulated dog has committed, is committing or is about to commit, an offence against chapter 4.
- (2) The authorised person may give the owner or responsible person notice (a *compliance notice*) requiring the owner or responsible person to—
 - (a) stop committing or not commit the offence; or
 - (b) take stated action to remedy the matter.
- (3) A compliance notice may also state—
 - (a) that an authorised person proposes, at a stated time or at stated intervals, to enter premises of which the owner or responsible person is the occupier to check compliance with the notice; or
 - (b) how the owner or responsible person may show the action has been taken.

133 Requirements for giving notice

- (1) A compliance notice must be written and state the following—
 - (a) the name of the authorised person giving it;
 - (b) the local government that appointed the person;
 - (c) that the authorised person believes the owner or responsible person given the notice has committed, is committing or is about to commit, an offence against chapter 4;
 - (d) the nature of the offence;
 - (e) that the owner or responsible person must—
 - (i) stop committing or not commit the offence; or
 - (ii) take stated required action;
 - (f) a reasonable period within which any required action must be taken.
- (2) Despite subsection (1), a compliance notice may be given orally if—
 - (a) either—
 - (i) the authorised person giving the notice reasonably believes continued commission of the offence needs to be stopped, or the required action needs to be taken, urgently; or
 - (ii) for any reason it is not practicable to immediately give the notice in writing; and
 - (b) the authorised person gives the owner or responsible person an offence warning.
- (3) If a compliance notice is given orally, the authorised person giving the notice must confirm the notice by also giving it in writing as soon as practicable after giving it orally.
- (4) In this section—

offence warning, for a notice under subsection (2), means a warning that, without a reasonable excuse, it is an offence for the person to whom the notice is given not to comply with it.

134 Failure to comply with notice

- (1) A person to whom a compliance notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—75 penalty units.

Note—

See, however, the *Acts Interpretation Act 1954*, section 45 (Offence punishable only once).

- (2) It is a reasonable excuse if, when the notice was given, the person had not committed, was not committing or was not about to commit, the offence stated in the notice.

Part 6 Miscellaneous provisions

135 References in ch 5 to local government and authorised person

- (1) In a provision of this chapter about a local government, a reference to an authorised person is a reference to an authorised person appointed by the local government.
- (2) In a provision of this chapter about an authorised person, a reference to a local government is a reference to the local government that appointed the authorised person.

136 Impersonating authorised person

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

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137 Obstruction of authorised person

- (1) A person must not obstruct an authorised person in the exercise of a power unless the person has a reasonable excuse.
Maximum penalty—50 penalty units.
- (2) If a person has obstructed an authorised person and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—
 - (a) it is an offence to obstruct the authorised person unless the person has a reasonable excuse; and
 - (b) the authorised person considers the person’s conduct an obstruction.
- (3) In this section—
obstruct includes assault, hinder, resist and attempt or threaten to obstruct.

138 Authorised person may ask police officer for help in exercising particular powers

- (1) For exercising a power under section 111(1)(h), 112, 123 or 125 (each the *relevant provision*), an authorised person is declared to be a public official for the *Police Powers and Responsibilities Act 2000*.

Note—

For the powers of a police officer while helping a public official, see the *Police Powers and Responsibilities Act 2000*, section 16.

- (2) If asked by an authorised person, a police officer may exercise the power under the relevant provision—
 - (a) with the help that is reasonable in the circumstances; and
 - (b) using the force that is reasonable in the circumstances; and
 - (c) as soon as reasonably practicable ensure reasonable help is given.

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- (3) For giving the help, a police officer is taken to have responded to a request by a public official under the *Police Powers and Responsibilities Act 2000*, section 16(3).
 - (4) In exercising a power under the relevant provision, the authorised person must, to the extent that it is reasonable and practicable in the circumstances, explain to the police officer—
 - (a) the powers the authorised person has under the relevant provision; and
 - (b) the reasons for exercising the powers.
 - (5) Failure to comply with subsection (4) does not affect the validity of the exercise of the power.

139 Power to require name and address

- (1) An authorised person may require a person to state the person's name and residential or business address if the authorised person—
 - (a) finds a person committing an offence against this Act; or
 - (b) finds a person in circumstances that lead the authorised person to reasonably suspect the person has just committed an offence against this Act; or
 - (c) has information that leads the authorised person to reasonably suspect a person has just committed an offence against this Act.
- (2) When making the requirement, the authorised person must give the person an offence warning.
- (3) The authorised person may also require the person to give evidence of the correctness of the stated name or required address if, in the circumstances, it would be reasonable to expect the person to—
 - (a) be in possession of evidence of the correctness of the stated name or address; or
 - (b) otherwise be able to give the evidence.

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- (4) A requirement under this section is called a *personal details requirement*.
- (5) In this section—
offence warning, for a requirement under subsection (2), means a warning that, without a reasonable excuse, it is an offence for the person to whom the requirement is made not to comply with it.

140 Failure to comply with personal details requirement

- (1) A person of whom a personal details requirement has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse if—
 - (a) the requirement was given because the authorised person giving it suspected the person has committed an offence against this Act; and
 - (b) the person is not proved to have committed the offence.

141 Authorised person to give notice of damage

- (1) This section applies if—
 - (a) an authorised person damages anything in the exercise of a power under chapter 4 or this chapter; or
 - (b) a person who is authorised by an authorised person to take action under chapter 4 or this chapter damages anything in taking the action.
- (2) The authorised person must, as soon as practicable, give notice of the particulars of the damage to the person who appears to be the thing's owner.
- (3) However, if for any reason it is not practicable to comply with subsection (2), the authorised person must leave the notice, in

a reasonably secure way and in a conspicuous position, at the place where the damage happened.

- (4) If the authorised person believes the damage was caused by a latent defect in the thing or other circumstances beyond the authorised person's control, the authorised person may state this in the notice.
- (5) This section does not apply to damage the authorised person believes, on reasonable grounds, is trivial.
- (6) In this section—
owner of a thing includes the person in possession or control of the thing.

142 Compensation

- (1) A person may claim compensation if the person incurs loss or expense because of the exercise or purported exercise of a power under this chapter other than because of the seizure or destruction, under this chapter, of a regulated dog.
- (2) Compensation may be claimed and ordered in a proceeding for—
 - (a) compensation brought in a court of competent jurisdiction; or
 - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order compensation in a proceeding to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order mentioned subsection (3).

Chapter 6 PID registry licences

Part 1 How licence is obtained

143 Application for licence

- (1) A person may apply to the chief executive for a licence.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.

144 What application must state

The application must state the following—

- (a) the name and address of the applicant;
- (b) an address in the State for service of documents;
- (c) the address of the applicant's principal place of business;
- (d) the names of the individuals to be involved in the day to day running of the applicant's business as a licence holder;
- (e) the qualifications and experience of the applicant and the individuals relevant to offering or providing a PID registry service.

145 Consideration of application

The chief executive must consider the application and either grant, or refuse to grant, the application.

146 Criteria for granting application

The chief executive may grant the application only if the chief executive is satisfied the applicant is a suitable person to be a licence holder.

147 Suitability of person to be licence holder

In deciding whether an applicant is a suitable person to be a licence holder, the chief executive may have regard to—

- (a) whether the person, or an individual engaged or employed by the person, has a conviction for a relevant offence, other than a spent conviction; and
- (b) whether the person, or an individual engaged or employed by the person—
 - (i) held a licence under this division, or a licence relating to offering or providing a PID registry service under a corresponding law, that was suspended or cancelled; or
 - (ii) has been refused a licence or a licence relating to offering or providing a PID registry service under a corresponding law; and
- (c) the matters required to be stated in the application for a licence under section 144; and
- (d) anything else relevant to the person's ability to conduct business as a licence holder.

148 Inquiries into application for licence

- (1) Before deciding the application, the chief executive—
 - (a) may make inquiries to decide the suitability of the applicant to be a licence holder; and
 - (b) may, by notice, require the applicant to give the chief executive within the reasonable time of at least 28 days stated in the notice, further information or a document

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the chief executive reasonably requires to decide the application.

- (2) However, the notice may be given to the applicant only within 28 days after the chief executive receives the application.
- (3) The notice may require the information or document to be verified by a statutory declaration.
- (4) The applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with a requirement under subsection (1)(b).

149 Decision on application for licence

- (1) If the chief executive decides to grant the application, the chief executive must issue a licence to the applicant.
- (2) The chief executive may impose conditions on the licence not inconsistent with the mandatory conditions.
- (3) If the chief executive decides to refuse to grant the licence, or to impose conditions on the licence, the chief executive must give the applicant an information notice for the decision.

150 Failure to decide application for licence

- (1) Subject to subsections (2) and (3), if the chief executive does not decide the application within 28 days after its receipt, the chief executive is taken to have decided to refuse to grant the application.
- (2) Subsection (3) applies if—
 - (a) a person has made an application for a licence; and
 - (b) the chief executive has under section 148(1)(b), required the applicant to give the chief executive further information or a document.
- (3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the

application within 28 days after the chief executive receives the further information or document.

- (4) If the application is refused under this section, the applicant is entitled to be given an information notice for the decision by the chief executive.

151 Duration of licence

- (1) A licence becomes effective on the day the licence is issued or on the day of the licence's renewal and ends on the day (the *expiry day*) either 1, 2 or 3 years after that day.
- (2) The chief executive must decide the expiry day.

Part 2 Provisions of licence

152 Mandatory conditions for licences

A licence is subject to the following conditions (the *mandatory conditions*)—

- (a) the licence holder for the licence must comply with this Act;
- (b) the holder must ensure the licence, or a copy of the licence, is displayed at the holder's principal place of business so that it is easily visible to a person as the person enters the place.

153 Licence holder must comply with licence conditions

- (1) A licence holder must not contravene a condition of the holder's licence.

Maximum penalty—100 penalty units.

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- (2) The penalty under subsection (1) may be imposed whether or not the licence is suspended or cancelled because of the contravention.

154 Form of licence

A licence must state the following particulars—

- (a) the licence holder's name;
- (b) the address of the holder's principal place of business;
- (c) the day the licence becomes effective;
- (d) the day the licence expires;
- (e) the licence number;
- (f) its conditions other than the mandatory conditions.

Part 3 Renewal of licences

155 Application for renewal of licence

- (1) A licence holder may apply to the chief executive for the renewal of the holder's licence.
- (2) The application must be—
- (a) made at least 28 days before the licence ends; and
 - (b) in the approved form; and
 - (c) accompanied by the fee prescribed under a regulation.
- (3) The chief executive must consider the application and renew, or refuse to renew, the licence.
- (4) In deciding whether to grant the application, the chief executive may have regard to the matters to which the chief executive may have regard in deciding whether an applicant for the licence is a suitable person to be a licence holder.

- (5) The chief executive may impose conditions on the renewed licence not inconsistent with the mandatory conditions.
- (6) If the chief executive decides to refuse to renew the licence, or to impose conditions on the licence, the chief executive must give the holder an information notice for the decision.
- (7) A licence may be renewed by—
 - (a) endorsing the existing licence; or
 - (b) cancelling the existing licence and issuing another licence.

156 Inquiries into application for renewal of licence

- (1) Before deciding the application, the chief executive may, by notice, require the holder to give the chief executive, within a reasonable period of at least 28 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.
- (2) The holder is taken to have withdrawn the application if, within the stated period, the holder does not comply with the requirement.

157 Licence taken to be in force while renewal application is considered

- (1) If an application is made under section 155, the holder's licence is taken to continue in force from the day that it would, apart from this section, have expired until the application is decided under section 155 or taken to have been withdrawn under section 156(2).
- (2) However, if the application is refused, the licence continues in force until the information notice for the decision is given to the holder.
- (3) Subsection (1) does not apply if the licence is earlier suspended or cancelled.

Part 4 Amendment of licences

158 Application for amendment of licence

- (1) A licence holder may apply to the chief executive for an amendment of the holder's licence including any conditions imposed by the chief executive.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.
- (3) The chief executive must consider the application and amend, or refuse to amend, the licence.
- (4) If the chief executive decides to make the amendment, the chief executive may impose a condition on the licence not inconsistent with the mandatory conditions.
- (5) If the chief executive decides to refuse to amend the licence, or to impose a condition on the licence, the chief executive must give the holder an information notice for the decision.
- (6) A licence may be amended by—
 - (a) endorsing the existing licence with details of the amendment; or
 - (b) cancelling the existing licence and issuing another licence containing the amendment.

159 Inquiries into application for amendment

- (1) Before deciding the application, the chief executive may, by notice, require the holder to give the chief executive, within a reasonable period of at least 28 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.
- (2) The holder is taken to have withdrawn the application if, within the stated period, the holder does not comply with the requirement.

Part 5 Suspension or cancellation of licences

160 Chief executive may impose suspension or cancel

If the chief executive reasonably believes a ground under section 161 exists in relation to a licence holder, the chief executive may, by complying with sections 162 to 166, take the following action (the *proposed action*) against the holder—

- (a) suspend the licence for a stated period (*suspension*);
- (b) cancel the licence (*prohibition*).

161 Grounds for suspension or cancellation

- (1) Each of the following is a ground for suspending or cancelling a licence—
 - (a) the licence holder is not, or is no longer, a suitable person to hold the licence;
 - (b) the holder has contravened a condition of the licence;
 - (c) the licence was issued because of a materially false or misleading representation or declaration.
- (2) For forming a belief that the ground mentioned in subsection (1)(a) exists, the chief executive may have regard to the matters to which the chief executive may have regard in deciding whether a proposed licence holder is a suitable person to hold the licence.

Note—

See section 147 (Suitability of person to be licence holder).

162 Show cause notice

- (1) The chief executive must give the holder a notice under this section (a *show cause notice*).

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- (2) The show cause notice must state—
 - (a) the proposed action; and
 - (b) the grounds for the proposed action; and
 - (c) an outline of the facts and circumstances forming the basis for the grounds; and
 - (d) if the proposed action is suspension of the licence—the proposed suspension period; and
 - (e) an invitation to the holder to show within a stated period (the *show cause period*) why the proposed action should not be taken.
- (3) The show cause period must be a period ending at least 21 days after the show cause notice is given to the holder.

163 Representations about show cause notices

- (1) The holder may, within the show cause period, make written representations to the chief executive about why the proposed action should not be taken.
- (2) The chief executive must consider all representations (the *accepted representations*) made under subsection (1).

164 Ending show cause process without further action

- (1) This section applies if, after considering the accepted representations, the chief executive no longer believes a ground exists to take the proposed action.
- (2) The chief executive must not take any further action about the show cause notice.
- (3) The chief executive must give the holder a notice stating that the proposed action will not be taken.

165 Suspension or cancellation

- (1) This section applies if—

- (a) there are accepted representations and, after considering them, the chief executive still believes a ground exists to take the proposed action; or
 - (b) there are no accepted representations.
- (2) If the chief executive believes suspension or cancellation of the licence is warranted, the chief executive may—
- (a) if the proposed action was suspension—suspend the licence for no longer than the stated period; or
 - (b) if the proposed action was cancellation—either cancel the licence or suspend it for a stated period.
- (3) The chief executive must give an information notice for the decision to the holder.
- (4) The decision takes effect on the later of the following days—
- (a) the day the information notice is given to the holder;
 - (b) the day stated in the information notice for that purpose.

166 Immediate suspension

- (1) The chief executive may suspend the licence immediately if the chief executive believes—
- (a) a ground exists to suspend the licence; and
 - (b) it is necessary to suspend the licence immediately because there is an immediate and serious risk of harm to the effectiveness of the identification and registration of cats or dogs under this Act.
- (2) The suspension—
- (a) must be effected by an information notice for the decision given by the chief executive to the holder to suspend the licence together with a show cause notice; and
 - (b) operates immediately the notices are given; and

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- (c) continues to operate until the earliest of the following happens—
 - (i) the chief executive cancels the remaining period of the suspension;
 - (ii) the show cause notice is finally dealt with;
 - (iii) 28 days have passed since the notices were given to the holder.
- (3) Subsection (4) applies if—
 - (a) a suspension under this section stops because—
 - (i) the chief executive cancels the remaining period of the suspension; or
 - (ii) the show cause notice is finally dealt with by a decision being made not to cancel or suspend the licence; or
 - (iii) 28 days have passed since the notices mentioned in subsection (2)(a) were given to the holder; and
 - (b) the holder has returned the holder's licence to the chief executive under section 167.
- (4) The chief executive must, as soon as practicable, give the licence to the holder.

167 Return of suspended or cancelled licence to chief executive

- (1) This section applies if the chief executive has suspended or cancelled a licence and given an information notice for the decision to the holder of the licence.
- (2) The holder must return the licence to the chief executive within 7 days after receiving the information notice unless the holder has a reasonable excuse.

Maximum penalty—20 penalty units.

168 Effect of suspension or cancellation of licence

- (1) This section applies if a licence is suspended, cancelled or otherwise ends (the *termination*).
- (2) The licence holder must, within 5 days after the termination, give to the chief executive all records kept or maintained for the purposes of the PID service offered or provided by the holder.

Part 6 Other provisions about licences

169 Surrender of licence

- (1) A licence holder may surrender the holder's licence by notice given to the chief executive.
- (2) The holder's licence must accompany the notice.
- (3) The surrender takes effect on the later of the following—
 - (a) the day the notice is given;
 - (b) the day stated in the notice.

170 Application for replacement of licence

- (1) A licence holder may apply for a replacement of the holder's licence if the licence has been damaged, destroyed, lost or stolen.
- (2) The application must—
 - (a) be made to the chief executive; and
 - (b) include information about the circumstances in which the licence was damaged, destroyed, lost or stolen; and
 - (c) be accompanied by the fee prescribed under a regulation for the application.

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171 Decision about application for replacement of licence

- (1) The chief executive must consider the application and either grant, or refuse to grant, the application.
- (2) The chief executive must grant the application if the chief executive is satisfied the licence has been damaged, destroyed, lost or stolen in a way to require its replacement.
- (3) If the chief executive decides to grant the application, the chief executive must, as soon as practicable, issue another licence to the applicant to replace the damaged, destroyed, lost or stolen licence.
- (4) If the chief executive decides to refuse to grant the application, the chief executive must give the applicant an information notice for the decision.

Chapter 7 Registers

Part 1 Registers kept by chief executive

172 Chief executive must keep registers

- (1) The chief executive must keep a register of declared dangerous dogs, declared menacing dogs, and restricted dogs (the *regulated dog register*).
- (2) The regulated dog register must contain the information about a regulated dog given to the chief executive by a chief executive officer of a local government under sections 174 and 175.
- (3) The chief executive must keep a register of licence holders (the *licence holder register*).

-
- (4) The licence holder register must contain the information about a licence holder required, under section 154, to be stated on the holder's licence.
 - (5) The chief executive may keep the registers under this section in the way the chief executive considers appropriate, including, for example, in electronic form.

173 Who may inspect registers

- (1) The following persons may inspect information kept in the regulated dog register—
 - (a) the chief executive or a person engaged or employed by the chief executive to perform functions under this Act;
 - (b) the chief executive officer of a local government or a person engaged or employed by the local government to perform functions under this Act;
 - (c) an authorised person performing functions under this Act.
- (2) The following persons may inspect information about a particular regulated dog kept in the register—
 - (a) the owner of the dog, to confirm details relating to the dog and its owner;
 - (b) a person to whom the owner of the dog has given consent in writing, to confirm details relating to the dog and its owner;
 - (c) a veterinary surgeon to confirm whether the dog the surgeon is treating or proposes to treat is a regulated dog;
 - (d) a licence holder in offering or providing a PID registry service, to confirm whether the dog is a regulated dog;
 - (e) the operator of a pound or shelter, to confirm whether the dog is a regulated dog;
 - (f) a person engaged or employed by a person referred to in paragraph (c), (d) or (e) (each a *relevant paragraph*) in

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carrying out the persons duties, for the purpose set out in the relevant paragraph.

- (3) However, a person mentioned in subsection (2) may inspect the register only for the purpose applying to the person stated in the subsection.
- (4) A person may free of charge, inspect the details contained in the publicly available part of the licence holder register at the department's head office during normal business hours.

Editor's note—

The department's head office is at 41 George Street, Brisbane.

- (5) A person who, under subsection (2) or (4), inspects information kept in the register, may ask for a copy of the information.
- (6) The person asking for the copy must pay the fee decided by the chief executive for the copy.
- (7) The fee decided by the chief executive must not be more than the reasonable cost of producing the copy.
- (8) The chief executive may publish details contained in the publicly available part of the licence holder register at the times and in the way decided by the chief executive.

174 Chief executive officer must give information

- (1) A chief executive officer of a local government must give the chief executive notice if—
 - (a) a restricted dog is registered in the local government's area under chapter 3; or
 - (b) under chapter 4, the local government makes a regulated dog declaration for a dog in the local government's area.
- (2) The notice must—
 - (a) be given to the chief executive within 7 days after the dog is registered or declared as mentioned in subsection (1); and

- (b) state all of the following information relating to the dog—
 - (i) the information stated in the registration notice for the dog;
 - (ii) the information stated in an information notice given under section 95 for the dog;
 - (iii) any other information prescribed under a regulation.

175 Chief executive officer must give information about owner

- (1) This section applies if the chief executive officer of the relevant local government for a regulated dog receives a notice from—
 - (a) an owner of the dog, under section 54; or
 - (b) the permit holder for the dog, under schedule 1, section 8.
- (2) The chief executive officer must, within 7 days after receiving the notice, give the chief executive—
 - (a) if the notice was given under section 54—notice of the changed information; or
 - (b) if the notice was given under schedule 1, section 8—notice of the holder’s new residential address.

176 Chief executive may ask for confirmation of particular information

- (1) The chief executive may give notice (the *request*) to the chief executive officer of a local government that the chief executive seeks a notice (the *response*) about whether particular information is still accurate according to the records kept by the chief executive officer.
- (2) The request may be made only once in a period of 12 months.

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- (3) The chief executive officer must give the chief executive the response within 28 days after receiving the request.
- (4) In this section—
information means information—
 - (a) the chief executive officer has already given the chief executive under section 174 or 175; and
 - (b) set out in the request.

Part 2 Registers kept by local government

177 Registers comprising cat and dog registry

- (1) The chief executive officer of each local government must keep the following registers about cats or dogs usually kept or proposed to be kept in the local government's area—
 - (a) a general register;
 - (b) another register prescribed under a regulation.
- (2) The registers are collectively called the *cat and dog registry* of the local government.

178 General register

The general register must include all of the following information for each cat or dog mentioned in section 177(1)—

- (a) the information about the cat or dog and its owner stated in a registration notice for the cat or dog, given under section 49;
- (b) if the dog is a declared dangerous dog or declared menacing dog—the information required to be stated in an information notice under section 95(5) about the dog;

- (c) if the dog is a regulated dog—the number recorded on its collar, identification tag, registration tag or tattoo for desexing;
- (d) if the dog is a restricted dog—details of any restricted dog permit in force for the dog;
- (e) other information the local government considers appropriate.

179 Public access to registers

- (1) A local government must keep its cat and dog registry open to inspection at the public office of the local government.
- (2) However, subsection (1) does not apply for information about an owner of a cat or dog required to be stated in a registration notice for the cat or dog.

Chapter 8 Reviews

Part 1 Internal review of decisions

180 Internal review process before external review

Every review of an original decision must be, in the first instance, by way of an application for internal review.

181 Who may apply for internal review

- (1) An interested person for an original decision made by the chief executive under chapter 2, part 1, division 3, subdivision 3 or chapter 6, may apply to the chief executive for an internal review of the decision (a *PID review application*).

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- (2) An interested person for an original decision made by a local government or authorised person appointed to a local government may apply to the chief executive officer of the local government for an internal review of the decision (a *general review application*).

182 Requirements for making PID review application

- (1) A PID review application must be—
 - (a) in the approved form; and
 - (b) supported by enough information to enable the chief executive to decide the application; and
 - (c) made within 14 days after the applicant is given the information notice about the original decision the subject of the application.
- (2) However, the chief executive may, at any time, extend the time for making a PID review application.

183 Requirements for making general review application

- (1) A general review application must be—
 - (a) in the approved form; and
 - (b) supported by enough information to enable the chief executive officer to decide the application; and
 - (c) made within 14 days after the applicant is given the information notice about the original decision the subject of the application.
- (2) However, the chief executive officer may, at any time, extend the time for making a general review application.

184 Stay of operation of original decision

- (1) A PID review application or general review application does not stay the original decision the subject of the application.

- (2) However the applicant may, immediately after being given the information notice for the original decision, apply, as provided under the QCAT Act, to QCAT for a stay of the original decision.
- (3) QCAT may stay the original decision to secure the effectiveness of the internal review and a later application to QCAT for external review.
- (4) A stay may be granted on conditions QCAT considers appropriate.
- (5) However, if the original decision relates to a regulated dog declaration a condition must be imposed that each owner of, and responsible person for, the dog must, until the internal review and any external review and appeal are decided, ensure the requirements under schedule 1, section 3, are complied with for the dog the subject of the declaration.

Note—

See schedule 1, section 3 (Muzzling and effective control in place that is not relevant place) and also sections 66 (Prohibition on supply of restricted dog) and 67 (Prohibition on supply of declared dangerous dog or menacing dog).

- (6) The period of the stay must not extend past the time when—
 - (a) if the chief executive makes a PID review decision about the original decision—the chief executive makes the decision and any later period QCAT allows the applicant to enable the applicant to apply for an external review of the internal review decision; or
 - (b) if the chief executive officer of a local government makes an internal review decision about the original decision—the chief executive officer makes the decision and any later period QCAT allows the applicant to enable the applicant to apply for an external review of the internal review decision.
- (7) A PID review application or general review application affects the original decision, or carrying out of the decision, only if the decision is stayed.

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185 PID review decision

- (1) The chief executive must, within 20 days after receiving a PID review application made under section 182—
 - (a) conduct an internal review of the original decision the subject of the application; and
 - (b) make a decision (the *PID review decision*) to—
 - (i) confirm the original decision; or
 - (ii) amend the original decision; or
 - (iii) substitute another decision for the original decision.
- (2) The application must not be dealt with by—
 - (a) the person who made the original decision; or
 - (b) a person in a less senior office than the person who made the original decision.
- (3) Subsection (2)—
 - (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and
Editor's note—
Acts Interpretation Act 1954, section 27A (Delegation of functions or powers)
 - (b) does not apply to an original decision made by the chief executive personally.
- (4) If the PID review decision confirms the original decision, for the purpose of an application for external review, the original decision is taken to be the PID review decision.
- (5) If the PID review decision amends the original decision, for the purpose of an application for external review, the original decision as amended is taken to be the PID review decision.

186 Other internal review decisions

- (1) The chief executive officer of a local government must, within 20 days after receiving a general review application made under section 183—
 - (a) conduct an internal review of the original decision the subject of the application; and
 - (b) make a decision (the *internal review decision*) to—
 - (i) confirm the original decision; or
 - (ii) amend the original decision; or
 - (iii) substitute another decision for the original decision.
- (2) The application must not be dealt with by—
 - (a) the person who made the original decision; or
 - (b) a person in a less senior office than the person who made the original decision.
- (3) Subsection (2)—
 - (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and

Editor's note—
Acts Interpretation Act 1954, section 27A (Delegation of functions or powers)
 - (b) does not apply to an original decision made by the chief executive officer of the local government personally.
- (4) If the internal review decision confirms the original decision, for the purpose of an application for external review, the original decision is taken to be the internal review decision.
- (5) If the internal review decision amends the original decision, for the purpose of an application for external review, the original decision as amended is taken to be the internal review decision.

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187 Notice of PID decision or internal review decision

- (1) The chief executive must, within 10 days after making a PID review decision, give the applicant notice (the *review notice*) of the review decision.
- (2) The chief executive officer of a local government must, within 10 days after making an internal review decision, give the applicant notice (also the *review notice*) of the internal review decision.
- (3) If the internal review decision or PID review decision is not the decision sought by the applicant, the review notice must include or be accompanied by a notice complying with the QCAT Act, section 157(2) for the decision.
- (4) If the chief executive does not give the review notice within the 10 days, the chief executive is taken to have made a decision confirming the original decision.
- (5) If the chief executive officer of the local government does not give the review notice within the 10 days, the chief executive officer is taken to have made a decision confirming the original decision.

Part 2 External reviews

188 Who may apply for external review

A person who is given, or is entitled to be given, a review notice for a decision under part 1 may apply, as provided under the QCAT Act, for an external review of the decision.

189 Condition on stay granted by QCAT for particular decisions

- (1) This section applies if a person makes an application for external review to QCAT for a decision about a regulated dog declaration.
- (2) If, under the QCAT Act, section 22(3) QCAT decides to grant a stay of the decision, QCAT must impose a condition on the stay that each of the following persons must, until the external review is decided, ensure the requirements under schedule 1, section 3 are complied with for the dog the subject of the declaration—
 - (a) the owner of the dog;
 - (b) a responsible person for the dog.

Note—

See schedule 1, section 3 (Muzzling and effective control in public) and also sections 66 (Prohibition on supply of restricted dog) and 67 (Prohibition on supply of declared dangerous dog or menacing dog).

Chapter 9 Miscellaneous provisions

Part 1 General offences

194 Relevant person must ensure dog does not attack or cause fear

- (1) A relevant person for a dog must take reasonable steps to ensure the dog does not attack, or act in a way that causes fear to, someone else or another animal.

Maximum penalty—

- (a) if the attack causes the death of or grievous bodily harm to the person—300 penalty units; or

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- (b) if the attack causes the death of or grievous bodily harm to the animal—100 penalty units; or
- (c) if the attack causes bodily harm to the person or animal—50 penalty units; or
- (d) otherwise—20 penalty units.

(2) In this section—

animal does not include vermin that are not the property of anyone.

Examples of vermin that are someone's property—

- a pet mouse or guinea pig
- vermin that are protected animals under the *Nature Conservation Act 1992* (See section 83 of that Act.)

relevant person, for a dog, means—

- (a) the owner of the dog; or
- (b) any responsible person for the dog.

195 Prohibition on allowing or encouraging dog to attack or cause fear

(1) A person must not allow or encourage a dog to attack, or act in a way that causes fear to, a person or another animal.

Maximum penalty—

- (a) if the attack causes the death of or grievous bodily harm to the person—300 penalty units; or
- (b) if the attack causes the death of or grievous bodily harm to the animal—100 penalty units; or
- (c) if the attack causes bodily harm to the person or animal—50 penalty units; or
- (d) otherwise—20 penalty units.

(2) In this section—

allow or encourage, without limiting the Criminal Code, sections 7 and 8, includes cause to allow or encourage.

Editor's note—

Criminal Code, sections 7 (Principal offenders) and 8 (Offences committed in prosecution of common purpose)

animal does not include vermin that are not the property of anyone.

Examples of vermin that are someone's property—

- a pet mouse or guinea pig
- vermin that are protected animals under the *Nature Conservation Act 1992* (See section 83 of that Act.)

196 Defences for offence against s 194 or 195

(1) It is a defence to a prosecution for an offence against section 194 or 195 for the defendant to prove—

- (a) the dog attacked, or acted in a way that caused fear to, the other person (the **complainant**) or the animal—
 - (i) as a result of the dog being attacked, mistreated, provoked or teased by the complainant or the animal; or
 - (ii) to protect the defendant, or a person accompanying the defendant (the **accompanying person**), or the defendant's or accompanying person's property; or
- (b) for an attack on an animal, the dog was engaged in hunting the animal on private property when the offence happened; or
- (c) for an attack on stock, the dog is a working dog and the offence happened when the stock were being worked; or
- (d) the dog is a government entity dog and when the offence happened the defendant was acting within the scope of employment by the government entity; or
- (e) when the offence happened, the dog was a security patrol dog carrying out that function under the *Security Providers Act 1993*.

(2) In this section—

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dog patrol category, of functions of a security officer, has the meaning given by the *Security Providers Act 1993*, schedule 2.

security officer has the meaning given by the *Security Providers Act 1993*, section 7.

security patrol dog means a dog used in the dog patrol category of functions of a security officer.

Part 2 Greyhounds

197 Muzzling decommissioned greyhounds in public places

- (1) This section applies to an owner of a decommissioned greyhound if a local law requires it to be muzzled when in a public place.
- (2) The requirement does not apply to the owner.
- (3) In this section—

decommissioned greyhound means a greyhound that—

- (a) is not a declared dangerous dog or declared menacing dog; and
- (b) has successfully completed a program prescribed under a regulation.

Part 3 Legal provisions

Division 1 Evidence generally

198 Evidentiary value of copies

- (1) This section applies to a copy of a document that—
 - (a) purports to be made under the authority of a local government or its mayor; and
 - (b) purports to be verified by the mayor or an employee who is authorised by the local government.
- (2) The copy of the document is evidence in any proceedings as if the copy were the original of the document.

199 Evidentiary value of certificates

- (1) This section applies to a certificate that—
 - (a) purports to be about the state of, or a fact in, a record of the local government; and
 - (b) purports to be signed by the chief executive officer.
- (2) The certificate is evidence of the matters contained in the certificate.

Division 2 Evidence for proceedings

200 Application of div 2

This division applies to a proceeding under or in relation to this Act.

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201 Appointments and authority

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment of an authorised person;
- (b) the power of an authorised person to do anything under chapter 5.

203 Other evidentiary aids

(1) For applying section 198 for the proceeding, a record of a local government is taken to include—

- (a) a thing as follows given, issued, kept or made under this chapter or chapter 5—
 - (i) an appointment;
 - (ii) a decision or record;
 - (iii) a restricted dog permit;
 - (iv) the local government’s cat and dog registry;
 - (v) a regulated dog declaration;
 - (vi) a proposed declaration notice, compliance notice or other notice;
 - (vii) a destruction order; and
- (b) another document kept under this Act; and
- (c) a statement that on a stated day—
 - (i) a stated person was given a stated decision, declaration, notice or order; or
 - (ii) a stated requirement under chapter 4 or 5, was made of a stated person; and
- (d) a statement that on a stated day, or during a stated period, a restricted dog permit was or was not in force for a stated dog or a stated place.

(2) This section does not limit section 198.

Division 3 Other provisions

204 False or misleading information

A person (the *relevant person*) commits an offence if the relevant person gives, either orally or in a document, the following persons information the relevant person knows is false or misleading in a material particular—

- (a) the chief executive;
- (b) a chief executive officer of a local government;
- (c) an authorised person;
- (d) an authorised implanter;
- (e) a licence holder.

Maximum penalty—100 penalty units.

Part 4 Delegation of powers

205 Delegation by chief executive

- (1) The chief executive may delegate the chief executive's functions under this Act to an appropriately qualified officer of the department.
- (2) In this section—

appropriately qualified means having the qualifications, experience or standing appropriate to the exercise of the power.

Example of standing—

the officer's classification level in the department

functions includes powers.

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206 Delegation by chief executive officer

(1) The chief executive officer of a local government may delegate the chief executive officer's functions under this Act to an appropriately qualified officer of the local government.

(2) In this section—

appropriately qualified means having the qualifications, experience or standing appropriate to the exercise of the power.

Example of standing—

the officer's classification level in the local government

functions includes powers.

Part 5 Miscellaneous

207 References to right to enter

A right under this Act to enter a place includes the right to—

- (a) leave and re-enter the place from time to time; and
- (b) remain on the place for the time necessary to achieve the purpose of the entry.

Note—

See also section 123 (General powers after entering places).

207A Chief executive (transport) must disclose information

(1) This section applies if—

- (a) an authorised person is reasonably satisfied that vehicle registry information may be used, in an investigation under this Act about a prescribed offence, to identify the relevant person for a dog; and

-
- (b) the authorised person asks the chief executive (transport) for the information.
- (2) The chief executive (transport) must disclose the information to the authorised person if—
- (a) the chief executive (transport) reasonably considers that the information may be used to identify the relevant person; or
- (b) the disclosure is authorised by the person to whom the information relates.
- (3) In this section—

chief executive (transport) means the chief executive of the department in which the *Transport Operations (Road Use Management) Act 1995* is administered.

prescribed offence means an offence under section 194 or 195 involving an attack by a dog if the attack causes—

- (a) the death of, or grievous bodily harm to, a person or another animal; or
- (b) bodily harm to a person or another animal.

relevant person, for a dog, means the owner of the dog or any responsible person for the dog.

vehicle registry information means information kept in the register of registered vehicles under a regulation under the *Transport Operations (Road Use Management) Act 1995*.

208 Payment of penalties for offences against particular provisions

- (1) This section applies—
- (a) if a court orders a person to pay a penalty for an offence against chapter 4 or section 134; and
- (b) despite the *Local Government Act 1993*, section 1076 and the *Acts Interpretation Act 1954*, section 43.

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Editor's note—

See the *Local Government Act 1993*, section 1076 (Fines) and *Acts Interpretation Act 1954*, section 43 (Appropriation of penalties).

Local Government Act 1993—see the *Acts Interpretation Act 1954*, section 14H and the *Local Government Act 2009*.

- (2) The court must also order the person to pay the penalty to a local government decided by the court.

209 Approval of forms

- (1) The chief executive may approve forms for use under chapter 2, part 1, division 3, subdivision 3, chapter 6 or section 182.
- (2) The chief executive officer of a local government may approve forms for use under this Act other than for the provisions mentioned in subsection (1).

210 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about—
 - (a) class of cat or dog that may be exempt from being—
 - (i) implanted with a PPID; or
 - (ii) tattooed for desexing; or
 - (iii) registered; or
 - (b) the requirements for PIDs; or
 - (c) the way licence holders must keep and maintain PID information and copies of records from which the identifying information is obtained; or
 - (d) the fees to be paid under this Act; or
 - (e) information that must be stated on a registration form for the registration of a cat or dog.

- (3) A regulation may prescribe a penalty of not more than 20 penalty units for contravention of a regulation.

Chapter 10 Transitional provisions

Part 1 Transitional provisions for Act No. 74 of 2008

211 Deferral for particular local governments

The following provisions (the *deferred provisions*) do not apply in an area of a local government, other than in the area of a designated local government, until the deferred date—

- chapter 2, part 1, division 1
- chapter 3
- sections 177, 178 and 221.

212 Restricted dog registers

- (1) This section applies to a local government, other than a designated local government, until the deferred date.
- (2) The restricted dog register must include all of the following information for each restricted dog permit in force in the local government's area—
- (a) the address of the place for which the permit has been issued;
 - (b) the following details for each restricted dog the subject of the permit—
 - (i) breed;
 - (ii) colour;

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- (iii) sex;
 - (iv) the number recorded on its collar, identification tag, registration tag or tattoo for desexing;
 - (v) any other noticeable distinguishing features or marks;
- (c) other information prescribed under a regulation.
- (3) A restricted dog register may include other information the local government considers appropriate.

213 Cats and dogs implanted before commencement

Section 37 applies to an authorised implanter whether the implantation was done before or after the commencement of this section.

214 Regulated dogs must be implanted with a PPID

- (1) An owner of a regulated dog that was not implanted with a PID on the commencement of this section must ensure the dog is implanted with a PPID within 14 days after the commencement of this section unless the owner has a reasonable excuse.

Maximum penalty—75 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant tenders in evidence a signed veterinary surgeon's certificate stating, or other evidence of, either of the following—
- (a) that the dog is implanted with a PID;
 - (b) that implanting the dog with a PPID is likely to be a serious risk to its health.

215 Desexed cat or dog at commencement need not be tattooed for desexing

An owner of a cat or dog that is desexed at the commencement of this section does not contravene section 42(1) if the cat or dog is not tattooed for desexing.

216 Cat or dog not registered at commencement

- (1) This section applies to an owner of a cat or dog other than the operator of a shelter or pound if the cat or dog—
 - (a) is not registered at the commencement of this section; or
 - (b) is less than 12 weeks old.
- (2) The owner must ensure the cat or dog is registered within 3 months after—
 - (a) if the relevant local government is a designated local government—the commencement; or
 - (b) otherwise—the deferred date.

Maximum penalty—20 penalty units.
- (3) It is a defence to a prosecution for an offence against subsection (2) for the defendant to prove the cat or dog is—
 - (a) a government entity dog; or
 - (b) a working dog; or
 - (c) another class of cat or dog prescribed under a regulation.

217 Restricted dogs and convictions under repealed LGA chapter

- (1) A dog that was a restricted dog under the repealed LGA chapter immediately before the commencement of this section is taken to be a restricted dog under this Act.
- (2) A conviction for an offence under the repealed LGA chapter is taken to be a conviction for an offence against chapter 4.
- (3) In this section—

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repealed LGA chapter means the *Local Government Act 1993*, former chapter 17A.

217A Corresponding law regulated dogs and corresponding convictions

- (1) This section applies if immediately before the commencement of this section—
 - (a) a dog was the subject of a declaration, however called, under a corresponding law; and
 - (b) the declaration is the same as or similar to a regulated dog declaration.
- (2) The dog is taken to be a regulated dog under this Act.
- (3) A corresponding conviction for an offence relating to the dog is taken to be a conviction for an offence against chapter 4.
- (4) In this section—

corresponding conviction, for an offence relating to the dog, means a conviction in another State for an offence that is the same, or substantially the same, as an offence against chapter 4.

217B Local law dangerous dogs and corresponding convictions

- (1) A dog that was declared to be a dangerous dog under a local law (a *local law dangerous dog*) immediately before the commencement of this section is taken to be a declared dangerous dog under this Act.
- (2) A corresponding conviction for an offence relating to a local law dangerous dog is taken to be a conviction for an offence against chapter 4.
- (3) In this section—

corresponding conviction, for an offence relating to a local law dangerous dog, means a conviction under a local law for

an offence that is the same, or substantially the same, as an offence against chapter 4.

218 Permit applications

A permit application made, under the *Local Government Act 1993*, section 1193Q immediately before the commencement of this section but not finally decided is taken to be a permit application for section 72.

219 Restricted dog register kept under Local Government Act 1993 continues

A restricted dog register kept under the *Local Government Act 1993*, section 1193ZN before the commencement of this section is taken to be a restricted dog register kept under section 212.

220 Person given or entitled to be given information notice

- (1) This section applies to a person who immediately before the commencement of this section—
 - (a) had been, or was entitled to be given, an information notice mentioned in the *Local Government Act 1993*, section 1193ZZH about a decision under chapter 17A of that Act; and
 - (b) had not started an appeal under the *Local Government Act 1993*, section 1193ZZI.
- (2) The person may apply for a review of the decision under chapter 8 as if the decision had been made under this Act.

221 Registration of cat or dog continues

- (1) A restricted dog registered under the *Local Government Act 1993* before the commencement of this section is taken to be registered under chapter 3.

[s 221A]

- (2) A cat or dog registered under a local law before the commencement of this section is taken to be registered under chapter 3.

221A References to address of place stated in registration notice for cat or dog

- (1) This section applies to a local government, other than a designated local government, until the deferred date.
- (2) A reference in this Act to the address of the place stated in the registration notice for a cat or dog is taken to be a reference to the place where the cat or dog is usually kept or proposed to be kept.

Part 2 Transitional provision for Building and Other Legislation Amendment Act 2009

222 Provision about offences under s 24

- (1) A proceeding can not be started for an offence under pre-amended section 24(1) if the circumstances giving rise to the commission of the offence—
 - (a) would not, if the circumstances happened after the commencement of this section, give rise to the commission of an offence under post-amended section 24(1); or
 - (b) involve an authorised implanter to which, if the circumstances happened after the commencement of this section, post-amended section 24(1), paragraph (c) could have applied.
- (2) In this section—

amending Act means the *Building and Other Legislation Amendment Act 2009*.

post-amended section 24(1) means section 24(1) as replaced under the amending Act, section 40.

pre-amended section 24(1) means section 24(1) as in force immediately before the amending Act, section 40 commences.

Part 3

Transitional provision for Building and Other Legislation Amendment Act (No. 2) 2010

223 Provision about s 63A

From the commencement of this section, this Act applies as if section 63A had been in force since 6 April 2010.

Schedule 1 Permit conditions and conditions applying to declared dangerous and menacing dogs

sections 81, 93, 97 and 98

1 Definitions for sch 1

In this schedule—

relevant dog means—

- (a) if the dog is a declared dangerous dog or a declared menacing dog—a declared dangerous dog or a declared menacing dog; or
- (b) if the dog is a restricted dog the subject of a restricted dog permit—a restricted dog the subject of a permit.

relevant place, for a relevant dog, means—

- (a) if the relevant dog is a declared dangerous dog or a declared menacing dog—the place stated in the registration notice as the address for it; or
- (b) if the relevant dog is a restricted dog—the place for which a restricted dog permit has been issued.

2 Identification

- (1) A relevant dog must be implanted with a PPID.

Note—

See section 214 (Regulated dogs must be implanted with a PPID) for a regulated dog that has not been implanted with a PID on the commencement of the section.

- (2) A relevant dog must, at all times, wear a collar with an attached identifying tag.
- (3) The tag must be of the type, and contain the information prescribed under a regulation.

3 Muzzling and effective control in place that is not relevant place

- (1) A relevant dog must not be in a place that is not the relevant place for the dog unless it is—
 - (a) muzzled; and
 - (b) under the effective control of someone who has the control of no more than 1 dog at the same time.
- (2) However, subsection (1) does not apply for a relevant dog in a vehicle that is in a place that is not the relevant place for the dog if the dog is—
 - (a) in an enclosed part of the vehicle; and
 - (b) enclosed or restrained in a way that prevents the dog or any part of it from being outside the enclosed part of the vehicle.
- (3) In subsection (1)(a)—

relevant dog—

 - (a) does not include a declared menacing dog or a dog the subject of a proposed declaration notice for a menacing dog declaration; but
 - (b) includes a dog the subject of a proposed declaration notice for a dangerous dog declaration or restricted dog declaration.

4 Enclosure

- (1) An enclosure for a relevant dog must be maintained at or on the relevant place for the dog.
- (2) The dog must, unless there is a reasonable excuse, be usually kept in the enclosure.
- (3) The enclosure must—
 - (a) be childproof; and
 - (b) stop the dog from leaving the enclosure.
- (4) Also, the enclosure and the area enclosed must—

- (a) be of the dimensions, quality and type prescribed under a regulation; and
- (b) comply with other requirements prescribed under a regulation.

5 Public notice

- (1) A sign must be placed at or near each entrance to the relevant place for a relevant dog notifying the public that a relevant dog is kept at the place.
- (2) The sign must be of the dimensions, quality and type, and contain the information prescribed under a regulation.

6 Place where relevant dog is usually kept

A relevant dog must not be usually kept at a place other than the relevant place for the dog.

7 Notice of other restricted dog permit for dog

If a permit holder obtains another restricted dog permit for a restricted dog the subject of the holder's permit, the holder must immediately give the relevant local government notice of the other permit.

8 Notice of change of address

- (1) If a relevant person changes residential address, the person must give the relevant local government notice of the person's new residential address within 7 days after making the change.
- (2) If the new residential address is in another local government's area, the person must also give the notice to the other local government.
- (3) In this section—

relevant person means—

- (a) if a permit condition applies to a declared dangerous dog or a declared menacing dog—the owner of the dog;
or
- (b) if a permit condition applies to a restricted dog—the permit holder for the dog.

Schedule 2 Dictionary

section 8

accepted representations—

- (a) for chapter 2, part 1, division 3, subdivision 3—see section 30(2); or
- (b) for chapter 6, part 5—see section 163(2).

appropriate register, for information about a cat or dog, means a register kept under section 177 in which particular information about the cat or dog is kept.

approved form means—

- (a) for an approved form mentioned in chapter 6 or section 182—a form approved by the chief executive under section 209(1); or
- (b) otherwise—a form approved by the chief executive officer of a local government under section 209(2).

approved inspection program see section 113(1).

approving local government see section 113(1).

authorised implanter means—

- (a) a veterinary surgeon who—
 - (i) has completed a course, about implanting PIDs, prescribed under a regulation or approved by the chief executive; and
 - (ii) is not a prohibited implanter; or
- (b) a person who—
 - (i) has a qualification relating to the implantation of PIDs prescribed under a regulation or approved by the chief executive; and
 - (ii) has completed a course, about implanting PIDs, prescribed under a regulation or approved by the chief executive; and

(iii) is not a prohibited implanter.

authorised person means—

- (a) a person appointed under section 104; and
- (b) for chapter 5, has the meaning affected by section 135(2).

bodily harm has the meaning given by the Criminal Code, section 1.

cat see section 11(1).

cat and dog registry, of a local government, see section 177(2).

compliance notice see section 132(2).

corresponding law means a law applying, or that applied, in another State that provides, or provided, for the same, or substantially the same, matter as this Act or a provision of this Act.

dangerous dog declaration see section 89(1)(a).

declared dangerous dog see section 61.

declared menacing dog see section 62.

deferred date means—

- (a) the day that is 2 years after the date of assent of this Act; or
- (b) if an earlier day is prescribed under a regulation—the earlier day.

deferred provisions see section 211.

desex, for a cat or dog, means to surgically remove its gonads for the purpose of making it permanently incapable of reproducing.

designated local government means—

- (a) the Brisbane City Council; or
- (b) the Central Highlands Regional Council; or
- (c) the Gladstone Regional Council; or

- (d) the following councils—
- Gold Coast City Council
 - Ipswich City Council
 - Lockyer Valley Regional Council
 - Logan City Council
 - Moreton Bay Regional Council
 - Redland City Council
 - Scenic Rim Regional Council
 - Somerset Regional Council
 - Sunshine Coast Regional Council
 - Toowoomba Regional Council.

destroy, a regulated dog, includes causing it to be destroyed.

destruction order see section 127(4).

detached house does not include—

- (a) a caravan, trailer or vehicle; or
- (b) a duplex; or
- (c) a manufactured home.

dog see section 11(2).

effective control, of a regulated dog, see section 64.

enclosure, for a regulated dog, see schedule 1, section 4.

external review, for a decision, means a review of the decision by QCAT under the QCAT Act.

general register, of a local government, means its general register kept under section 178.

general review application see section 181(2).

government entity means—

- (a) the State, the Commonwealth or another State; or
- (b) an instrumentality or agent of the State, the Commonwealth or another State.

government entity dog means—

- (a) a dog owned by a government entity or a person engaged or employed by the entity; and
- (b) used for a purpose under an Act of the Commonwealth or a State.

Examples—

- a corrective services dog under the *Corrective Services Act 2006*
- a drug detection dog, explosives detection dog or police dog under the *Police Powers and Responsibilities Act 2000*

grievous bodily harm has the meaning given by the Criminal Code, section 1.

identifying information, for a cat or dog, means the information relating to the cat or dog required to be—

- (a) stated on a registration notice for the cat or dog; and
- (b) held in the cat and dog registry of the relevant local government for the cat or dog.

implant includes insert.

information notice, about a decision, means a notice stating—

- (a) the decision and the reasons for it; and
- (b) that the person to whom the notice is given may apply for an internal review of the decision to the original decider for the decision within 14 days after the person receives the notice; and
- (c) how to apply for the internal review.

inspect, for chapter 7, part 1, includes to obtain, orally or in writing, the information kept on the regulated dog register.

interested person, for an original decision, means—

- (a) a person who has been given, or is entitled to be given, an information notice about the decision; and
- (b) if the decision relates to a cat or dog—the owner of, or responsible person for, the cat or dog.

internal review decision see section 186(1)(b).

licence means a PID registry licence.

licence holder means a person holding a PID registry licence.

lives means resides.

local government, for chapter 5, has the meaning affected by section 135(1).

mandatory conditions, for a licence, see section 152.

manufactured home see the *Manufactured Homes (Residential Parks) Act 2003*, section 10.

menacing dog declaration see section 89(1)(b).

notice means—

- (a) a notice in writing; and
- (b) for chapter 5, part 2, a notice issued under this Act.

occupier of a place, for chapter 5, part 2, includes a person who reasonably appears to be the occupier of, or in charge of, the place.

operator, of a pound or shelter, means the person who has the role of being responsible for the management and operation of the pound or shelter.

original decider, for an original decision, means—

- (a) if the original decision is made by the chief executive—the chief executive; or
- (b) if the original decision is made by a local government or authorised person appointed to a local government—the chief executive officer of the local government.

original decision means a decision about which an information notice must be given.

owner, of a cat or dog, see section 9.

permanent identification device see section 12(1).

permit application see section 72(1).

permit condition means a condition imposed under—

- (a) chapter 4, part 3, division 2; or

(b) a regulation made under section 80(2).

permit holder means the holder of a restricted dog permit.

personal details requirement see section 139(4).

pet shop means a shop that sells a dog, cat, rabbit, guinea pig, mouse, reptile, caged bird or any other similar animal of a class or kind prescribed under a regulation.

PID see section 12(1).

PID information, for a cat or dog, means—

- (a) the name of the owner of the cat or dog; and
- (b) the PID number for the cat or dog; and
- (c) any other information about the cat or dog prescribed under a regulation.

PID number means a unique number stored on a PID that is capable of being electronically retrieved.

PID register means the register containing information about PIDs.

PID registry licence means a licence to offer or provide a PID registry service.

PID registry service means a service—

- (a) of keeping records containing identifying information for a cat or dog; and
- (b) provided by a licence holder.

PID review application see section 181(1).

PID review decision see section 185(1)(b).

place includes a vehicle.

pound means a premises maintained for the purpose of impounding animals.

PPID see section 12(2).

prescribed permanent identification device see section 12(2).

primary producer—

- (a) means a person primarily engaged in the occupation of a—
 - (i) dairy farmer; or
 - (ii) wheat, maize, or cereal grower; or
 - (iii) cane grower; or
 - (iv) fruit grower; or
 - (v) grazier; or
 - (vi) farmer, whether engaged in general or mixed farming, cotton, potato, or vegetable growing, or poultry or pig raising; and
- (b) includes a person engaged in primary production.

prohibited implanter means a person given an information notice under section 32(3).

prohibition—

- (a) for chapter 2, part 1, division 3, subdivision 3—see section 27(b); or
- (b) for chapter 6, part 5—see section 160(a).

proposed action—

- (a) for chapter 2, part 1, division 3, subdivision 3—see section 27; or
- (b) for chapter 6, part 5—see section 160.

proposed declaration notice see section 90(1).

public office, of a local government, has the meaning under the *Local Government Act 1993*, schedule 2.

public place means any place that the public is entitled to use, is open to the public, or used by the public, whether or not on payment of money.

reasonably believes means to believe on grounds that are reasonable in the circumstances.

reasonably suspects means to suspect on grounds that are reasonable in the circumstances.

registered, for a cat or dog, means that the information about the cat or dog is recorded in the relevant local government's general register.

registered owner, of a cat or dog, means a person recorded as being the owner of the cat or dog in a cat and dog registry of a local government.

registration device see section 12.

registration fee, for a cat or dog, means the fee fixed by the local government for its registration.

registration form, for the registration of a cat or dog in a local government's area, means the approved form for registering cats and dogs in the local government's area.

registration notice, for a cat or dog, means a notice stating the information in section 49(3)(b) and (d) for the cat or dog.

regulated dog see section 60.

regulated dog declaration see section 89(6).

regulated dog register see section 172(1).

relevant dog, for schedule 1, see schedule 1, section 1.

relevant local government, for a provision about a cat or dog, means the local government in whose area the cat or dog is usually kept or proposed to be kept.

relevant place, for schedule 1, see schedule 1, section 1.

renewal application see section 82(1).

renewal notice see section 56(1).

renewed permit see section 84(5)(a).

responsible person, for a regulated dog, see section 10.

restricted dog see section 63.

restricted dog declaration see section 89(1)(c).

restricted dog permit means a permit issued under chapter 4, part 3.

restricted dog register, of a local government, means the restricted dog register kept under section 212.

review notice see section 187(1).

rural land means land used for grazing stock or cultivating crops on a commercial basis.

sell means sell by retail, wholesale or auction, and includes—

- (a) offer or agree to sell; and
- (b) invite to treat or expose for sale; and
- (c) cause or permit to be sold; and
- (d) supply under a lease, exchange, hiring or other commercial arrangement.

seller means a person supplying a PID.

shelter means a premises maintained for the purpose of providing shelter to, or finding a home for, stray, abandoned or unwanted animals.

show cause notice—

- (a) for chapter 2, part 1, division 3, subdivision 3—see section 29(1); or
- (b) for chapter 6, part 5—see section 162(1).

show cause period—

- (a) for chapter 2, part 1, division 3, subdivision 3—see section 29(2); or
- (b) for chapter 6, part 5—see section 162(2).

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

stock means alpacas, asses, buffaloes, camels, cattle, deer, donkeys, goats, horses, llamas, mules, sheep or vicunas.

supply includes doing any of the following things if doing the thing affects possession of a cat, dog or PPID, other than the mere temporary custody of it—

- (a) exchange, give or sell;
- (b) offer or agree to supply;
- (c) cause or permit a supply;
- (d) possess for supply.

suspension—

- (a) for chapter 2, part 1, division 3, subdivision 3—see section 27(b); or
- (b) for chapter 6, part 5—see section 160(a).

tattoo, a cat or dog for desexing, when used as a verb, means to permanently mark the cat or dog in a way prescribed under a regulation enabling the identification of the cat or dog as desexed.

Example of a way that enables a cat or dog to be identified as desexed—

placing a permanent symbol in a cat's or dog's left ear

veterinary surgeon means a person registered as a veterinary surgeon under the *Veterinary Surgeons Act 1936*.

veterinary surgery means premises used or intended for use by a veterinary surgeon in the practice of the veterinary surgeon's profession.

warrant means a warrant issued under chapter 5, part 2, division 2, subdivision 2, and includes a duplicate warrant mentioned in section 119(5).

working dog—

- (a) means a dog usually kept or proposed to be kept—
 - (i) on rural land; and
 - (ii) by an owner who is a primary producer, or a person engaged or employed by a primary producer; and
 - (iii) primarily for the purpose of—

- (A) droving, protecting, tending, or working, stock; or
 - (B) being trained in droving, protecting, tending, or working, stock; and
- (b) does not include a class of dog prescribed under a regulation.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 5 April 2013. Future amendments of the Animal Management (Cats and Dogs) Act 2008 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised version
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3237 0466 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments included	Effective	Notes
0A	none	11 December 2008	
1	2009 Act No. 17	1 July 2009	remaining provs commenced
1A	2009 Act No. 51	19 November 2009	
1B	2009 Act No. 24	1 December 2009	
1C	2010 Act No. 35	20 September 2010	

Reprint No.	Amendments included	Effective	Notes
2	2011 Act No. 25 2011 Act No. 27	1 November 2011	
2A	2012 Act No. 3	17 February 2012	
Current as at 5 April 2013		Amendments included 2013 Act No. 3	Notes

5 List of legislation

Animal Management (Cats and Dogs) Act 2008 No. 74

date of assent 11 December 2008

ss 1–2, 227 commenced on date of assent (see s 2(1))

ss 172(1)–(2), 173(1)–(3), 174–176 commenced 1 July 2009 (2009 SL No. 90)

remaining provisions commenced 1 July 2009 (see s 2(1))

amending legislation—

Local Government Act 2009 No. 17 ss 1, 2(3), ch 9 pt 1

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (see s 2(3))

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 8 pt 1

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 252)

Building and Other Legislation Amendment Act 2009 No. 51 ss 1, 2(3), pt 3

date of assent 19 November 2009

commenced on date of assent (see s 2(3))

Building and Other Legislation Amendment Act (No. 2) 2010 No. 35 pts 1, 3

date of assent 20 September 2010

commenced on date of assent (see s 2)

Neighbourhood Disputes Resolution Act 2011 No. 25 ss 1–2, 105 sch 1 pt 2

date of assent 9 August 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 2011 (2011 SL No. 209)

Local Government Electoral Act 2011 No. 27 ss 1, 2(2), pt 12 div 2

date of assent 1 September 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 2011 (2011 SL No. 211)

Sustainable Planning and Other Legislation Amendment Act 2012 No. 3 s 1, pt 2

date of assent 17 February 2012

commenced on date of assent

Classification of Computer Games and Images and Other Legislation Amendment Act 2013 No. 3 ss 1, 2(2)(e)–(f), 60 sch 1

date of assent 26 February 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 5 April 2013 (2013 SL No. 39)

6 List of annotations

Long title amd 2009 No. 51 s 36

Purposes of Act

s 3 amd 2009 No. 51 s 37

How purposes are to be primarily achieved

s 4 amd 2009 No. 51 s 38

Who is an *owner* of a cat or dog

s 9 amd 2009 No. 17 s 290

Supplier must ensure cat or dog is implanted

s 13 amd 2009 No. 17 s 291; 2009 No. 51 s 39

Notice of changed identifying information

s 15 om 2009 No. 17 s 292

Age restriction for implanting PPID

prov hdg sub 2009 No. 51 s 40(1)

s 24 amd 2009 No. 51 s 40(2)

PID must not be removed or otherwise interfered with

s 34 amd 2009 No. 51 s 41

Registration obligation

s 44 amd 2009 No. 17 s 293

Cat or dog must bear identification in particular circumstances

s 45 amd 2009 No. 17 s 294

What registration form must state

s 47 amd 2009 No. 17 s 295

Relevant local government must give registration notice

s 49 amd 2009 No. 17 s 296

Amendment of registration

s 54 amd 2009 No. 17 s 297

Relevant local government must give notice of change

s 55 amd 2009 No. 17 s 298

Relevant local government must give renewal notice

s 56 amd 2009 No. 17 s 299

What owner must do

s 57 amd 2009 No. 17 s 300

Relevant local government's obligations if owner complies

prov hdg sub 2009 No. 17 s 301(1)

s 58 amd 2009 No. 17 s 301(2)–(3)

What is a *declared dangerous dog*

s 61 amd 2009 No. 17 s 302

What is a *declared menacing dog*

s 62 amd 2009 No. 17 s 303

What is a *restricted dog*

s 63 amd 2010 No. 35 s 6

Provisions for deciding what is a breed of dog

s 63A ins 2010 No. 35 s 7

Notice of proposed declaration

s 90 amd 2009 No. 51 s 42

Owner's obligation if proposed declaration notice in force

prov hdg amd 2009 No. 17 s 304(1)

s 93 amd 2009 No. 17 s 304(2)–(3)

Notice and taking effect of declaration

s 95 amd 2009 No. 17 s 305

Declared dangerous dogs

s 97 amd 2009 No. 51 s 43

Declared menacing dogs

s 98 amd 2009 No. 17 s 306; 2009 No. 51 s 44

Cost of regulated dog enclosure—dividing fence

s 103 amd 2011 No. 25 s 105 sch 1 pt 2; 2011 No. 27 s 213; 2013 No. 3 s 60 sch 1

Appointment and qualifications

s 104 amd 2009 No. 17 s 307

Additional entry powers for particular dogs

s 112 amd 2009 No. 17 s 308

Power to destroy seized regulated dog

s 127 amd 2009 No. 24 s 1258

Return of particular dog

prov hdg amd 2009 No. 17 s 309(1)

s 130 amd 2009 No. 17 s 309(2)–(3)

Return of particular dog to registered owner

prov hdg amd 2009 No. 17 s 310(1)

s 131 amd 2009 No. 17 s 310(2)–(6); 2009 No. 24 s 1259

Who may inspect registers

s 173 amd 2009 No. 17 s 311

Chief executive officer must give information

s 174 amd 2009 No. 17 s 312

CHAPTER 8—REVIEWS

ch hdg amd 2009 No. 24 s 1260

PART 1—INTERNAL REVIEW OF DECISIONS

pt hdg amd 2009 No. 24 s 1261

Internal review process before external review

s 180 sub 2009 No. 24 s 1262

Who may apply for internal review

prov hdg amd 2009 No. 24 s 1263(1)

s 181 amd 2009 No. 17 s 313; 2009 No. 24 s 1263(2)

Requirements for making PID review application

s 182 amd 2009 No. 17 s 314

Requirements for making general review application

s 183 amd 2009 No. 17 s 315

Stay of operation of original decision

s 184 amd 2009 No. 17 s 316; 2009 No. 24 s 1264

PID review decision

s 185 amd 2009 No. 24 s 1265

Other internal review decisions

prov hdg amd 2009 No. 24 s 1266(1)

s 186 amd 2009 No. 24 s 1266(2)–(4)

Notice of PID decision or internal review decision

prov hdg amd 2009 No. 24 s 1267(1)

s 187 amd 2009 No. 24 s 1267(2)–(3)

PART 2—EXTERNAL REVIEWS

pt hdg sub 2009 No. 24 s 1268

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s 188 sub 2009 No. 24 s 1268

Condition on stay granted by QCAT for particular decisions

s 189 amd 2009 No. 17 s 317

sub 2009 No. 24 s 1268

Stay of operation of review notice

s 190 amd 2009 No. 17 s 318

om 2009 No. 24 s 1268

Hearing procedures

s 191 om 2009 No. 24 s 1268

Court's powers on appeal

s 192 om 2009 No. 24 s 1268

Appeal to District Court

s 193 om 2009 No. 24 s 1268

Relevant person must ensure dog does not attack or cause fear

prov hdg amd 2009 No. 17 s 319(1)

s 194 amd 2009 No. 17 s 319(2)–(3)

Prohibition on allowing or encouraging dog to attack or cause fear

s 195 sub 2009 No. 17 s 320

Defences for offence against s 194 or 195

s 196 sub 2009 No. 17 s 320

Veterinary surgeon certificates

s 202 om 2010 No. 35 s 8

Delegation by chief executive officer

s 206 amd 2009 No. 17 s 321

Chief executive (transport) must disclose information

s 207A ins 2012 No. 3 s 4

Approval of forms

s 209 amd 2009 No. 17 s 322

CHAPTER 10—TRANSITIONAL PROVISIONS**PART 1—TRANSITIONAL PROVISIONS FOR ACT No. 74 OF 2008**

pt hdg ins 2009 No. 51 s 45

Deferral for particular local governments

s 211 amd 2009 No. 17 s 323

Restricted dog registers

s 212 amd 2009 No. 17 s 324

Cats and dogs implanted before commencement

s 213 amd 2009 No. 17 s 325

Cat or dog not registered at commencement

s 216 sub 2009 No. 17 s 326

Corresponding law regulated dogs and corresponding convictions

s 217A ins 2009 No. 17 s 327

Local law dangerous dogs and corresponding convictions

s 217B ins 2009 No. 17 s 327

References to address of place stated in registration notice for cat or dog

s 221A ins 2009 No. 17 s 328

PART 2—TRANSITIONAL PROVISION FOR BUILDING AND OTHER LEGISLATION AMENDMENT ACT 2009

pt hdg ins 2009 No. 51 s 46

Provision about offences under s 24

s 222 prev s 222 om R1 (see RA s 40)
pres s 222 ins 2009 No. 51 s 46

PART 3—TRANSITIONAL PROVISION FOR BUILDING AND OTHER LEGISLATION AMENDMENT ACT (No. 2) 2010

pt hdg ins 2010 No. 35 s 9

Provision about s 63A

s 223 prev s 223 om R1 (see RA s 40)
pres s 223 ins 2010 No. 35 s 9

CHAPTER 11—AMENDMENT OF OTHER ACTS

ch hdg om R1 (see RA s 7(1)(k))

PART 1—AMENDMENT OF CITY OF BRISBANE ACT 1924

pt hdg om R1 (see RA s 7(1)(k))

PART 2—AMENDMENT OF LOCAL GOVERNMENT ACT 1993

pt 2 (ss 224–230) amd R0A (see RA s 40)
om R1 (see RA ss 7(1)(k) and 40)

SCHEDULE 1—PERMIT CONDITIONS AND CONDITIONS APPLYING TO DECLARED DANGEROUS AND MENACING DOGS

Definitions for sch 1

s 1 def *relevant person* om 2009 No. 17 s 329(1)

Muzzling and effective control in place that is not relevant place

prov hdg amd 2009 No. 17 s 329(2)

s 3 amd 2009 No. 17 s 329(3)–(4); 2009 No. 51 s 47

Notice of change of address

s 8 amd 2009 No. 17 s 329(5)–(8)

SCHEDULE 2—DICTIONARY

def *approved form* amd 2009 No. 17 s 330(3)

def *authorised implanter* amd 2009 No. 17 s 330(3A)

def *changed information* om 2009 No. 17 s 330(1)

def *designated local government* ins 2009 No. 17 s 330(2)

def *external review* ins 2009 No. 24 s 1269(2)

def *information notice* amd 2009 No. 24 s 1269(3)–(4)

def *internal review decision* ins 2009 No. 24 s 1269(2)

def *original decider* amd 2009 No. 17 s 330(4)

def *original decision* amd 2009 No. 17 s 330(5)

def *registration notice* amd 2009 No. 17 s 330(6)

def *relevant dog* amd 2009 No. 17 s 330(7)

def *relevant person* om 2009 No. 17 s 330(1)
def *relevant place* amd 2009 No. 17 s 330(8)
def *review decision* om 2009 No. 24 s 1269(1)
def *SEQ local government* om 2009 No. 17 s 330(1)

7 Forms notified or published in the gazette

Lists of forms are no longer included in reprints. Now see the separate forms document published on the website of the Office of the Queensland Parliamentary Counsel at <www.legislation.qld.gov.au> under Information—Current annotations. This document is updated weekly and the most recent changes are marked with a change bar.

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