

Ipswich City Council

Local Law No. 8 (Control Of Pests) 2005

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Part 1 Preliminary

1 Short title

This model local law may be cited as *Model Local Law No. 8 (Control of Pests) 2004*.

2 Object

The object of this local law is to protect the environment against animal and plant pests for which adequate protection does not exist under other laws.

3 Definitions—the dictionary

The dictionary in the schedule defines particular words used in this local law.

4 Application

This local law does not apply to an animal or plant that is declared under section 36 or 37(2) of the *Land Protection (Pest and Stock Route Management) Act 2002*—

- (a) as a class 1 pest or a class 2 pest; or
- (b) as a class 3 pest that is causing, or has the potential to cause, an adverse economic, environmental or social impact on—
 - (i) land that is, or is in or adjacent to, an environmentally significant area; or
 - (ii) an environmentally significant area adjacent to the owner's land.

Part 2 Declared pests

5 Declaration of pests

- (1) The local government may, by subordinate local law, declare an animal or plant of a specified species to be a pest.
- (2) Before the local government makes a declaration under this section, it must consult with the chief executive of the Department about the desirability of the declaration.

6 Emergency declarations

- (1) If there is an urgent need for a declaration of an animal or plant as a pest to avoid or minimise an immediate risk of serious environmental harm, the local government may by resolution, declare an animal or plant of the relevant species to be a pest.
- (2) A declaration under this section—

- (a) must be published in a newspaper circulating generally in the local government's area; and
- (b) comes into force on the date of publication; and
- (c) comes to an end three months after the date of publication.

7 Application of declaration

A declaration may apply—

- (a) to the whole of the area or in a specified part or parts of the area; and
- (b) generally or only in specified circumstances.

Part 3 Control of declared pests

8 Inspection

An authorised person may enter¹ land and search the land for declared pests.

9 Notice to control declared pest

- (1) An authorised person may, by written notice (a *control notice*) given to the occupier of land, require the occupier to take specified action to destroy or control a declared pest.
- (2) A control notice may, for example, require the occupier to take specified action to—
 - (a) destroy declared pests on the land, or minimise the risk of an outbreak of declared pests on the land; or
 - (b) prevent or minimise seeding or reproduction; or
 - (c) contain infestation within a localised area; or
 - (d) reduce the density or extent of infestation by declared pests.
- (3) A control notice may require the repetition of the specified action at stated intervals or on the reappearance of the declared pest within a specified period.

10 Obligation to comply with control notice

An occupier of land to whom a control notice is given under this local law must comply with the notice.

Maximum penalty—20 penalty units.

11 Local government's power to have work carried out

If an occupier of land fails to have work required by a control notice carried out, the local government may itself carry out the work.

¹ For power of entry, see Chapter 15, parts 4 and 5, of the Act.

12 Powers of entry and cost recovery

- (1) The local government may enter land under section 1066 of the Act to carry out work under this part.
- (2) If the occupier is the owner of the relevant land, the amount properly and reasonably incurred by the local government in performing the work is recoverable (together with interest) under sections 1066, 1067 and 1068 of the Act.
- (3) If the occupier is not the owner of the relevant land, the amount properly and reasonably incurred by the local government is recoverable as a debt from the occupier (together with interest) on the same basis as applies to an owner of land under section 1067 of the Act.²

Part 4 Prohibition of sale

13 Prohibition of sale

A person must not—

- (a) sell or supply a declared pest; or
- (b) offer or display a declared pest for sale or supply.

Maximum penalty—50 penalty units.

Part 5 Authorised persons

14 Appointment

- (1) A local government may appoint any of the following persons as authorised persons for this local law—
 - (a) employees of the local government;
 - (b) other persons who are eligible for appointment as authorised persons under Chapter 15, part 5 of the Act³.
- (2) An appointment of a person as an authorised person under this part must state the provisions for which the person is appointed as an authorised person.
- (3) A local government may appoint a person as an authorised person under this part only if—
 - (a) the local government considers the person has the necessary expertise or experience for the appointment; or
 - (b) the person has satisfactorily finished training approved by the local government for the appointment.

² Section 1067(2) of the Act provides for the payment of interest on the same basis as for an overdue rate.

³ Chapter 15, part 5 (Enforcement of Local Government Acts).

15 Limitation on authorised person's powers

An authorised person's powers may be limited in the person's instrument of appointment.

16 Authorised person's appointment conditions

- (1) An authorised person holds office on the conditions stated in the instrument of appointment.
- (2) An authorised person—
 - (a) if the instrument provides for a term of appointment—ceases holding office at the end of the term; and
 - (b) may resign by signed notice of resignation given to the local government; and
 - (c) if the conditions of appointment provide—ceases holding office as an authorised person on ceasing to hold another office stated in the appointment conditions (the *main office*).
- (3) However, an authorised person may not resign from the office of authorised person (the *secondary office*) under subsection (2)(b) if a term of the authorised person's employment to the main office requires the authorised person to hold the secondary office.

17 Authorised person's identity card

- (1) A local government must give each authorised person an identity card.
- (2) The identity card must—
 - (a) contain a recent photograph of the authorised person; and
 - (b) be signed by the authorised person; and
 - (c) identify the person as an authorised person for the local government; and
 - (d) include an expiry date.
- (3) A person who ceases to be an authorised person must return the person's identity card to the local government within 21 days after the person ceases to be an authorised person unless the person has a reasonable excuse.
Maximum penalty—10 penalty units.
- (4) This section does not prevent the giving of a single identity card to a person for this part and for other purposes.

18 Production of identity card

- (1) An authorised person may exercise a power in relation to someone else (the *other person*) only if the authorised person—
 - (a) first produces his or her identity card for the other person's inspection; or
 - (b) has the identity card displayed so it is clearly visible to the other person.

- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.

19 Offence

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

20 Protection from liability

- (1) This section applies to—
 - (a) an authorised person; and
 - (b) a person acting under the direction of an authorised person.
- (2) The person does not incur civil liability for an act done or omission made honestly and without negligence under this local law.
- (3) A liability that would, apart from this section, attach to the person attaches instead to the local government.

Part 6 Review

21 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 made on an earlier application for review.

22 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 28 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).

23 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.

24 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 7 Subordinate local laws

25 Subordinate local laws

The local government may make subordinate local laws about—

- (a) declaring animals or plants of specified species to be pests;⁴ or
- (b) other matters about which this local law specifically allows for the making of subordinate local laws.

⁴ See section 5(1).

Schedule Dictionary

section 3

animal means an organism (other than a human being) that is not a plant and includes eggs and semen.

authorised person means a person appointed by the local government to be an authorised person for this local law.

control notice see section 9.

declared pest means a plant or animal declared to be a pest under section 5 or 6.

Department means the department responsible for the administration of the Land Protection (Pest and Stock Route Management) Act 2002.

environmentally significant area means an environmentally significant area under the *Lands Protection (Pest and Stock Route Management) Act 2002*.

plant means vegetation of any type, including its flowers, roots, seeds and other parts.

reviewable decision see section 21.

the Act means the *Local Government Act 1993*.