

Legislative Council

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South Australia

Dog and Cat Management (Miscellaneous) Amendment Bill 2016

A BILL FOR

An Act to amend the *Dog and Cat Management Act 1995*; and to make related amendments to the *Criminal Law Consolidation Act 1935*, the *Equal Opportunity Act 1984* and the *Major Events Act 2013*.

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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 (Miscellaneous) Amendment Act 2016*.

2—Commencement

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

3—Amendment provisions

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 3—Objects

Section 3(c)—delete "(including through encouragement of the desexing of dogs and cats)"

5—Amendment of section 4—Interpretation

- (1) Section 4—after the definition of *accredited* insert:

animal welfare organisation means—

- (a) the Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated; or
- (b) the Animal Welfare League of South Australia Inc; or
- (c) any other person or body declared by the regulations to be an animal welfare organisation;

- (2) Section 4, definition of *area*, (c)—delete "Areas Community Development Trust" wherever occurring and substitute in each case:

Communities Authority

- (3) Section 4—after the definition of *area* insert:

assistance dog means a dog trained and used for the purpose of assisting a person who is wholly or partially disabled and includes a dog undergoing training of a kind approved by the Board for the purposes of this definition;

- (4) Section 4—after the definition of *attack trained dog* insert:

authorised person means—

- (a) a police officer; or
- (b) a person appointed as an authorised person under section 25A;

- (5) Section 4, definition of *cat management officer*—delete the definition

- (6) Section 4, definition of *council*, (c)—delete "Areas Community Development Trust" and substitute:
- Communities Authority
- (7) Section 4, definition of *dangerous dog*—after "council" insert:
- or the Board
- (8) Section 4—after the definition of *dangerous dog* insert:
- desex* means to permanently render an animal incapable of reproducing (and *desexed* has a corresponding meaning);
- (9) Section 4, definition of *disability dog*—delete the definition
- (10) Section 4, definition of *dog management officer*—delete the definition
- (11) Section 4, definition of *guide dog*—delete the definition
- (12) Section 4, definition of *hearing dog*—delete the definition
- (13) Section 4—after the definition of *Magistrates Court* insert:
- microchip* means an electronic device that is capable of being permanently implanted in an animal and that is designed to record information in a manner that can be electronically retrieved;
- microchipped* or *to microchip*—an animal is microchipped if a microchip is implanted in the animal;
- (14) Section 4—after the definition of *responsible for the control* insert:
- sale* or *sell* includes—
- (a) auction, barter or exchange; or
 - (b) offer for sale, auction, barter or exchange; or
 - (c) cause or permit to be offered for sale, auction, barter or exchange; or
 - (d) possess for the purposes of sale, auction, barter or exchange;
- (15) Section 4, definition of *unidentified cat*—delete the definition and substitute:
- unidentified cat* means a cat that—
- (a) is not microchipped; and
 - (b) is not identified in the manner set out in section 42C; and
 - (c) is not identified in the manner set out in the regulations;
- (16) Section 4, definition of *registered veterinary surgeon*—delete "*Veterinary Surgeons Act 1985*" and substitute:
- Veterinary Practice Act 2003*
- (17) Section 4—after definition of *wandering at large* insert:
- working livestock dog* means a dog—
- (a) usually kept, proposed to be kept or worked on rural land by a person who is—
 - (i) a primary producer; or

- (ii) engaged or employed by a primary producer; and
- (b) kept primarily for the purpose of herding, droving, protecting, tending or working stock, or training for herding, droving, protecting, tending or working stock.

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

- (1) Section 5(1)—after "dog" wherever occurring insert:
or cat
- (2) Section 5(2)—after "dog" wherever occurring insert:
or cat

7—Amendment of section 6—Person responsible for control of dog or cat

- (1) Section 6(1)—after "dog" wherever occurring insert:
or cat
- (2) Section 6(2)—after "dog" wherever occurring insert:
or cat
- (3) Section 6(3)—after "dog" wherever occurring insert:
or cat

8—Amendment of section 21—Functions of Board

- (1) Section 21(1)(b)—after "dogs" wherever occurring insert:
and cats
- (2) Section 21(1)(b)(ii)(B)—delete "dog management officers" and substitute:
authorised persons
- (3) Section 21(1)(b)(ii)(F)—after "keeping" insert:
and inspection
- (4) Section 21(1)(ba)—delete "disability dogs, guide dogs or hearing dogs" and substitute:
assistance dogs
- (5) Section 21(1)—after paragraph (ba) insert:
(bb) to keep and maintain registers for the purposes of this Act;
- (6) Section 21(1)—after paragraph (g) insert:
(ga) to fix fees and charges for the purposes of this Act;

9—Amendment of section 21A—Accreditation of assistance dogs

- (1) Section 21A(1)—delete subsection (1) and substitute:
 - (1) Subject to this section, a prescribed accreditation body may, on application, accredit a dog, or renew the accreditation of a dog, as an assistance dog.

- (1a) A prescribed accreditation body (other than the Board) may only accredit a dog, or renew the accreditation of a dog, of a kind approved by the Board in respect of the prescribed accreditation body.
- (2) Section 21A(2)(a)—delete "the Board in the manner and form approved by the Board" and substitute:
- a prescribed accreditation body in the manner and form determined by the prescribed accreditation body
- (3) Section 21A(3)—delete "the Board with any information required by the Board" and substitute:
- a prescribed accreditation body with any information required by the prescribed accreditation body
- (4) Section 21A(4)—delete "unless it is earlier revoked by the Board or surrendered by the owner of the dog." and substitute:
- unless—
- (a) it is revoked by the Board or the prescribed accreditation body that accredited the dog; or
- (b) it is surrendered by the owner of the dog.
- (5) Section 21A(5)—delete "by the Board"
- (6) Section 21A(6)—delete "The Board may only revoke the accreditation of a dog if the Board" and substitute:
- The accreditation of a dog may only be revoked if the Board or the prescribed accreditation body that accredited the dog
- (7) Section 21A(6)—delete "a disability dog, guide dog or hearing dog (as the case may be)" wherever occurring and substitute in each case:
- an assistance dog
- (8) Section 21A—after subsection (6) insert:
- (7) In this section—
- prescribed accreditation body***—the following are prescribed accreditation bodies:
- (a) the Board;
- (b) The Royal Society for the Blind of SA Inc;
- (c) the Guide Dogs Association of South Australia and Northern Territory Inc;
- (d) Lions Hearing Dogs Inc;
- (e) any other person or body declared by the regulations to be a prescribed accreditation body.

10—Insertion of section 21B

After section 21A insert:

21B—Board may keep register relating to microchipped and desexed dogs and cats

- (1) The Board may keep a register relating to the microchipping and desexing of dogs and cats in accordance with this or any other Act.
- (2) The Register may—
 - (a) contain such information as the Board thinks fit; and
 - (b) subject to this Act, be kept in any manner the Board thinks appropriate (including in an electronic form) and may be combined with another register.
- (3) The regulations may make further provision in relation to a register under this section (including, without limiting the generality of this subsection, provisions requiring the provision of such information to the Board as the Board may reasonably require and provisions regulating access to the register by members of the public).

11—Insertion of section 23A

After section 23 insert:

23A—Delegation

- (1) Subject to this section, the Board may delegate functions or powers (other than a prescribed function or power) to any person or body of persons that is, in the Board's opinion, competent to perform or exercise the relevant functions or powers.
- (2) A delegation under this section—
 - (a) must be in writing; and
 - (b) may be conditional or unconditional; and
 - (c) is revocable at will; and
 - (d) does not prevent the delegator from acting in any matter.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

12—Amendment of heading to Part 3

Heading to Part 3—delete "of provisions relating to dogs" and substitute:
and enforcement

13—Insertion of Part 3 Division 1

Before section 26 insert:

Division 1—Authorised persons

25A—Appointment of authorised persons

- (1) The Board or a council may appoint suitable persons (other than members of the council) to be authorised persons for the purposes of this Act.
- (2) An appointment may be made subject to conditions specified in the instrument of appointment.
- (3) The appointment of an authorised person by the Board or a council may, at any time, be revoked, or the conditions of appointment varied or revoked, by—
 - (a) if the authorised person was appointed by the Board—the Board; or
 - (b) if the authorised person was appointed by a council—the council.

25B—Identification of authorised persons

- (1) An authorised person appointed by the Board or a council must be issued with an identity card in a form approved by the Board.
- (2) If the powers of the authorised person have been limited by conditions, the identity card issued to the person must contain a statement of those conditions.
- (3) An authorised person appointed by the Board or a council must, at the request of a person in relation to whom the person intends to exercise powers under this Act, produce for the inspection of the person his or her identity card.

25C—Area limitation on authorised persons appointed by councils

An authorised person appointed by a council may (subject to any conditions of the appointment of the person) exercise powers under this Act—

- (a) within the area of the council; or
- (b) outside the area of the council for the purposes of—
 - (i) seizing or destroying a dog or cat under this Act that has been pursued from within the area of the council; or
 - (ii) investigating an offence against this Act committed, or suspected to have been committed, within the area of the council; or

- (c) within the area of another council pursuant to an arrangement between the councils or at the request of an authorised person appointed by the other council.

Note—

This section does not apply to authorised persons appointed by the Board.

25D—General powers of authorised persons

- (1) An authorised person may (subject to any conditions of the appointment of the person) for the purposes of the administration or enforcement of this Act—
 - (a) subject to subsection (2), enter and inspect any place or vehicle and use such force as may be reasonably necessary to gain entry; or
 - (b) require a person to produce a dog or cat in the person's possession or control for inspection; or
 - (c) require a person who owns or is responsible for the control of a dog or cat to produce evidence that the dog or cat is microchipped or desexed or both; or
 - (d) require a person to produce documents (which may include a written record reproducing in an understandable form information stored by computer, microfilm or other process) as reasonably required in connection with the administration or enforcement of this Act; or
 - (e) examine, copy or take extracts from documents or information so produced or require a person to provide a copy of any such document or information; or
 - (f) carry out tests, make measurements or take photographs, films or video recordings as reasonably necessary in connection with the administration or enforcement of this Act; or
 - (g) subject to Part 5A, seize and retain anything that the authorised person reasonably suspects may constitute evidence of a contravention of this Act; or
 - (h) require a person whom the authorised person reasonably suspects to have committed, or to be committing or about to commit, any breach of this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity; or
 - (i) require a person who the authorised person reasonably suspects has knowledge of matters in respect of which information is reasonably required for the administration or enforcement of this Act to answer questions in relation to those matters; or
 - (j) give expiation notices to persons alleged to have committed expiable offences under this Act; or

- (k) give any directions reasonably required in connection with the exercise of a power conferred above or otherwise in connection with the administration or enforcement of this Act.
- (2) An authorised person cannot exercise the power conferred by subsection (1)(a) except—
 - (a) with the consent of the owner or occupier of the place or the owner or person in charge of the vehicle; or
 - (b) on the authority of a warrant issued by a justice; or
 - (c) to seize a dog found wandering at large; or
 - (d) to seize a dog under this Act in circumstances in which the authorised person believes on reasonable grounds that urgent action is required.
- (3) A justice must not issue a warrant under subsection (2) unless satisfied, by information given on oath, that the warrant is reasonably required in the circumstances.
- (4) An application for a warrant under this section cannot be made to a justice who is a member, officer or employee of a council.
- (5) In the exercise of powers under this Act, an authorised person may be assisted by such persons, and may use such equipment or materials, as he or she considers necessary in the circumstances.

Division 2—Council responsibility for administration and enforcement

14—Amendment of section 26—Council responsibility for management of dogs and cats

- (1) Section 26(1)—delete "Each council is required to administer and enforce the provisions of this Act relating to dogs" and substitute:

Subject to this Act, each council is required to administer and enforce the provisions of this Act relating to dogs and cats
- (2) Section 26(1)(a)—delete "that is to be readily available for public inspection"
- (3) Section 26(1)—after paragraph (ab) insert:
 - (ac) maintain such other registers as may be required by the Board; and
 - (ad) make the registers kept under the Act available for inspection by members of the public in accordance with any guidelines issued by the Board; and
 - (ae) if guidelines issued by the Board so require, limit inspection of a register, or part of a register, kept under the Act by members of the public; and

- (4) Section 26(1)(d)—delete "one full-time dog management officer or make other satisfactory arrangements for the exercise of the functions and powers of dog management officers" and substitute:
- 1 full-time authorised person or make other satisfactory arrangements for the exercise of the functions and powers of authorised persons
- (5) Section 26(1)(e)—after "Act" insert:
- (and may, but need not, make such arrangements for cats seized under this Act)
- (6) Section 26—after subsection (1) insert:
- (1a) Without limiting subsection (2), the arrangements referred to in subsection (1)(e) may consist of nominating a facility approved by the Board at which dogs or cats may be detained.
- (7) Section 26(3)—after "dogs" insert:
- and cats
- (8) Section 26(4)—after "dogs" insert:
- and cats
- (9) Section 26(6)—after paragraph (a) insert:
- (ab) fees for the receipt and management of information relating to a register contemplated by subsection (1)(ac); and
- (10) Section 26(6)(b)(i)—delete "Part 5" and substitute:
- Part 4
- (11) Section 26(6)(b)—delete ") approved by the Minister" and substitute:
- but which must not exceed an amount prescribed by the regulations for the purposes of this paragraph)
- (12) Section 26(7)—delete subsection (7) and substitute:
- (7) Without otherwise limiting a council's ability to set registration fees, a council must, in the case of a standard dog or cat, provide for a percentage rebate of a fee that would otherwise be charged for the registration of a dog or cat under this Act.
- (8) In this section—
- standard dog or cat* means a dog or cat (as the case requires) that is both microchipped and desexed in accordance with this Act.

15—Amendment of section 26A—Plans of management relating to dogs and cats

Section 26A(3)—delete subsection (3) and substitute:

- (3) A plan of management must cover 5 year periods and each plan must be prepared and presented to the Board at least 6 months before it is to take effect.

16—Repeal of sections 27 to 30

Sections 27 to 30—delete sections 27 to 30 (inclusive)

17—Amendment of section 31—Offence to hinder etc authorised person

Section 31—delete "a dog management officer" wherever occurring and substitute in each case:

an authorised person

18—Amendment of section 32—Offences by authorised persons

Section 32—delete "a dog management officer" wherever occurring and substitute in each case:

an authorised person

19—Amendment of heading to Part 4

Heading to Part 4—delete "of dogs"

20—Amendment of section 33—Dogs must be registered

- (1) Section 33(2), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty:

- (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$5 000;
- (b) in any other case—\$2 500.

Expiation fee:

- (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$750;
- (b) in any other case—\$170.

- (2) Section 33(3), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty:

- (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$5 000;
- (b) in any other case—\$2 500.

Expiation fee:

- (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$750;
- (b) in any other case—\$170.

- (3) Section 33(4)(b)(iii)—delete "a dog management officer" and substitute:

an authorised person

- (4) Section 33(5)(b)—delete paragraph (b) and substitute:

- (b) to a dog while held in the custody of—
 - (i) a police officer acting in that capacity; or
 - (ii) a person acting under this or any other Act; or

- (iii) a person or body, or a person or body of a class, specified by the regulations.

21—Amendment of section 37—Notifications to ensure accuracy of registers

- (1) Section 37(1), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty: \$1 250.

Expiation fee: \$210.

- (2) Section 37(2), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty: \$1 250.

Expiation fee: \$210.

22—Amendment of section 38—Transfer of ownership of dog

Section 38, penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty: \$1 250.

Expiation fee: \$210.

23—Repeal of section 40

Section 40—delete the section

24—Amendment of section 41—Applications and fees

- (1) Section 41(1)(c)—delete "appropriate fee" and substitute:

fee fixed by the relevant council

- (2) Section 41(2)—delete "disability dog, guide dog or hearing dog" and substitute:

assistance dog

25—Repeal of section 42

Section 42—delete the section

26—Insertion of Part 4A

After Part 4 insert:

Part 4A—Microchipping and other identification

42A—Dogs and cats to be microchipped

- (1) The owner of a dog or cat must ensure that the dog or cat is microchipped in accordance with any requirements set out in the regulations.
- (2) An owner of a dog or cat who contravenes subsection (1) is guilty of an offence.

Maximum penalty:

- (a) if the dog is a dog of a prescribed breed, or an attack trained dog, guard dog or patrol dog—\$5 000;
- (b) in any other case—\$2 500.

Expiation fee:

- (a) if the dog is a dog of a prescribed breed, or an attack trained dog, guard dog or patrol dog—\$750;
 - (b) in any other case—\$170.
- (3) Subsection (1) does not apply to, or in relation to—
- (a) an animal welfare organisation (other than in relation to a guard dog or patrol dog owned by an animal welfare organisation); or
 - (b) a person or body detaining a dog or cat that has been seized under this Act; or
 - (c) a dog or cat that is not usually kept within the State.
- (4) In proceedings for an offence against this section, it is a defence for the defendant to prove that he or she believed on reasonable grounds that the dog or cat had, in fact, been microchipped.
- (5) Without limiting the regulations that may be made for the purposes of this section, the regulations may—
- (a) prescribe a period or periods (whether by reference to the age of an animal or the sale of an animal or otherwise) within which dogs and cats must be microchipped; and
 - (b) prescribe a minimum or maximum age at which dogs and cats may be required to be microchipped; and
 - (c) prescribe requirements relating to who can microchip a dog or cat; and
 - (d) exempt a person or body, or dog or cat, of a specified class from the operation of this section (whether conditionally or unconditionally).
- (6) Nothing in this section limits the operation of section 42C.

42B—Further offence if certain dogs and cats not microchipped following offence against section 42A

- (1) If—
- (a) a person is found guilty of, or expiates, an offence against section 42A; and
 - (b) the person refuses or fails without reasonable excuse to have the dog or cat to which the offence relates microchipped,

the person is guilty of a further offence for each period of 3 months after the day on which the person is found guilty or expiates the offence (as the case requires) during which the dog or cat is not microchipped.

Maximum penalty:

- (a) if the dog is a dog of a prescribed breed—\$5 000;
- (b) in any other case—\$2 500.

Expiation fee:

- (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$750;
- (b) in any other case—\$170.

- (2) Subsection (1) does not apply to a person to the extent that they are complying with an order of a court that is inconsistent with that subsection, or that the refusal or failure to microchip the dog or cat is otherwise authorised under this or any other Act.

42C—Further requirements relating to identification of certain dogs and cats

- (1) This section applies to—
 - (a) a dog or cat that is not required to be microchipped under this Act; and
 - (b) a dog or cat that is required to be microchipped under this Act once it reaches a specified age or has been owned for a specified period, but has not yet reached that age or been owned for that period,

but does not apply to a dog or cat of a class declared by the regulations to be excluded from the operation of this section.

- (2) The owner of a dog or cat to which this section applies must ensure that the dog or cat (as the case requires), at all times while the dog or cat is not effectively confined to premises of which the person is the occupier, wears a collar around its neck to which is attached—
 - (a) if the dog or cat is required to be registered under this Act—the registration disc last issued for the dog or cat; and
 - (b) in any case—a tag legibly setting out—
 - (i) the name of the owner of the dog or cat, or of a person entitled to possession of the dog or cat; and
 - (ii) either—
 - (A) the address of the owner or other person; or
 - (B) the telephone number of the owner or other person.

Maximum penalty: \$5 000.

Expiation fee: \$170.

- (3) In proceedings for an offence against subsection (2), it is a defence for the defendant to prove that the dog or cat was, at the relevant time, suffering from injury, disease or sickness to the extent that the wearing of a collar would be injurious to its health.

Part 4B—Desexing

42D—Application of Part

This Part does not apply in relation to working livestock dogs.

42E—Certain dogs and cats to be desexed

- (1) The owner of a dog or cat must ensure that the dog or cat is desexed in accordance with any requirements set out in the regulations.
- (2) An owner of a dog or cat who contravenes subsection (1) is guilty of an offence.

Maximum penalty:

- (a) if the dog is a dog of a prescribed breed—\$5 000;
- (b) in any other case—\$2 500.

Expiation fee:

- (a) if the dog is a dog of a prescribed breed—\$750;
- (b) in any other case—\$170.

- (3) However, this section does not apply to, or in relation to—
- (a) an animal welfare organisation; or
- (b) except in relation to a dog that is of a prescribed breed—a person registered as a breeder under Part 7; or
- (c) a dog or cat that is not usually kept within the State.
- (4) Without limiting the regulations that may be made for the purposes of this section, the regulations may—
- (a) prescribe a period (whether by reference to the age of an animal or the sale of an animal or otherwise) within which dogs and cats must be desexed; and
- (b) prescribe a minimum or maximum age at which dogs and cats may be required to be desexed; and
- (c) prescribe requirements relating to who can desex a dog or cat; and
- (d) exempt a person or body, or dog or cat, of a specified class from the operation of this section (whether conditionally or unconditionally).

42F—Further offence if certain dogs and cats not desexed following offence against section 42E

- (1) If—
- (a) a person is found guilty of, or expiates, an offence against section 42E; and
 - (b) the person refuses or fails without reasonable excuse to have the dog or cat to which the offence relates desexed,
- the person is guilty of a further offence for each period of 3 months after the day on which the person is found guilty or expiates the offence (as the case requires) during which the dog or cat is not desexed.
- Maximum penalty:
- (a) if the dog is a dog of a prescribed breed—\$5 000;
 - (b) in any other case—\$2 500.
- Expiation fee:
- (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$750;
 - (b) in any other case—\$315.
- (2) Subsection (1) does not apply to a person to the extent that they are complying with an order of a court that is inconsistent with that subsection, or that the refusal or failure to desex the dog or cat is otherwise authorised under this or any other Act.

27—Amendment of section 43—Dogs not to be allowed to wander at large

- (1) Section 43(1), penalty provision and expiation provision—delete the provisions and substitute:
- Maximum penalty:
- (a) if the dog is a dangerous dog or a dog of a prescribed breed—
 - (i) for a first offence—\$5 000;
 - (ii) for a subsequent offence—\$10 000.
 - (b) in any other case—\$2 500.
- Expiation fee:
- (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$750;
 - (b) in any other case—\$210.
- (2) Section 43(3)—after "guilty of" insert:
- , or expiates,

28—Amendment of section 44—Dogs not to be allowed to attack etc

Section 44(2), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty:

- (a) if the dog is a dangerous dog or a dog of a prescribed breed—
 - (i) for a first offence—\$5 000;
 - (ii) for a subsequent offence—\$10 000.
- (b) in any other case—\$2 500.

Expiation fee:

- (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$750;
- (b) in any other case—\$315.

29—Amendment of section 45—Transporting unrestrained dogs in vehicles

- (1) Section 45(1), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty: \$1 250.

Expiation fee: \$210.

- (2) Section 45(2)—delete "a dog management officer reasonably suspects that a vehicle has been used to transport a dog contrary to this section, the officer" and substitute:
an authorised person reasonably suspects that a vehicle has been used to transport a dog contrary to this section, the authorised person
- (3) Section 45(4)—delete "guide" and substitute:
assistance

30—Amendment of section 45A—Miscellaneous duties relating to dogs

- (1) Section 45A(1), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty:

- (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$5 000;
- (b) in any other case—\$2 500.

Expiation fee:

- (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$750;
- (b) in any other case—\$315.

- (2) Section 45A(2)—delete "disability dog, guide dog or hearing dog" and substitute:
assistance dog

- (3) Section 45A(2), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty:

- (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$5 000;

(b) in any other case—\$2 500.

Expiation fee:

(a) if the dog is a dangerous dog or a dog of a prescribed breed—\$750;

(b) in any other case—\$315.

(4) Section 45A(3)—delete "disability dog, guide dog or hearing dog" and substitute:

assistance dog

(5) Section 45A(3), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty:

(a) if the dog is a dangerous dog or a dog of a prescribed breed—\$5 000;

(b) in any other case—\$2 500.

Expiation fee:

(a) if the dog is a dangerous dog or a dog of a prescribed breed—\$750;

(b) in any other case—\$315.

(6) Section 45A(4), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty:

(a) if the dog is a dangerous dog or a dog of a prescribed breed—\$5 000;

(b) in any other case—\$2 500.

Expiation fee:

(a) if the dog is a dangerous dog or a dog of a prescribed breed—\$750;

(b) in any other case—\$315.

(7) Section 45A(5), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty: \$1 250.

Expiation fee: \$315.

(8) Section 45A(6)—delete "guide dog" and substitute:

assistance dog

(9) Section 45A(6), penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty: \$1 250.

Expiation fee: \$210.

31—Substitution of heading to Part 5 Division 1A

Heading to Part 5 Division 1A—delete the heading and substitute:

Division 1A—Provisions relating to certain breeds etc of dogs

32—Amendment of section 45B—Dogs of prescribed breed

- (1) Section 45B(1), (2) and (3)—delete subsections (1), (2) and (3) and substitute:
- (1) A person who owns or is responsible for the control of a dog of a prescribed breed must ensure that, at any time the dog is not confined in premises of which that person is the occupier—
 - (a) the dog has a muzzle securely fixed on its mouth capable of preventing it from biting any person or animal; and
 - (b) the dog is under the effective control of a person by means of physical restraint.
- Maximum penalty: \$5 000.
Expiation fee: \$750.
- (2) Section 45B(4), penalty provision—delete "\$2 500" and substitute:
\$5 000

33—Amendment of section 45C—Greyhounds

- (1) Section 45C(1)—delete subsection (1) and substitute:
- (1) A person who owns or is responsible for the control of a greyhound must ensure that, at any time the greyhound is not confined in premises of which that person is the occupier—
 - (a) in the case of a greyhound exempted from the requirement to wear a muzzle—the greyhound is under the effective control of a person by means of physical restraint; or
 - (b) in any other case—
 - (i) the greyhound has a muzzle securely fixed on its mouth capable of preventing it from biting any person or animal; and
 - (ii) the greyhound is under the effective control of a person by means of physical restraint.
- Maximum penalty: \$5 000.
Expiation fee: \$315.
- (2) Section 45C(2)(a)—after "land" first occurring insert:
(not being a public dog park provided by a council)

34—Amendment of section 45D—Attack trained dogs, guard dogs and patrol dogs

- (1) Section 45D(1)(a) and (b)—delete paragraphs (a) and (b)
- (2) Section 45D(1), penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$5 000.
Expiation fee: \$750.

35—Repeal of section 45E

Section 45E—delete the section

36—Amendment of section 47—Court's power to make orders in criminal proceedings

- (1) Section 47(1)—delete "Division 1 or 1A" and substitute:
this Act
- (2) Section 47(5)—delete "a dog management officer" and substitute:
an authorised person

37—Repeal of Part 5 Division 2

Part 5 Division 2—delete Division 2

38—Amendment of heading to Part 5 Division 3

Heading to Part 5 Division 3—delete "Council powers to make"

39—Amendment of section 50—Destruction and control orders

- (1) Section 50(1)—after "council" insert:
or the Board
- (2) Section 50(2)(b)—after "council" insert:
or the Board (as the case requires)
- (3) Section 50(3)(a)—before "the dog" insert:
if the dog has not been desexed—
- (4) Section 50(3)(b)—delete paragraph (b) and substitute:
 - (b) if the dog has not been microchipped—the dog to be microchipped within the period specified in the order; and
- (5) Section 50(3)(c)—delete "in an enclosure that is constructed so as to prevent the dog escaping from it" and substitute:
for the premises to be fenced so as to prevent the dog escaping from the premises
- (6) Section 50(3)(e)(i)—delete "so as to prevent" and substitute:
capable of preventing
- (7) Section 50(3)(g)—delete paragraph (g) and substitute:
 - (g) the dog or the person or both to undertake such approved training courses as may be specified in the order; and
- (8) Section 50(4)(a)—delete paragraph (a) and substitute:
 - (a) if the dog has not been microchipped—the dog to be microchipped within the period specified in the order; and
- (9) Section 50(4)(d)(i)—delete "so as to prevent" and substitute:
capable of preventing

- (10) Section 50(4)—after paragraph (d) insert:
- (da) the dog or the person or both to undertake such approved training courses as may be specified in the order; and
- (11) Section 50(5)(a)—delete "in an enclosure that is constructed so as to prevent the dog escaping from it" and substitute:
- for the premises to be fenced so as to prevent the dog escaping from the premises
- (12) Section 50(5)—after paragraph (c) insert:
- (d) the dog or the person or both to undertake such approved training courses as may be specified in the order; and
- (13) Section 50(6)—delete "requires all reasonable steps to be taken to prevent the dog repeating the behaviour that gave rise to the order." and substitute:
- requires—
 - (a) all reasonable steps to be taken to prevent the dog repeating the behaviour that gave rise to the order; and
 - (b) the dog or the person or both to undertake such approved training courses as may be specified in the order.
- (14) Section 50(7)—delete "subsection (3)" and substitute:
- this section

40—Substitution of section 51

Section 51—delete the section and substitute:

51—Grounds on which orders may be made

A council or the Board may make an order in relation to a dog under this Division if satisfied that—

- (a) in the case of a Destruction Order—
 - (i) the dog is unduly dangerous; and
 - (ii) the dog has attacked, harassed or chased a person or an animal or bird owned by or in the charge of a person in circumstances that would constitute an offence against this Act; or
- (b) in the case of a Control (Dangerous Dog) Order—
 - (i) the dog—
 - (A) is dangerous; and
 - (B) has attacked, harassed or chased a person or an animal or bird, or is likely to do so, in circumstances that would constitute an offence against this or any other Act; or

- (ii) the dog is subject to an order made under a law of another jurisdiction that corresponds with a Control (Dangerous Dog) Order; or
- (c) in the case of a Control (Menacing Dog) Order—
 - (i) the dog—
 - (A) is menacing; and
 - (B) has attacked, harassed or chased a person or an animal or bird, or is likely to do so, in circumstances that would constitute an offence against this or any other Act; or
 - (ii) the dog is subject to an order made under a law of another jurisdiction that corresponds with a Control (Menacing Dog) Order; or
- (d) in the case of a Control (Nuisance Dog) Order—
 - (i) the dog—
 - (A) is a nuisance; and
 - (B) has attacked, harassed or chased a person or an animal or bird, or is likely to do so, in circumstances that would constitute an offence against this or any other Act; or
 - (ii) the dog is subject to an order made under a law of another jurisdiction that corresponds with a Control (Nuisance Dog) Order; or
- (e) in the case of a Control (Barking Dog) Order—
 - (i) the dog is a nuisance; and
 - (ii) the dog has created noise by barking or otherwise in circumstances that would constitute an offence against this or any other Act.

41—Amendment of section 52—Procedure for making and revoking orders

- (1) Section 52—before subsection (1) insert:
 - (a1) A council or the Board may make an order under this Division on its own initiative or on an application made in a manner and form determined by the council or the Board (as the case requires).
- (2) Section 52(1)—after "council" first occurring insert:
 - or the Board (as the case requires)
- (3) Section 52(1)(b)(iii)—delete "council (within 7 days or such longer period as is allowed by the council) with respect to the matter" and substitute:
 - council or the Board in respect of the matter within 7 days or such longer period as is allowed by the council or the Board (as the case requires)

- (4) Section 52(2)—after "order" first occurring insert:
 - made by a council
- (5) Section 52(3)—after "council" insert:
 - or the Board (as the case requires)
- (6) Section 52(4)—delete "may be revoked by a council" and substitute:
 - made by a council may be revoked by the council
- (7) Section 52—after subsection (5) insert:
 - (6) An order made by the Board—
 - (a) takes effect when the Board first gives a copy of the order to a person who owns or is responsible for the control of the dog; and
 - (b) may be revoked by the Board by written notice to a person who owns or is responsible for the control of the dog; and
 - (c) must, at the request of the Board, be noted in the register kept under this Act by the council in whose area the dog is usually kept.

42—Amendment of section 55—Contravention of order

- (1) Section 55(1), penalty provision and expiation provision—delete the penalty provisions and substitute:
 - Maximum penalty:
 - (a) in the case of a contravention of a Destruction order, a Control (Dangerous Dog) Order or a Control (Menacing Dog) Order—\$10 000;
 - (b) in the case of a contravention of a Control (Nuisance Dog) Order—\$5 000;
 - (c) in the case of a contravention of a Control (Barking Dog) Order—\$2 500.
 - Expiation fee:
 - (a) in the case of a contravention of a Destruction order, a Control (Dangerous Dog) Order or a Control (Menacing Dog) Order—\$750;
 - (b) in any other case—\$500.
- (2) Section 55(3)—delete "a dog management officer may take reasonable steps to give effect to the order and the council concerned may recover the cost of that action" and substitute:
 - an authorised person may take reasonable steps to give effect to the order and the cost of that action may be recovered

43—Amendment of section 56—Notification to council

- (1) Section 56(1), penalty provision and expiation provision—delete the provisions and substitute:
 - Maximum penalty:
 - (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$2 500;
 - (b) in any other case—\$1 250.
 - Expiation fee:
 - (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$315;
 - (b) in any other case—\$210.
- (2) Section 56(2), penalty provision and expiation provision—delete the provisions and substitute:
 - Maximum penalty:
 - (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$2 500;
 - (b) in any other case—\$1 250.
 - Expiation fee:
 - (a) if the dog is a dangerous dog or a dog of a prescribed breed—\$315;
 - (b) in any other case—\$210.
- (3) Section 56—after subsection (3) insert:
 - (4) In the case of an order made by the Board, the Registrar must notify the Board of any information received under this section.

44—Amendment of section 57—Notification of order to proposed new owner of dog

Section 57, penalty provision and expiation provision—delete the provisions and substitute:

Maximum penalty: \$1 250.

Expiation fee: \$210.

45—Repeal of section 58

Section 58—delete the section

46—Amendment of section 59A—Prohibition orders

- (1) Section 59A(1)—after "council" insert:

or the Board
- (2) Section 59A(2)(b)(ii)—after "council" insert:

or the Board (as the case requires)
- (3) Section 59A(3)—after "council" insert:

or the Board

- (4) Section 59A—after subsection (3) insert:
- (3a) A council or the Board may, on its own initiative or on application, make a Prohibition Order against a person if satisfied that the person is subject to a supervision order under section 269O of the *Criminal Law Consolidation Act 1935*.
- (5) Section 59A(4)—after "council" wherever occurring insert:
- or the Board
- (6) Section 59A(5)—after "order" insert:
- made by a council
- (7) Section 59A(6)—delete "may be revoked by a council " and substitute:
- made by a council may be revoked by the council
- (8) Section 59A—after subsection (7) insert:
- (8) An order made by the Board—
- (a) takes effect when the Board gives a copy of the order to the person against whom it is made; and
- (b) may be revoked by the Board by written notice to a person who owns or is responsible for the control of the dog; and
- (c) must, at the request of the Board, be noted in the register kept under this Act by the council in whose area the dog is usually kept.

47—Amendment of section 59B—Contravention of Prohibition Order

- (1) Section 59B(1), penalty provision—delete "\$2 500" and substitute:
- \$5 000
- (2) Section 59B(3)—delete "a dog management officer may take reasonable steps to give effect to the order and the council concerned may recover the cost of that action" and substitute:
- an authorised person may take reasonable steps to give effect to the order and the cost of that action may be recovered

48—Repeal of section 59C

Section 59C—delete the section

49—Substitution of Part 5 Division 4

Part 5 Division 4—delete the Division and substitute:

Part 5A—Destruction, seizure and detention etc of dogs and cats

Division 1—Destruction, seizure and detention etc of dogs

59D—Power to destroy dogs

- (1) A person may lawfully destroy or injure a dog in the following circumstances:
 - (a) if that action is reasonable and necessary for the protection of life or property;
 - (b) if the person is the owner or occupier of land, or a person acting under the authority of the owner or occupier of land, and the dog, unaccompanied by a person, is found in an enclosed paddock or other enclosed place in which an animal that is being farmed is confined;
 - (c) if the person is a warden under the *National Parks and Wildlife Act 1972* and—
 - (i) the dog is attacking or harassing a protected animal within the meaning of that Act on a reserve within the meaning of that Act; and
 - (ii) there is no other way of protecting the protected animal.

Note—

See also section 62.

- (2) Without limiting subsection (1), an authorised person may lawfully destroy or injure a dog in any of the circumstances specified in that subsection.
- (3) Nothing in this section limits the operation of section 34B of the *Animal Welfare Act 1985*.

60—Power to seize and detain dogs

- (1) An authorised person may seize and detain a dog in any of the following circumstances:
 - (a) if the dog is wandering at large;
 - (b) if the authorised person reasonably believes it necessary to seize the dog in order to prevent or stop the dog attacking, harassing or chasing a person or an animal or bird owned by or in the charge of a person (whether or not actual injury has been or may be caused);
 - (c) if the authorised person reasonably believes that the dog is unduly dangerous;

- (d) if the dog is the subject of an order under Part 5 Division 3 and the authorised person reasonably suspects that the person who owns or is responsible for the control of the dog has contravened the order;
 - (e) if the person who owns or is responsible for the control of the dog is subject to a Prohibition Order under Part 5 Division 3A;
 - (f) if the authorised person reasonably believes it necessary to detain the dog in order to ensure that an order under this Act for the destruction or disposal of the dog is carried out.
- (2) If an authorised person reasonably believes that it is dangerous or impracticable to seize a dog because of its savagery or other sufficient cause, the dog may be injured or destroyed.
 - (3) If a dog is injured or destroyed under subsection (2), the authorised person must take reasonable steps to inform a person who owns or is responsible for the control of the dog.
 - (4) An inspector under the *Animal Welfare Act 1985* may exercise the powers of an authorised person under this Division in relation to a dog found wandering at large while the inspector is acting in the ordinary course of his or her duties under that Act.

61—Procedure following seizure of dog

- (1) If a dog is seized under this Division, it must either—
 - (a) be returned to a person who owns or is responsible for the control of the dog; or
 - (b) be detained in a facility approved by the Board for the purpose of detaining dogs.
- (2) If a dog is detained, the person causing it to be detained must—
 - (a) cause a notice to be displayed at the office of the council for the area in which the dog was seized (or if the dog was seized outside municipal and district council areas, at the police station nearest to where the dog was seized) containing—
 - (i) a general description of the dog; and
 - (ii) the day and time it was seized; and
 - (iii) contact details of a person or body to whom further enquiries can be made; and
 - (b) if a person who owns or is responsible for the control of the dog is known to the person 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) If a dog is seized in order to prevent or stop it attacking, harassing or chasing a person or an animal or bird or because it is unduly dangerous—
 - (a) the council must, as soon as practicable, proceed to consider making an order in relation to the dog or applying to the Magistrates Court for an order in relation to the dog; and
 - (b) if notice of an intention to make an order in relation to the dog has not been given, or an application to the Magistrates Court has not been made, within 7 days after the dog was seized, the dog must be returned to a person entitled to its return.
- (5) If a Control (Dangerous Dog) Order is made or in force in respect of a dog detained under this section, the person responsible for the dog while so detained may—
 - (a) in the case of a dog that is required to be, but is not, microchipped—cause the dog to be microchipped;
 - (b) in the case of a dog that is not desexed—cause the dog to be desexed.
- (6) The cost of taking action under subsection (5) may be recovered from the person who owns or is responsible for the control of the dog as a debt due to the council incurring the cost.

62—Destruction or disposal of seized dog

- (1) If—
 - (a) a dog detained under this Division is not claimed by a person entitled to the return of the dog within 72 hours from when notice of its detention was last given under this Division; or
 - (b) a person in whose name a dog detained under this Division is registered declines to take possession of the dog; or
 - (c) money due in relation to a dog detained under this Division is not paid within 7 days after a request for payment,the person responsible for the dog while detained under this Division may cause the dog to be destroyed or otherwise disposed of.
- (2) If a dog 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 dog had been detained.
- (3) Despite any other provision of this Act, the operator of a facility at which a dog is detained under this Division may cause the dog to be destroyed—
 - (a) if satisfied on reasonable grounds—
 - (i) that the dog is suffering from injury, disease or sickness to the extent that it is impracticable to maintain the dog; or

- (ii) that the dog is suffering from a serious contagious or infectious disease or sickness; and
- (b) —
 - (i) the destruction is authorised in writing by a registered veterinary surgeon or stock inspector; or
 - (ii) that neither a registered veterinary surgeon nor a stock inspector is reasonably available and that urgent action is required in the circumstances.

Division 2—Destruction and seizure etc of cats

63—Power to destroy cats

- (1) A person may lawfully destroy or injure a cat in the following circumstances:
 - (a) if the person is a warden under the *National Parks and Wildlife Act 1972* or the *Wilderness Protection Act 1992* and the cat is in a reserve or sanctuary (within the meaning of the *National Parks and Wildlife Act 1972*) or a wilderness protection area or zone (within the meaning of the *Wilderness Protection Act 1992*);
 - (b) if the person is the owner or occupier of a designated area, or a person authorised for the purpose by the owner or occupier of a designated area and the cat is found in the designated area;
 - (c) if the cat is found in a place that is more than 1 kilometre from any place genuinely used as a place of residence;
 - (d) if the cat is unidentified and—
 - (i) the person is an authorised officer under the *Crown Land Management Act 2009* and the cat is found in an area in respect of which the authorised officer is authorised to exercise powers under that Act; or
 - (ii) the person is an authorised officer under the *Natural Resources Management Act 2004* and—
 - (A) the cat is found by a State authorised officer under that Act; or
 - (B) the cat is found by a regional authorised officer under that Act in the region in which the regional authorised officer is authorised to act; or
 - (iii) the person is an inspector under the *Animal Welfare Act 1985* and the cat is found while the person is acting in the ordinary course of his or her duties under that Act; or

- (iv) the person is a registered veterinary surgeon acting in the ordinary course of his or her profession; or
 - (v) the person is acting for or on behalf of 1 of the following bodies or persons in respect of a cat that has been delivered to a facility operated by the person or body:
 - (A) the Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated;
 - (B) the Animal Welfare League of South Australia, Incorporated;
 - (C) a body or person specified by the regulations.
- (2) Without limiting subsection (1), an authorised person may lawfully destroy or injure a cat in any of the circumstances specified in that subsection.
 - (3) Nothing in this section limits the operation of section 34B of the *Animal Welfare Act 1985*.
 - (4) The Governor may, by proclamation made on the recommendation of the Board, declare land to be a designated area for the purposes of this section.
 - (5) A proclamation under this section may be varied or revoked by further proclamation made on the recommendation of the Board.

64—Power to seize and detain cats

- (1) A person may seize and detain a cat in any of the following circumstances:
 - (a) the circumstances set out in section 63(1);
 - (b) any other circumstances set out in the regulations.
- (2) A person may seize and detain an unidentified cat for the purpose of delivering it within 12 hours to—
 - (a) a registered veterinary surgeon; 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; or
 - (c) a facility nominated by a council and approved by the Board at which cats may be detained,

however nothing in this subsection authorises the person to destroy the cat.

64A—Destruction or disposal of seized cat

- (1) If a cat is seized and detained under this Division, the person responsible for the cat while so detained (other than a person referred to in section 64(2)) 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.

Division 3—Miscellaneous

64B—Certain bodies may microchip and desex detained dogs and cats

- (1) Despite any other provision of this Act, or any other Act or law, an animal welfare organisation or council that is detaining a dog or cat seized under this or any other Act may, in accordance with any guidelines determined by the Board for the purposes of this section, do 1 or more of the following:
 - (a) microchip the dog or cat;
 - (b) desex the dog or cat;
 - (c) cause the dog or cat to be microchipped or desexed or both.
- (2) An animal welfare organisation or council (as the case requires) may recover the cost of taking action under this section as a debt from a person who owns or is responsible for the control of the dog or cat.

64C—Limits on entitlement to return of dog or cat

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

- (a) provides satisfactory evidence that he or she owns or is responsible for the control of the dog or cat, or is authorised to receive the dog or cat by a person who owns or is responsible for the control of the dog or cat; and
- (b) pays—
 - (i) the charges that are payable under the regulations in relation to the seizure and detention of the dog or cat; and
 - (ii) any other outstanding charges or fees payable under this Act in relation to the dog or cat; and
- (c) in the case of a dog or cat that is required to be registered under this Act but is not so registered—registers the dog or cat if required to do so by the person responsible for the dog or cat while detained.

64D—Notification to owner of dog or cat destroyed etc under Part

- (1) A person who destroys, injures, seizes or detains a dog or an identified cat under this Part must, as soon as practicable—
- (a) take reasonable steps to inform the owner of the dog or cat of the action taken; and
 - (b) notify—
 - (i) if the action is taken in an area that is not within a council area—a police officer; and
 - (ii) if the action is taken within a council area—the council of that area.

Maximum penalty: \$1 250.

Expiation fee: \$210.

- (2) Subsection (1)(b) does not apply in the following circumstances:
- (a) if the person destroying, injuring, seizing or detaining a dog or cat is a prescribed person;
 - (b) any other circumstances prescribed by the regulations.

- (3) In this section—

prescribed person means—

- (a) an authorised person; or
- (b) a warden under the *National Parks and Wildlife Act 1972* or the *Wilderness Protection Act 1992*; or
- (c) an authorised officer under the *Crown Land Management Act 2009*; or
- (d) an authorised officer under the *Natural Resources Management Act 2004*; or
- (e) an inspector under the *Animal Welfare Act 1985*; or
- (f) a registered veterinary surgeon; or
- (g) a person acting for or on behalf of 1 of the following bodies or persons in respect of a dog or cat that has been delivered to a facility operated by the person or body:
 - (i) the *Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated*;
 - (ii) the *Animal Welfare League of South Australia, Incorporated*;
 - (iii) a body or person specified by the regulations; or
- (h) any other person prescribed by the regulations.

64E—Recovery of costs

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

64F—Ownership of certain dogs and cats to vest in operator of facility

If a dog or cat is destroyed or otherwise disposed of under this Part then, for the purposes of the laws of this State—

- (a) ownership of the dog or cat will be taken to have vested in the operator of the facility at which the dog or cat had been detained immediately before the dog or cat was destroyed or otherwise disposed of; and
- (b) no compensation will be payable to a previous owner of the dog or cat in respect of its destruction or disposal,

(however, nothing in this section limits the operator of the facility from recovering charges or costs of taking action under this Act in accordance with section 64E or any other provision of this Act).

Note—

Ownership of an animal does not vest in the operator of the facility or any other person merely because a period of time has elapsed after which the animal may be disposed of.

50—Amendment of section 66—Liability for dogs¹

Section 66—delete "*Wrongs Act 1936*" wherever occurring and substitute in each case:

Civil Liability Act 1936

51—Substitution of Part 7

Part 7—delete Part 7 and substitute:

Part 7—Breeding and sale of dogs and cats

68—Registration of breeders

- (1) The Board may, on application, register a person as a breeder.
- (2) An application must—
 - (a) be made in a manner and form determined by the Board; and
 - (b) be accompanied by such documentation and information as the Board may reasonably require; and
 - (c) be accompanied by the fee fixed by the Board.

- (3) The Board may impose such conditions on a registration under this Part as the Board thinks fit (including, to avoid doubt, a condition requiring the breeder to comply with a code of practice under another Act).
- (4) The Board may, by notice in writing, vary, revoke or add a condition of registration.
- (5) The Board may, by notice in writing, revoke a registration under this Part for a contravention of a condition of registration or for any other reason it thinks fit.
- (6) The Board must keep and maintain a register (which may be incorporated into another register) for the purposes of this Part.

69—Offence for breeder to sell dogs or cats unless registered

- (1) A person must not sell a dog or cat that he or she has bred unless—
 - (a) he or she is registered as a breeder under this Part; or
 - (b) he or she is registered (however described) as a breeder with an approved representative body; or
 - (c) he or she is registered as a breeder under a law of another jurisdiction dealing with the breeding of dogs or cats.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) Nothing in this section authorises a person to breed a dog of a prescribed breed.
- (3) For the purposes of this section, a person will be taken to have bred a dog or cat if the person takes action of a kind prescribed by the regulations in relation to the breeding of the dog or cat.
- (4) In this section—

approved representative body means a body declared by the regulations to be an approved representative body for the purposes of this section.

70—Offences relating to sale of certain dogs and cats

- (1) A person must not sell a dog or cat unless the dog or cat has been microchipped in accordance with any requirement set out in the regulations.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) A person must not sell a dog or cat unless the dog or cat has been desexed in accordance with any requirement set out in the regulations.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) Subsections (1) and (2) apply—
 - (a) whether or not the dog or cat is required to be microchipped or desexed or both under sections 42A or 42E; and
 - (b) whether or not the person is the breeder of the dog or cat.
- (4) However, subsection (2) does not apply in relation to working livestock dogs.
- (5) This section does not apply to a sale of a dog or cat occurring in circumstances prescribed by the regulations for the purposes of this section.
- (6) Nothing in this section authorises a person to sell a dog of a prescribed breed.

71—Certain information to be given to buyers

- (1) A person who sells a dog or cat must give to the new owner a written notice setting out—
 - (a) the information required by the regulations relating to the identity of the seller of the dog or cat; and
 - (b) the information required by the regulations relating to the identity of the breeder or breeders of the dog or cat; and
 - (c) the information required by the regulations relating to vaccinations and other treatments given to the dog or cat; and
 - (d) the information required by the regulations relating to the dog's or cat's microchip; and
 - (e) any other information required by the regulations in respect of a sale of the relevant kind.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) A person who publishes an advertisement in relation to the sale of a dog or cat must ensure that the advertisement contains—
 - (a) the information required by the regulations relating to the identity of the seller of the dog or cat; and
 - (b) the information required by the regulations relating to the identity of the breeder or breeders of the dog or cat; and
 - (c) the information required by the regulations relating to vaccinations and other treatments given to the dog or cat; and
 - (d) the information required by the regulations relating to the dog's or cat's microchip; and

- (e) any other information required by the regulations in respect of an advertisement of the relevant kind.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) This section does not apply in relation to a sale of a dog or cat, or an advertisement, of a kind prescribed by the regulations for the purposes of this section.
- (4) In proceedings for an offence against subsection (1) or (2), it is a defence for the defendant to prove that he or she did not know, and could not reasonably have been expected to have known, the information to which the alleged offence relates.

Part 7A—Review of decisions by SACAT

72—Review of certain decisions by South Australian Civil and Administrative Tribunal

- (1) The South Australian Civil and Administrative Tribunal is, by force of this section, conferred with jurisdiction to deal with matters consisting of the review of a reviewable decision.
- (2) An application for review of a reviewable decision may be made to the South Australian Civil and Administrative Tribunal within 14 days after the applicant receives notice of the relevant decision (or such longer period as the Tribunal may allow).
- (3) However, the South Australian Civil and Administrative Tribunal may only allow an extension of time under subsection (2) if satisfied that—
 - (a) special circumstances exist; and
 - (b) another party will not be unreasonably disadvantaged because of the delay in commencing the proceedings.
- (4) In this section—

reviewable decision—the following are reviewable decisions:

 - (a) a decision of a council or the Board to make an order under Part 5 Division 3 or 3A;
 - (b) a decision of a person to refuse to allow the release of a dog or cat that is being detained under this Act;
 - (c) any other decision under this Act of a kind declared by the regulations to be included in the ambit of this definition.

52—Insertion of section 80A

Before section 81 insert:

80A—Board may grant exemptions from Act

- (1) The Board may, by notice in writing, on application or on its own initiative, exempt a person or body from the operation of a specified provision or provisions of this Act.
- (2) An application must—
 - (a) be made in a manner and form determined by the Board; and
 - (b) be accompanied by such documentation and information as the Board may reasonably require; and
 - (c) be accompanied by the fee fixed by the Board.
- (3) An exemption—
 - (a) may be granted or refused at the discretion of the Board; and
 - (b) may operate indefinitely or for a period specified in the instrument of exemption; and
 - (c) is subject to any conditions specified in the instrument of exemption.
- (4) The Board may, by notice in writing, vary, revoke or add a condition of an exemption.
- (5) The Board may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

53—Amendment of section 81—Assistance dogs

- (1) Section 81(1)(a)—delete "disability dog, guide dog or hearing dog" and substitute:
assistance dog
- (2) Section 81(1)(b)—delete "a disability dog, guide dog or hearing dog" and substitute:
an assistance dog
- (3) Section 81(1), penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$1 250.
Expiation fee: \$210.
- (4) Section 81(2)—delete subsection (2) and substitute:
 - (2) A person must not claim that a dog is an assistance dog unless the dog—
 - (a) is accredited as an assistance dog under section 21A; or
 - (b) is an assistance animal (within the meaning of the *Disability Discrimination Act 1992* of the Commonwealth.

Maximum penalty: \$1 250.
Expiation fee: \$210.

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

- (1) Section 81A—after "dog" insert:
or cat
- (2) Section 81A, penalty provision—delete "\$2 500" and substitute:
\$5 000

55—Insertion of section 81B

After section 81A insert:

81B—Offence to interfere with identification of dog or cat

A person must not, without reasonable excuse, interfere with or remove—

- (a) a microchip; or
- (b) any other form of identification worn by or attached to a dog or cat,

(whether or not the microchip or other identification is required under this Act).

Maximum penalty: \$5 000.

Expiation fee: \$315.

56—Amendment of section 83—No liability for action taken under Act

Section 83—delete "against a dog" and substitute:
in respect of a dog or cat

57—Amendment of section 85—Continuing offences

Section 85(1)—after "section 33" insert:
or a provision of Part 4A or 4B

58—Amendment of section 88—Evidence

- (1) Section 88(a)(i)—delete "the dog" and substitute:
a specified dog or cat
- (2) Section 88(a)—after subparagraph (ii) insert:
 - (iia) a specified dog or cat was, or was not, at a specified time registered under this Act; or
 - (iib) a specified dog or cat was, or was not, at a specified time less than a specified age; or
- (3) Section 88(a)(iii)—delete "dog of a prescribed breed was not" and substitute:
specified dog or cat was, or was not,

- (4) Section 88(a)—after subparagraph (iii) insert:
- (iia) a specified dog or cat was, or was not, at a specified time microchipped; or
 - (iib) a specified person was, or was not, at a specified time registered as a breeder under Part 7;
- (5) Section 88(a)(iv)—delete "a dog management officer or cat management officer" and substitute:
- an authorised person
- (6) Section 88(b)—delete paragraph (b)

59—Amendment of section 88A—Liability of vehicle owners in relation to transporting unrestrained dogs

Section 88A(4)—delete "officer" and substitute:

authorised person

60—Amendment of section 90—By-laws

Section 90(2)(e)—delete "and encourage the desexing of cats"

61—Insertion of section 90A

After section 90 insert:

90A—Review of Act

- (1) The Minister must cause a review of the operation of this Act (as amended by the *Dog and Cat Management (Miscellaneous) Amendment Act 2016*) to be conducted within 6 months after the 5th anniversary of the commencement of this section.
- (2) The Minister must cause a report of the review under subsection (1) to be prepared and must, within 6 sitting days after receiving a report, cause a copy of the report to be laid before both Houses of Parliament.

62—Amendment of section 91—Regulations

- (1) Section 91(1)—delete ", on the recommendation of the Board,"
- (2) Section 91—after subsection (1) insert:
 - (1a) However, regulations cannot be made unless the Minister has given the Board notice of the proposal to make regulations and given consideration to any submission made by the Board within a period (of at least 21 days) specified by the Minister.
- (3) Section 91(2)(a) and (b)—after "dogs" wherever occurring insert:

or cats
- (4) Section 91(2)(c)—after "dogs" insert:

and cats

- (5) Section 91(2)(e)—delete "classes of persons or activities" and substitute:
a specified person or class of persons, a specified area or areas of the State or a specified activity or class of activities
- (6) Section 91(2)(f)—delete "\$2 500" and substitute:
\$5 000
- (7) Section 91(2)—after paragraph (f) insert:
(g) fix expiation fees, not exceeding \$750, for offences against this Act or the regulations; and
(h) provide for the facilitation of proof of the commission of offences against the regulations.
- (8) Section 91(3)(c)—delete "or a council" and substitute:
, a council or a specified person or body
- (9) Section 91—after subsection (3) insert:
(4) The regulations may refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed body, either as in force at the time the regulations are made or as in force from time to time.
(5) If a code, standard or other document is referred to or incorporated in the regulations—
(a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and
(b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Criminal Law Consolidation Act 1935*

1—Amendment of section 83H—Interpretation

- (1) Section 83H(1), definition of *accredited guide dog*—delete "guide" first occurring and substitute:
assistance
- (2) Section 83H(1), definition of *accredited guide dog*, (a)—delete "a guide" and substitute:
an assistance

- (3) Section 83H(1), definition of *accredited guide dog*, (b)—delete "a guide" first occurring and substitute:

an assistance
- (4) Section 83H(1), definition of *guide dog*—delete the definition
- (5) Section 83H(1), definition of *working animal*, (d)—delete "guide" and substitute:

assistance

2—Amendment of section 83L—Evidentiary

- Section 83L(2)—delete "a guide" and substitute:
an assistance

Part 2—Amendment of *Equal Opportunity Act 1984*

3—Amendment of section 5—Interpretation

- Section 5(1), definition of assistance animal—delete "guide dog, an accredited hearing dog or an accredited disability dog" and substitute:
assistance dog

Part 3—Amendment of *Major Events Act 2013*

4—Amendment of section 26—Powers of authorised persons at major event venues

- (1) Section 26(2)—delete "a guide" and substitute:

an assistance
- (2) Section 26(8)—before the definition of *authorised person* insert:

assistance dog has the same meaning as in the *Dog and Cat Management Act 1995*;
- (3) Section 26(8), definition of *guide dog*—delete the definition

Part 4—Transitional provisions

5—Accreditation of assistance dogs to continue

An accreditation of a disability dog, guide dog or hearing dog under section 21A of the *Dog and Cat Management Act 1995* that is in force immediately before the commencement of this clause—

- (a) will, subject to this Act, be taken to continue in force according to its terms; and
- (b) will be taken to be an accreditation as an assistance dog under section 21A of the *Dog and Cat Management Act 1995* as amended by this Act.

6—Certain exemptions under section 45E to continue

An exemption under section 45E of the *Dog and Cat Management Act 1995* that is in force immediately before the commencement of this clause—

- (a) will, subject to this Act, be taken to continue in force according to its terms; and
- (b) will be taken to be an exemption under section 80A of the *Dog and Cat Management Act 1995* as enacted by this Act.

7—Dog management officers taken to be authorised persons

- (1) A person who is, immediately before the commencement of this clause, a dog management officer appointed by a council will be taken to be an authorised person appointed by the council.
- (2) The appointment of an authorised person contemplated by subclause (1) will be taken to be subject to any conditions or limitations applying to the appointment immediately before the commencement of this clause.

8—Cat management officers taken to be authorised persons

- (1) A person who is, immediately before the commencement of this clause, a cat management officer appointed by a council will be taken to be an authorised person appointed by the council.
- (2) A person who is, immediately before the commencement of this clause, a cat management officer appointed by the Board will be taken to be an authorised person appointed by the Board.
- (3) The appointment of an authorised person contemplated by this clause will be taken to be subject to any conditions or limitations applying to the appointment immediately before the commencement of this clause.

9—Designated areas

Land that was, immediately before the commencement of this clause, a designated area pursuant to a proclamation under section 73 of the *Dog and Cat Management Act 1995* will, subject to that Act, be taken to be a designated area for the purposes of section 63(1)(b) of that Act (as enacted by this Act).