

Contents (2009 - 89)

Cat Management Act 2009

Long Title

Part 1 - Preliminary

1. Short title
2. Commencement
3. Purpose
4. Interpretation
- 4A. Breeding of cats

Part 2 - Authorised Persons

5. Authorised persons
6. Identification cards
7. Powers of authorised persons
8. Entry into premises
- 8A. Collection and analysis of sample from a cat
9. Impersonating authorised persons
10. Hindering authorised persons, &c.
11. Protection from liability

Part 3 - Microchipping and Desexing of Cats

12. Microchipping of cats
13. Interference with microchips
14. Desexing of cats
15. Sale, &c., of cats
16. Repealed

Part 3A - Keeping of cats

- 16A. Limit on number of cats kept
- 16B. Application to keep more than 4 cats
- 16C. Determination of application to keep more than 4 cats
- 16D. Cancellation of multiple cat permit
- 16E. Review of decision

Part 4 - Management of Cats

17. Protection of property from cats
- 17A. Destruction of cats on property
18. Cats in prohibited areas
19. Declaration of prohibited area
20. Declaration of cat management area
21. Proposal for council declaration
- 21A. Council declaration
- 21B. Cat taken in cat management area

Part 5 - Seized, Unclaimed and Surrendered Cats

22. Scanning of cats at cat management facilities
23. Notification where owner identified
24. Reclaiming cats
25. Unidentified, unclaimed and surrendered cats

26. Destruction of cats at cat management facilities

Part 6 - Destruction of Cats

27. Destruction of cats

28. Humane destruction of cats

Part 7 - Breeding of Cats

29. Restriction on breeding of cats

30. Registration of cat breeders

31. Permit to breed a cat

32. Cancellation of cat breeding permit

33. Review of decisions

Part 8 - Miscellaneous

34. Costs

35. Misrepresentation as cat management facility

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

37. Cats not to be abandoned

38. Cats not to be offered as prizes

38A. Requirement notice

38B. Appeal against requirement notice

39. Infringement notices

40. Compensation not payable

41. Delegation

42. Relationship with other legislation

43. Council may make by-laws

44. Notices not statutory rules

45. Regulations

46. Administration of Act

Cat Management Act 2009

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Cat Management Act 2009

An Act to provide for the control and management of cats

[Royal Assent 17 December 2009]

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.

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
- (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;

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

cat breeding permit means, in relation to a cat, a cat breeding permit that is issued under section 31 in relation to the cat and that is in force;

cat management facility means –

- (a) a council facility that has facilities for handling and holding cats; or
- (b)
- (c) a prescribed facility; or
- (d) a facility operated by a person, or organisation, as prescribed;

desex means to render permanently incapable of reproduction;

domestic cat means a cat that a person may, on reasonable grounds, believe to be currently owned;

feral cat means a cat that lives largely or entirely removed from humans in the wild and does not depend for its survival on humans intentionally providing food, water or shelter;

function includes duty;

general manager, in relation to a municipal area, means the general manager, appointed under the Local Government Act 1993 , of the council for the municipal area;

humanely destroy means to destroy in accordance with section 28 ;

individual property means –

- (a) if an area of land is the subject of a strata scheme within the meaning of the Strata Titles Act 1998 , a lot in the complex of lots making up the strata title scheme; or

- (b) a residence or building on land, that has, or is capable of having, a separate address; or
- (c) property that is within a prescribed class of property; or
- (d) in any other case, premises;

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 planter means –

- (a) a prescribed person; or
- (b) a person holding the prescribed qualifications for a microchip planter; or
- (c) a person approved as a microchip planter;

microchipped means implanted with a microchip;

multiple cat permit means, in relation to a cat, a multiple cat permit that is issued under section 16B in relation to the cat and that is in force;

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;

premises includes –

- (a) land; and
- (b) a building or part of a building; and
- (c) a structure or part of a structure; and
- (d) fences, walls, outbuildings and other appurtenances of a structure;

private premises means premises that are not a public place;

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
- (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;

requirement notice means a notice issued under section 38A ;

reserved land means any area of land that is –

- (a) public reserve within the meaning of the Crown Lands Act 1976 ; or
- (b) private timber reserve within the meaning of the Forest Practices Act 1985 ; or
- (c) permanent timber production zone land within the meaning of the Forest Management Act 2013 ; 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 appointed by the Governor, a Minister of the Crown or another statutory authority;

stray cat means a cat that is not a domestic cat but lives in close proximity to humans and may receive from them some food, water or shelter and 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 .

4A. Breeding of cats

- (1) For the purposes of this Act, a person breeds a cat if the person allows –
 - (a) the cat to be impregnated; or
 - (b) the cat to impregnate another cat.
- (2) Without limiting the generality of subsection (1) , for the purposes of this Act, a person allows a cat to be impregnated, or to impregnate another cat, if the cat is allowed by the person –
 - (a) to be at large, resulting in the cat being impregnated by, or impregnating, another cat; or
 - (b) to be with another cat for the purpose of mating, resulting in impregnation of either of the cats.
- (3) For the purpose of this section, a cat is at large if it is –
 - (a) in a public place and not restrained; or
 - (b) on private premises without the consent of the occupier of the premises.

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
 - (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 a person is authorised under section 5(2) to perform the functions and exercise the powers of an authorised person, the Secretary is to issue an identification card under subsection (1) to that person or endorse another card or document as an identification card under subsection (2) in respect of that person.
- (4) 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 reasonably 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 premises where he or she reasonably believes cats may be bred, sold, presented for sale, or grouped or kept, for commercial purposes; and
- (c) may trap, 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 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.
- (3) The warrant may specify whether entry is authorised to be made at any time or only during certain hours.

8A. Collection and analysis of sample from a cat

- (1) In this section –
 - approved person* means a person approved under subsection (2)(a) ;
 - intimate sample* means a sample of the blood of a cat;
 - non-intimate sample* means a sample of the saliva, cheek cells, fur, faeces or urine of a cat;
 - qualified person* means a person approved under subsection (2)(b) ;
 - sample*, in relation to a cat, means an intimate or non-intimate sample taken from the cat.
- (2) The Secretary or a general manager may approve –
 - (a) a person to collect a non-intimate sample from a cat; and
 - (b) a person to conduct the analysis of a sample collected in accordance with this section.
- (3) An authorised person who believes, on reasonable grounds, that an offence under section 29 has been committed in relation to a cat, may request that the Secretary, or a general manager of a council for the municipal area in which the cat is situated, authorise the collection of a sample from the cat for the purposes of determining whether the offence was committed in relation to the cat.
- (4) If the Secretary or a general manager receives a request under subsection (3) in relation to a cat, he or she may authorise –
 - (a) an approved person to collect a non-intimate sample from the cat; or
 - (b) a veterinary surgeon to collect an intimate or non-intimate sample from the cat.
- (5) If an approved person or a veterinary surgeon is authorised under subsection (4) to collect a sample from a cat –
 - (a) the authorised person who made a request under subsection (3) in respect of the cat may do one or more of the following:
 - (i) seize the cat and detain it for as long as is required for the approved person or veterinary surgeon to collect the sample as authorised;
 - (ii) if, in the opinion of the authorised person, the cat is aggressive or difficult to manage, direct the owner of the cat to accompany the authorised person, together with the cat, to a place where the sample may safely be collected;

(iii) direct the owner to produce the cat for the purposes of allowing the sample to be collected as authorised; and

(b) the approved person or veterinary surgeon may collect such a sample from the cat as authorised.

(6) If a sample is collected from a cat in accordance with an authorisation under subsection (4), the authorised person who made the request under subsection (3) in relation to the cat is to ensure that –

(a) the owner of the cat is advised, before, or as soon as reasonably practicable after, the sample is collected, that the sample is collected for the purpose of analysis; and

(b) both –

(i) a person nominated in writing by the owner of the cat, if such a person is so nominated; and

(ii) a qualified person –

are each provided with a part of the sample that is sufficient for analysis.

(7) The Secretary or a general manager may authorise a qualified person to conduct analysis of a sample that has been collected in accordance with subsection (5)(b).

(8) A person must not –

(a) obstruct, hinder, delay, impede or threaten an approved person, qualified person or veterinary surgeon acting in accordance with this section; or

(b) disobey a direction given by an authorised person under this section.

Penalty: Fine not exceeding 50 penalty units

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 50 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.

PART 3 - Microchipping and Desexing of Cats

12. Microchipping of cats

(1) The owner of a cat that is more than 4 months of age must ensure that the cat is implanted with a microchip in a prescribed manner.

Penalty: Fine not exceeding 20 penalty units.

(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.

14. Desexing of cats

(1) The owner of a cat that is more than 4 months of age must ensure that the cat is desexed by a veterinary surgeon.

Penalty: Fine not exceeding 20 penalty units.

(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 the holder of a cat breeding permit in relation to the cat; or

(c) a member of a prescribed class of cats.

(3) A cat that is desexed is to be identified by a prescribed mark that is permanently marked inside the left ear of the cat.

(4) A person must not identify a cat in accordance with subsection (3) 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 a certificate has been issued under section 12(2) in respect of the cat; or

(c) that is not desexed 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) the purchaser is the holder of a cat breeding permit in relation to the cat; or

(d) that is desexed and is not identified as required under section 14(3) ; or

(e) that does not attain a satisfactory result in relation to all health checks prescribed for the purposes of this section.

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;
- (c) any other prescribed circumstances.

16.

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PART 3A - Keeping of cats

16A. Limit on number of cats kept

(1) In this section –

cat boarding facility means premises operated by, or on behalf of, an organisation that –

(a) is run for profit; and

(b) as part of its operations, provides, for consideration, overnight accommodation for cats;

consideration includes monetary or non-monetary consideration;

veterinary establishment has the same meaning as in the Veterinary Surgeons Act 1987 .

(2) A person must not keep, for any period of time, at any individual property, more than 4 cats that are more than 4 months of age.

Penalty: Fine not exceeding 20 penalty units.

(3) Subsection (2) does not apply to any cat in excess of 4 cats if –

(a) the person keeping the cat holds a multiple cat permit in relation to the cat; or

(b) the person keeping the cat is a registered breeder; or

(c) the person keeping the cat holds a cat breeding permit in relation to the cat; or

(d) the cat is being kept at a cat boarding facility or veterinary establishment; or

(e) the person keeping the cat is fostering the cat as part of a foster program managed by a cat management facility or an approved organisation; or

(f) the cat is being kept at an individual property for less than 6 months and –

(i) the cat is owned by a person who does not usually reside at the individual property; and

(ii) the period that the cat is to be kept at the individual property is agreed upon, by both the owner of the cat and the person with responsibility for the individual property, before the cat is left at the individual property; and

(iii) no consideration has been, or is to be, paid in respect of the keeping of the cat at the individual property.

16B. Application to keep more than 4 cats

(1) A person may apply to the Secretary, or the general manager of the council for the municipal area in which the cats are situated, for a permit to keep more than 4 cats (a **multiple cat permit**).

(2) An application made under subsection (1) is to –

(a) include details of –

(i) all cats that the person intends to keep, referenced by the number encoded on the microchip implanted in each cat; and

(ii) the individual property at which the person intends to keep the cats to which the application relates; and

(b) be accompanied by the approved fee, if any.

(3) If –

(a) there is a right to object under subsection (5) ; or

(b) the Secretary, or a general manager, to whom an application is made under subsection (1) so requires –

an applicant must publish a notice, in a prescribed manner, stating –

(c) the intention to apply for a multiple cat permit; and

(d) the address and details of the individual property, and the number of cats, to which the application relates.

Penalty: Fine not exceeding 20 penalty units.

(4) In considering an application that is –

(a) made under subsection (1) to the Secretary, the Secretary must consult with the general manager of the council for the municipal area in which the individual property to which the application relates is situated; and

(b) made under subsection (1) to a general manager, the general manager must consult with the Secretary.

(5) A person may object to the granting of a multiple cat permit if the person resides on, or owns, land within 200 metres of the boundary of the individual property to which the application for the permit relates.

(6) An objection made under subsection (5) is to –

(a) be in writing; and

(b) set out the reasons for the objection; and

(c) be given to the Secretary or general manager to whom the application to which the objection relates was made, within 14 days after a notice is published under subsection (3) in relation to the application.

(7) If a notice is required to be published under subsection (3), in relation to an application made to the Secretary or general manager, the Secretary or general manager, respectively, is –

(a) not to consider an application for a multiple cat permit until 14 days after the notice is published; and

(b) to take into account objections made under subsection (5), if any.

16C. Determination of application to keep more than 4 cats

(1) The Secretary or general manager may –

(a) grant an application made under section 16B(1) to him or her, subject to any conditions he or she thinks fit, if satisfied that –

(i) the applicant is a fit and proper person to hold a multiple cat permit; and

(ii) it is appropriate in all the circumstances; or

(b) refuse an application made under section 16B(1) to him or her, if not so satisfied.

(2) If the Secretary or general manager grants an application made under section 16B(1), he or she is to issue a permit in writing to the applicant.

(3) A permit must not be issued in contravention of a by-law made in accordance with section 43.

(4) A permit issued under subsection (2) may be in the form that the Secretary or general manager, respectively, determines, but is to, at least, specify –

(a) the maximum number of cats that may be kept at the individual property to which the permit relates and the number encoded on the microchip with which each cat is implanted; and

(b) any conditions to which the permit is subject; and

(c) the date on which the permit expires.

(5) The Secretary or a general manager may, by notice to the holder of a multiple cat permit issued by the Secretary or general manager, respectively, vary the permit, including any condition of the permit, at any time if satisfied that there are reasonable grounds to do so.

(6) If the Secretary or general manager refuses an application made under section 16B(1), he or she is to provide the applicant with notice of the refusal and written reasons for the refusal.

16D. Cancellation of multiple cat permit

(1) The Secretary or a general manager may, by notice in writing served on the holder of a multiple cat permit issued by the Secretary or general manager, respectively, cancel the multiple cat permit from a day specified in the notice that is not less than one month after the notice is served on the holder of the permit.

(2) The Secretary or a general manager may only cancel a multiple cat permit under subsection (1) if satisfied that –

- (a) the provisions of this Act or any other relevant Act are not being complied with; or
- (b) any condition of the permit is not being complied with; or
- (c) the situation or condition of the premises on which the relevant cats are being kept is such that the cats are creating a nuisance; or
- (d) it is in the public interest that the permit be cancelled.

(3) Before cancelling a multiple cat permit, the Secretary or general manager is to –

- (a) give to the holder of the permit one month's notice in writing to make submissions as to why the permit should not be cancelled; and
- (b) consider the submissions made under subsection (4) , if any, by the holder of the permit.

(4) The holder of a multiple cat permit may, within one month after notice is served on that person by the Secretary or general manager under subsection (1) , make to the Secretary or general manager, respectively, a submission in writing as to why the permit should not be cancelled.

(5) A multiple cat permit is cancelled on and from the day specified in a notice given under subsection (1) in relation to the permit as the day on which the permit is cancelled.

16E. Review of decision

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

PART 4 - Management of Cats

17. Protection of property from cats

- (1) A person who owns or leases premises, or a person acting on behalf of such a person, may trap, seize or detain a cat found on the premises.
- (2) If a person sets a trap with the intention of trapping a cat in accordance with subsection (1), the person must check the trap, and remove any animals contained in the trap, at least once within every 24-hour period after first setting the trap.
- (3) If a person sets a trap with the intention of trapping a cat in accordance with subsection (1), and the setting of that trap results in the detention of an animal other than a cat, the person must release the animal, subject to a prohibition on releasing the animal contained in any other Act, as soon as practicable, but in any case no later than 24 hours after first setting the trap.
- (4) A person who traps, seizes or detains a cat under subsection (1) 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; or
 - (c) whether or not the owner of the cat is known to the person, arrange for the cat to be taken to a person, business or organisation nominated for that purpose by a cat management facility.
- (5) A person, within 24 hours after trapping, seizing or detaining a cat under subsection (1), must take an action under subsection (4)(a), (b) or (c) in relation to the cat.
- Penalty: Fine not exceeding 100 penalty units.

17A. Destruction of cats on property

- (1) In this section –
- primary production land* has the same meaning as in the Land Tax Act 2000 ;
- production premises* means premises used –
- (a) in relation to –
 - (i) agriculture; or
 - (ii) horticulture; or
 - (iii) viticulture; or
 - (iv) aquaculture; or
 - (b) for the preparation or storage, for commercial purposes, of food for humans or animals; or
 - (c) as an abattoir –
- or for any associated purposes.
- (2) The following persons may humanely destroy any cat found on primary production land or at production premises, whether or not any part of the land or premises is used as a place of residence:
- (a) a person managing primary production on the land;
 - (b) a person who is the occupier of the premises;
 - (c) a person acting on behalf of a person specified in paragraph (a) or (b) .
- (3) A person may humanely destroy a cat found on his or her private premises –
- (a) if the location at which the cat is found is more than one kilometre from any structure or building used as a place of residence; or
 - (b) in prescribed circumstances.

18. Cats in prohibited areas

(1) In this section –

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.

(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) A person who traps, seizes or detains 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; or
- (c) whether or not the owner of the cat is known to the person, arrange for the cat to be taken to a person, business or organisation nominated for that purpose by a cat management facility.

(6) A person, within 24 hours after trapping, seizing or detaining a cat under this section, must –

- (a) take an action under subsection (5)(a), (b) or (c) in relation to the cat; or
- (b) humanely destroy the cat.

Penalty: Fine not exceeding 100 penalty units.

19. Declaration of prohibited area

A council may declare an area of land within the authority of the council to be an area where cats are prohibited.

20. Declaration of cat management area

(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 in respect of cats.

(2) Without limiting the generality of subsection (1), a measure in respect of a cat may include a cat management action as defined in section 18(1).

21. Proposal for council declaration

(1) A council that proposes to make a declaration under section 19 or 20 in relation to an area of land is to publish a notice specifying –

- (a) the area of land; and
 - (b) the proposed restrictions or activities relating to the use of the area of land; and
 - (c) the reasons for the proposed declaration; and
 - (d) that submissions as to the proposed declaration may be made to the council within 15 working days after the notice is published.
- (2) A notice under subsection (1) may be published in one or more of the following ways:
- (a) in a newspaper circulating generally in the municipal area of the council;
 - (b) in a document delivered to persons whom the council considers likely to be affected by the declaration if made;
 - (c) on a website maintained by or on behalf of the council;
 - (d) in a prescribed manner.
- (3) A person may, within 15 working days after a notice is published under subsection (1) , make a submission in writing to the council.
- (4) The council is to consider submissions made under subsection (3) , if any, before making a declaration under section 19 or 20 .

21A. Council declaration

- (1) A declaration made under section 19 or 20 takes effect on the day specified in it, being a day that is at least 10 days after the declaration is notified by –
- (a) a notice published in the *Gazette*; and
 - (b) a notice published –
 - (i) on a website maintained by or on behalf of the council publishing the notice; or
 - (ii) in a newspaper, circulating generally in the municipal area of the council.
- (2) A notice published under subsection (1) is to –
- (a) in the case of a declaration under section 19 –
 - (i) clearly specify the area that is to be a prohibited area for cats; and
 - (ii) state the period for which the declaration is in force; and
 - (b) in the case of a declaration under section 20 –
 - (i) clearly specify the area within which measures may be taken in respect of cats; and
 - (ii) specify the types of measures being undertaken in that area; and
 - (iii) specify the person or organisation that is undertaking those measures; and
 - (iv) state the period for which the declaration remains in force.
- (3) The council may propose to amend or revoke a declaration made under section 19 or 20 by notice published in accordance with subsection (1)(a) and (b) .
- (4) A person may, within 15 working days after a notice is published under subsection (3) , make a submission in writing to the council.
- (5) The council is to consider submissions made under subsection (3) , if any, before amending or revoking a declaration.

21B. Cat taken in cat management area

- (1) A person who traps, seizes or detains a cat in accordance with a measure taken pursuant to a declaration under section 20 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; or

(c) whether or not the owner of the cat is known to the person, arrange for the cat to be taken to a person, business or organisation nominated for that purpose by a cat management facility.

(2) A person, within 24 hours after trapping, seizing or detaining a cat in accordance with a measure taken pursuant to a declaration under section 20 , must –

(a) take an action under subsection (1)(a) , (b) or (c) in relation to the cat; or

(b) if specified in the declaration as a type of measure to be undertaken in the area to which the declaration relates, humanely destroy the cat.

Penalty: Fine not exceeding 100 penalty units.

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 or, if a telephone number for the owner of the cat is known, by telephone –

- (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 is responsible for 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; and
 - (iv) the destruction 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 must ensure the cat is microchipped and desexed before the cat is reclaimed from that facility.
Penalty: Fine not exceeding 10 penalty units.
- (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 –
 - (a) microchipped, unless the owner produces a certificate issued under section 12(2) in respect of the cat; and
 - (b) desexed, unless –
 - (i) the owner is a registered breeder; or
 - (ii) the owner produces a certificate issued under section 14(2)(a) in respect of the cat; or
 - (iii) the owner provides evidence that arrangements have been made with a veterinary surgeon for the desexing 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 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.

(2) If a cat that is microchipped is held at a cat management facility and, after 5 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 –

- (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 as soon as practicable.

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

Penalty: Fine not exceeding 100 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 a cat unless he or she –
 - (a) is a registered breeder; or
 - (b) holds a cat breeding permit in relation to the cat.

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.

(3) Subsection (1) does not apply if a person applies for a cat breeding permit as soon as practicable after becoming aware that –

- (a) a cat kept by the person has been bred; and
- (b) the breeding of the cat has resulted in the impregnation of a cat.

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 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. Permit to breed a cat

(1) A person may apply to the Secretary, or to the general manager of the council for the municipal area in which the cat is situated, for a permit to breed a cat (a *cat breeding permit*).

(2) An application for a cat breeding permit is to be accompanied by the prescribed fee, if any.

(3) The Secretary or general manager may –

- (a) grant an application made to the Secretary or general manager, respectively, under subsection (1), subject to any conditions he or she thinks fit; or
- (b) refuse an application made to the Secretary or general manager, respectively, under subsection (1).

(4) Without limiting the generality of subsection (3), conditions on a permit may include conditions relating to the sale or management of any kitten that might result from the breeding of the cat.

(5) If the Secretary or general manager grants an application made under subsection (1), he or she is to issue a permit in writing to the applicant.

(6) A permit issued under subsection (5) may be in the form that the Secretary or general manager, respectively, determines, but is to, at least, specify –

- (a) the name and usual residential address of the owner of the cat to which the permit relates; and
- (b) the cat to which the permit relates, by reference to the number encoded on the microchip implanted in the cat; and
- (c) the individual property at which the cat is to be kept; and
- (d) any conditions to which the permit is subject; and
- (e) the expiry date of the permit.

(7) The Secretary or general manager may, by notice to the holder of a cat breeding permit issued by the Secretary or general manager, respectively, vary the permit, including any condition of the permit, at any time if satisfied that there are reasonable grounds to do so.

(8) If the Secretary or general manager refuses an application made under subsection (1), he or she is to provide the applicant with notice of the refusal and written reasons for the refusal.

32. Cancellation of cat breeding permit

- (1) The Secretary or a general manager may, by notice in writing served on the holder of a cat breeding permit issued by the Secretary or general manager, respectively, cancel the cat breeding permit from a day specified in the notice that is not less than one month after the notice is served on the holder of the permit.
- (2) The Secretary or a general manager may only cancel a cat breeding permit under subsection (1) if satisfied that –
 - (a) the provisions of this Act or any other relevant Act are not being complied with; or
 - (b) any condition of the permit is not being complied with.
- (3) Before cancelling a cat breeding permit, the Secretary or general manager is to –
 - (a) give to the holder of the permit one month's notice in writing to make submissions as to why the permit should not be cancelled; and
 - (b) consider the submissions made under subsection (4) , if any, by the holder of the permit.
- (4) The holder of a cat breeding permit may, within one month after notice is served on the person by the Secretary or general manager under subsection (1) , make to the Secretary, or general manager, respectively, a submission in writing as to why the permit should not be cancelled.
- (5) A cat breeding permit is cancelled on and from the day specified, in a notice served under subsection (1) in relation to the permit, as the day on which the permit is cancelled.

33. Review of decisions

A person who is aggrieved by a decision of the Secretary or a general manager 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.

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) A person in possession of a cat may offer the cat for surrender to –

- (a) a cat management facility; or
- (b) a person, business or organisation nominated for that purpose by a cat management facility.

(2) If a cat is offered for surrender under subsection (1), the cat management facility or the person, business or organisation nominated by the cat management facility may –

- (a) accept the surrender of the cat; or
- (b) refuse to accept the surrender of the cat.

(3) If the surrender of the cat is accepted in accordance with subsection (2)(a), the person who surrenders the cat must pay any surrender fee charged by, or on behalf of, the cat management facility.

37. Cats not to be abandoned

(1) In this section –

abandon, in relation to a cat, includes to relinquish the care or charge of the cat without ensuring that another person has, or will immediately take, care or charge of the cat.

(2) 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.

38A. Requirement notice

- (1) If an authorised person believes, on reasonable grounds, that a person is failing, or has failed, to comply with a provision of this Act, the authorised person may serve a requirement notice on the person.
- (2) A requirement notice served on a person is to –
 - (a) be in an approved form; and
 - (b) specify reasonable measures that the person is to take to rectify the failure; and
 - (c) specify the period in which those measures are to be taken; and
 - (d) state that there is, under section 38B , a right of appeal against the requirement notice.
- (3) An authorised person, by notice served on the person on whom a requirement notice is served, may –
 - (a) revoke the requirement notice; or
 - (b) amend the requirement notice.
- (4) A person on whom a requirement notice is served must comply with the notice.
Penalty: Fine not exceeding 100 penalty units.

38B. Appeal against requirement notice

- (1) A person may appeal to a magistrate against a requirement notice issued under section 38A .
- (2) An appeal is to be –
 - (a) made within 7 days after the issue of the requirement notice; and
 - (b) in an approved form; and
 - (c) accompanied by the prescribed fee, if any.
- (3) On hearing an appeal, a magistrate may make one or more of the following orders:
 - (a) that the requirement notice be complied with;
 - (b) that the requirement notice be amended under section 38A(3)(b) , as specified in the order;
 - (c) that the requirement notice be revoked under section 38A(3)(a) .

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 –
 - (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 Public Account.

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

41. Delegation

- (1) The Secretary may delegate any of his or her functions or powers under this Act, other than this power of delegation.
- (2) A general manager 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
- (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 or desexing of cats;
 - (g) the approval or prescribing of persons or organisations that may operate cat management facilities;
 - (h) the approval or prescribing of conditions and endorsements required for cat management facilities;
 - (i) any obligations in respect of registered breeders;
 - (ia) any obligations in respect of holders of multiple cat permits or cat breeding permits;
 - (ib) any requirements or practices in respect of the declaration of prohibited areas or cat management areas;
 - (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 –
 - (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.