

TASMANIA

CAT MANAGEMENT BILL 2009

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CAT MANAGEMENT BILL 2009

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
3 November 2009

*(Brought in by the Minister for Primary Industries and Water,
the Honourable David Edward Llewellyn)*

A BILL FOR

An Act to provide for the control and management of cats

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Cat Management Act 2009*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

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3. Purpose

The purpose of this Act is to provide for the control and management of cats and, in particular, to –

- (a) promote the responsible ownership and welfare of cats, including the desexing and microchipping of domestic cats; and
- (b) provide for the effective management of cats, in particular allowing for the humane handling and management of unidentified, stray and feral cats; and
- (c) reduce the negative effects of cats on the environment.

4. Interpretation

In this Act, unless the contrary intention appears –

“approved” means approved by the Secretary;

“authorised person” means –

- (a) a police officer; or
- (b) an officer within the meaning of the *Animal Welfare Act 1993*; or
- (c) an authorised person within the meaning of the *Dog Control Act 2000*; or

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(d) a person authorised under section 5 to perform the functions and exercise the powers of an authorised person; or

(e) any other prescribed person or prescribed class of persons;

“care agreement” means an agreement entered into under section 16;

“cat” means an animal of the species *Felis catus* or a hybrid of that species;

“cat management facility” means –

(a) a council facility that has facilities for handling and holding cats; or

(b) a facility for handling and holding cats that is operated by –

(i) the Royal Society for the Prevention of Cruelty to Animals, Tasmania; or

(ii) the Hobart Cat Centre Incorporated (ABN 78 883 186 467), trading as The Hobart Cat Centre; or

(c) a prescribed facility; or

(d) a facility operated by a person, or organisation, as prescribed;

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“desex” means to render temporarily, as prescribed, or permanently incapable of reproduction;

“feral cat” means a cat that –

- (a) was born, and lives, in the wild;
or
- (b) lives in the wild and is not currently tame;

“function” includes duty;

“humanely destroy” means to destroy in accordance with section 28;

“microchip” means the following devices that are capable of being implanted in a cat:

- (a) an approved electronic identification device;
- (b) an approved permanent identification device;
- (c) any other device that is approved for the purposes of this definition;

“microchip implanter” means –

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

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- (c) a person approved as a microchip implanter;

“microchipped” means implanted with a microchip;

“owner”, in relation to a cat, means –

- (a) in the case of a cat that is microchipped, the person whose name is entered in the microchip database under section 12(3); or
- (b) in the case of a cat that is not microchipped, the person who, or the owner of the business or organisation that, ordinarily keeps and cares for the cat; or
- (c) if the person referred to in paragraph (a) or (b) is a child under the age of 18, the child’s parent or guardian;

“prohibited area” means –

- (a) any area of land that is managed by a public authority, or Agency within the meaning of the *State Service Act 2000*, and is reserved land; or
- (b) any area of private land that is reserved land; or

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- (c) any area of land declared to be a prohibited area under section 19; or
- (d) any other area of land that is prescribed or is of a prescribed class; or
- (e) any part of an area of land referred to in paragraph (a), (b), (c) or (d);

“public authority” means –

- (a) a council; or
- (b) another body corporate established by, or under, an enactment having jurisdiction limited to a district, locality or part of the State; or
- (c) a statutory authority;

“registered breeder” means a person registered under section 30;

“regulations” means regulations made and in force under this Act;

“reserved land” means any area of land that is –

- (a) public reserve within the meaning of the *Crown Lands Act 1976*; or

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- (b) private timber reserve within the meaning of the *Forest Practices Act 1985*; or
- (c) State forest or a forest reserve within the meaning of the *Forestry Act 1920*; or
- (d) reserved land within the meaning of the *Nature Conservation Act 2002*; or
- (e) land that is subject to a conservation covenant within the meaning of Part 5 of the *Nature Conservation Act 2002*; or
- (f) prescribed or is of a prescribed class;

“**scan**” means to scan in a manner that enables a microchip to be detected;

“**Secretary**” means the Secretary of the Department;

“**sell**” includes trade, give away, take consideration for, transfer ownership of and offer for sale;

“**statutory authority**” means an incorporated or unincorporated body which is established, constituted or continued by or under an Act or under the royal prerogative, being a body which, or of which the governing authority, wholly or partly comprises a person or persons

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appointed by the Governor, a Minister of the Crown or another statutory authority;

“stray cat” means a cat that has no identifiable owner or home, but lives in close proximity to humans and may be accustomed to their presence;

“trap” means a method of trapping an animal that complies with the *Animal Welfare Act 1993*;

“veterinary surgeon” means a person registered as a veterinary surgeon under the *Veterinary Surgeons Act 1987*;

“working day” means any day other than a Saturday or Sunday or a statutory holiday as defined in the *Statutory Holidays Act 2000*.

PART 2 – AUTHORISED PERSONS

5. Authorised persons

- (1) The Secretary may authorise a State Service officer or State Service employee employed in the Department to perform the functions and exercise the powers of an authorised person for the purposes of this Act, and that officer or employee may hold that office in conjunction with State Service employment.
- (2) The Secretary may authorise a person who is not a State Service officer or State Service employee to perform the functions and exercise the powers of an authorised person for the purposes of this Act.
- (3) An authorisation under this section may be made on such conditions as the Secretary determines.
- (4) The Secretary may, at any time, revoke an authorisation or add, vary or revoke a condition of an authorisation.

6. Identification cards

- (1) The Secretary may issue an authorised person with an identification card showing –
 - (a) the name of the authorised person; and
 - (b) the organisation or Department he or she represents; and

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- (c) a recent photograph of the authorised person.
- (2) The Secretary may endorse another card or document as an identification card for the purposes of this Act.
- (3) If an authorised person holds an identification card issued under subsection (1), or endorsed under subsection (2), he or she is to –
 - (a) carry the identification card at all times when he or she is exercising his or her powers as an authorised person; and
 - (b) produce the identification card for inspection at the reasonable request of any person; and
 - (c) return an identification card, issued under subsection (1), to the Secretary if he or she ceases to be an authorised person.

7. Powers of authorised persons

An authorised person –

- (a) without a warrant, may enter, search and inspect any building, shed or other premises, other than premises or a part of premises being used as a residence, if he or she believes that an offence under this Act has been, or is being committed; and
- (b) at any reasonable time, may enter, search and inspect any building, shed or

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- premises where he or she believes cats may be bred, sold, presented for sale, or grouped or kept, for commercial purposes; and
- (c) may seize, detain, humanely destroy or otherwise deal with or dispose of a cat in accordance with this Act; and
 - (d) may search for and seize any cat in or on premises lawfully entered; and
 - (e) may set traps in or on premises lawfully entered; and
 - (f) may examine and scan a cat to determine if it has a microchip and, if so, contact the owner; and
 - (g) may desex a cat or cause a cat to be desexed; and
 - (h) may microchip a cat or cause a cat to be microchipped; and
 - (i) may enter onto land; and
 - (j) may transfer a cat to a cat management facility; and
 - (k) may examine, seize, copy or take extracts from any documents as reasonably required in connection with the administration or enforcement of this Act; and
 - (l) may take photographs, films and audio, video or other recordings as reasonably

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required in connection with the administration or enforcement of this Act; and

- (m) may undertake any action, which the authorised person reasonably believes is necessary, in order to investigate or collect evidence that an offence is being, or has been, committed under this Act.

8. Entry into premises

- (1) An authorised person may apply to a magistrate or justice for a warrant to enter a residential premises to exercise any of his or her powers under this Act.
- (2) A magistrate or a justice may issue a warrant authorising an authorised person, or any other person named in the warrant, to enter a residential premises and such a warrant may authorise that the residential premises be entered by force if –
 - (a) the residential premises is not occupied; or
 - (b) entry into the residential premises has been refused or is likely to be refused.

9. Impersonating authorised persons

A person who is not an authorised person must not hold himself or herself out to be an authorised person.

Penalty: Fine not exceeding 20 penalty units.

10. Hindering authorised persons, &c.

A person must not hinder, obstruct or threaten an authorised person in the performance or exercise of a function or power under this Act.

Penalty: Fine not exceeding 20 penalty units.

11. Protection from liability

An authorised person does not incur any personal liability for an act done, or omitted to be done, by the authorised person in good faith in the performance or exercise, or purported performance or exercise, of any of his or her functions or powers under this Act.

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Part 3 – Microchipping and Desexing of Cats

**PART 3 – MICROCHIPPING AND DESEXING OF
CATS**

12. Microchipping of cats

- (1) The owner of a cat that is more than 6 months of age is to ensure that the cat is implanted with a microchip in a prescribed manner.
- (2) Subsection (1) does not apply to a cat in respect of which a veterinary surgeon has issued a certificate stating that the implantation of a microchip in the cat may adversely affect the health and welfare of the cat.
- (3) A microchip implanter who implants a microchip in a cat is to ensure the prescribed details are entered in an approved database.
- (4) A person must not implant in a cat an identification device that is not a microchip.

Penalty: Fine not exceeding 20 penalty units.

13. Interference with microchips

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

Penalty: Fine not exceeding 20 penalty units.

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14. Desexing of cats

- (1) The owner of a cat that is more than 6 months of age is to ensure that the cat is desexed by a veterinary surgeon.
- (2) Subsection (1) does not apply to –
 - (a) a cat in respect of which a veterinary surgeon has issued a certificate stating that to desex the cat may adversely affect the health and welfare of the cat; or
 - (b) a cat owned, for the purpose of breeding, by a registered breeder; or
 - (c) a prescribed cat.
- (3) A cat that is desexed is to be identified as prescribed.
- (4) A person must not identify a cat as being desexed if it is not desexed.

Penalty: Fine not exceeding 20 penalty units.

15. Sale, &c., of cats

- (1) A person must not sell a cat –
 - (a) that is less than 8 weeks of age; or
 - (b) that is not microchipped unless –
 - (i) a certificate has been issued under section 12(2) in respect of the cat; or

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- (ii) a care agreement has been entered into in respect of the microchipping of the cat; or
- (c) that is not desexed in accordance with the Act unless –
 - (i) a certificate has been issued under section 14(2)(a) in respect of the cat; or
 - (ii) the purchaser is a registered breeder; or
 - (iii) a care agreement has been entered into in respect of the desexing of the cat; or
- (d) that is desexed and is not identified as required under section 14(3); or
- (e) that does not meet the prescribed health checks.

Penalty: Fine not exceeding 50 penalty units.

- (2) This section does not apply in the following circumstances:
 - (a) the fostering of a cat as part of a foster program managed by a cat management facility or an approved organisation;
 - (b) the transfer of a cat from a cat management facility to another cat management facility or to an approved organisation or approved facility;

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- (c) any other prescribed circumstances.

16. Care agreements

- (1) In this section –

“purchaser”, of a cat, means the person –

- (a) to whom the cat is sold; or
- (b) who reclaims the cat under section 24;

“seller”, of a cat, means the person –

- (a) selling the cat; or
- (b) from whom the cat is reclaimed under section 24.

- (2) If a cat is not microchipped before the sale of the cat for either of the following reasons, the parties to the sale may enter into a written agreement that the cat involved in the sale will be microchipped, within the period specified in the agreement:

- (a) the cat, in the opinion of a microchip implanter, does not meet the health requirements to be microchipped before the proposed sale;
- (b) the seller is unable to arrange for the cat to be microchipped before the sale despite making reasonable efforts.

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- (3) If a cat is not desexed before the sale of the cat for any of the following reasons, the parties to the sale may enter into a written agreement that the cat involved in the sale will be desexed, within the period specified in the agreement:
- (a) the cat, in the opinion of a veterinary surgeon, does not meet the age, weight or health requirements to be desexed before the sale;
 - (b) a voucher has been given to the purchaser by the seller to enable the purchaser to have the cat desexed at a later date;
 - (c) the seller is unable to arrange for the cat to be desexed before the sale despite making reasonable efforts.
- (4) Each party to the sale of a cat must keep a copy of a care agreement in respect of the cat until the agreement is fully complied with.
- (5) If there is a care agreement in respect of a cat, the purchaser must ensure that the care agreement is fully complied with by the later of the following:
- (a) the ninetieth day after the day on which the cat was sold;
 - (b) the thirtieth day after –
 - (i) if the care agreement relates to microchipping the cat, the day on which the cat meets a microchip

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implanter's requirements for
microchipping; or

- (ii) if the care agreement relates to desexing the cat, the day on which the cat meets a veterinary surgeon's requirements for desexing.

Penalty: Fine not exceeding 20 penalty units.

- (6) A person must not enter into a care agreement except as specified in this section.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; or
 - (b) a subsequent offence, a fine not exceeding 40 penalty units.
- (7) If a cat in respect of which a care agreement is entered into is sold before the cat is desexed or microchipped in accordance with that care agreement and a second care agreement is entered into in respect of that cat, the first care agreement is void.

PART 4 – MANAGEMENT OF CATS

17. Protection of property from cats

- (1) A person carrying on primary production relating to livestock on rural land, or a person acting on behalf of such a person, may trap, seize or humanely destroy any cat found on that land.
- (2) A person may trap, seize or humanely destroy a cat found on his or her private land if –
 - (a) the land is more than one kilometre from any place genuinely used as a place of residence; or
 - (b) in other prescribed circumstances.
- (3) A person who traps or seizes a cat under this section may –
 - (a) if the owner of the cat is known to the person, arrange for the return of the cat to the owner; or
 - (b) whether or not the owner of the cat is known to the person, arrange for the cat to be taken to a cat management facility.

18. Cats in prohibited areas

- (1) In this section –

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“cat management action” means any one or more of the following actions:

- (a) humanely destroying a cat;
- (b) trapping a cat;
- (c) seizing a cat;
- (d) detaining a cat;
- (e) returning a cat once the cat has been desexed;

“person responsible” for a prohibited area means –

- (a) the owner or legal occupier of the area; or
- (b) if the owner is not available, a person acting with the authority of the owner in respect of the area; or
- (c) if there is no owner and no person acting with the owner’s authority, the manager of the area; or
- (d) any other prescribed person or prescribed class of persons.

- (2) Except in prescribed circumstances, an authorised person, or a person acting on behalf of such a person, may take cat management action in relation to a cat found in a prohibited area.

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- (3) If an authorised person, or a person acting on behalf of such a person, intends to take cat management action in relation to a cat in a prohibited area that is private land, that person is to notify the person responsible for the prohibited area.
- (4) Except in prescribed circumstances, a person responsible for a prohibited area, or a person acting on behalf of such a person, may take cat management action in relation to any cat found in the prohibited area.
- (5) An authorised person or other person who traps, seizes or detains a cat under this section may, as soon as practicable after trapping, seizing or detaining the cat –
 - (a) if the owner of the cat is known to the person, arrange for the return of the cat to the owner; or
 - (b) whether or not the owner of the cat is known to the person, arrange for the cat to be taken to a cat management facility.

19. Declaration of prohibited areas

- (1) A council may declare an area of land within the authority of the council to be an area where cats are prohibited.
- (2) The declaration takes effect on the day specified in it, being a day that is at least 10 days after the

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declaration is notified by public notice published in a daily newspaper.

- (3) The public notice is to –
 - (a) clearly specify the area that is to be a prohibited area for cats; and
 - (b) state the period for which the declaration is in force.
- (4) The council may amend or revoke a declaration made under this section by public notice.

20. Declaration of cat management areas

- (1) A council may declare an area of land within the municipal area of the council to be an area within which measures may be taken to in respect of cats.
- (2) The declaration takes effect on the day specified in it, being a day that is at least 10 days after the declaration is notified by public notice published in a daily newspaper.
- (3) The public notice is to –
 - (a) clearly specify the area within which measures may be taken to in respect of cats; and
 - (b) specify the types of measures being undertaken in that area; and

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- (c) specify the person or organisation who is undertaking those measures; and
 - (d) state the period for which the declaration remains in force.
- (4) The council may amend or revoke a declaration made under this section by public notice.

21. Council declarations

Before a council resolves to make a declaration under section 19 or 20, it is to –

- (a) notify, by public notice, the details of –
 - (i) the area; and
 - (ii) the proposed restrictions or activities relating to the use of the area; and
 - (iii) the reasons for the declaration; and
- (b) invite submissions to be lodged within 15 working days after the notice is published; and
- (c) consider any submissions lodged.

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**PART 5 – SEIZED, UNCLAIMED AND SURRENDERED
CATS**

22. Scanning of cats at cat management facilities

- (1) The operator of a cat management facility is to ensure that a cat is scanned for a microchip as soon as practicable after the cat is taken to the cat management facility.
- (2) Despite subsection (1), a person does not have to scan a cat if –
 - (a) the cat behaves aggressively towards the person or any other person; or
 - (b) he or she believes on reasonable grounds that there is a danger to the health or safety of any person attempting to scan the cat.
- (3) If a cat is not scanned by reason of subsection (2), the cat is taken to not be microchipped.

23. Notification where owner identified

If the owner of a cat held at a cat management facility is identifiable, the operator of the cat management facility is to ensure that the owner of the cat is notified in writing –

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- (a) of the name and address of the cat management facility where the cat is being held; and
- (b) that the owner may reclaim the cat; and
- (c) if the cat is not reclaimed within the holding period specified in the notice, that the cat may be re-housed, offered for sale or destroyed; and
- (d) that the owner may be responsible for the reasonable costs associated with –
 - (i) the implantation of the cat with a microchip; and
 - (ii) the desexing of the cat; and
 - (iii) the detention and care of the cat.

24. Reclaiming cats

- (1) Before a cat can be reclaimed under this Act, the cat is to be examined to determine whether the cat is microchipped and desexed in accordance with this Act.
- (2) If a cat is not microchipped or desexed as required under this Act, the operator of the cat management facility is to ensure the cat is microchipped and desexed before the cat is reclaimed from that facility.

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- (3) Before a cat is microchipped or desexed under this section, the owner of the cat is to be notified that the cat is to be microchipped or desexed.
- (4) An owner must not reclaim a cat that is not desexed and microchipped unless –
 - (a) the owner is a registered breeder; or
 - (b) in the case of a cat that has not been microchipped, the owner produces a certificate issued under section 12(2) in respect of the cat; or
 - (c) in the case of a cat that has not been desexed, the owner produces a certificate issued under section 14(2)(a) in respect of the cat; or
 - (d) the owner enters into a care agreement providing for the future desexing, or future microchipping, of the cat.

Penalty: Fine not exceeding 20 penalty units.

25. Unidentified, unclaimed and surrendered cats

- (1) If a cat that is not microchipped is held at a cat management facility and, after 3 working days, the owner of the cat cannot be found, or has been notified that the cat is being held and does not claim the cat or make suitable arrangements for its boarding within the specified period, the operator of the cat management facility may –
 - (a) find another home for the cat; or

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- (b) offer the cat for sale; or
 - (c) cause the cat to be humanely destroyed.
- (2) If a cat that is microchipped is held at a cat management facility and, after 5 working days, the owner of the cat cannot be found, or has been notified that the cat is being held and does not claim the cat or make suitable arrangements for its boarding within the specified period, the operator of the cat management facility may –
- (a) find another home for the cat; or
 - (b) offer the cat for sale; or
 - (c) cause the cat to be humanely destroyed.
- (3) If a cat is surrendered by its owner to a cat management facility, or the cat is a stray cat that is held by the cat management facility, the cat management facility, at any time after receiving the cat, may –
- (a) find another home for the cat; or
 - (b) offer the cat for sale; or
 - (c) cause the cat to be humanely destroyed.

26. Destruction of cats at cat management facilities

The operator of a cat management facility may humanely destroy a cat, or cause a cat to be humanely destroyed, if he or she reasonably believes that the cat –

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- (a) has caused, or is behaving in a manner that is likely to cause, serious injury to a person, another animal, or itself; or
- (b) is not microchipped and has been assessed by the operator as unfit to be placed as, or offered as, a domestic pet; or
- (c) is not microchipped and is unable to be accommodated within the cat management facility.

PART 6 – DESTRUCTION OF CATS

27. Destruction of cats

- (1) A person must not destroy a cat except in accordance with this Act or another Act.

Penalty: Fine not exceeding 20 penalty units.

- (2) An authorised person may humanely destroy a cat, or cause a cat to be humanely destroyed, if he or she reasonably believes that the cat –
- (a) is displaying unprovoked aggression and is a danger to any person; or
 - (b) is a feral cat.

28. Humane destruction of cats

- (1) Unless otherwise specified in this Act or prescribed in the regulations, a person who is authorised under this Act to humanely destroy a cat, and is intending to destroy the cat, is to destroy the cat immediately.
- (2) A person who destroys a cat under this Act must –
- (a) destroy the cat quickly and without causing undue suffering; and
 - (b) ensure that the remains of the cat are buried, burned or otherwise suitably

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disposed of within a reasonable time
after the cat is destroyed.

Penalty: Fine not exceeding 20 penalty units.

- (3) A person must not display the remains of a cat
except in prescribed circumstances.

Penalty: Fine not exceeding 20 penalty units.

PART 7 – BREEDING OF CATS

29. Restriction on breeding of cats

- (1) A person must not breed cats unless he or she is a registered breeder.

Penalty: Fine not exceeding 50 penalty units.

- (2) If a person is found guilty of an offence against subsection (1), the court may order the person to cause the relevant cat to be desexed in addition to any penalty the court may impose for the offence.

30. Registration of cat breeders

- (1) A person who is a member of a cat organisation specified in a notice published by the Secretary in the *Gazette* is taken to be a registered breeder for the purposes of this Act.
- (2) A person may apply to the Secretary for registration as a cat breeder.
- (3) The Secretary may –
- (a) grant an application under subsection (2), subject to any conditions he or she thinks fit, if satisfied that –
 - (i) the applicant is a fit and proper person to be a registered breeder; and

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- (ii) it is appropriate in all the circumstances to do so; or
- (b) refuse the application, if not so satisfied.
- (4) If the Secretary refuses an application, he or she is to provide the applicant with written reasons for the refusal.
- (5) If the Secretary grants an application, he or she –
 - (a) is to inform the applicant in writing of the approval and of any conditions to which the approval is subject; and
 - (b) is to cause the applicant’s name to be published in the *Gazette*; and
 - (c) may issue a certificate to reflect the applicant’s status as a registered breeder.
- (6) The Secretary may issue, or cause to be issued, a registered breeder number to each person who is a registered breeder.
- (7) A person who is not a registered breeder must not hold himself or herself out to be a registered breeder.

Penalty: Fine not exceeding 20 penalty units.

31. Cancellation or suspension of registration

- (1) The Secretary may cancel or suspend the registration of a registered breeder if, after allowing the registered breeder an opportunity to

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make submissions in respect of the matter, the Secretary is satisfied –

- (a) that the registered breeder has contravened this Act; or
 - (b) that the registered breeder has contravened a condition to which the registration is subject; or
 - (c) that the premises used for breeding are creating a nuisance; or
 - (d) that it is in the public interest that the registration be cancelled or suspended; or
 - (e) of any other prescribed matter.
- (2) Before cancelling or suspending a registration under subsection (1), the Secretary is to give the registered breeder written notice that –
- (a) the Secretary is considering cancelling or suspending the registration; and
 - (b) the registered breeder may, within the period specified in the notice, make written submissions to the Secretary as to why the registration should not be cancelled or suspended.
- (3) If, after due consideration of any submissions received under subsection (2)(b), a registration is cancelled or suspended under this section, the Secretary is to notify the affected registered breeder of –
- (a) the cancellation or suspension; and

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- (b) if the registration is cancelled, the day on which the cancellation takes effect; and
 - (c) if the registration is suspended, the day on which the suspension takes effect and the period of suspension; and
 - (d) the reasons for the cancellation or suspension.
- (4) If a registration is cancelled or suspended under this section and the affected registered breeder is a member of a cat organisation specified in a notice under section 30(1), the Secretary is to notify the cat organisation of the cancellation or suspension.
- (5) If a registration is cancelled under this section, the Secretary is to publish in the *Gazette* –
- (a) the name of the affected registered breeder; and
 - (b) that the breeder’s registration is cancelled.

32. Surrender of registration

- (1) A registered breeder may, by written notice to the Secretary, surrender his or her registration at any time.
- (2) The registration has no surrender value.

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33. Review of decisions

A person who is aggrieved by a decision of the Secretary under this Part may apply to the Magistrates Court (Administrative Appeals Division) for a review of that decision.

PART 8 – MISCELLANEOUS

34. Costs

(1) In this section –

“reasonable costs of detaining or treating”
includes the cost of detaining, treating,
boarding, handling and transporting a cat;

“treating”, in relation to a cat, means all or
any of the following:

- (a) desexing the cat;
- (b) microchipping the cat;
- (c) treatment by a veterinary surgeon
required as a result of injury to,
or illness of, the cat.

(2) The reasonable costs of detaining or treating a
cat under this Act –

- (a) are to be borne by the owner of the cat;
and
- (b) must be paid before the cat can be
returned to the owner.

(3) A council, cat management facility or authorised
person may recover, in a court of competent
jurisdiction, the reasonable costs of detaining or
treating a cat under this Act as a debt due to the
council, cat management facility or authorised
person by the owner.

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35. Misrepresentation as cat management facility

A person must not hold himself or herself out to be the operator, or representative, of a cat management facility unless –

- (a) the person is the operator of the cat management facility; or
- (b) the person is a representative of the organisation operating the cat management facility.

Penalty: Fine not exceeding 20 penalty units.

36. Surrender, &c., of cat to cat management facility

- (1) The owner of a cat –
 - (a) may surrender the cat to a cat management facility; but
 - (b) must pay any surrender fee charged by the cat management facility.
- (2) A person who is not the owner of a cat may leave a cat at a cat management facility without payment of any fee.

37. Cats not to be abandoned

Except in accordance with this Act, a person must not abandon a cat.

Penalty: Fine not exceeding 20 penalty units.

38. Cats not to be offered as prizes

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

Penalty: Fine not exceeding 10 penalty units.

39. Infringement notices

(1) In this section –

“infringement offence” means an offence against this Act or the regulations that is prescribed by the regulations to be an infringement offence.

(2) An authorised person may issue and serve an infringement notice on a person if he or she reasonably believes that the person has committed an infringement offence.

(3) An infringement notice may not be served on an individual who has not attained the age of 16 years.

(4) An infringement notice –

(a) is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*; and

(b) is not to relate to more than 3 offences.

(5) The regulations –

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- (a) may prescribe the penalty applicable to each infringement offence that is payable under an infringement notice; and
 - (b) may prescribe different penalties for bodies corporate and individuals.
- (6) In the application of the *Monetary Penalties Enforcement Act 2005* to an infringement notice issued and served under this section –
- (a) the authorised person who issued and served the infringement notice is taken to be a public sector body within the meaning of that Act; and
 - (b) a penalty prescribed under subsection (5) in respect of an infringement offence is taken to be the prescribed penalty applicable to that offence for the purposes of section 14(a)(ii) of that Act.
- (7) Any payment in respect of an infringement notice is payable –
- (a) to a council, if the notice was served by a council officer; or
 - (b) in any other case, into the Consolidated Fund.

40. Compensation not payable

An owner of a cat that is trapped, seized, detained, sold, destroyed or otherwise dealt with in accordance with this Act is not entitled to

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compensation in respect of the trapping, seizing, detention, sale, destruction or other dealing.

41. Delegation

The Secretary may delegate any of his or her functions or powers under this Act other than this power of delegation.

42. Relationship with other legislation

- (1) To the extent of any inconsistency between Part 4, and Part 5, of this Act and Division 5 of Part 12 of the *Local Government Act 1993*, this Act prevails.
- (2) Subject to subsection (1), this Act is in addition to, and does not derogate from, any other Act.

43. Council may make by-laws

A council may make by-laws under the *Local Government Act 1993* in relation to the management of cats within its municipal area.

44. Notices not statutory rules

Unless otherwise prescribed, a notice required to be published under this Act is not –

- (a) a statutory rule for the purposes of the *Rules Publication Act 1953*; or

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- (b) subordinate legislation for the purposes of the *Subordinate Legislation Act 1992*.

45. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may be made in relation to one or more of the following:
 - (a) any fees and charges payable in respect of any matter under this Act;
 - (b) any requirements, practices and procedures in respect of microchipping of cats;
 - (c) the persons that may implant microchips in cats and the qualifications or approvals required;
 - (d) the types of devices that may be implanted as microchips in cats;
 - (e) the access to, amendment of or deletion of information recorded in respect of a microchips;
 - (f) any requirements or practices in respect of the breeding of cats;
 - (g) the approval or prescribing of persons or organisations that may operate a cat management facilities;

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- (h) the approval or prescribing of conditions and endorsements required for a cat management facilities;
 - (i) any obligations in respect of registered breeders;
 - (j) any requirements or practices in respect of the humane destruction of cats.
- (3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (4) The regulations may authorise any matter to be from time to time approved, determined, applied or regulated by the Secretary, a cat management facility or any other person or body specified in the regulations.
- (5) The regulations may adopt, either wholly or in part and with or without modification, and either specifically or by reference, any standard, code, rule or specification, whether the standard, code, rule or specification is published or issued before or after the commencement of this Act.
- (6) A reference in subsection (5) to a standard, code, rule or specification includes a reference to an amendment to that standard, code, rule or specification, whether the amendment is published or issued before or after the commencement of this Act.
- (7) The regulations may –

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- (a) provide for savings and transitional matters necessary or expedient for bringing this Act into operation; and
- (b) provide for any of those savings or transitional matters to take effect when this Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

46. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Primary Industries and Water; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Primary Industries, Parks, Water and Environment.