

LOCAL LAW No. 4 (KEEPING AND CONTROL OF ANIMALS)

PART 1 - PRELIMINARY

1. Short title

This local law may be cited as Local Law No. 4 (Keeping and Control of Animals).

2. Objects

The objects of this local law are to regulate the keeping of animals:

- (a) to protect the community against risk of injury and damage; and
- (b) to ensure that animals do not create a nuisance, or a hazard to health or safety; and
- (c) to prevent pollution and other environmental damage resulting from the keeping of animals and to protect the amenity of the local environment; and
- (d) to ensure that animals are kept and used in a way that is consistent with the rights and expectations of the local community.

3. Definitions

In this local law:

‘animal’ includes a fish, bird or reptile but does not include an animal of a species excluded by subordinate local law from the application of this local law.

‘authorised person’ means a person authorised by the local government to exercise the powers of an authorised person under this local law.

‘cattery’ means a place used for the keeping, boarding or breeding of cats on a commercial basis.

‘compliance notice’ see section 23.

‘removal notice’ see section 24.

‘identifying tag’ means a mark or object to identify an animal including, for example:

- (a) a metal or plastic disc or plate; or
- (b) a collar; or
- (c) a tattoo or brand; or
- (d) an implant bearing an electronic code.

'keeper' of an animal means:

- (a) the person who has the immediate custody and control of the animal; or
- (b) if the person who has the immediate custody and control of an animal is a minor, the minor's parent or guardian; or
- (c) the occupier of the land on which the animal is ordinarily kept.

'pet shop' means a shop at which animals are offered for sale.

'reviewable decision' see section 28.

4. Relationship with other laws

- (1) This local law is in addition to, and does not derogate from:
 - (a) laws regulating the use or development of land; and
 - (b) other laws about the keeping or control of animals or animals of a particular species.

PART 2 - KEEPING OF ANIMALS

Division 1 - Animals for which permit is required

5. Requirement to hold permit

- (1) The subordinate local law may require a permit for the keeping of animals.
- (2) The requirement for a permit may be imposed by reference to one or more of the following factors:
 - (a) the species, breed, age or sex of the animals;
 - (b) the number of animals to be kept;
 - (c) the area, or part of the area, in which the animals are to be kept;
 - (d) the nature of the premises in which the animals are to be kept.

6. Obligation to hold permit

- (1) A person must not keep an animal for which a permit is required unless the person holds a current permit from the local government authorising the person to keep the animal.

Maximum penalty - 20 penalty units.

- (2) A person must not contravene a condition of a permit.

Maximum penalty - 20 penalty units.

Division 2 - Animals for which registration is required

7. Requirement to register animal

The subordinate local law may require the keeper of an animal of a particular species or breed to have the animal registered.

8. Obligation to register

- (1) A person must not keep an animal for which registration is required unless the person holds a current certificate of registration for the animal from the local government.

Maximum penalty - 20 penalty units.

- (2) A person who keeps a registered animal must ensure that the animal carries the identifying tag required under the subordinate local law.

Maximum penalty - 20 penalty units.

Division 3 - Commercial operations

9. Pet shops and catteries

A person must not use land within the area as a pet shop or cattery unless the person holds a current permit from the local government authorising the use of the land for the purpose.

Maximum penalty - 20 penalty units.

10. Obligation to comply with permit

A person must not contravene a condition of a permit authorising the use of land for the purpose of a pet shop or cattery.

Maximum penalty - 20 penalty units.

Division 4 - Minimum standards

11. Prescription of minimum standards by subordinate local law

- (1) The subordinate local law may prescribe minimum standards for the keeping of animals or a particular species of animals.
- (2) The subordinate local law may, for example:
 - (a) require the regular cleaning of enclosures and the disposal of waste; and
 - (b) require adequate provision of food and water; and
 - (c) require the provision of adequate space for the animals; and
 - (d) provide for the separation of enclosures in which animals are kept from places used for human habitation or the preparation of food, or from watercourses or water catchment areas; and
 - (e) make other provisions for the maintenance of proper standards of cleanliness and hygiene.

12. Obligation to comply with minimum standards

- (1) A person who keeps an animal must ensure that the relevant minimum standards prescribed by the subordinate local law are complied with.

Maximum penalty - 20 penalty units.

- (2) If a person is required to hold a permit to keep an animal, the obligation to comply with the minimum standards prescribed by subordinate local law is in addition to obligations imposed by condition of the permit.

Division 5 - Permits

13. Criteria for granting permits

- (1) In deciding whether to grant a permit authorising a person to keep animals the local government may have regard to:
 - (a) the physical suitability of the land for the proposed use; and
 - (b) the structural suitability of enclosures in which the animals are to be kept; and
 - (c) the likelihood of the animals causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land; and
 - (d) the likely effect on the amenity of the surrounding area; and
 - (e) the likely effect on the local environment and any possible pollution or other environmental damage; and
 - (f) other factors that may be relevant in the circumstances of the particular case.

14. Term of permit

- (1) A permit is granted for a term fixed under the relevant subordinate local law.
- (2) The local government may, from time to time, on application by the holder of the permit, renew the permit.
- (3) The term for which a permit is granted or renewed must be fixed as required by a relevant subordinate local law, or as decided by the local government when it grants the permit or the renewal.

15. Conditions of permits

- (1) The local government may grant a permit under this local law on conditions it considers appropriate.
- (2) The conditions may, for example:
 - (a) require the holder of the permit to care for the animals in accordance with appropriate standards; and

- (b) require that the animals be kept in enclosures that comply with specified structural requirements; and
 - (c) require the holder of the permit to comply with specified standards of hygiene; and
 - (d) require the holder of the permit to ensure that the animal wears or displays an appropriate identifying tag; and
 - (e) require the holder of the permit to ensure that the animals do not cause nuisance, inconvenience or annoyance to others; and
 - (f) require the holder of the permit to take specified action to protect against possible harm to the local environment.
- (3) The local government may, by subordinate local law, prescribe conditions that must be imposed in a permit or that will ordinarily be imposed in a permit.

PART 3 - CONTROL OF ANIMALS

Division 1 - Animals in public places

16. Animal must be under effective control

- (1) A person must not bring or permit an animal to be brought into a public place unless the animal is under the person's effective control.

Maximum penalty - 20 penalty units.

- (2) If an animal in a public place is not under effective control, an authorised person may seize and impound the animal.

Division 2 - Duty to provide proper enclosure

17. Duty to provide proper enclosure

- (1) A person who keeps an animal must maintain a proper enclosure to keep the animal on the person's land and prevent the animal from wandering or escaping from the land.

Maximum penalty - 20 penalty units.

- (2) If an animal is found wandering at large, the owner of the animal is guilty of an offence.

Maximum penalty - 20 penalty units.

- (3) It is a defence to a charge of an offence against subsection (2) for the defendant to prove:
- (a) the defendant maintained an appropriate enclosure for the animal; and
 - (b) the defendant could not, by the exercise of reasonable diligence, have prevented the escape of the animal.

Division 3 - Nuisances etc

18. Duty to avoid nuisances

- (1) A person must not keep an animal on land if:
- (a) the animal causes a nuisance; or
 - (b) the animal exposes the health or safety of others to significant risk; or
 - (c) the animal creates a reasonable apprehension in the minds of others of a threat to their health or safety.
- (2) A local government may, on receiving a complaint of a contravention of subsection (1), give a written notice to the keeper of the animal requiring the person to take specified action to prevent further contravention or to get rid of the animal.
- (3) A person must not fail to comply with a notice under subsection (2) within the time allowed in the notice.

Maximum penalty - 100 penalty units.

PART 4 – SEIZURE OF ANIMALS

19. Seizure of animals

- (1) An authorised person may seize an animal if:
- (a) the animal has attacked or threatened to attack a person or another animal;
or

- (b) the animal has created a nuisance; or
 - (c) the animal may put at risk the safety of motorists, cyclists, pedestrians or any other person.
- (2) When an authorised person seizes an animal, the authorised person must, if the keeper of the animal is known to the authorised person, or can be ascertained from the local government's records, inform the keeper of the seizure.

20. Destruction of animals

- (1) An authorised person may seize and destroy an animal without notice to the keeper of the animal if:
- (a) the animal has been seized and detained more than three times in the last year; or
 - (b) the animal is, in the authorised person's opinion, dangerous and not controllable by means that are reasonably available to the keeper of the animal; or
 - (c) the animal is diseased or emaciated.

21. Destruction at request of keeper

An authorised person may, at the request of the keeper of an animal, seize and destroy the animal.

PART 5 – COMPLIANCE AND REMOVAL NOTICES

22. Inspection

An authorised person may enter¹ and inspect land to find out whether the requirements of this local law or the conditions of a permit are being complied with.

¹ For power to enter premises, see Chapter 15, parts 4 and 5 of the Act.

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23. Compliance notices

- (1) If the keeper of an animal contravenes a provision of this local law or a condition of a permit, an authorised person may give the keeper of an animal a written notice (a “**compliance notice**”) under this section.
- (2) A compliance notice may—
 - (a) if the contravention is of a continuing or recurrent nature—require the keeper of the animal to stop the contravention; and
 - (b) whether or not the contravention is of a continuing or recurrent nature—require the keeper of the animal to take specified action, within a time specified in the notice, to remedy the contravention.
- (3) The keeper of an animal must comply with a notice under this section.

Maximum penalty for subsection (3)—50 penalty units.

24. Power to remove an animal

- (1) An authorised person may issue a notice (a “**removal notice**”) to the keeper of an animal—
 - (a) for which registration or a permit cannot be granted under this local law; or
 - (b) who has not complied with a compliance notice within the time specified in the notice.
- (2) A removal notice may require the keeper of an animal, within a time stated in the notice, to do one of the following—
 - (a) to destroy the animal or have it destroyed; or
 - (b) to remove it from the area.
- (3) The keeper of an animal must not fail to comply with a removal notice.

Maximum penalty for subsection (3)—20 penalty units.

- (4) If the keeper fails to comply with a notice under this section, an authorised person may—
 - (a) enter the land on which the animal is kept under the powers of entry given by the Act; and
 - (b) seize the animal; and
 - (c) destroy the animal or remove it to a suitable location outside the area.

PART 6—APPEAL

25. Appealable decisions

- (1) A decision by an authorised person to destroy an animal or to have it destroyed is an appealable decision.
- (2) However, a decision to destroy an animal is not appealable if the decision can be carried into effect without notice to the keeper of the animal.

26. Appeal against decision

- (1) A person aggrieved by an appealable decision may appeal to a Magistrates Court against the decision.
- (2) The appeal must be started within 21 days after notice of the decision is given to the keeper of the animal.

27. Powers of Court on appeal

- (1) On an appeal under this part, the Court may confirm, vary or quash the decision subject to the appeal.
- (2) The Court may only quash a decision to destroy an animal if satisfied that—
 - (a) the keeper will in future ensure that the animal is properly kept and controlled in accordance with this local law and the circumstances that led to the making of the order are unlikely to recur; and
 - (b) if a previous decision to destroy the animal has been quashed by the Court— there are exceptional circumstances justifying quashing the decision.
- (3) An order for the costs of an appeal may only be made against the local government if the Court is satisfied that the animal was unlawfully seized or there was no reasonable basis for making the decision subject to the appeal.

PART 7 – REVIEW

28. Reviewable decisions

A decision of the local government or an authorised person under this local law is reviewable (a “**reviewable decision**”) unless it is—

- (a) a decision made by resolution of the local government; or
- (b) a decision to destroy an animal or to have it destroyed; or
- (c) a decision made on an earlier application for review.

29. Application for review

- (1) A person who is aggrieved by a reviewable decision may apply to the local government for a review of the decision.
- (2) An application for review of a reviewable decision must—
 - (a) be in writing; and
 - (b) state the reasons why the applicant considers the decision should be reviewed; and
 - (c) be lodged at the office of the local government within 14 days after the day on which notice of the decision was given to the applicant or within a further period allowed by the local government (before or after the end of that period).

30. Carrying out review

- (1) The local government must either—
 - (a) carry out a review at a meeting of the local government; or
 - (b) have the review carried out by an authorised person.
- (2) An authorised person who carries out a review under subsection (1)(b) must not be the original decision maker and must be a person who is no less senior than the original decision maker.

31. Decision on review

- (1) On completing a review, the local government may confirm, vary or reverse the decision under review.
- (2) The local government must give the applicant written notice of the result of the review.
- (3) If the local government does not decide an application for review within 28 days after receiving the application, the local government is taken to have confirmed the decision under review.

PART 8- MISCELLANEOUS

32. Sale of animals

- (1) A subordinate local law may lay down conditions to be complied with by persons who offer animals, or a particular species of animals, for sale.
- (2) A person must not offer or display animals for sale in the area unless the person complies with conditions laid down by subordinate local law under subsection (1).

Maximum penalty - 20 penalty units.

33. Prohibition of identifying tags designed to confuse

A person must not manufacture, sell, or have in possession for sale, identifying tags for animals designed to be confused with the identifying tags required for animals under this local law.

Maximum penalty - 20 penalty units.

34. Abandonment of animals

(1) A person must not abandon an animal.

Maximum penalty - 20 penalty units.

(2) A person who delivers an animal into the custody of the authorised person in charge of an animal pound is not to be regarded as having abandoned the animal.

PART 9 – SUBORDINATE LOCAL LAW

35. Subordinate local law

The local government may make subordinate local law for the purposes of this local law in relation to those matters about which this local law specifically allows for the making of subordinate local law.