

**WARWICK SHIRE COUNCIL**  
**LOCAL LAW NO. 5**  
**(KEEPING AND CONTROL OF ANIMALS)**

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**WARWICK SHIRE COUNCIL  
LOCAL LAW NO. 5  
(KEEPING AND CONTROL OF ANIMALS)**

**PART 1 - PRELIMINARY**

**Citation**

1. This local law may be cited as Local Law No. 5 (Keeping and Control of Animals).

**Objects**

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

**Definitions**

3. In this local law -

**“animal”** includes any live member of a vertebrate species, including any mammal, reptile, amphibian, bird and fish but does not include an animal of a species excluded by local law policy from the application of this law;

**“authorised person”** means a person authorised by the local government to exercise the powers of an authorised person under this local law.

**“attack”** includes to rush at or approach a person, animal or thing in such a manner as to cause or give cause for fear or alarm, whether or not the attacking animal actually contacts, bites, or worries the person, animal or thing;

**“cattery”** means a place used for the keeping, boarding or breeding of cats on a commercial basis;

**“dangerous dog”** means a dog

- (1) of a species classified by local law policy as a dangerous dog; or
- (2) declared by a policy made under this local law to be a dangerous dog; or
- (3) declared under this local law to be a dangerous dog.

**“effective control”** - see section 4;

**“identifying tag”** means a mark or object to identify an animal including, for example

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

**“keeper”** of an animal means -

- (a) the person who has the immediate custody and control of the animal; or
- (b) the occupier of the land on which the animal is ordinarily kept.

If a person who would otherwise be the keeper of an animal is under 18 years of age, the parent or guardian of that person is taken to be the keeper of the animal;

**“kennel”** means a place at which dogs are kept, boarded, bred, or trained on a commercial basis;

**“land”** means a parcel or more than one parcel of adjoining land under the control of the owner or lawful occupier -

- (a) the current boundaries of which are defined on a plan of survey deposited in the Department of Natural Resources or registered under the *Land Title Act 1994*; or
- (b) leased or intended to be leased as a miner’s homestead lease under the *Miner’s Homestead Leases Act 1913*.

**“pet shop”** means a shop or flea market at which animals are offered for sale;

**“public place”** has the same meaning as in the Act;

**“remove”** in relation to an animal means to cause the animal to be destroyed or permanently removed from the Area;

**“settled area”** means an area specified as a settled area in *Warwick Shire Council Local Law No. 1 (Administration)*;

**“the Act”** means *Local Government Act 1993*;

**“worry”** means the act of an animal holding any part of a person, animal, or thing in its mouth whether or not the holding is accompanied by shaking, pulling, or pushing and whether or not such person, animal or thing suffers any injury;

**“wandering at large”** means wandering or being on a public place while not being under effective control.

- 3a. This Local Law repeals Interim Local Law No 2 1999 (Keeping and Control of Animals).

**Meaning of “effective control”**

4. For the purposes of this law -
- (1) a dog is under “**effective control**” only if -
- (a) a person who is physically able to control the dog is holding the dog by a leash or chain not more than 2 metres long; or
  - (b) the dog is confined or tethered in or on a premises or vehicle so as to be -
    - (i) unable to leave the premises or vehicle; and
    - (ii) unable to attack or worry a person or animal from the premises or vehicle;
  - (c) the dog is participating in an obedience trial, or training for an obedience trial, under the supervision of an organisation recognised by the local government for the purposes of this section; or
  - (d) the dog is being exhibited at an exhibition under the supervision of an organisation recognised by the local government for the purposes of this section;
  - (e) if the dog is on land specified in section 4(4) and the dog is not being controlled by the holding of a leash, the keeper of the dog is able to effectively control and direct the dog so as to ensure that the dog does not -
    - (i) attack or worry a person or animal; or
    - (ii) put fear into any person; or
    - (iii) impede or interfere with the amenity of any person; or
    - (iv) damage property; or
    - (v) enter any land without the consent of the owner or occupier of that land.
- (2) Another animal is under “effective control” only if a person is able to effectively control and direct the animal so as to ensure that it does not -
- (a) attack or worry a person; or
  - (b) damage property; or
  - (c) enter other land (unless the owner or occupier of that land consents to the entry).
- (3) If an animal in a public place is not under effective control, an authorised person may seize and impound the animal.

- (4) The local government may by resolution -
- (a) specify land, that is owned or under the control of the Warwick Shire Council, where the keeper of a dog, other than a restricted dog or a dangerous dog, may maintain effective control by means other than holding the dog by a leash; and
  - (b) specify day, times or hours that the land may be used for this purpose.

**Relationship with other laws**

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

**PART 2 - KEEPING OF ANIMALS**

*Division 1 - Animals for which permit is required<sup>1</sup>*

**Requirements to hold permit**

- 6.
- (1) The local law policy may require a permit for the keeping of animals.
  - (2) The requirement for a permit may be imposed by reference to 1 or more of the following factors -
    - (a) the species, breed, age or sex of the animals;
    - (b) the number of animals to be kept;
    - (c) the area, or part of the area, in which the animals are to be kept;
    - (d) the nature of the premises in which the animals are to be kept.

**Obligation to hold permit**

- 7.
- (1) A person must not keep an animal for which a permit is required unless the person holds a current permit from the local government authorising the person to keep the animal.

Maximum penalty: 20 penalty units.

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

Maximum penalty: 20 penalty units.

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<sup>1</sup> Permits are required where local government considers it necessary to regulate the manner of keeping animals on premises. The permit relates to requirements for the premises and not to individual or specific animals.

## ***Division 2 - Animals for which registration is required<sup>2</sup>***

### **Requirement to register animal**

8.

A local law policy may -

- (a) require the keeper of an animal of a particular species or breed to register the animal;
- (b) provide in respect of specific types of animals criteria for exemption from registration;
- (c) provide for the number of registered animals which may be kept on any premises;
- (d) provide for the issue of registration tags and the affixation of registration tags to a particular species or breed of animals.

### **Obligation to register**

9.

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

Maximum penalty: 20 penalty points

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

Maximum penalty: 20 penalty points

### **Revocation of registration of animal**

10.

- (1) The local government may revoke the registration of an animal for any reason which, in the opinion of the local government, justifies the revocation.
- (2) Without limiting the generality of subsection (1), the local government may revoke registration upon any one or more of the following grounds -
  - (a) that the animal is dangerous and there are no effective measures under this law to protect the health and safety of the public from the animal;
  - (b) the keeper of the animal has -
    - (i) been convicted of an offence against this local law;
    - (ii) not complied with a requirement of this local law;
    - (iii) not complied with a permit condition.

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<sup>2</sup> Registration is required where the local government considers it necessary to regulate particular individual animals. This Division is intended on its commencement to apply only to dogs. It may later be applied to cats, but it is unlikely that it will be applied to any other types of animal.

(c) that the keeper is not a fit and proper person.

*For example: The keeper has persistently failed to control animals which cause nuisance or pose a threat to health & safety.*

(3) If the local government proposes to revoke the registration of an animal, it must give written notice of its proposal to the keeper of the animal.

(4) A keeper who is given notice under subsection (3) may show cause why the registration should not be revoked.

(5) A keeper who wished to show cause under subsection (4) must do so by writing which must be received by the local government not later than 7 days after the notice under subsection (3) is given to the keeper.

(6) If -

(a) no cause is shown to the contrary within the time specified in subsection (5);  
or

(b) if the local government determines that insufficient cause has been shown to the contrary,

the local government may revoke the registration and the animal then becomes an unregistered animal.

(7) Upon being given notice by the local government that an animal has become an unregistered animal under subsection (6), the keeper of the animal must -

(a) forthwith surrender to the local government the registration receipt and the identifying tag; and

(b) within 7 days remove the animal.

Maximum Penalty: 20 penalty units.

### ***Division 3 - Animals which may not be kept***

#### **Prohibition of certain animals**

11.

(1) A local law policy may prohibit absolutely -

(a) the keeping of an animal;

(b) the keeping of an animal in an identified part of the Area; and

(c) the keeping of more than a specified number of an animal;

(d) the keeping of animals at particular types of premises.

(2) A person must not keep an animal contrary to a prohibition mentioned in subsection (1).

Maximum Penalty: 50 penalty units

#### ***Division 4 - Commercial operations***

##### **Pet shops, catteries, kennels and veterinary clinics**

12.

- (1) A person must not operate a pet shop, cattery, kennel or veterinary clinic unless authorised to operate it under a current permit from the local government.

Maximum penalty: 20 penalty units

- (2) The local government may, by local law policy -
- (a) set out criteria which must be satisfied by premises used for the purposes of pet shops, catteries, kennels and veterinary clinics; and
  - (b) set out conditions that may be imposed in such permits; and
  - (c) specify animals that must not be kept, held or sold at pet shops.
- (3) Subsection (1) does not apply to a pet shop, kennel or cattery in respect of which there exists a requirement for a licence under the Environmental Protection Act 1994.

##### **Obligation to comply with permit**

13. A person must not contravene a condition of a permit authorising the operation of a pet shop, cattery, kennel or veterinary clinic.

Maximum penalty: 20 penalty units.

#### ***Division 5 - Minimum standards***

##### **Prescription of minimum standards by local law policy**

14.

- (1) A local law policy may prescribe minimum standards for the keeping of animals or a particular species of animal, whether or not a permit or registration is required in respect of the animal.
- (2) The local law policy may, for example and without limitation -
- (a) require the regular cleaning of enclosures and the disposal of waste; and
  - (b) require adequate provision of food and water; and
  - (c) require the provision of adequate space for the animals; and
  - (d) provide for the separation of enclosures in which animals are kept from places used for human habitation or the preparation of food, or from watercourses or water catchment areas; and

- (e) make other provisions for the maintenance of proper standards of cleanliness and hygiene.
- (3) The local law policy may contain exemptions or different minimum standards for particular types of premises, particular occasions for which animals may be kept, and for particular animals.

**Obligation to comply with minimum standards**

15.

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

Maximum penalty: 20 penalty units

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

***Division 6 - Permits***

**Criteria for granting permits**

16. In deciding whether to grant a permit authorising a person to keep animals the local government may have regard to -

- (1) the physical suitability of the land for the proposed use; and
- (2) the structural suitability of enclosures in which the animals are to be kept; and
- (3) the likelihood of the animals causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land; and
- (4) the likely effect on the amenity of the surrounding area; and
- (5) the likely effect on the local environment and any possible pollution or other environmental damage;
- (6) other factors that may be relevant in the circumstances of the particular case; and
- (7) the keeping of animals on the land complies with Planning Scheme requirements.

**Conditions of permits**

17.

- (1) The local government may grant a permit under this law on conditions it considers appropriate.
- (2) The conditions may, for example and without limitation -

- (a) require the holder of the permit to care for the animals in accordance with appropriate standards; and
  - (b) require that the animals be kept in enclosures that comply with specified structural requirements; and
  - (c) require the holder of the permit to comply with specified standards of hygiene; and
  - (d) require the holder of the permit to ensure that the animals wear or display an appropriate identifying tag; and
  - (e) require the holder of the permit to ensure that the animals do not cause nuisance, inconvenience or annoyance to others; and
  - (f) require the holder of the permit to take specified action to protect against possible harm to the local environment; and
  - (g) require that only certain breeds, size or number of animals may be kept.
- (3) The local government may in a local law policy prescribe -
- (a) criteria which will ordinarily be applied in deciding on the grant of a permit (either generally or in relation to a specified permit); and
  - (b) conditions to which a permit will ordinarily be subject (either generally or in relation to a specified permit).
- (4) However, the prescription of criteria and conditions in a local law policy does not prevent the local government from -
- (a) varying or deciding not to apply the prescribed criteria and conditions; or
  - (b) applying other criteria and conditions,
- as is warranted by the circumstances of any particular application for the grant of a permit.

**Term of Permit**

18. A permit is granted for a term fixed under a local law policy.

### ***Division 7 - Removal of Illegally Kept Animals***

#### **Notice to remove animals**

19.

- (1) If the local government becomes aware that an animal is being kept contrary to section 7 (Obligation to hold permit), section 9 (Obligation to register), section 11 (Prohibition on certain animals) or section 15 (Obligation to comply with minimum standards), the local government may give a written notice to the keeper of the animal requiring the person to take relevant action to remedy the contravention.
- (2) Subsection (1) applies whether or not any person is prosecuted for an offence.
- (3) If a person fails to comply with a notice under subsection (1), the local government may give further written notice to the keeper of the animal requiring the person to remove the animal.
- (4) Failure to comply with a notice under subsection (3) is not in itself an offence, but, subject (where relevant) to the provisions of the Act relating to “performing work for owner or occupier” where the requirements of the notice given under subsection (3) are not complied with within the time allowed in the notice, the local government may enter onto the land where the animal is kept and remove the animal by seizing and impounding it.
- (5) An animal seized and impounded pursuant to subsection (4) must be dealt with in accordance with Part 3, Division 2 of Local Law No. 6 (Impounding of Animals).

## **PART 3 - CONTROL OF ANIMALS**

### ***Division 1 - Animals in public places***

#### **Animal to be under effective control**

20.

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

Maximum penalty: 50 penalty units.

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

#### **Person in charge of a dog to clean up dog faeces**

21.

- (1) If a dog defecates in a public place, the person in charge of the dog must immediately remove, and dispose of, the faeces in a sanitary way.

Maximum penalty: 20 penalty units.

- (2) For subsection (1), the “**person in charge**” is the person who has actual or apparent control of the dog or the person who otherwise appears to accompany the dog.

***Division 2 - Duty to provided proper enclosure***

**Duty to provide proper enclosure**

22.

- (1) A person who keeps an animal within a settled area must -
- (a) construct and maintain a proper enclosure or provide an approved means of restraint to keep the animal on the person's land and prevent the animal from wandering or escaping from the land; and
  - (b) ensure that the animal is kept within the enclosure or restrained at all times.

Maximum penalty: 20 penalty units.

- (2) For the purposes of subsection (1), a proper enclosure is a fenced area as required by local law policy or a device or system of restraint that in the opinion of an authorised officer is capable of continually restraining a dog within an area of land that would otherwise have to be fenced.
- (3) For avoidance of doubt, a local law policy mentioned in subsection (2) may treat buildings or structures (other than fences) which effectively contain an animal as forming part of a proper enclosure.
- (4) If an animal is found -
- (a) wandering at large; or
  - (b) on land which is not a public place (including land on which the animal is kept), but not within an enclosure or restrained on that land and not under a person's effective control,
- the keeper of the animal is taken to have committed an offence under subsection (1)(b), unless the keeper proves that some other person took or induced the animal out of the enclosure or opened the enclosure to allow the animal to escape from it.
- (5) Without affecting subsection (1), if a person fails to take action as required by subsection (1)(a), the local government may by notice in writing require the person to take relevant action to comply with subsection (1)(a).
- (6) If a person fails to comply with a notice under subsection (5), the local government may give further written notice to the keeper of the animal requiring the person to remove the animal.
- (7) Failure to comply with a notice under subsection (6) is not in itself an offence but, subject (where relevant) to the provisions of the Act relating to "performing work for owner or occupier", where the requirements of a notice given under subsection (6) are not complied with within the time allowed in the notice, the local government may enter onto the land where the animal is kept and remove the animal by seizing and impounding it.
- (8) An animal seized and impounded pursuant to subsection (7) must be dealt with in accordance with Part 3, Division 2 of Local Law No. 6 (Impounding of Animals).

### ***Division 3 - Nuisances etc***

#### **Duty to avoid nuisances**

23.

- (1) A person must not keep an animal on land if -
- (a) the animal causes a nuisance; or
  - (b) the animal exposes the health or safety of others to significant risk; or
  - (c) the animal creates a reasonable apprehension in the minds of others of a threat to their health or safety.

In addition to any other circumstances under which an animal may cause a nuisance, an animal is deemed to cause a nuisance if it repeatedly enters other premises, creates a nuisance by noise or otherwise at any premises, or has preyed on birds, domestic pets or wildlife.

- (2) Without limiting subsection (1)(2) an animal causes a nuisance -
- (a) if it makes a noise which -
    - (i) occurs more than once; and
    - (ii) disrupts or inhibits an activity ordinarily carried out on adjoining or nearby land; or
  - (b) if it creates excessive dust which disrupts, adversely effects or inhibits an activity ordinarily carried out on adjoining or nearby land; or
  - (c) if it creates excessive odour which disrupts, adversely effects or inhibits an activity ordinarily carried out on adjoining or nearby land.

*example for paragraph (b): barking of a dog which disrupts the holding of a conversation, disrupts the watching of television or listening to radio or recorded material or disrupts the sleep of any person.*

- (3) An authorised person may -
- (a) on receiving three (3) complaints of a contravention of subsection (1) from three (3) persons all of whom occupy separate premises; or
  - (b) on receiving fewer than three (3) complaints of a contravention of subsection (1) and, having regard to the nature and location of the complainant's property, an authorised person has reasonable grounds for believing that a contravention of subsection (1) exists;

give a written notice to the keeper of the animal requiring the person to take relevant action to prevent further contravention or to permanently remove the animal.

- (4) A person must not fail to comply with a notice under subsection (3) within the time allowed in the notice.

Maximum penalty: 50 penalty units.

- (5) If a person fails to comply with a notice under subsection (3), the local government may give further written notice to the keeper of the animal requiring the person to remove the animal.
- (6) Failure to comply with a notice under subsection (5) is not in itself an offence but, subject (where relevant) to the provisions of the Act relating to “performing work for owner or occupier”, where the requirements of a notice given under subsection (5) are not complied with within the time allowed in the notice, the local government may enter onto the land where the animal is kept and remove the animal by seizing and impounding it.
- (7) An animal seized and impounded pursuant to subsection (6) must be dealt with in accordance with Part 3, Division 2 of Local Law No. 6 (Impounding of Animals).

#### ***Division 4 - Aggressive dogs***

##### **Dog attacks**

24. A person must not cause, encourage or permit a dog to attack or worry another person or an animal.

Maximum penalty: 50 penalty units.

#### ***Division 5 - Dangerous Dogs***

##### **Declaration of dangerous dogs**

- 25.
- (1) An authorised person may declare a dog to be a dangerous dog -
- (a) if the dog has caused serious injury to a person or animal by biting, attacking, worrying, rushing at or chasing that person or animal; or
  - (b) if the dog has been trained to attack people or animals for the purpose of guarding either persons or property, or is kept as a guard dog for the purpose of guarding non-residential premises; or
  - (c) if the dog has been declared a dangerous dog by another local government; or
  - (d) for any other reason prescribed by local law policy.
- (2) Where a dog has been declared dangerous under subsection (1), the authorised person may order the keeper of the dog to take specified action as required by local law policy such as (for example and without limitation)
- (a) to warn persons who enter land on which the dog is kept of the presence of a dangerous dog on the land; and

- (b) to ensure that the dog remains in secure custody and is unable to cause injury or damage to persons or other animals.
- (3) A person must not fail to comply with an order under subsection (2).

Maximum penalty: 100 penalty units.

- (4) In addition, where a dog has been declared dangerous under subsection (1) and the local government has made an additional registration fee for dangerous dogs which is different from the registration fee for dogs which are not dangerous dogs<sup>3</sup>, the keeper of the dog must within the time notified to the keeper in writing by the local government pay the additional registration fee for a dangerous dog.<sup>4</sup>

### **Power to seize and destroy dangerous dog**

26.

- (1) An authorised person may seize and destroy a dangerous dog if -
  - (a) the dog is found wandering at large; or
  - (b) an order under section 25(2) in respect of the dog is not complied with; or
  - (c) an additional registration fee is not paid within the time required under section 25(4).
- (2) An authorised person may also seize and destroy a dog (whether or not it is declared as a dangerous dog) if it -
  - (a) attacks a person or animal; or
  - (b) causes injury or damage; or
  - (c) creates a serious risk of injury or damage.
- (3) An authorised person may enter a place (including a building or other structure, or the part of a building or other structure, used for residential purposes at the time), with the appropriate help and using the force that is necessary and reasonable in the circumstances to seize the dog.
- (4) An authorised person has the specific authority required under the Act for entering a place if -
  - (a) the authorised person is appointed under section 676 of the Act; and
  - (b) the appointment states that the authorised person is appointed for section 697 of the Act.

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<sup>3</sup> The local government has a general power under section 570 of the Act to make fees by resolution.

<sup>4</sup> The additional registration fee will be for a period of 12 months from the date of the local government's notice. The period covered by the fee will not be the same period as is covered by the standard registration fee (unless the dog is declared dangerous on the due date for the standard fee). The local government's resolution making the fee may prescribe that it is only payable for a specified fixed period (eg 2 years) after the dog is declared dangerous.

### **Dangerous and restricted dogs to be muzzled**

27.

- (1) A person must not bring a dangerous dog or a restricted dog into a public place unless the dog is securely muzzled to prevent it from biting.

Maximum penalty: 100 penalty units

- (2) If an unmuzzled dangerous dog is in a public place, an authorised person may seize and destroy the dog.

### **Guard dogs**

28.

- (1) This section applies to land -
  - (a) which is not used for residential purposes and is not a kennel or a pet shop; and
  - (b) on which a dog is kept at any time for the purpose or apparent purpose of acting as a deterrent to intruders.
- (2) The occupier of land to which this section applies must take action specified in a local law policy to -
  - (a) warn persons about the presence of the dog on the land; and
  - (b) ensure that the dog is under effective control at all times when the land is open to access by the public.
- (3) Subsection (2) applies whether or not the occupier is the keeper of the dog.

*Example: Some premises have guard dogs which are supplied by a security business or kennel, are regularly rotated or replaced by the supplier and in respect of which the occupier of the premises takes no responsibility for care of the dogs. The occupier of such premises may not be the “keeper” of the dog as defined but that does not affect the owner’s responsibility to comply with subsection (2).*

- (4) A person must not fail to take action as required by subsection (2).

Maximum Penalty: 50 penalty units

- (5) Without affecting subsection (4), if a person fails to take action as required by subsection (2), the local government may by notice in writing require the occupier of the land to remove the dog on the land.
- (6) Subject to section 661 of the Act, if a person fails to comply with a notice under subsection (5) within the time allowed in the notice (and has still not taken action as required by subsection (2)), the local government may enter onto the land where the dog is kept and remove the dog by seizing and disposing of it in such manner as deemed appropriate by an authorised officer.

- (7) For avoidance of doubt, this section is in addition to section 25 and does not prevent a dog to which it applies being declared a dangerous dog under section 25.

### ***Division 6 - Restricted dogs***

#### **Declaration of restricted dogs**

29.

- (1) The local government may make local law policies that declare every dog of a species, breed, class, type, kind or description to be a restricted dog.
- (2) The local government may make local law policies that lay down conditions to be complied with by the keeper of a restricted dog.
- (3) A person who keeps a restricted dog must ensure that the conditions prescribed by the local law policies are complied with.

Maximum penalty: 100 penalty units

### ***Division 7 - Prohibited dogs***

#### **Declaration of prohibited dogs**

30.

- (1) The local government may make local law policies that prohibit the keeping of every dog of a species, breed, class, type, kind or description.
- (2) A person must not keep a prohibited dog

Maximum penalty: 100 penalty units

### ***Division 8 - Other Offences***

#### **Other Offences**

31.

- (1) Any person who -
    - (a) being the owner of a dog that in or on a public place attacks a person or animal or thing; or
    - (b) being the owner of a dog that in or on any other place attacks a person who is lawfully in or on that other place;
- is guilty of an offence against this local law.

Maximum Penalty: 50 penalty units

- (2) It shall be a defence to any proceedings for an offence under subsection (1) to show that the dog was bona fide used in the reasonable defence of any person or property, or for the droving or removal of any animal found trespassing.

## **PART 4 - DESTRUCTION OF ANIMALS**

### **Destruction Orders**

32.

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

### **Appeal against destruction order**

33.

- (1) The keeper of an animal against which a destruction order has been made may appeal to a Magistrates Court against the order.
- (2) The appeal must be started within 7 days after the keeper is informed of the making of the order.

### **Powers of court on appeal**

34.

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

### **Summary destruction of animal**

35.

- An authorised person may seize an animal without notice to the keeper of the animal if -
- (1) the animal has been seized and detained more than 3 times in the last year; or

- (2) the animal is, in the authorised person's opinion, dangerous and not controllable by means that are reasonably available to the keeper of the animal; or
- (3) the animal is diseased or emaciated; or
- (4) the animal is a prohibited dog.

**Destruction at request of keeper**

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

## **PART 5 - RESTRAINT OF ANIMALS**

**Restraint of Animals**

- 37.
- (1) Where it appears to an authorised person that an animal -
    - (a) is a nuisance or dangerous; or
    - (b) may cause injury to itself or other persons or animals; or
    - (c) otherwise needs to be restrained,the authorised officer may use such means as he reasonably considers are necessary or convenient for the restraint of the animal, including the use of a tranquilliser gun.
  - (2) No action lies against the local government or an authorised person for any damage or injury, either to an animal or as a result of the behaviour of that animal, as a result of use by an authorised person of a tranquilliser gun or other means of restraint in good faith for the purposes permitted under this local law.

## **PART 6 - MISCELLANEOUS**

**Sale of animals**

- 38.
- (1) A local law policy may lay down conditions to be complied with by persons who offer animals, or a particular species of animals, for sale.
  - (2) A person must not offer or display animals for sale in the area unless the person complies with conditions laid down by local law policy under subsection (1).

Maximum penalty: 20 penalty units.

**Prohibition of identifying tags designed to confuse**

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

Maximum penalty: 20 penalty units.

**Abandonment of animals**

40.  
(1) A person must not abandon an animal.

Maximum penalty: 20 penalty units.

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

**PART 7 - LOCAL LAW POLICIES**

**Local law policies**

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