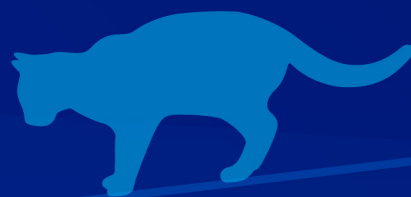
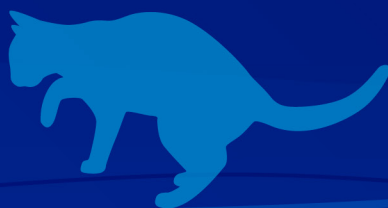




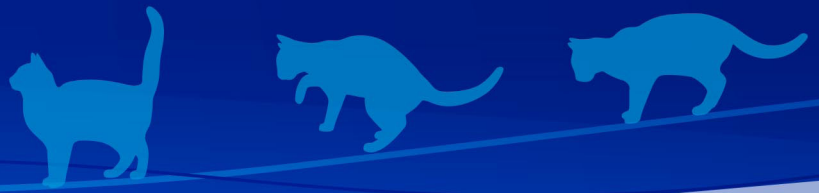
Government of **Western Australia**  
Department of **Local Government and Communities**



# *Cat Act 2011*

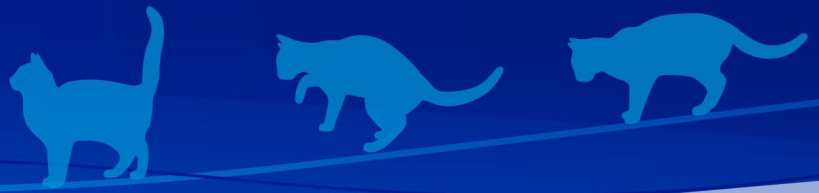
## A guide for local governments (2013)



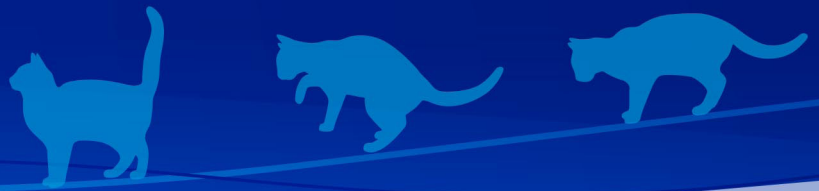


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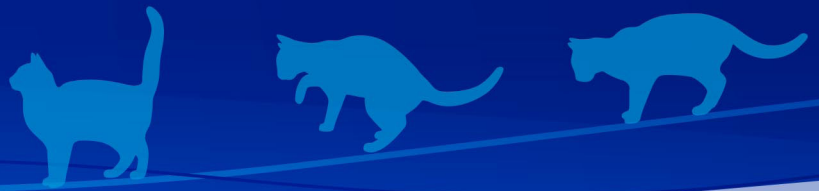
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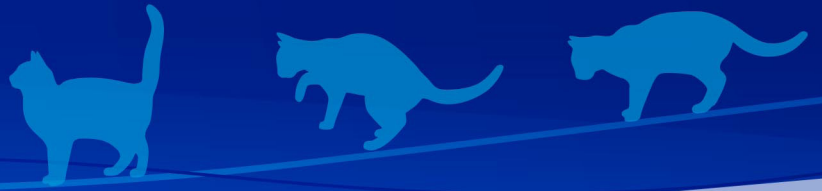
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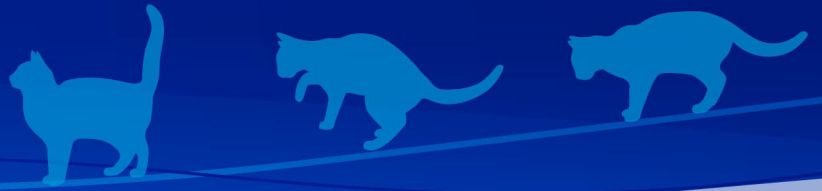


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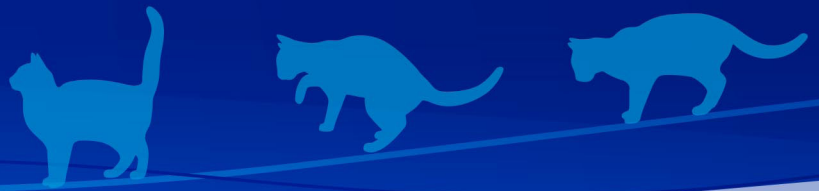
# 1. Introduction

The purpose of the *Cat Act 2011* is to introduce measures to: reduce the large number of stray cats being euthanised each year; encourage responsible cat ownership; and provide for better management of the unwanted impacts of cats on the community and environment.

The key features of the *Cat Act 2011* are to provide that:

- a) all cats, over six months of age, are microchipped, sterilised and registered with the local government area where they are usually kept;
- b) all cats are microchipped and sterilised prior to transfer;
- c) local governments administer and enforce the provisions of the Act;
- d) local governments have authority to seize cats; and
- e) local governments can create local laws for the control of cats within their district.

This handbook is to assist local governments with understanding the *Cat Act 2011* and *Cat Regulations 2012*. It does not replace the legislation and officers should still refer back to the relevant sections of the legislation as required.



## 2. Phased Introduction

To ensure local governments and the community are prepared for the introduction of the Cat Act, the legislation is being introduced in two phases.

Phase 1 commenced on 1 November 2012 and helped provide local governments with the necessary power to prepare their systems prior to the entire Act commencing on 1 November 2013.

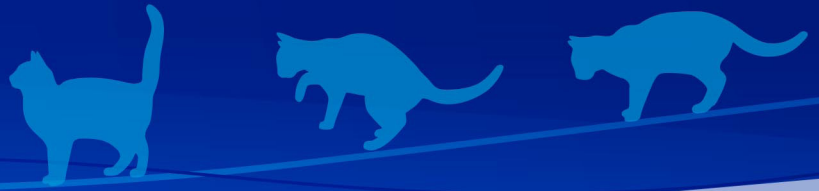
The table below outlines the provisions that commence in each phase.

**Table 1: Phased introduction of the *Cat Act 2011***

<b>Phase 1: 1 November 2012</b>
Section 3-4 (terms)
Section 7 (interference with a tag)
Section 8 – 13 (LG registration procedures)
Section 14(2) – 17 (microchipping: exemptions, managing database)
Section 18(2) - 20 (sterilisation: exemptions, identifying as sterilised and certificate)
Section 25 (Notice of transfer)
Sections 36-40 (approval to breed cats)
Sections 42-48 (administration by LG, appointment of authorised person)
Section 50-54 (other LG powers) *
Section 61-85 (infringement notices, objections, reviews, court proceedings, subsidiary legislation, false or misleading information)
<b>Phase 2: 1 November 2013</b>
Sections 5-6 (requirement to register and wear tag)
Section 14(1) (requirement to microchip)
Section 18(1) (requirement to sterilise)
Section 22-24 (transfer of ownership)
Section 26-35 (LG powers to manage cats)
Section 41 (cats as prizes)
Section 49 (powers of authorised person to destroy cat)
Section 55-60 (search warrants)
Section 86 (review of the Act)

\*covers power to request name, to enter premises and to collect evidence (also to scan a cat and set traps)





## 2.1 Phase 1 – What is expected from local governments?

During Phase 1 certain provisions have been designed to provide local governments the opportunity to get ready to administer and enforce the legislation.

Things that can be done include:

### 2.1.1 Appointing authorised persons

Section 48 of the Act provides that a local government can appoint authorised persons to enforce the legislation.

Generally, an appointed person includes the local government's current rangers. However, it may also include authorised rangers from other local governments or organisations such as the Cat Haven.

Local governments may also need to consider appointing persons who undertake cat control in their area. A local government may choose to set conditions on these appointments (or any other appointments), using section 48(3).

It is important to note that only local government employees are authorised to issue infringement notices.

Appointments must be made in writing. Either persons or classes of persons can be appointed, and a certificate must be issued to the authorised persons.

**Actions:** Rangers and other persons involved in cat control can be appointed as authorised persons for the purposes of the Act.

Appointments should be completed prior to 1 November 2013.

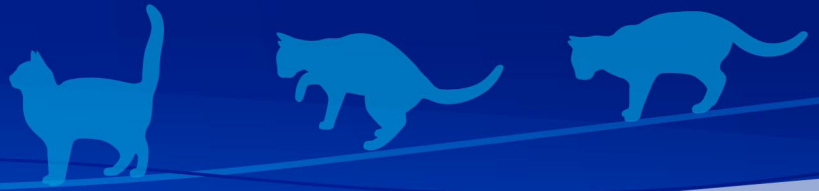
### 2.1.2 Determine/establish Cat Management Facilities

When a cat is seized, it can either be returned to its owner, or taken to a Cat Management Facility (CMF). Part 3, Division 3 provides for the impounding of a cat at a CMF, which includes the requirement to attempt to identify the cat, and that a cat cannot be released unless it is sterilised and microchipped.

Local governments are encouraged to ensure they have a suitable CMF in place prior to the commencement of the legislation on 1 November 2013.

A CMF may include a purpose built facility or anywhere that can safely hold cats for the required impound time (three days for unowned and seven days for owned cats). Facilities might also include a local veterinarian clinic or cattery which can be accessed by authorised persons as required.

**Actions:** Local governments to determine a facility suitable for holding cats for the required impound period.



### 2.1.3 Forms/registration database/online systems

The Act and Regulations require a number of forms and certificates be issued. A majority of the necessary forms are provided in the Cat Regulations, however, local governments may choose to prepare their own forms modelled on those prescribed.

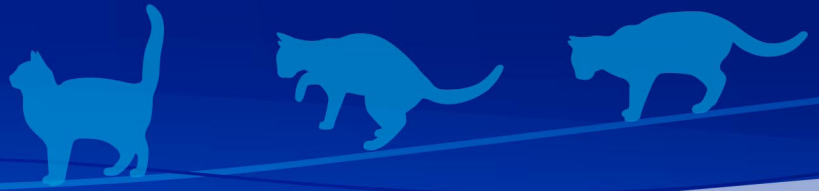
Forms to be prepared include:

- Form 1: Universal form for cat registration/approval to breed/new owner details;
- Form 2: Certificate of registration;
- Form 3: Cat control notice;
- Form 4: Certificate of approval to breed;
- Form 5: Warrant to enter, search and seize;
- Form 6: Infringement notice;
- Form 7: Withdrawal of infringement notice; and
- Form 8: Objection.

The Regulations provide that when issuing a certificate, such as the registration or approved breeder certificate, they need to be issued in either hard or electronic copy. Local governments are encouraged to have electronic versions suitable to be emailed.

The legislation also requires local governments to keep an accurate and up-to-date register of cats registered in the local government (section 12). This register can be in any format the local government prefers as long as it contains the following information prescribed under regulation 16:

- a) the cat owner's full name;
- b) the cat owner's residential address;
- c) the cat owner's postal address (if different from the residential address);
- d) the cat owner's date of birth;
- e) the cat owner's contact telephone numbers — home, work and mobile;
- f) the cat owner's email address;
- g) details of an alternative contact (i.e. if the owner cannot be contacted);
- h) the address at which the cat is normally kept;
- i) the cat's name;
- j) the cat's registration number;
- k) the cat's sterilisation status;
- l) the cat's microchip number; and
- m) the breed (if known), colour and gender of the cat.



**Actions:** Local governments to prepare online registration system. Prepare forms and certificates both in hardcopy and electronic form.

#### 2.1.4 Begin taking registrations

Local governments are required under the Act to carry out the function of registering cats.

As from 1 November 2013, it is an offence for cat owners to have an unregistered cat, therefore local governments need to begin taking registrations prior to this date.

The Department recommends local governments begin taking registrations from August 2013 to coincide with the Department's community education campaign. This timeframe also gives cat owners plenty of time to meet the registration requirements of the *Cat Act 2011*.

On accepting a registration in August, the registration period will have effect from the 1 November 2013, for the period nominated (one or three years, or lifetime).

As registration fees are currently not established, a local government can offer registrations to cat owners with no up-front fee payment if they register prior to 31 October 2013, with the fee payable by the 31 October 2013. By doing this, it will offer local governments the opportunity to upload the owner's details into the system. Once registration fees are in place, local governments can issue a registration notice of the fee due to cat owners.

**Actions:** Registration needs to be offered before the 1 November 2013. Propose that registrations begin to be accepted from August.

#### 2.1.5 Delegations

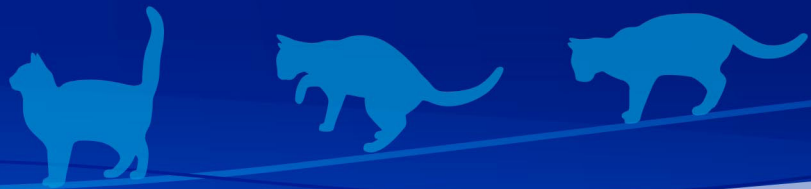
Part 4, Division 2 of the Act provides that any powers or duties can be delegated from the local government to the Chief Executive Officer and from the CEO to an employee.

[Local governments are encouraged to review Local Government Operation Guideline Number 17 – Delegations, in preparing their delegations.](#)

Section 44 of the Act provides that a local government can delegate the exercise of any of its powers or discharge of its duties to the CEO. This can be done as a general or specific delegation, and must be in writing and made by an absolute majority of Council. The power to make local laws (under sections 79 and 80) cannot be delegated, nor the power to prescribe offences under section 62, nor the power to review an objection under section 70.

Section 45 provides that the CEO can delegate his or her functions and duties, including those delegated by the local government. However, the powers and function under sections 63, 64 and 65 cannot be delegated to an authorised officer. These sections deal with content of the infringement, extension of time and withdrawal of notice, respectively.

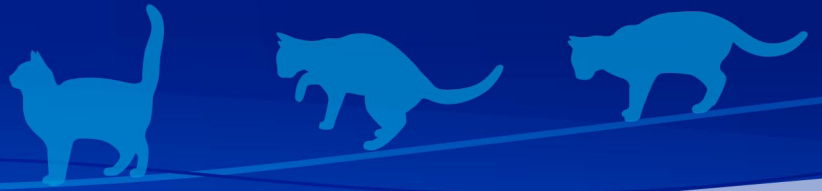
The CEO must keep a register of all delegations (section 47). These are to be reviewed at least annually.



Functions or duties which may be delegated include:

Section / Regulation	Relevant Power or Duty
Section 3	A local government may approve in writing an operator of a cat management facility
Section 9	A local government may grant, renew or refuse an application for cat registration
Section 9(5)	A local government may require an applicant to give documents or information relating to registration, within a specified time of not more than 21 days and may require information to be verified by statutory declaration
Section 10	A local government may cancel the registration of a cat
Section 11	A local government is to issue a registration number, certificate and tag, including a replacement certificate or tag
Section 12	A local government must keep a cat register
Section 13	A local government must notify the owner of cat the outcome of a decision
Section 26	A local government may issue a cat control notice
Section 37	A local government may grant, renew or refuse an approval to breed application
Section 37(3)	A local government may require an applicant to give document or information relating to a breeder application, within a specified time of not more than 21 days and may require information to be verified by statutory declaration
Section 38	A local government may cancel an approval to breed
Section 39	A local government must issue a certificate to an approved breeder
Section 40	A local government must notify the person affected by the decision in writing of the outcome
Section 42	A local government is to administer local laws
Section 47	A CEO needs to keep a register of delegations
Section 48	A local government may appoint, in writing, authorised persons
Section 49	A local government may recover the costs of having to destroy a cat
Section 37, reg 22	A local government may refuse an application to breed if the applicant has had an infringement in the past 12-months

**Actions:** Local governments to prepare the necessary delegations from council to the Chief Executive Officer and from CEO's to other local government employees.

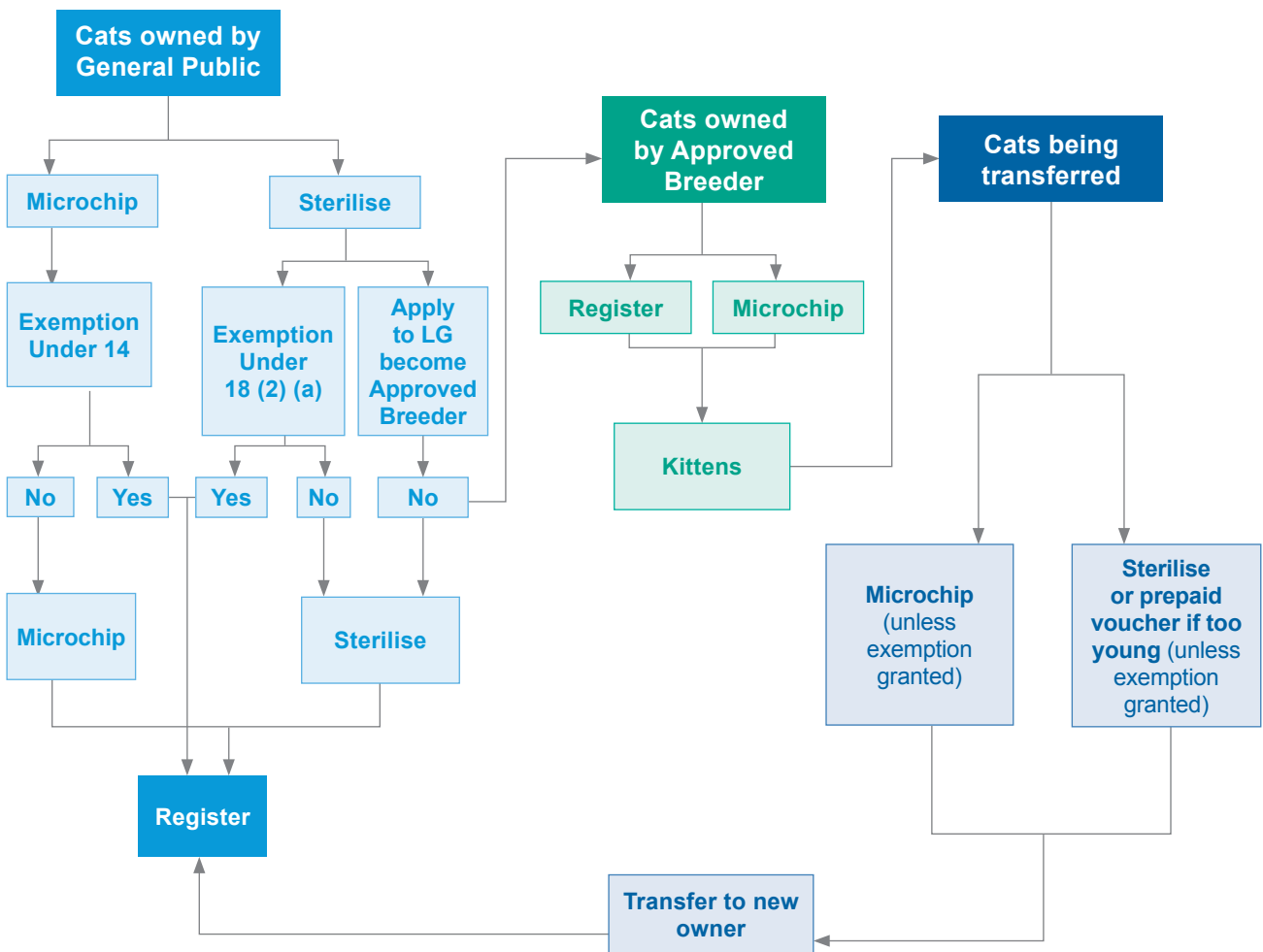


### 3. Flow charts

To assist local governments in understanding the requirements of the legislation, the Department has developed the following flowcharts.

N.B These flowcharts are just a guide and in some circumstances special conditions will apply. Also, please note that the letters "LG" stand for "Local Government".

**Chart 1: Requirements for cat owners and breeders**



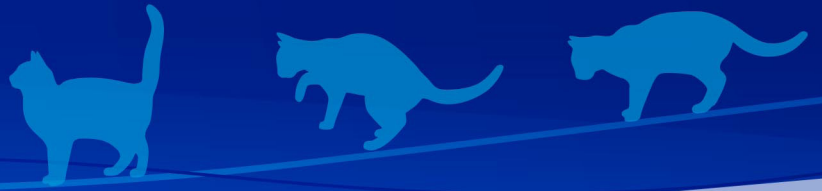
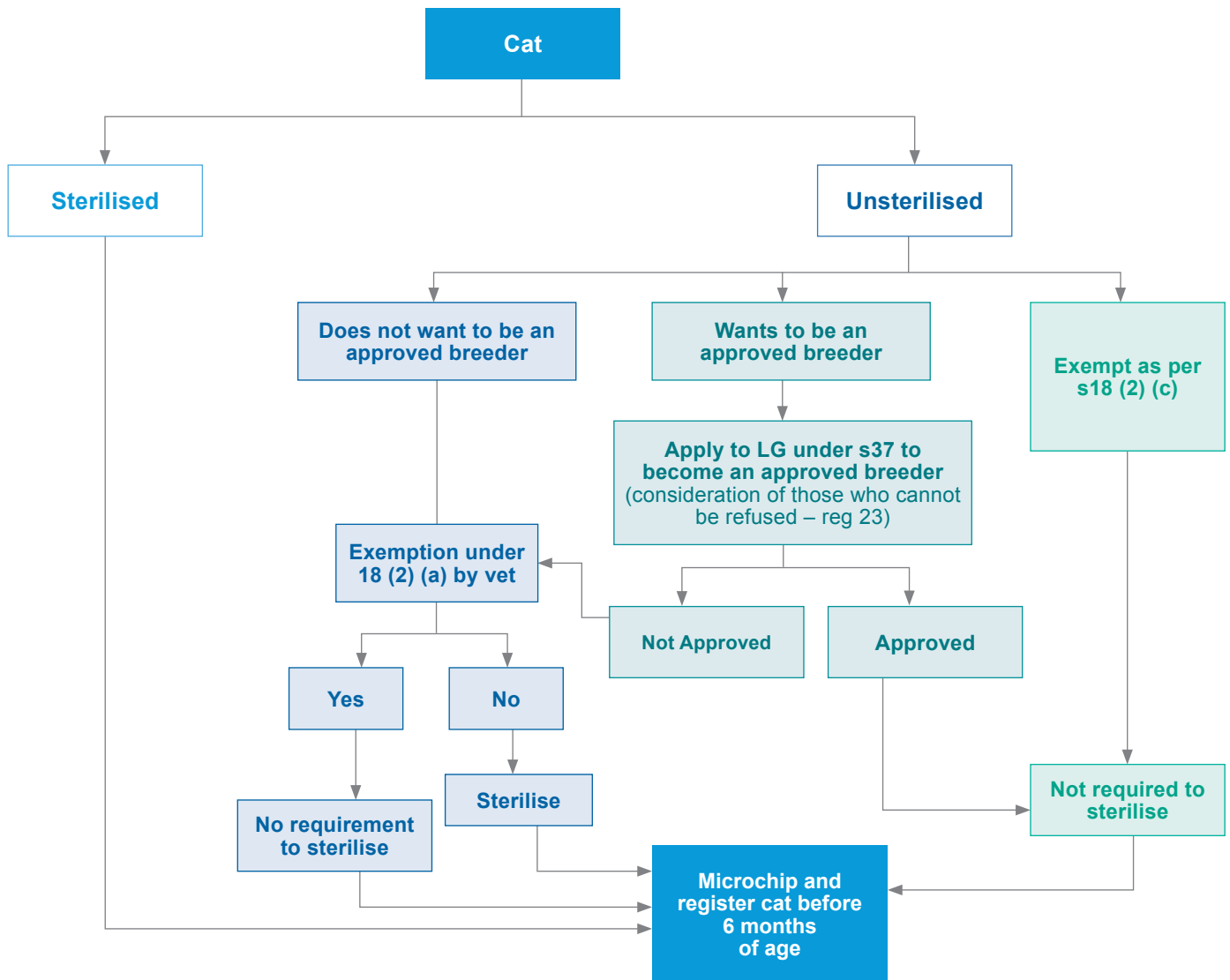
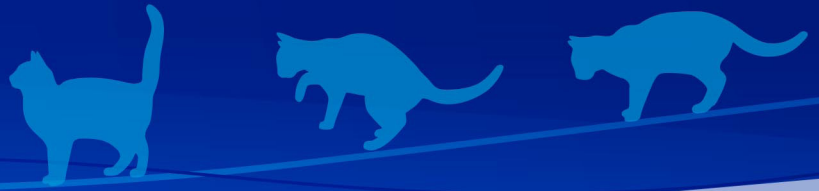


Chart 2: Requirements for cats to be sterilised







## 4. Outline of the Legislation Provisions

Part 4 is designed to provide local governments an overview of the Act and Regulations. It is not designed to replace the legislation but can be read in conjunction with the Act and Regulations to show the intent.

It also provides an overview of the penalties associated with each section.

### Section 1: Short title

The Act is called the *Cat Act 2011*.

### Section 2: Commencement

This section provides for the commencement of the Bill. Section 1 and 2 came into operation on the day on which the Bill receives Royal Assent (9 November 2011).

The remainder of the Bill other than sections 5, 6, 14(1), 18(1), 22-24, 26-35, 41, 49, 55-60 and 86 came into effect on 1 November 2012.

The remaining sections come into effect on 1 November 2013.

### Section 3 and 4: Terms

Section 3 and 4 defines a full list of terms used throughout the Act. Important terms to be aware of include:

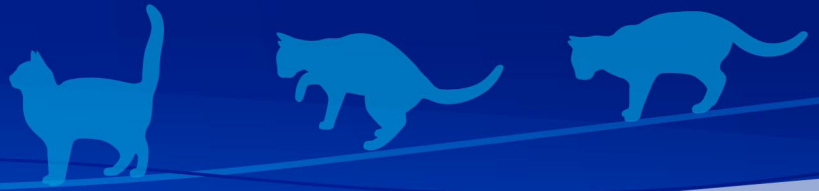
**Approved Cat Breeder:** A person who has approval to breed cats under section 37.

If a person wishes to breed cats, or have unsterilised cats, they must apply to their local government. A form for applying is part of the universal form (Form 1) in the *Cat Regulations 2012*.

The Regulations also specify that applications from breeders who are financial members of specific organisations cannot be refused. This includes persons who are members of the following breeder associations:

- Cat Owners Association of WA;
- Feline Control Council of WA; and
- Australian National Cats (ANCATS).

These associations require members to act responsibly in line with the intent of the Act.



A Cat Management Facility (CMF) is a facility where cats are impounded.

A CMF can be either:

- a) A facility operated by a local government that is, or may be, used for keeping cats;
- b) A facility for keeping cats that is operated by a person or body prescribed; or
- c) A facility for keeping cats that is operated by a person or body approved in writing by a local government.

The Act outlines certain obligations that a CMF operator must undertake.

Regulation 4 prescribes that the RSPCA (WA) and Cat Haven are both Cat Management Facilities.

A local government may also choose to approve a facility to operate as a CMF such as a local veterinary clinic or cattery, however that facility must then abide by the requirements outlined under [Division 3 – Dealing with cats at cat management facilities](#).

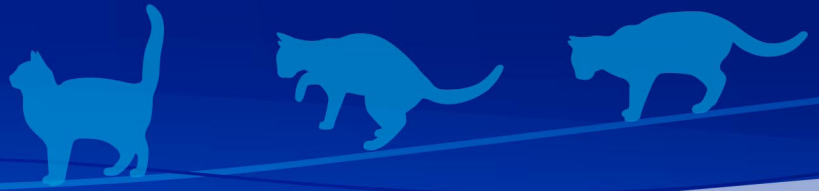
A Microchip implanter is:

- a) A prescribed person; or
- b) A person holding prescribed qualifications for a microchip implanter.

The Regulations prescribe that a veterinarian or veterinary nurse can implant microchips. Additionally, the Regulations prescribe that a person who has the specified unit of competency to implant a microchip, and has a completed one of the following courses, is authorised to implant microchips:

- a) Advanced Certificate in Veterinary Nursing;
- b) Certificate IV in Veterinary Nursing;
- c) Certificate III in Animal Technology;
- d) Certificate III in Companion Animal Services;
- e) Certificate III in Local Government (Animal Management);
- f) Certificate IV in Animal Control and Regulation;
- g) Certificate IV in Animal Welfare (Regulation);
- h) Certificate IV in Captive Animals; or
- i) Certificate IV in Companion Animal Services

An authorised person with the required qualifications can therefore become a microchip implanter.



**Owner:** in relation to a cat, means any of these persons: –

- 1) a) In the case of a cat that is registered, the registered owner of the cats; or  
b) In the case of a cat that is not registered, a person who, or an owner of a business or organisation that, ordinarily keeps and cares for the cat; or  
c) If a person referred to in paragraph (b) is a child under 18 years of age, that child's parent or guardian.
- 2) in the case of a cat that is not registered, but is microchipped, a person whose name is recorded as the owner of the cat in a microchip database is to be taken, in the absence of evidence to the contrary, to be a person who ordinarily keeps and cares for the cat.

Where a cat is registered and microchipped but the details are different, it is the person on the registration database that is the owner.

## Part 2 – of the Act: Registration, Identification and Sterilisation of Cats

### Division 1 – Registration and Tagging

#### Section 5: Cats must be registered

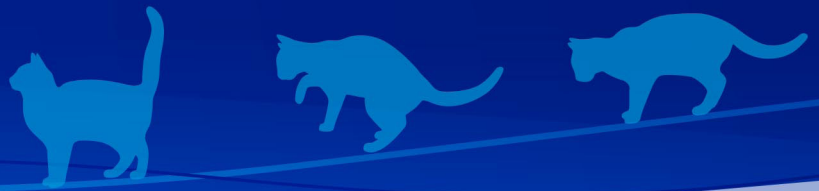
By the time a cat reaches six months of age, it is a requirement that the cat is registered with the local government where the cat ordinarily lives.

The exceptions to this are:

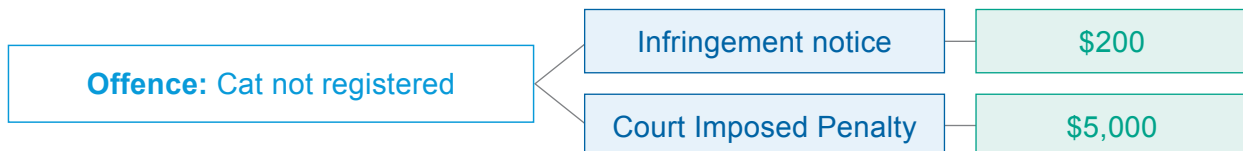
- if the cat has been kept by the person less than 14 days;
- the person has been a resident of the State less than 14 days; or
- the cat is exempt from registration as prescribed under regulation 9.

Cats exempt from registration are cats in the custody of the following:

- Cat Haven;
- RSPCA;
- Australian Customs and Border Protection Services;
- A Cat Management Facility; or
- A veterinary clinic or hospital.



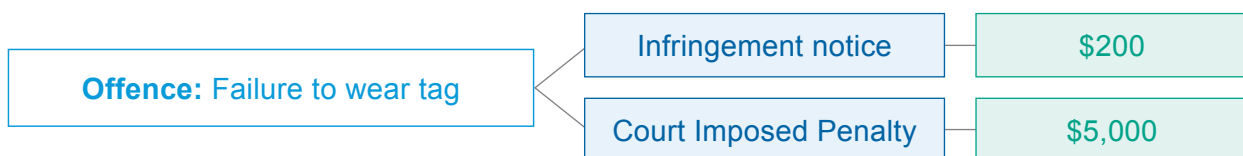
**Foster Carers:** Cats which are in the custody of one of the above organisations, but are placed into foster care, are exempt from registration as it is considered they are still under the control of the organisation. That organisation remains responsible for ensuring the foster carers abide by any necessary rules and regulations.



Registration is a key mechanism to ensure compliance with the legislation through the requirement for cat owners to provide evidence to a local government that the cat is microchipped and sterilised.

### Section 6: Cats to wear tags

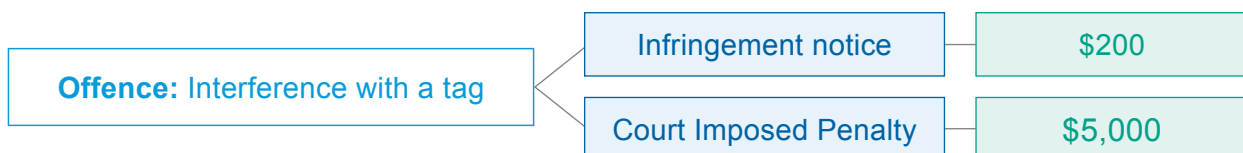
Section 6 requires that all cats must wear the local government issued registration tag when the cat is in a public place, unless it is exempt. Regulation 10 provides that if a cat is being exhibited it is exempt from this requirement.

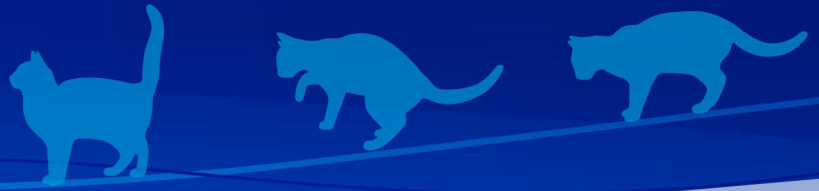


If an accused can establish the cat was not wearing a tag due to an accident, an act by another person, or some other cause beyond their control, and that they took all reasonable precautions to ensure the cat was wearing a tag, then there may be a defence to the charge under this section.

### Section 7: Interference with tag

This section provides an offence for a person who removes or interferes with an issued registration tag.





## Section 8: Application for registration

To apply for registration, a cat owner is required to complete Form 1 in the Regulations, include the required fee and comply with any other requirements, such as providing evidence of sterilisation and microchipping.

Regulation 11 specifies that the manner of application for registration is to complete Parts A, B, D, F and G in Form 1 and submit it in hardcopy or online.

Applicants can apply for one year, three years or lifetime registration, which is to take effect from 1 November in any year.

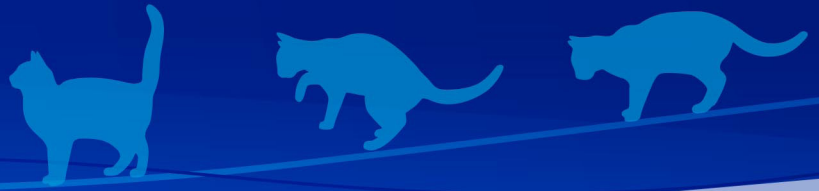
## Section 9: Registration

Section 9 outlines what a local government needs to do and consider when receiving an application to register a cat.

On receipt of an application, a local government is required to either grant/renew the registration or refuse it.

An application **must** be refused if the:

- applicant is under 18 years of age;
- cat belongs to, or is in the custody of:
  - Cat Haven;
  - RSPCA WA;
  - Australian Customs and Border Protection Society;
  - A Cat Management Facility; or
  - A veterinary clinic or hospital.
- cat is not microchipped and no exemption has been issued by a veterinarian under section 14(2);
- cat is not sterilised and:
  - no exemption has been issued by a veterinarian; or
  - the cat is not owned for the purposes of breeding by an approved breeder, (that is, approval under section 37 has been granted).
- Applicant has been convicted within the previous three years of two or more offences against any of the:
  - *Cat Act 2011*;
  - *Dog Act 1976*; or
  - Animal Welfare Act 2002.



Subclauses (5) and (6) provide that a local government can request documentation from an applicant to enable the local government to assess the registration application. A local government will be able to refuse the application if the information is not received in the specified time period.

## **Section 10: Cancellation of registration**

A local government is able to cancel the registration of a cat if the cat has died, is no longer kept in the State, or if the cat has been registered with another local government.

Registration can be cancelled if the owner of the cat has been convicted within the previous 12 months of two or more offences under the:

- *Cat Act 2011;*
- *Dog Act 1976; or*
- *Animal Welfare Act 2002.*

This provides local governments with an avenue to deal with repeat offenders as the cat could be seized for non-compliance for not being registered.

If a cat owner moves to another local government, and notifies both the new and old local government, the period of registration continues to apply in that new local government.

## **Section 11: Registration numbers, certificates and tags**

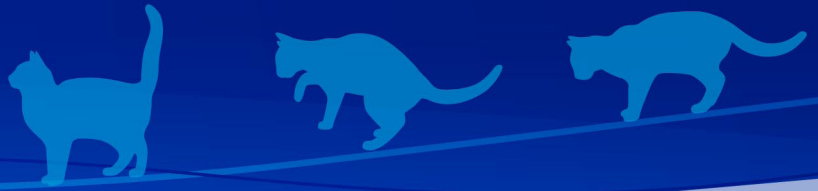
Once a local government registers a cat they are required to provide a registration tag with an allotted number and a registration certificate (Form 2 of the Cat Regulations).

Regulation 15 specifies that the registration tags are to be marked with the allotted number, the name and contact number of the local government and be in the colour representing the year of expiry.

The Minister has approved colours for registration tags which are consistent with the current colours for dog registration tags. The current colours are:

- Green tag for Registration Period ending 31 October 2013
- Yellow tag for Registration Period Ending 31 October 2014
- Red tag for Registration Period Ending 31 October 2015
- Blue tag for Registration Period Ending 31 October 2016
- Orange tag for lifetime Registration





## Section 12: Register of cats

A local government is required to keep an up-to-date register of all cats registered with the local government. The format of this register is up to the individual local government, but it must contain the information outlined in regulation 16 which is:

- the cat owner's full name, address (residential and postal), date of birth, contact numbers and email address;
- details of an alternative contact in the event the owner cannot be contacted;
- the address where the cat is normally kept; and
- the cat's details including name, registration and microchip number, sterilisation status, breed, colour and gender.

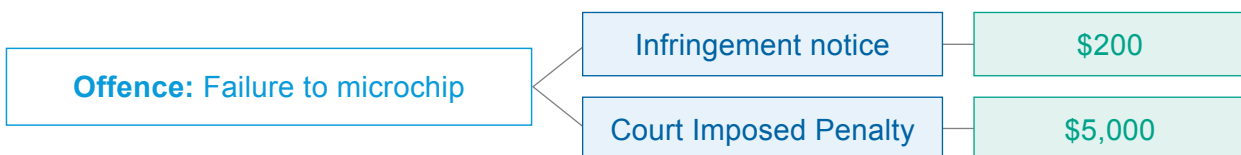
## Section 13: Notice to be given of certain decisions made under this Subdivision

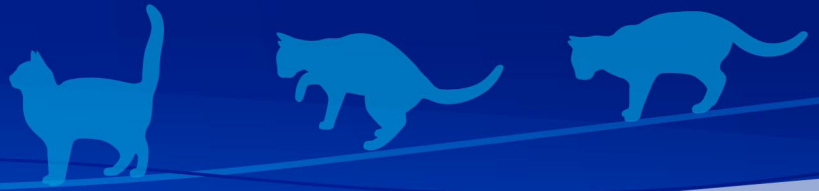
If a local government refuses to grant or renew a registration of a cat, or cancels a registration, they must notify the cat owner in writing within seven days of making the decision. The owner must be notified of the decision; the reasons for the decision; and the person's right for a review.

## Division 2 – Microchipping

### Section 14: Cats to be microchipped

This section requires that the owner of a cat must ensure that by the time a cat has reached six months of age it is microchipped, unless an exemption has been granted by a veterinarian.





## Section 15: Microchip implanter to give information to microchip database company

A microchip implanter is required to give prescribed information to the relevant microchip database company. The information specified in Regulation 17 includes:

- microchip number and barcode;
- full contact details of the implanter;
- specific cat owner details; and
- specific cat details.



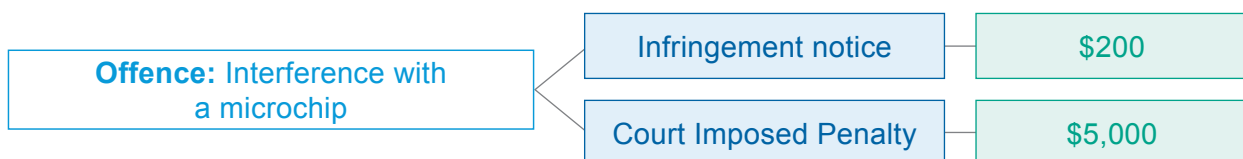
## Section 16: Microchip database company's obligations

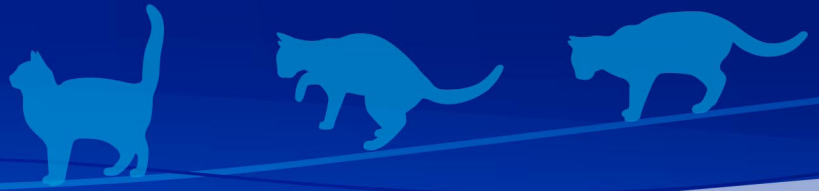
The microchip database company is required to keep and maintain the information as provided under Regulation 17.



## Section 17: Interference with microchips

A person must not, unless there is a reasonable excuse, remove or interfere with a microchip that has been implanted in a cat.





## Division 3 – Sterilisation

### Section 18: Cats to be sterilised

This section requires that the owner of a cat who has reached six months of age is to be sterilised, unless it is exempt.

A cat is exempt from sterilisation if:

- A certificate is given by a veterinarian; or
- The cat is owned by an approved breeder for breeding purposes (refer to Division 4).

**Offence:** Failure to sterilise

Court Imposed Penalty

\$5,000

### Section 19: Identifying as sterilised a cat that is not sterilised

A person must not identify a cat that is not sterilised, as sterilised.

Regulation 18 outlines that a cat is identified as sterilised by the issuance of a certificate or a sterilisation tattoo which is prescribed in the Regulations.

**Offence:** Identifying as sterilised a cat that is not

Court Imposed Penalty

\$5,000

### Section 20: Notice of sterilisation to be given to microchip database company

A veterinarian, who sterilises a cat which is microchipped, is required to notify the relevant microchip database company within seven days that the cat has been sterilised.

**Offence:** Failure to notify the relevant microchip database company that a cat has been sterilised

Court Imposed Penalty

\$5,000

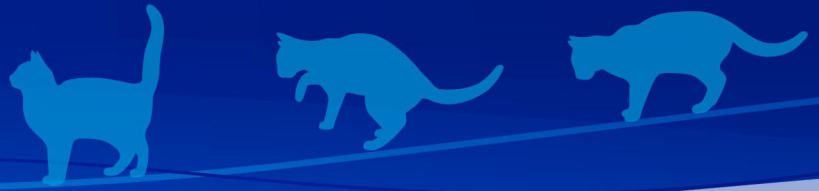
### Section 21: Certificate of sterilisation to be given

This section specifies that a veterinarian that sterilises a cat must give a certificate of sterilisation.

**Offence:** Failure to issue a sterilisation certificate

Court Imposed Penalty

\$5,000



## Division 4 – Transfer of Ownership of Cats

### Section 22: Terms used

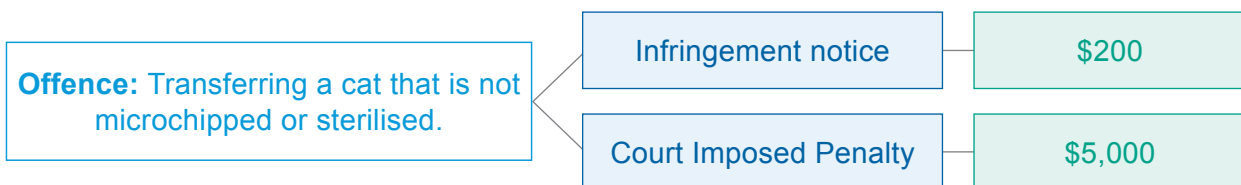
For the purposes of transfer, the purchaser is the person who the cat is being transferred to, and the seller is the person who is transferring the cat to the purchaser.

### Section 23: Transfer of ownership of cats

This section requires that a cat cannot be transferred (which includes being sold, traded or given away), unless it is microchipped and sterilised. This applies to all cats, not just those over six months of age.

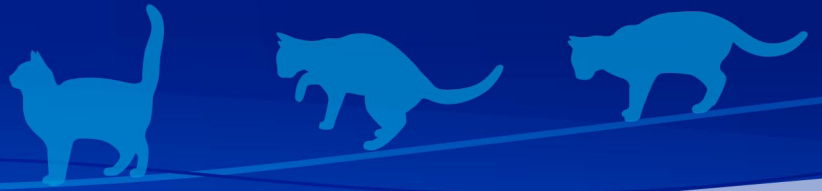
One or both of these procedures does not need to be undertaken if a veterinarian has granted the relevant exemption. For example, if a veterinarian exemption has been granted for sterilisation, the cat only needs to be microchipped.

Additionally, a cat does not have to be sterilised if the seller is satisfied it is being transferred to an approved breeder, or a prepaid voucher is provided. The prepaid voucher is intended to be provided when transferring cats which are too young to be sterilised (i.e. before a veterinarian will undertake the procedure).



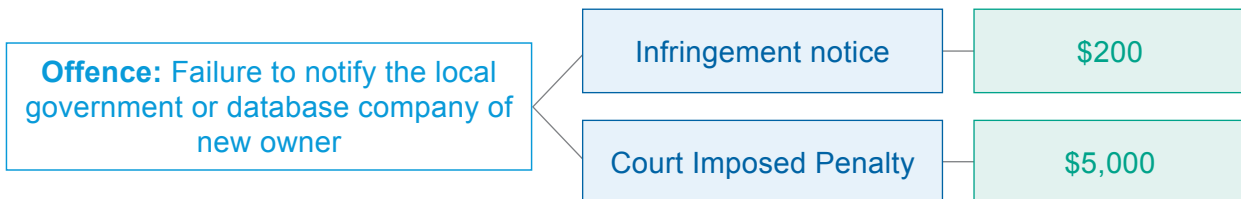
Section 23 does not apply to cats being transferred to organisations outlined in regulation 9, which are:

- Cat Haven;
- RSPCA;
- Australian Customs and Border Protection Service;
- A Cat Management Facility; or
- A Veterinary Clinic or Hospital.



## Section 24: Notice to be given of transfer of cat

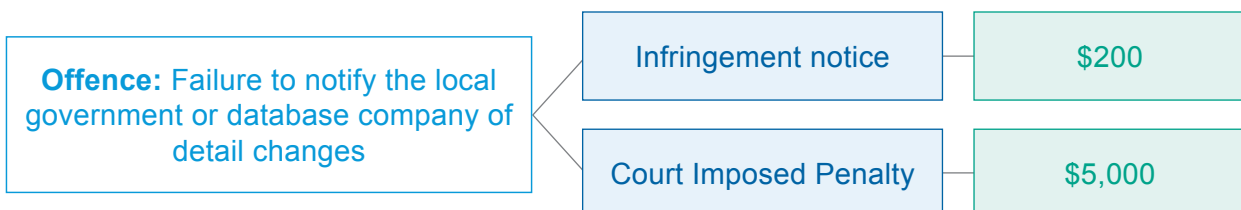
The seller must notify the local government where the cat is registered, and the microchip database company, of the purchaser's details and the information prescribed under regulation 16 and 17 (registration details) within seven days of the transfer of a cat.

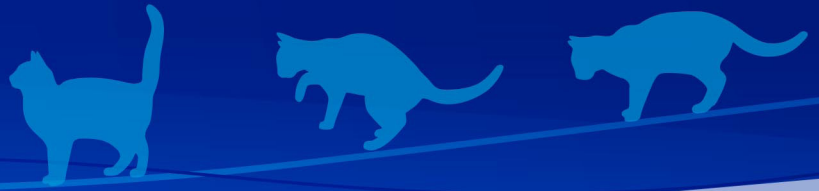


## Division 5 – Changes to Recorded Information

### Section 25: Notice to be given of changes to recorded information

A cat owner is required to update both the local government where the cat is registered, and the relevant microchip database company, within seven days if there are any changes to the information that either organisation is required to keep.





## **Part 3 of the Act – Management of Cats**

### **Division 1 – Cat Control Notices**

#### **Section 26: Cat control notice may be given to cat owner**

This section provides that a local government may issue a cat control notice to the owner of a cat. The notice is intended as a formal notice requiring an owner to comply with provisions of the legislation, for example to sterilise, microchip or register their cats.

The notice must be in the prescribed form (Form 3), identify the cat to which the notice refers, advise the person what provision of the legislation the notice refers to (including local laws) and specify the period they have to comply.

If a cat owner is non-compliant with a cat control notice, local governments can then refer to the particular provision/s being breached and consider issuing an infringement notice or proceeding with court action. The issuance of infringement notices is dealt with under clause 61.

### **Division 2 – Seizing Cats**

#### **Section 27: Cats may be seized**

This section provides that a cat may be seized in a public place by an authorised person if they suspect it is the subject of an offence under the Act (for example is not registered, microchipped or sterilised).

An authorised person is able to seize a cat on a private premises at the request or with the consent of the owner/occupier of the premises, or a under a Warrant.

#### **Section 28: Disposing of seized cats**

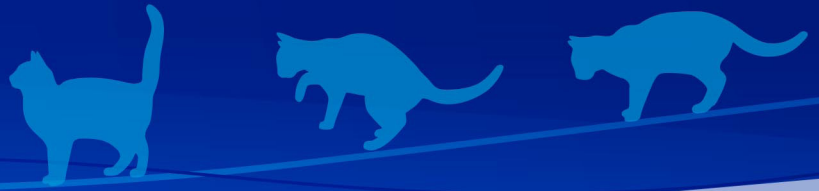
Once a cat has been seized, the authorised person can return the cat to its owner, or impound it at a cat management facility.

### **Division 3 – Dealing with Cats at a Cat Management Facility**

#### **Section 29: Application of this division**

Division 3 does not apply to cats which are temporarily kept at a cat management facility at the request of its owner. In some instances, a local government may utilise a cattery or veterinary clinic as their cat management facility. In these circumstances, sections 30-34 do not apply to cats which are kept there for the purposes of veterinary care or boarding.

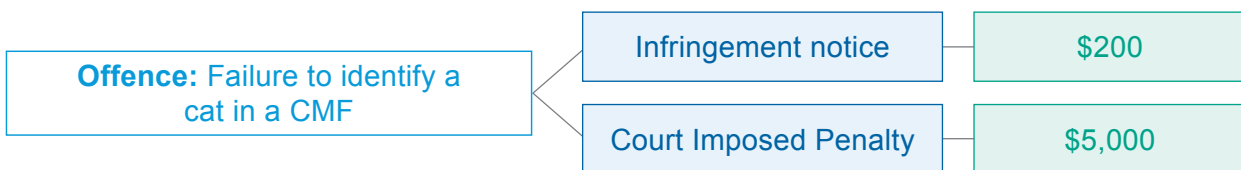




### Section 30: Obligation to identify a cat's owner

The operator of the cat management facility has an obligation to do everything reasonably possible to identify a cat that enters a CMF. This includes checking for a registration tag and scanning for a microchip.

However, if the cat is acting aggressively and will jeopardise the safety of any person, the cat does not have to be scanned.



### Section 31: Cat owner liable to pay costs to cat management facility

If a cat is impounded at a CMF, the owner of the cat is liable to pay all reasonable costs incurred during that period of time. This includes the:

- cost of removing and impounding the cat;
- keeping and caring for the cat;
- implantation of a microchip;
- sterilisation; and
- destruction and disposal.

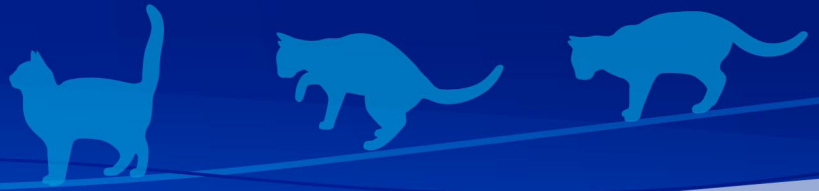
### Section 32: Notice to be given to cat's owner, if identified

If the owner of a cat impounded is identified, the operator of a CMF is required to take all reasonable steps to notify the owner in writing:

- the name and address where the cat is located;
- that the cat may be rehomed/destroyed if not reclaimed within seven days;
- the costs associated with impounding; and
- that the cat may be microchipped and/or sterilised if it has not been done.

Reasonable steps include using the alternative contact details supplied on Form 1 of the Cat Regulations.





### Section 33: Operator of cat management facility may have cat microchipped and sterilised

Before a cat is reclaimed and/or transferred from a CMF, if the operator of the CMF believes the cat is not sterilised and microchipped and does not believe it to be exempt, they can do anything necessary to ensure it is sterilised and/or microchipped before it leaves the facility.

### Section 34: Dealing with unidentified and unclaimed cats

This section specifies what the operator of a CMF can do in the event the owner of a cat is not identified or the cat is not claimed.

- A cat whose owner **cannot** be identified needs to be kept for three working days.
- A cat whose owner **is** identified needs to be kept for seven working days.

After the specified amount of time, or if the cat has been surrendered to the CMF, the operator of the facility may:

- transfer the cat; or
- destroy the cat in a humane manner.

However, if the operator of a CMF believes the cat is feral, diseased or dangerous, or has, or is likely, to cause injury, the cat can be humanely destroyed without being kept for the required period of time. The operator of the facility is to use their discretion to determine if the cat falls into this category, however it is expected it will most likely apply to feral cats.

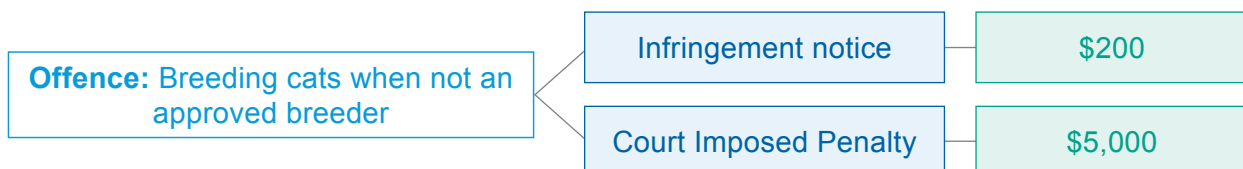
## Division 4 – Breeding of Cats

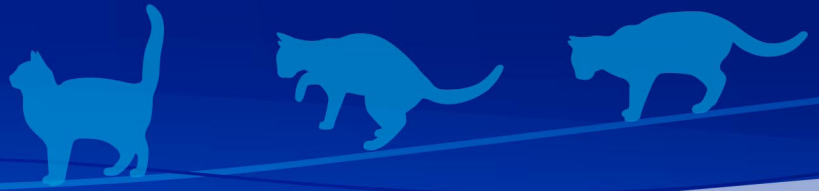
### Subdivision 1 – Restrictions on Breeding Cats

#### Section 35: Only approved cat breeders may breed cats

A person must only breed cats if they are an approved cat breeder.

This section also provides that in the event the person is convicted of an offence under this section, the court can order the person to have their cats sterilised.





## Subdivision 2 – Becoming an Approved Cat Breeder

### Section 36: Application for approval to breed cats

This section provides that a cat owner can apply to their relevant local government for an approval to breed cats.

The application must be made by completing parts A, B, E, F and G of Form 1 as provided in the Cat Regulations. The application also needs to be accompanied by the prescribed fee.

### Section 37: Approval to breed cats

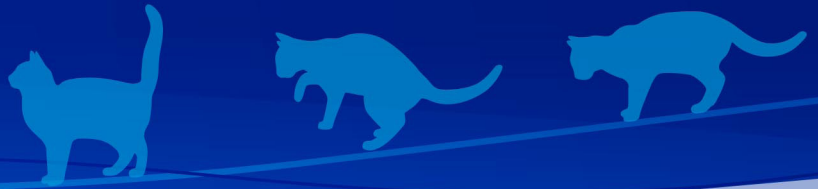
Section 37 outlines what a local government needs to do and consider when receiving an application to register a cat.

On receipt of an application, a local government is required to either grant/renew the approval to breed or refuse it.

An application **may** be refused if the:

- applicant is under 18 years of age;
- applicant has no, or insufficient, facilities to breed cats in a safe and ethical way;
- applicant has no, or unsuitable, premises where cats can be bred in a safe and ethical way;
- applicant has been convicted within the previous three years of an offence against any of the:
  - *Cat Act 2011*;
  - *Dog Act 1976*; or
  - *Animal Welfare Act 2002*;
- applicant is not a fit and proper person to breed cats; or
- any other circumstances prescribed. The Cat Regulations prescribe that if a person has been issued, and paid, an infringement notice in the previous 12 months, a local government can refuse the application. In the event the infringement notice has not been resolved (i.e. not paid), the decision can be deferred until the matter is finalised.

Local governments are to use their discretion to determine whether a person fits within the category to be refused an application. Subclauses (3) and (4) provide that a local government can request documentation from an applicant to enable the local government to assess the registration application and that a local government can refuse to consider the application if the information is not received in the specified time period. A local government may require the applicant to verify information by statutory declaration.



Applications that **CANNOT** be refused

Subclause (5) and Regulation 23 of the Cat Regulations requires that a local government cannot refuse an application for approval to breed if the applicant is:

- Over 18 years of age;
- Has not been convicted within the previous three years of an offence against the Cat Act, Dog Act or Animal Welfare Act; and
- Is a current member of one of the following organisations:
  - Cat Owners Association of WA;
  - Feline Control Council of WA;
  - Australian National Cats.

Cat breeders who fall into this category are to abide by the Code of Conduct of the relevant organisation. In the event a local government has issues with one of the breeders, they are to approach the relevant organisation.

### Section 38: Cancellation of approval to breed cats

A local government may cancel an approval to breed if one or more of the conditions set out in section 37 applies in respect of the breeder.

### Section 39: Certificate to be given to approved cat breeder

A local government that approves a person to breed cats is to issue them with a certificate (Form 4 – Certificate of approved cat breeder).

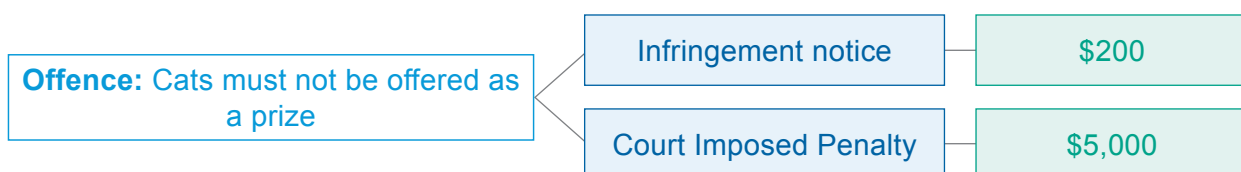
### Section 40: Notice to be given of certain decisions made under this Subdivision

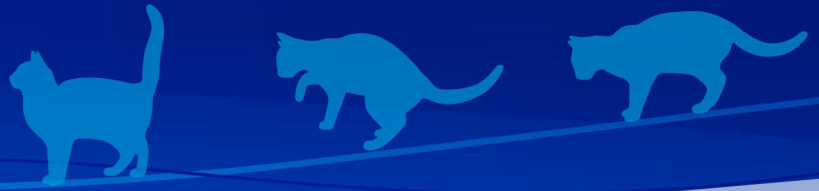
A local government is to notify the applicant of the decision in writing within seven days of making the decision. They must also advise an applicant who is refused that they can request a review of the decision under Part 4 Division 5.

## Division 5 – Miscellaneous

### Section 41: Cats not to be offered as prizes

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





## Part 4 of the Act – Administration and Enforcement

### Division 1 – Administration

#### Section 42: Administration by local governments

This section provides that a local government is to administer its local laws and do all things necessary to perform the functions under this Act.

#### Section 43: Places to be regarded as within district

This clause provides for the Governor to give approval for areas not in a district to be subject to a specific local law.

### Division 2 – Delegations

#### Section 44: Delegations by local government

This section provides for local governments to delegate any of its powers or the discharge of any of its duties to the CEO. The delegation is to be in writing and is to be made by an absolute majority of council. Some specific powers cannot be delegated and are set out in section 45.

#### Section 45: Delegations by local government

This clause provides that a CEO may delegate any power or duties, including those delegated to them by the council of the local government, to an employee of the local government. The delegation needs to be in writing and is subject to any conditions imposed by the CEO or council.

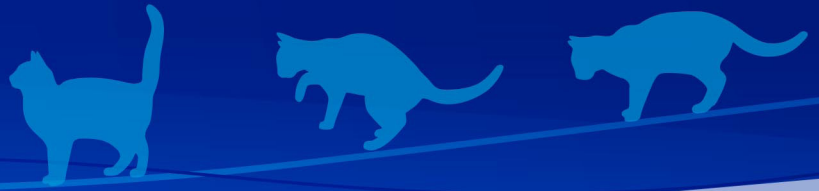
Subclause (6) provides for specific powers that cannot be delegated to an authorised person which includes:

- section 63 (content of infringement notice);
- section 64 (extension of time on payment of an infringement notice); and
- section 65 (withdrawal of an infringement notice).

This is to ensure that no-one associated with the issue of infringement notices is authorised to extend the period of time a modified penalty is to be paid, or to authorise withdrawal of an infringement notice.

#### Section 46: Other matters relevant to delegations under this Division

This section provides for other matters relevant to delegations, including the period of time a delegation has effect (for as long as specified, or if no period specified, then indefinitely), and that the decision to amend or revoke a delegation is to be made by absolute majority of council.



## Section 47: Register of and review of delegations

The CEO of a local government is required to keep a register of delegations and at least once during each financial year the delegations are reviewed.

A person who is delegated a power or duty is to keep records in relation to the exercise of the power or discharge of the duty.

## Division 3 – Authorised Persons

### Subdivision 1 – Appointment of Authorised Persons

## Section 48: Authorised persons

A local government may appoint authorised persons, or classes of persons, to perform particular functions of the legislation. Classes of persons may include all those employed as ‘rangers’.

A person does not have to be a local government employee to be appointed as a ranger. It may also include private sector feral cat control operators and organisations that may provide ranger services.

However, a person must be an employee of the local government to be allowed to issue infringement notices.

A local government may also place conditions on the appointment of any authorised person, such as choosing to restrict areas where an authorised person can seize cats. This will be of particular importance when authorising employees of feral cat control companies as local governments may restrict the location they are allowed to seize cats to a particular reserve or tract of land.

Section 48 also provides that:

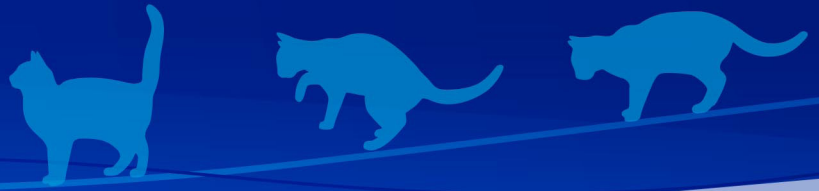
- an authorisation can be cancelled or varied at any time;
- a local government must issue each authorised person a certificate stating their appointment;
- the certificate must be carried by the authorised person at all times they are exercising their powers and must be produced if reasonably requested to; and
- the certificate must be returned when they cease to be an authorised person.

**Offence:** Failure to produce or return authorised person certificate

Court Imposed Penalty

\$5,000





## Subdivision 2 – Particular Powers of Authorised Person

### Section 49: Authorised person may cause a cat to be destroyed

This section provides that an authorised person can make the decision to destroy a cat in a humane manner if:

- it is feral, diseased or dangerous and has caused, or is likely to cause, serious injury to a person, another animal or itself;
- at the request of the owner of the cat; or
- in circumstances, if any prescribed.

It also provides the owner of a cat destroyed under this section is liable for the costs of destruction and disposal and that a local government may recover the costs in court.

### Section 50: Persons found committing breach of Act to give name on demand

A person who has committed, or is suspected of committing, a breach against the Act is to provide their name, address and date of birth to an authorised person if requested.

**Offence:** Refusal to give information on request

Court Imposed Penalty

\$5,000

### Section 51: Power to enter premises

This section deals with the methods that an authorised person can use to enter a premise.

- An authorised person can only enter premises to perform a function of the Act:
- with the consent of the person who is, or appears to be, the owner or occupier; or
- if a notice has been given under section 51(2) and no objection has been made; or
- via a warrant issued under subdivision 3.

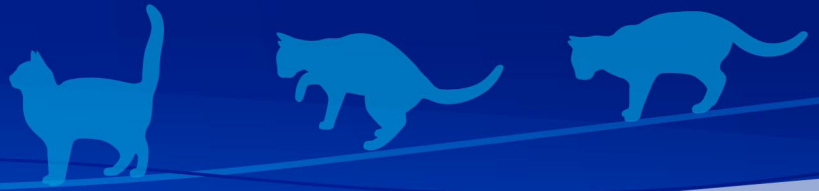
Entry can be made with assistants and equipment as necessary for the purpose of entry.

#### Notices

A notice, which can be issued under section 51(2), is a written notification by an authorised person advising they wish to enter premises. It is intended to be used as an official request rather than using the more formal action of a warrant.

A notification must include the following information:

- that the authorised person wishes to enter the premises;
- the purpose for which entry is required;
- that the owner/occupier may object to the entry, and the period of time within which the objection may be made (not less than 24 hours); and
- how an objection may be made.



A notice has effect until the purpose for the entry required has been completed, but no longer than seven days after the end of the objection period. Entry cannot be effected until the objection period has expired. Successive entries for the purpose that the notice relates can be undertaken within this time period. Entry can also be made under a warrant (see Subdivision 3 — Warrants), which may be an option if the owner/occupier refuses/objects to the notice.

### **Section 52: General powers of authorised person**

An authorised person can undertake the following functions:

- setting humane traps in any public place or any premises lawfully entered;
- examining a cat to determine if the cat is the subject of an offence against the Act (i.e. by scanning the cat);
- examine, copy or take extracts from documents, take photographs or video, or direct a person to answer questions in any premises lawfully entered, and as reasonably necessary, to investigate or collect evidence of an offence.
- This must be related to the investigation of a particular offence.

### **Section 53: Act does not derogate from powers of police officers**

This means that the Act does not take away any of the powers of an authorised officer who is a police officer.

### **Section 54: Obstruction**

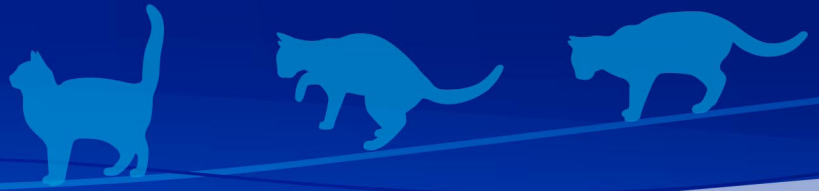
A person must not delay, threaten, obstruct or otherwise hinder an authorised person from performing a function under this Act.

<b>Offence:</b> Obstruction	Court Imposed Penalty	\$5,000
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## **Subdivision 3 – Warrants**

### **Section 55: Grounds for a search warrant**

A justice may issue a warrant for an authorised person to enter a premise. The application is to be supported by evidence on oath that there are reasonable grounds for suspecting there is a breach, or that entry to the premises is required to investigate the suspected offence.



## **Section 56: Grounds for a warrant to seize cat**

A justice may issue a warrant to seize a cat or cats. The warrant application is to be supported by evidence on oath that there are reasonable grounds for suspecting the cat/s, are the subject of an offence against the Act.

## **Section 57: Application for warrant**

This clause provides for the process for applying for a warrant to enter a premise or seize a cat. Section 13 of the *Criminal Investigation Act 2006* applies.

## **Section 58: Form of warrant**

The warrant must be in the prescribed form, which is Form 4 of the Cat Regulations.

## **Section 59: Effect of warrant**

This section provides that a warrant comes into force when issued by a justice.

## **Section 60: Execution of warrant**

A warrant can be executed by:

- the authorised person to whom it is issued;
- a person specified on the warrant; or
- any other authorised person.

The person who is executing the warrant must produce the warrant, if a reasonable request is made by the person who is, or appears to be, the owner/occupier of the premises.

## **Division 4 – Infringement Notices**

### **Section 61: Terms used**

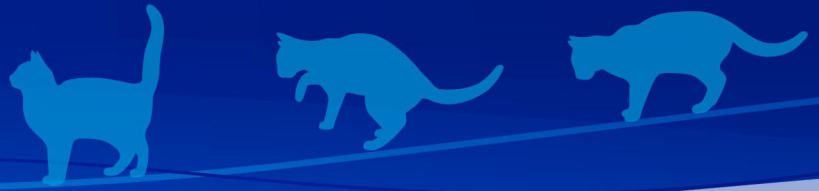
This section defines the terms used in this Division:

- Local government means the local government, or an employee, of which could prosecute for the offence concerned, and
- prescribed means prescribed by a local law, or if the alleged offence is against a regulation or this Act, prescribed by regulations or by a local law.

### **Section 62: Giving an infringement notice**

An authorised person can issue an infringement notice for an offence against the Act, or a regulation or local law made under the Act, within 28 days after the alleged offence.

A local government can only prescribe an offence in a local law if a prosecution can be commenced by a local government and the offence is minor and straightforward.



### **Section 63: Content of infringement notice**

An infringement notice must be in the form prescribed, which is Form 6 of the Cat Regulations.

The modified penalty for infringement notices cannot be more than 10 per cent of the maximum penalty for that offence. Lower amounts have been specified in the Regulations.

### **Section 64: Extension of time**

This section provides that the Chief Executive Officer of a local government can grant extensions for the payment of a modified penalty. This duty cannot be delegated to an authorised person.

### **Section 65: Withdrawal of notice**

This section provides that the Chief Executive Officer of a local government can withdraw an infringement notice.

The withdrawal may only occur within one year after the infringement was issued and has to be issued in Form 7 of the Regulations. If the modified penalty has been paid and the infringement notice is withdrawn, the amount is to be refunded.

This duty cannot be delegated to an authorised person.

### **Section 66: Benefit of paying modified penalty**

This section provides that if a modified penalty is paid it is not an admission for any civil or criminal proceedings.

### **Section 67: Application of penalties**

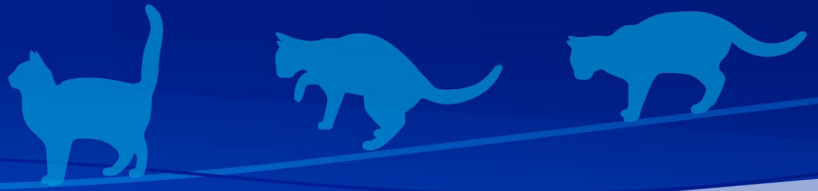
This clause provides that a modified penalty is to be dealt with as if it were a fine imposed by a court.

## **Division 5 – Objections and Review**

### **Section 68: When this division applies**

This section provides that the following sections of the Act can be subject to a review:

- a) refusal to grant or renew registration of a cat under section 9;
- b) cancellation of the registration of a cat under section 10;
- c) refusal to approve or renew the approval of a person to breed cats under section 37; or
- d) cancellation of the approval of a person to breed cats under section 38.



## **Section 69: Objection may be lodged**

This section provides that a person given notice of a decision under section 13 (refusal to register) or 40 (refusal to approve as cat breeder) can apply for a review of the decision. The objection is to be made in the prescribed form in the prescribed manner to the local government within 28 days after the right of objection arose (i.e. 28 days after the decision).

A person who wishes to lodge an objection must do so by completing Form 8 of the Cat Regulations and submitting it to the relevant local government within 28 days after the right of objection arose.

## **Section 70: Dealing with objection**

This section outlines the process that a local government is to undertake when dealing with a lodged objection.

The council, or a committee authorised by the council, is to deal with the objection.

If it is an objection to a decision made by a committee or council it is the council that must deal with the objection.

Once an objection has been received, the person who lodged the objection has to be given the opportunity to make submissions on how the objection should be dealt with (disposed of). The ways in which the objection could be dealt with include:

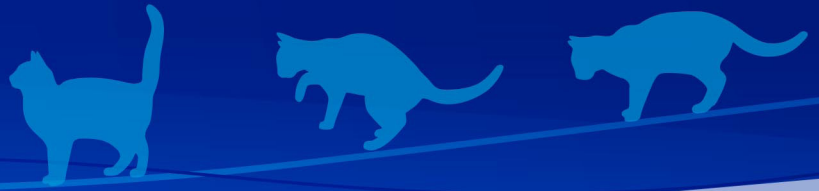
- a) dismissing the objection;
- b) varying the decision; or
- c) revoking the decision, which may include substituting the decision with another or referring the matter to a committee or person.

Once a decision has been made, the person who made the objection must be notified in writing of the decision and the reasons for the decision.

## **Section 71: Review of decisions**

If a person has been issued a notice of a decision under section 13 or 40, that person can lodge an appeal against a decision to the State Administrative Tribunal if:

- a) they have not lodged an objection to the decision within 42 days; or
- b) they lodged an objection but 35 days after lodgement no notice has been given in writing of how the local government decided to dispose of the objection. They have a further 42 days to lodge the appeal (77 days from the original decision); or
- c) if they have been given notice of a decision on how the objection would be disposed of and are not satisfied. This application needs to be made within 42 days of that notice of decision.



## **Section 72: Suspension of effect of some decisions**

This section provides that if an objection or request for review is lodged, the effect of the decision is suspended. This means that the registration or approval continues to have effect, unless otherwise ordered by the State Administrative Tribunal.

## **Division 6 – Legal Proceedings**

### **Section 73: Prosecutions**

Persons who are authorised to commence a prosecution for an offence against the Act are:

- a person acting in the course of their duties as an employee of a local government (for example a ranger); or
- a person who is authorised to do so by a local government.

Persons who are authorised to commence a prosecution for an offence against a local law are:

- a person acting in the course of their duties as an employee of a local government that made the local law; or
- a person authorised to do so by the local government that made the local law.

Unless evidence is given to the contrary, proof is not required for the following:

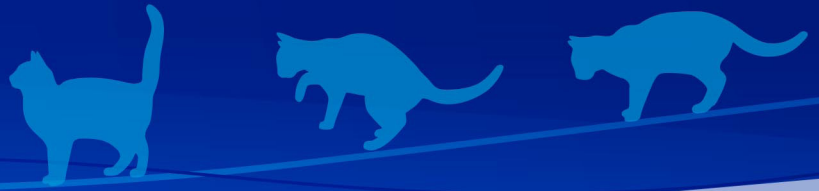
- that the prosecutor is authorised to commence the prosecution; or
- that the signature on the prosecution notice alleging the offence is the signature of the person.

### **Section 74: Additional court orders**

In addition to imposing a penalty on a person convicted of an offence against the Act, the Court can impose other orders. These include banning a person from keeping a cat and requiring that a cat be immediately sterilised and/or microchipped.

The Court is to provide a copy of the order to the local government where the person resides.





## **Section 75: Evidentiary matters**

In proceedings for an offence, the following matters are taken to be proved in the absence of evidence to the contrary:

- a) that a specified cat was not registered;
- b) that a specified person was the registered owner of a specified cat;
- c) that a specified person's name was recorded as the owner of a specified cat in a microchip database;
- d) that a specified person ordinarily kept and cared for a specified cat;
- e) that a specified cat was ordinarily kept in the district of a specified local government;
- f) that a specified person was the owner of a specified cat;
- g) that a specified database was a microchip database;
- h) that a specified person or body was a microchip database company;
- i) that a specified cat was not sterilised;
- j) that a specified cat was not microchipped;
- k) that a specified cat had reached six months of age.

## **Part 5 of the Act – Subsidiary Legislation**

### **Division 1 – Regulations**

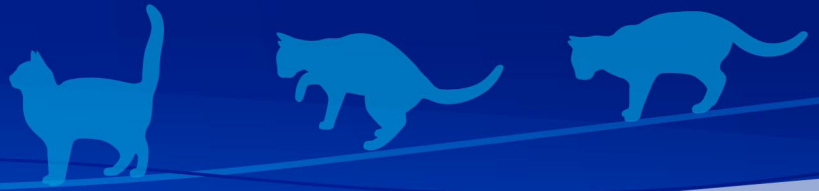
#### **Section 76: General regulations**

The Governor may make regulations for the purposes of the Act.

#### **Section 77: Regulations that operate as local laws**

The Governor may make regulations which operate as if they were a local law for each district. The regulations may deal with any matter in respect of which local laws may be made under Part 5, Division 2 (local laws).

The local government is to administer such a regulation as if it were a local law. If there are any inconsistencies between the regulation and a local law, the regulation prevails to the extent of the inconsistency.



## **Section 78: Provisions about regulations**

Regulations that are made under section 76 or 77 may:

- a) adopt any text that could be adopted by a local law;
- b) provide that contravention of regulations can be an offence with associated penalties including a minimum fine; and
- c) prescribe the method the fines are to be paid, collected or recovered.

## **Division 2 – Local Laws**

### **Section 79: Local laws**

Local governments can make local laws under the Cat Act. A local law does not apply outside the local government's district unless it is made to apply outside under section 80.

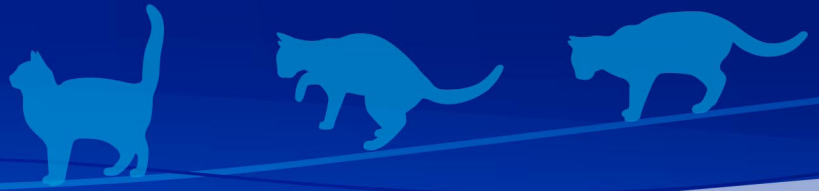
Local laws can be made as to one or more of the following:

- a) the registration of cats;
- b) removing and impounding cats;
- c) keeping, transferring and disposing of cats kept at cat management facilities;
- d) the humane destruction of cats;
- e) cats creating a nuisance;
- f) specifying places where cats are prohibited absolutely;
- g) requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;
- h) limiting the number of cats that may be kept at premises, or premises of a particular type;
- i) the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;
- j) the regulation of approved cat breeders, including record keeping and inspection; or
- k) fees and charges payable in respect of any matter under the Act.

### **Section 80: Places outside district**

This section provides that a local government can make a local law that applies outside their district if approved by the Governor.

Nevertheless, a local government cannot make a local law which applies to a part of the State which is in the district of another local government, or which a local government has made a local law concerning the same subject matter.



### Section 81: Inconsistency with written laws

A local law that is made under this Act is inoperative to the extent of any inconsistencies with this or another Act.

### Section 82: Local laws may adopt codes

A local government may adopt as a local law:

- a model local law;
- a local law of any other local government; or
- any code, rules, specifications, or standard issued by Standards Australia or other body.

The text can be adopted wholly, in part, or as modified by the local law.

### Section 83: Model local laws

This section provides that the Governor can prepare and publish model local laws in the *Government Gazette*.

### Section 84: Creating offences and prescribing penalties

This section provides that a local law may contain offences and penalties up to \$5,000. If the offence is continuing in nature, the local law can make a further penalty of \$500 per day. Local laws can also include a minimum penalty.

## Part 6 of the Act – Miscellaneous

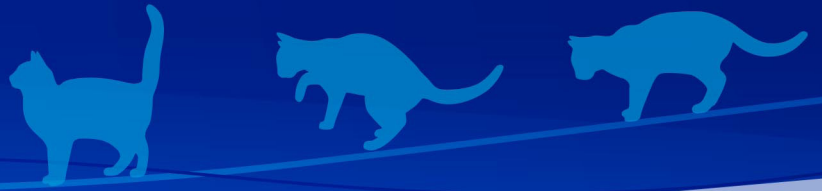
### Section 85: False or misleading information

A person must not give false or misleading information.



### Section 86: Review of Act

This section requires that the Act is reviewed every five years, and that in the course of the review, the Minister must consider the need for the continuation of the Act and any other relevant matters regarding its operation and effectiveness.



## 5. Phase 2 – Commencement of Act

From 1 November 2013, the entire Cat Act takes effect. This means that all cat owners must ensure they register, sterilise and microchip their cats by the time they reach six months of age.

Local governments are responsible for the administration and enforcement of the legislation, but what does this mean for local governments.

### 5.1 Legislative requirements

As with the *Dog Act 1976*, there are a number of provisions that local governments must enforce including:

#### Registration

Section 5 requires that a cat owner must register their cat with the local government where the cat ordinarily lives.

Section 9 provides that a local government must grant, renew or refuse a registration. On making a decision, local governments also need to provide the applicant with a reason for any refusal.

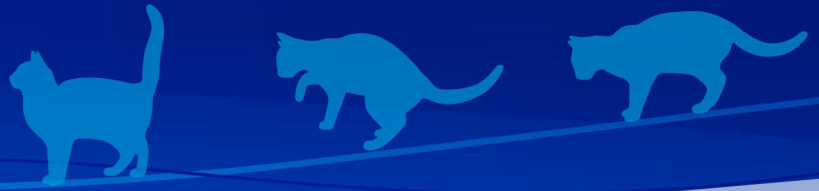
As part of the registration process, local governments also need to issue registration tags. The colours of the registration tags are set by the Minister and are the same as designated for dogs. The current colours were gazetted in the *Government Gazette* Issue No. 232 on 14 December 2012.

Lifetime registration tags are to be coloured orange as prescribed in Regulation 15(2) of the *Cat Regulations 2012*.

Local governments are also required to keep a register of all cats registered by the local government (section 12).

#### Approval to Breed

Section 36 provides that if a person wishes to breed cats they can apply to the local government. Local governments then have to assess the application and grant, renew or refuse the application. On making a decision, the local government also needs to provide the applicant with the reason why an application was refused.



## 5.2 What a local government can choose to do

The legislation is written in a way that allows local governments to determine to what extent they undertake cat management in their district.

There are a number of cat management functions that local governments can choose to undertake:

- Cat control, including trapping programs in particular areas and impounding;
- Employing external rangers to assist with cat control; and
- Introducing a local law to deal with issues such as nuisance, limiting cat numbers and curfews.

## 5.3 How to decide what cat control measures to undertake?

It is expected that most local governments will have an understanding of cat issues in their district. This will be based on the number of complaints that are received on cat related matters, whether cat control is already undertaken, and whether a local law is already in place.

Local governments are encouraged to consult their community to determine what is needed in the way of cat control. It is expected that this will highlight areas where feral cats are an issue, where there is a lot of nuisance behaviour, and where there appears to be areas of irresponsible pet ownership.

Based on the feedback from the community, local governments will be able to gauge whether there is a need to begin trapping programs in certain areas, whether cat free zones need to be introduced through a local law, or an education campaign needs to be targeted to certain areas.

## 5.4 What to do to get people to comply

Each local government is responsible for ensuring cat owners in their district comply with the legislation.

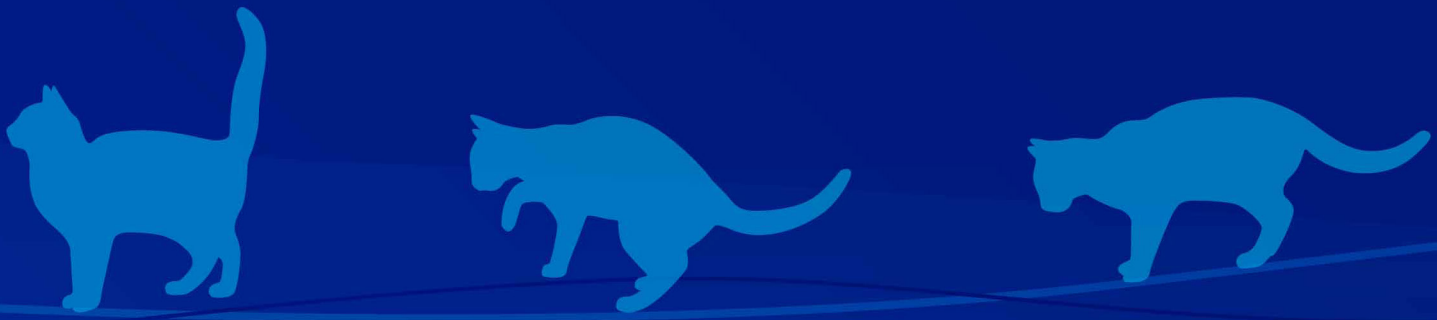
The Department will assist with promoting the legislation during the initial phase, including commencing community awareness activities. Local governments are encouraged to use these activities to get residents to register their cats.

### Non-compliance

The steps a local government may follow to get non complying cat owners to comply are as follows:

- 1) Verbal request
- 2) Issuance of a cat control notice
- 3) Issuance of an infringement notice
- 4) Commence prosecution

If the owner has been convicted of two or more offences in the previous 12 months, the cat registration can be cancelled. The cat can then be seized.



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