

House of Assembly—No 30

As laid on the table and read a first time, 7 June 2007

South Australia

**Dog and Cat Management (Cats) Amendment
Bill 2007**

A BILL FOR

An Act to amend the *Dog and Cat Management Act 1995*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Dog and Cat Management Act 1995*

- 4 Amendment of section 4—Interpretation
 - 5 Amendment of section 5—Owner of dog or cat
 - 6 Insertion of section 7A
 - 7A Cat wandering at large
 - 7 Amendment of section 21—Functions of Board
 - 8 Amendment of section 25—Dog and Cat Management Fund
 - 9 Amendment of section 26—Council responsibility for management of dogs
 - 10 Amendment of section 26A—Plans of management relating to dogs
 - 11 Insertion of Part 7 Divisions A1 and A2
 - Division A1—Administration of provisions relating to cats
 - 67A Council responsibility for management of cats
 - 67B Plans of management relating to cats
 - Division A2—Registration of cats
 - 67C Cats must be registered
 - 67D Registration procedure for cats
 - 67E Registration procedure for businesses involving cats
 - 67F Duration and renewal of registration
 - 67G Notifications to ensure accuracy of registers
 - 67H Transfer of ownership of cat
 - 67I Rectification of register
 - 67J Cat to be properly identified
 - 67K Applications and fees
 - 67L Records to be kept by approved boarding catteries
 - 12 Insertion of Part 7 Division 3A
 - Division 3A—Identified cats in other areas
 - 76A Seizure and detention of identified cats
 - 76B Procedure following seizure of cat
 - 76C Limits on entitlement to return of cat
 - 76D Destruction or disposal of seized cat
 - 76E Recovery of costs of seizure, detention or destruction
 - 13 Amendment of section 81A—Interference with dog or cat in lawful custody
 - 14 Amendment of section 85—Continuing offences
 - 15 Amendment of section 88—Evidence
 - 16 Amendment of section 91—Regulations
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Dog and Cat Management (Cats) Amendment Act 2007*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

5 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Dog and Cat Management Act 1995*

4—Amendment of section 4—Interpretation

- (1) Section 4, definition of *corresponding law*—after "dogs" insert:
or cats
- 10 (2) Section 4, definition of *own* a dog—after "dog" insert:
or cat
- (3) Section 4, definition of *registration disc*—after "dog" insert:
or cat
- (4) Section 4, definition of *registration fee*—after "section 26(6)" insert:
15 and 67A(6)
- (5) Section 4, definition of *wandering at large*—delete the definition and substitute:
wandering at large—
 - (a) in relation to a dog—see section 7;
 - (b) in relation to a cat—see section 7A.

20 5—Amendment of section 5—Owner of dog or cat

Section 5—after "dog" wherever occurring insert in each case:
or cat

6—Insertion of section 7A

After section 7 insert:

25 7A—Cat wandering at large

- (1) For the purposes of this Act, a cat will be taken to be wandering at large while the cat is in a public place, or, without the consent of the occupier, a private place, and is not held or restrained by a person nor effectively secured in a cage, vehicle or other object or structure.
- 30 (2) However, a cat will not be taken to be wandering at large while the cat is participating in an organised show.

7—Amendment of section 21—Functions of Board

- (1) Section 21(1)(b)—after "dogs" first occurring insert:
and cats

(2) Section 21(1)(b)(ii)(A)—after "dogs" insert:

and cats

(3) Section 21(1)(b)(ii)(B)—after "dog management officers" insert:

and cat management officers

5 (4) Section 21(1)(b)(ii)(E)—after "dogs" insert:

and cats

(5) Section 21(1)(b)(ii)(G)—after "dogs" insert:

or cats

8—Amendment of section 25—Dog and Cat Management Fund

10 (1) Section 25(3)(b)—delete "dog"

(2) Section 25(4)(a)—after "dogs" insert:

or cats

(3) Note—delete note

9—Amendment of section 26—Council responsibility for management of dogs

15 (1) Section 26(3)—delete "this Act" first occurring and substitute:

Part 4

(2) Section 26(6)(b)(i)—delete "under Part 5" and substitute:

involving dogs

(3) Section 26(6)(b)(iii)—after "Act" insert:

20 relating to dogs

(4) Section 26(7)—after paragraph (c) insert:

(d) if the owner of the dog is a concession card holder (within the meaning of the regulations),

10—Amendment of section 26A—Plans of management relating to dogs

25 Section 26A(1)—delete "and cats"

11—Insertion of Part 7 Divisions A1 and A2

Before section 68 insert:

Division A1—Administration of provisions relating to cats

67A—Council responsibility for management of cats

30 (1) Each council is required to administer and enforce the provisions of this Act relating to cats within its area and for that purpose must—

(a) maintain a register of cats containing the information required by the Board (which may be kept in the form of a computer record) that is to be readily available for public inspection; and

35

- 5
- 10
- 15
- 20
- 25
- 30
- 35
- 40
- (b) ensure that the Board is provided with information contained in the register as required by the Board from time to time; and
 - (c) appoint a suitable person to be Registrar; and
 - (d) make satisfactory arrangements for issuing and replacing certificates of registration and registration discs; and
 - (e) appoint at least 1 cat management officer or make other satisfactory arrangements for the exercise of the functions and powers of cat management officers; and
 - (f) make satisfactory arrangements for the detention of cats seized under this Act; and
 - (g) make satisfactory arrangements for fulfilling other obligations under this Act relating to cats.
- (2) The arrangements made by a council under this section must be satisfactory to the Board.
- (3) Money received by a council under this Part must be expended in the administration or enforcement of the provisions of this Act relating to cats.
- (4) Each council must keep separate accounts of money received under this Part and of money expended in the administration and enforcement of the provisions of this Act relating to cats.
- (5) A council must pay into the Fund the percentage fixed by regulation of the cat registration fees received by the council.
- (6) Councils may charge—
- (a) fees for the provision of extracts from registers kept under this Part; and
 - (b) fees (which may be differential) approved by the Minister—
 - (i) for the registration of cats under this Part; and
 - (ii) for late payment of registration fees; and
 - (iii) for meeting any other requirement imposed on councils under this Act relating to cats.
- (7) Without limiting the matters that may be taken into account when setting fees to be approved by the Minister, councils must provide for a percentage rebate of the fee that would otherwise be charged for the registration of a cat in the following cases:
- (a) if the cat is desexed;
 - (b) if—
 - (i) the cat has been implanted with a microchip for the purposes of identification; and
 - (ii) the information contained in the microchip is up-to-date;

- (c) if the owner of the cat is a concession card holder (within the meaning of the regulations),

(and, if more than 1 rebate applies in respect of a particular cat, the rebates are to be aggregated and deducted from the registration fee that would otherwise be charged).

67B—Plans of management relating to cats

- (1) Each council must, in accordance with this section, prepare a plan relating to the management of cats within its area.
- (2) A plan of management—
- (a) must include a provision limiting to 2 or less the number of cats that may be kept on any premises other than a cattery; and
- (b) must make provision for establishing a scheme for the desexing of cats; and
- (c) may make provision for the setting of curfew periods during which cats must be effectively confined to premises occupied by a person who is responsible for the control or entitled to the possession of the cat.
- (3) A plan of management may make provision for the exemption (conditionally or unconditionally) of a body, or a person, or a body or person of a class specified in the plan, from a provision of the plan.
- (4) A plan of management must be prepared and presented to the Board as follows:
- (a) the first plan must cover a 5 year period and be prepared and presented within 3 years after the commencement of this section;
- (b) subsequent plans must cover subsequent 5 year periods and each plan must be prepared and presented at least 6 months before it is to take effect.
- (5) A plan of management must be approved by the Board before it takes effect.
- (6) A council may, with the approval of the Board, amend a plan of management at any time during the course of the 5 year period covered by the plan.

Division A2—Registration of cats

67C—Cats must be registered

- (1) Every cat of or over 3 months of age must be registered under this Act.

- (2) If a cat of or over 3 months of age is unregistered, any person who owns the cat is guilty of an offence.
Maximum penalty: \$250.
Expiation fee: \$80.
- 5 (3) If a person is guilty of an offence by reason of a cat being unregistered, the person is guilty of a further offence for each 14 days that the offence continues.
Maximum penalty: \$250.
Expiation fee: \$80.
- 10 (4) A person is not guilty of an offence against this section by reason of the fact that the cat is unregistered if—
- (a) less than 14 days has elapsed since the person first owned or became responsible for the control of the cat; or
 - (b) the cat—
 - 15 (i) is travelling with the person; and
 - (ii) is not usually kept within the State; and
 - (iii) is registered under a corresponding law or is usually kept outside Australia (but a person may not rely on this exception unless he or she has produced, at the request of a cat management officer, satisfactory evidence of the matters specified in this subparagraph); or
 - (c) the person is responsible for the control of the cat only by reason of the cat being temporarily boarded at a boarding cattery approved by the council in whose area the cattery is situated.
- 25
- (5) This section does not apply—
- (a) to a cat that has not been kept in any one area for more than 14 days in aggregate; or
 - 30 (b) to a cat while held in the custody of—
 - (i) the *Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated*; or
 - (ii) the *Animal Welfare League of South Australia, Incorporated*; or
 - 35 (iii) a registered veterinary surgeon acting in that capacity; or
 - (iv) a person acting under this Act or any other Act; or
 - (v) a body, or a person, or a body or person of a class, specified by regulation.

67D—Registration procedure for cats

- (1) An application for registration of a cat—
- (a) must be made to the Registrar for the area in which the cat is (or is to be) usually kept in the manner and form approved by the Board; and
 - (b) must nominate a person of or over 16 years of age who consents to the cat being registered in his or her name.
- (2) Subject to subsection (3), on application and payment of the registration fee and any fee for late payment of the registration fee, the Registrar must register the cat in the name of the person nominated and issue to that person a certificate of registration, and a registration disc, conforming with the requirements of the Board or the regulations.
- (3) A cat registered in the name of a particular person must, on application to the Registrar of the area in which the cat is kept, be registered in the name of some other person who is of or over 16 years of age and consents to the cat being registered in his or her name.

67E—Registration procedure for businesses involving cats

- (1) The owner or operator of a business consisting of or involving a cattery at which cats are bred may apply, in the manner and form approved by the Board, to the Registrar of the area in which the business is (or is to be) situated or from which the business is (or is to be) operated for registration of the business.
- (2) On application and payment of the registration fee and any fee for late payment of the registration fee, the Registrar must, if satisfied that the applicant genuinely owns or operates a business as referred to in subsection (1), register the business and issue to the applicant a certificate of registration conforming with the requirements of the Board.
- (3) If a business is registered under this section, all cats bred at the cattery that are of or over 3 months of age will, while kept at the cattery, be taken to be registered.

67F—Duration and renewal of registration

- (1) Registration under this Act remains in force until 30 June next ensuing after registration was granted and may be renewed from time to time for further periods of 12 months.
- (2) If an application for renewal of registration is made before 31 August of the year in which the registration expired, the renewal operates retrospectively from the date of expiry.
- (3) Registration of a cat under this Act expires if the cat is removed from the area in which it is registered with the intention that it will be usually kept at a place outside that area and 14 days have elapsed since it was removed from that area.¹

Note—

1 In that event the cat must be re-registered in the new area.

67G—Notifications to ensure accuracy of registers

5 (1) The person in whose name a cat is individually registered must inform the Registrar of the area in which the cat is registered as soon as practicable after any of the following occurs:

- 10 (a) the cat is removed from the place recorded in the register as the place at which the cat is usually kept with the intention that it will be usually kept at some other place (whether in the same area, in a different area or outside the State);
- (b) the cat dies;
- (c) the cat has been missing for more than 72 hours;
- (d) the ownership of the cat is transferred to another person.

Maximum penalty: \$250.

15 Expiation fee: \$80.

 (2) Information given to the Registrar under this section must include such details as may be reasonably required for the purposes of ensuring the accuracy of registers kept under this Act.

67H—Transfer of ownership of cat

20 If ownership of a cat is transferred from the person in whose name the cat is individually registered, the person must give to the new owner the certificate of registration and registration disc last issued in respect of the cat.

Maximum penalty: \$250.

25 Expiation fee: \$80.

67I—Rectification of register

 A person aggrieved by an entry in a register under this Act may apply to the council for the rectification of the register.

67J—Cat to be properly identified

30 If a cat is not identified as prescribed by the regulations, the person who owns the cat is guilty of an offence.

Maximum penalty: \$250.

Expiation fee: \$80.

67K—Applications and fees

35 (1) An application under this Part—

- (a) must be made in the manner and form required by the Board; and
- (b) must be accompanied by any document or certificate required by the Board; and

- (c) must be accompanied by the appropriate fee.
- (2) For the purpose of determining an application under this Part or the fee to accompany the application, the Registrar to whom the application is made may require the applicant to produce satisfactory evidence supporting the application.

67L—Records to be kept by approved boarding catteries

The operator of a boarding cattery approved by a council for the purposes of this Part must keep records of all cats kept at the cattery, and provide extracts from the records to the council, as required by the Board.

Maximum penalty: \$250.

Expiation fee: \$80.

12—Insertion of Part 7 Division 3A

Part 7—after Division 3 insert:

Division 3A—Identified cats in other areas

76A—Seizure and detention of identified cats

- (1) A cat management officer may seize and detain an identified cat found wandering at large in an area in which the officer is authorised to exercise powers.
- (2) A person may seize and detain an identified cat found wandering at large and deliver it, within 12 hours, to—
- (a) a cat management officer; or
 - (b) a facility for the care of cats operated by—
 - (i) the *Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated*; or
 - (ii) the *Animal Welfare League of South Australia, Incorporated*; or
 - (iii) a body or person specified by the regulations.

76B—Procedure following seizure of cat

- (1) If a cat is seized under this Division, it must either—
- (a) be returned to a person who owns or is responsible for the control of the cat; or
 - (b) be detained in a facility approved by the Board for the purpose of detaining cats.
- (2) If a cat is detained, the person causing it to be detained must—
- (a) cause notice of the detention to be given to members of the public by causing a notice to be displayed at the office of the council for the area in which the cat was seized containing—

- (i) a general description of the cat; and
 - (ii) the day and time it was seized; and
 - (iii) the place at which the cat is being detained; and
- (b) if a person who owns or is responsible for the control of the cat is known to the cat management officer or is readily ascertainable—cause notice of the detention to be given, as soon as practicable, to the owner or other person in the manner and form required by the Board.

(3) A notice under subsection (2)(a) must remain displayed for at least 72 hours.

(4) A person aggrieved by the continued detention of a cat under this Division may apply to the Magistrates Court for release of the cat.

76C—Limits on entitlement to return of cat

A person is not entitled to the return of a cat seized under this Division unless the person—

- (a) provides satisfactory evidence that he or she owns or is responsible for the control of the cat, or is authorised to receive the cat by a person who owns or is responsible for the control of the cat; and
- (b) pays—
 - (i) the charges that are payable under the regulations in relation to the seizure and detention of the cat; and
 - (ii) any other outstanding charges or fees payable under this Act in relation to the cat; and
- (c) in the case of an unregistered cat—registers the cat if so requested by the person responsible for the cat while detained.

76D—Destruction or disposal of seized cat

(1) If—

- (a) a cat found wandering at large and detained under this Division is not claimed by a person entitled to the return of the cat within 72 hours from when notice of its detention was last given under this Division; or
- (b) a person in whose name a cat detained under this Division is registered declines to take possession of the cat; or
- (c) money due in relation to a cat detained under this Division is not paid within 7 days after a request for payment,

the person responsible for the cat while detained under this Division may cause the cat to be destroyed or otherwise disposed of.

- (2) If a cat is disposed of under subsection (1) by sale, the proceeds of the sale are the property of the operator of the facility at which the cat had been detained.
- (3) The operator of a facility at which a cat is detained under this Division may cause the cat to be destroyed—
- (a) if satisfied on reasonable grounds—
- (i) that the cat is suffering from injury, disease or sickness to the extent that it is impracticable to maintain the cat; or
- (ii) that the cat is suffering from a serious contagious or infectious disease or sickness; and
- (b) that—
- (i) the destruction is authorised in writing by a registered veterinary surgeon; or
- (ii) no registered veterinary surgeon inspector is reasonably available and that urgent action is required in the circumstances.
- (4) If a cat is destroyed under subsection (3), the operator of the facility must take reasonable steps to inform a person who owns or is responsible for the control of the cat.

76E—Recovery of costs of seizure, detention or destruction

The operator of a facility at which a cat has been detained under this Division may recover the charges that are payable under the regulations in relation to the seizure, detention or destruction of the cat from a person who owns or is responsible for the control of the cat as a debt in a court of competent jurisdiction whether or not the cat has been returned to the person.

13—Amendment of section 81A—Interference with dog or cat in lawful custody

Section 81A—after "dog" insert:

or cat

14—Amendment of section 85—Continuing offences

Section 85(1)—after "section 33" insert:

or 67C

15—Amendment of section 88—Evidence

(1) Section 88(a)(i)—delete subparagraph (i) and substitute:

(i) at a specified time a person owned a dog or cat or was responsible for the control of the dog; or

(2) Section 88(b)—after "dog" insert:

or cat

16—Amendment of section 91—Regulations

Section 91(2)(c)—after "dogs" insert:

or cats